

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;

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Elizabeth A. Brown
Clerk of Supreme Court

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

APPENDIX

Volume XXXVII of XXXVII

ATTORNEYS FOR APPELLANT

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CHRONOLOGICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Complaint for Divorce and for Set Aside of Deeds of Real Property and Assignment of L.L.C. Interest	10/24/2017	I/AA00001-00015
Request for Issuance of Joint Preliminary Injunction	10/25/2017	I/AA00016
Affidavit of Process Server	11/02/2017	I/AA00017-00022
Notice of Appearance of Attorney	11/27/2017	I/AA00023-00024
Appendix of Exhibits in Support of Defendant's Motion to Dismiss	11/29/2017	I/AA00025-00044
Motion to Dismiss	11/29/2017	I/AA00045-00061
Petition to Seal Records Pursuant to NRS 125.110(2)	12/15/2017	I/AA00062-00063
Exhibit Appendix to Opposition to Defendant's Motion to Dismiss and Countermotion for Attorney's Fees and Costs	12/20/2017	I/AA00064-00093
Motion Opposition Fee Information Sheet	12/20/2017	I/AA00094
Opposition to Defendant's Motion to Dismiss and Countermotion for Attorney's Fees and Costs	12/20/2017	I/AA00095- I/AA00111
Order to Seal Records Pursuant to NRS 125.110(2)	12/22/2017	I/AA00112- I/AA00113
Stipulation and Order to Continue Hearing	12/28/2017	I/AA00114- 000115
Notice of Entry of Stipulation and Order	12/29/2017	I/AA00116- 000119
Notice of Entry of Order to Seal Records	01/03/2018	I/AA00120-00124
Reply to Opposition to Defendant's Motion to Dismiss and Opposition to Countermotion for Attorney's Fees and Costs	01/09/2018	I/AA00125-00141
Court Minutes	01/25/2018	I/AA00142-00143
Court Minutes	02/23/2018	I/AA00144-00145
Order	03/09/2018	I/AA00146-00154

CHRONOLOGICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Notice of Entry of Order	03/12/2018	I/AA00155-00164
Order	03/12/2018	I/AA0065-00173
First Amended Compliant for Divorce; for Set Aside of Deeds of Real Property and Assignment of L.L.C. Interest; and for Alternative Equitable Relief Under the Putative Spouse Doctrine	03/22/2018	I/AA00174-00188
Answer to First Amended Complaint for Divorce; for Set Aside of Deeds of Real Property and Assignment of L.L.C. Interest; and for Alternative Equitable Relief Under the Putative Spouse Doctrine; Affirmative Defenses and Counterclaim	05/02/2018	I/AA00189-00211
Reply to Defendant’s Counterclaim	05/30/2018	I/AA00212-00219
Plaintiff, Danka K. Michaels’ Initial Expert Witness List	07/11/2018	I/AA00220-00229
Declaration of Service	07/13/2018	I/AA00230
Joint Early Case Conference Report Pursuant to N.R.C..P 16.2(i)(2)	07/13/2018	I/AA00231-00237
Declaration of Service	07/19/2018	I/AA00238
Order Setting Case Management Conference and Directing Compliance with NRCP 16.2	07/31/2018	I/AA00239-00242
Declaration of Service Robert Semonian	08/03/2018	I/AA00243
Declaration of Service Shannon L. Evans	08/03/2018	I/AA00244
Motion for Leave to File Second Amended Complaint	09/07/2018	I/AA00245- II/AA00270
Motion Opposition Fee Information Sheet	09/07/2018	II/AA00271
Case and Trial Management Order	09/10/2018	II/AA00272- 00274
Court Minutes	09/10/2018	II/AA00275- 00276

CHRONOLOGICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Certificate of Service	09/11/2018	II/AA00277-00278
Stipulation and Order Granting Leave to File Second Amended Complaint, and Vacating Motion Hearing	10/08/2018	II/AA00279-00281
Notice of Entry of Stipulation and Order	10/10/2018	II/AA00282-00287
Second Amended Complaint for Equitable Relief Under (1) the Putative Spouse Doctrine, and (2) Pursuant to Express and/or Implied Agreement to Hold Property as if the Parties Were Married Under <i>Michoff</i> ; and to Set Aside Deeds of Real Property and Assignment of L.L.C. Interest	10/15/2018	II/AA00288-00305
Answer to Second Amended Complaint for Equitable Relief Under (1) the Putative Spouse Doctrine, and (2) Pursuant to Express and/or Implied Agreement to Hold Property as if the Parties Were Married Under <i>Michoff</i> ; and to Set Aside Deeds of Real Property and Assignment of L.L.C. Interest; Affirmative Defenses and Counterclaim	11/19/2018	II/AA00306-00329
Declaration of Danka K. Michaels in Support of Answer to Second Amended Complaint for Equitable Relief Under (1) the Putative Spouse Doctrine, and (2) Pursuant to Express and/or Implied Agreement to Hold Property as if the Parties Were Married Under <i>Michoff</i> ; and to Set Aside Deeds of Real Property and Assignment of L.L.C. Interest; Affirmative Defenses and Counterclaim	11/21/2018	II/AA00330-00332
Order After Hearing of September 10, 2018	12/11/2018	II/AA00333-00336

CHRONOLOGICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE NO.
Reply to Defendant's Counterclaim	12/12/2018	II/AA00337-00344
Notice of Entry of Order	12/17/2018	II/AA00345-00351
Motion Opposition Fee Information Sheet	01/08/2019	II/AA00352
Motion to Withdraw as Attorney of Records for Plaintiff	01/08/2019	II/AA00353-00358
Certificate of Service	01/09/2019	II/AA00359-00360
Order Granting Withdrawal as Attorney of Record for Plaintiff	02/05/2019	II/AA00361-00362
Notice of Entry of Order	02/06/2019	II/AA00363-00367
Notice of Taking Videotaped Deposition	02/15/2019	II/AA00368-00370
Defendant's Witness List (Non-Expert)	02/20/2019	II/AA00371-00375
Amended Notice of Taking Videotaped Deposition	03/05/2019	II/AA00376-00378
Second Amended Notice of Taking Videotaped Deposition	03/05/2019	II/AA00379-00381
Notice of Appearance	03/08/2019	II/AA00382-00383
Notice of Department Reassignment	03/11/2019	II/AA00384-00385
Peremptory Challenge of Judge	03/11/2019	II/AA00386-00388
Case Management Order – Domestic	03/21/2019	II/AA00389-00394
Notice of Attorney's Lien	04/05/2019	II/AA00395-00397

**CHRONOLOGICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII**

DESCRIPTION	DATE FILED	VOL./PAGE NO.
Appendix of Exhibits in Support of Defendant's Motion to Compel Discovery Responses	04/22/2019	II/AA00398-00440
Defendant's Motion to Compel Discovery Responses	04/22/2019	II/AA00441-00458
Notice of Hearing	04/22/2019	II/AA00459
Defendant's Supplemental Witness List (Non-Expert)	04/24/2019	II/AA00460-00464
Notice of Unavailability of Counsel	05/08/2019	II/AA00465-00467
Appendix of Exhibits to Plaintiff's Response and Opposition to Defendant's Motion to Compel Discovery Responses	05/13/2019	II/AA00468-00495
Plaintiff's Response and Opposition to Defendant's Motion to Compel Discovery Responses	05/13/2019	II/AA00496-III/AA00516
Reply in Support of Defendant's Motion to Compel Discovery Responses	05/15/2019	III/AA00517-00522
Plaintiff's Supplement to Response and Opposition to Defendant's Motion to Compel Discovery Responses	05/21/2019	III/AA00523-00527
Stipulation and Order RE: Motion to Compel	05/28/2019	III/AA00528-00534
Notice of Entry of Stipulation and Order RE: Motion to Compel	05/29/2019	III/AA00535-00543
Receipt of Check	06/03/2019	III/AA00544
Notice of Entry of Stipulation and Order to Continue	06/13/2019	III/AA00545-00551
Stipulation and Order to Continue	06/13/2019	III/AA00552-00556
Stipulation and Order to Vacate Discovery Hearing	06/18/2019	III/AA00557-00559
Notice of Entry of Stipulation and Order to Vacate Discovery Hearing	06/19/2019	III/AA00560-00564

CHRONOLOGICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Satisfaction and Release of Lien	07/31/2019	III/AA00565-00566
Appendix of Exhibits in Support of Defendant’s Motion for Summary Judgement, to Dismiss, for Protective Order and for Attorney Fees	08/01/2019	III/AA00567-IV/AA00702
Motion for Summary Judgement, to Dismiss, for Protective Order and for Attorney Fees	08/01/2019	IV/AA00703-00736
Notice of Hearing	08/01/2019	IV/AA00737
Notice of Unavailability of Counsel	08/05/2019	IV/AA00738-00740
Stipulation to Extend Discovery Deadlines and Continue Trial (First Request) and Order Continuing Trial	08/05/2019	IV/AA00741-00745
Plaintiff’s Opposition to Defendant’s Motion for Summary Judgement, to Dismiss, for Protective Order and for Attorney Fees and Countermotion for Leave of Court to File Supplemental Points and Authorities	08/12/2019	IV/AA00746-V/AA00754
Notice of Entry of Stipulation and Order	08/16/2019	V/AA0055-00762

CHRONOLOGICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE NO.
Appendix of Exhibits to Plaintiff's Opposition to Defendant's Motion for Summary Judgement, to Dismiss, for Protective Order and for Attorney Fees and Countermotion 1) to Dismiss or, in the Alternative, for Summary Judgement as to Defendant's Causes of Action for Intentional Misrepresentation/Fraud; Negligent Misrepresentation; Breach of Implied Covenant of Good Faith and Fair Dealing; Promissory Estoppel; Express Agreement; Implied Agreement; and Malicious Abuse of Process; (2) for Summary Judgement Setting Aside Deeds of Real Property and Assignment of LLC Interest; and (3) for Permission to Submit Points and Authorities in Excess of 30 Pages Pursuant to EDCR 5.503(e)	08/19/2019	V/AA00763-00813
Plaintiff's Opposition to Defendant's Motion for Summary Judgement, to Dismiss, for Protective Order and for Attorney Fees and Countermotion (1) to Dismiss or, in the Alternative, for Summary Judgement as to Defendant's Causes of Action for International Misrepresentation/Fraud; Negligent Misrepresentation; Breach of Implied Covenant of Good Faith and Fair Dealing; Promissory Estoppel; Express Agreement; Implied Agreement; and Malicious Abuse of Process; (2) for Summary Judgement Setting Aside Deeds of Real Property and Assignment of LLC Interest; and (3) for Permission to Submit Points and Authorities in Excess of 30 Pages Pursuant to EDCR 5.503(e)	08/19/2019	V/AA00814-00843
Declaration of Service	09/05/2019	V/AA00844

CHRONOLOGICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Appendix of Exhibits in Support of Reply to Opposition to Defendant's Motion for Summary Judgement, to Dismiss, for Protective Order and for Attorney Fees and Opposition to Countermotion (1) to Dismiss or, in the Alternative, for Summary Judgement as to Defendant's Causes of Action for Intentional Misrepresentation; Breach of Implied Covenant of Good Faith and Fair Dealing; Promissory Estoppel; Express Agreement Implied Agreement; and Malicious Abuse of Process; (2) for Summary Judgement Setting Aside Deeds of Real Property and Assignment of LLC Interest; and (3) for Permission to Submit Points and Authorities in Excess of 30 Pages Pursuant to EDCR 5.503(e)	09/06/2019	V/AA00845-00861
Reply to Opposition to Defendant's Motion for Summary Judgement, to Dismiss, for Protective Order and for Attorney Fees and Opposition to Countermotion (1) to Dismiss or, in the Alternative, for Summary Judgement as to Defendant's Causes of Action for Intentional Misrepresentation/Fraud; Negligent Misrepresentation; Breach of Implied Covenant of Good Faith and Fair Dealing; Promissory Estoppel; Express Agreement; Implied Agreement; and Malicious Abuse of Process; (2) for Summary Judgement Setting Aside Deeds of Real Property and Assignment of LLC Interest; and (3) for Permission to Submit Points and Authorities in Excess of 30 Pages Pursuant to EDCR 5.503(e)	09/06/2019	V/AA00862-00879
Minute Order	09/10/2019	V/AA00880-00881

CHRONOLOGICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Declaration of Service	11/01/2019	V/AA00882
Notice of Taking Custodian of Records Deposition and Seven Day Notice of Intent to Serve Subpoena Duces Tecum	12/09/2019	V/AA00883- 00885
Declaration of Service	12/20/2019	V/AA00886
Defendant's Second Supplemental Witness List (Non-Expert)	12/27/2019	V/AA00887- 00891
Trial Subpoena Robert Semonian	01/28/2020	V/AA00892- 00898
Trial Subpoena Shannon L. Evans, Esq.	01/28/2020	V/AA00899- 00905
Trial Subpoena	01/29/2020	V/AA00906- 00909
Declaration of Service	02/04/2020	V/AA00910
Declaration of Service	02/05/2020	V/AA00911
Stipulation and Order to Extend Filing of Pre- Trial Memorandum and Trail Exhibits	02/06/2020	V/AA00912- 00913
Defendant's Pre-Trial Memorandum	02/07/2020	V/AA00914- 00932
Plaintiff Thomas Pickens Pretrial Memorandum	02/07/2020	V/AA00933- 00950
Plaintiff's Request for the Court to Take Judicial Notice Pursuant to NRS 47.130	02/10/2020	V/AA00951- 00954
Plaintiff Thomas Pickens General Financial Disclosure Form-Trial	02/11/2020	V/AA00955- 00962
Receipt of Copy	02/11/2020	V/AA00963
General Financial Disclosure Form	02/13/2020	V/AA00964- 00981
Notice of Non-Opposition to Plaintiff's Request for the Court to Take Judicial Notice Pursuant to NRS 47.130	02/13/2020	V/AA00982- VII/AA01254

CHRONOLOGICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Supplemental Exhibit in Support of Notice of Non-Opposition to Plaintiff's Request for the Court to Take Judicial Notice Pursuant to NRS 47.130	02/13/2020	VII/AA01255-VIII/AA01727
Court Minutes	02/14/2020	VIII/AA01728
Notice of Intent to Appear by Communication Equipment	02/20/2020	VIII/AA01729-IX/01768
Plaintiff's Request for the Court to take Judicial Notice Pursuant to NRS 47.130	02/20/2020	IX/AA01769-01770
Plaintiff's Request for the Court to take Judicial Notice Pursuant to NRS 47.130	02/20/2020	IX/AA01771-01780
Court Minutes	02/21/2020	IX/AA01781-01793
Notice of Hearing	03/20/2020	IX/AA01794-01798
Stipulation and Order to Continue Day Three of Trial	06/24/2020	IX/AA01799-01800
Notice of Entry of Stipulation and Order	06/25/2020	IX/AA01801-01810
Notice of Change of Firm	06/26/2020	IX/AA01811-01819
Court Minutes	07/20/2020	IX/AA01820-01823
Estimated Cost of Expedited Transcripts	07/22/2020	IX/AA01824-01826
Notice of Hearing	08/26/2020	IX/AA1827-X/AA2051
Final Billing for Transcripts	09/01/2020	X/AA02052-02054
Transcript RE: Non-Jury Trial	09/01/2020	X/AA02055-02070
Transcript RE: Non-Jury Trial Day 2	09/01/2020	X/AA02071-02086

CHRONOLOGICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Notice of Appearance of Co-Counsel for Defendant	10/16/2020	X/AA02087-02122
Notice of Hearing	10/26/2020	X/AA02123-02190
Notice of Hearing	11/17/2020	X/AA02191-02201
Notice of Hearing	11/25/2020	X/AA02202-02209
Court Minutes	01/22/2021	X/AA02210-02220
Notice of Hearing	01/22/2021	X/AA02221-02232
Notice of Change of Firm Address	01/27/2021	X/AA02233-02243
Notice of Hearing	02/23/2021	X/AA02244-XI/AA02252
Court Minutes	03/05/2021	XI/AA02253-02261
Notice of Hearing	03/08/2021	XI/AA02262-02271
Court Minutes	03/12/2021	XI/AA02272-02284
Court Minutes	04/02/2021	XI/AA02285-02301
Defendant's EDCR 7.27 Brief	04/02/2021	XI/AA02302-02320
Stipulation and Order to Extend Briefing Deadlines	04/14/2021	XI/AA02321-02329
Notice of Entry of Stipulation and Order	04/19/2021	XI/AA02330-02351
Stipulation and Order to Extend Briefing Deadline	04/22/2021	XI/AA02352-02369

CHRONOLOGICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff’s Closing Argument	04/23/2021	XI/AA02370-02834
Plaintiff’s Request for the Court to Take Judicial Notice Pursuant to NRS 47.130	04/23/2021	XI/AA02835-02406
Plaintiff’s Request for the Court to Take Judicial Notice Pursuant to NRS 47.130	04/23/2021	XI/AA02407-02424
Plaintiff’s Request for the Court to Take Judicial Notice Pursuant to NRS 47.130	04/23/2021	XI/AA02425-02443
Defendant’s Closing Argument Brief	05/28/2021	XI/AA02444-02467
Stipulation and Order to Extend Deadline for Plaintiff to File His Rebuttal Brief	06/14/2021	XI/AA02468-02488
Plaintiff’s Rebuttal to Defendant’s Closing Argument	06/15/2021	XI/AA02489-XII/AA02524
Notice of Change of Firm Address	08/01/2021	XII/AA02525-02567
Findings of Fact, Conclusions of Law and Judgement	08/03/2021	XII/AA02568-02613
Notice of Entry of Findings of Fact, Conclusions of Law, and Judgement	08/05/2021	XII/AA02614-02657
Defendant Danka K. Michaels Memorandum of Fees and Costs	08/25/2021	XII/AA02658-02671
Exhibit of Appendix to Defendant Danka K. Michaels Memorandum of Fees and Costs	08/25/2021	XII/AA02672-02716
Case Appeal Statement	09/02/2021	XII/AA02717-02743
Notice of Appeal	09/02/2021	XII/AA02744-XIII/AA02768
Estimated Cost of Transcript	09/07/2021	XIII/AA02769-02791
Estimated Costs of Transcript	09/07/2021	XIII/AA02792-02822

CHRONOLOGICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff’s Objection to Defendant Danka K. Michaels’ Memorandum of Fees and Costs	09/07/2021	XIII/AA02823-02854
Defendant’s Reply to Plaintiff’s Objection to Memorandum of Fees and Costs	09/20/2021	XIII/AA02855-02885
Certification of Transcripts Notification of Completion	10/28/2021	XIII/AA02886-02913
Final Billing for Transcripts	10/28/2021	XIII/AA02914-02956
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
Receipt of Copy	11/10/2021	XIV/AA03055-03069
Plaintiff’s Trial Exhibit 1 - Photographs of the parties’ wedding on April 7, 2002 and announcement	02/14/2020	XIV/AA03070-03083
Plaintiff’s Trial Exhibit 2 - Litterae Matrimoniales (Marriage Certificate) of Thomas Pickens and Danka Katarina Oltusova dated April 7, 2002	02/14/2020	XIV/AA03084-03096
Plaintiff’s Trial Exhibit 3 - Medical Records for Tom Pickens produced by Danka Michaels, his physician	02/14/2020	XIV/AA03097-03111
Plaintiff’s Trial Exhibit 4 - Nevada Prescription Monitoring Program Prescription log for Tom Pickens	02/14/2020	XIV/AA03112-03116
Plaintiff’s Trial Exhibit 5 - Chain of Title with Applicable Deeds for 9517 Queen Charlotte Drive, Las Vegas, Nevada 89145	02/14/2020	XIV/AA03117-03127

CHRONOLOGICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE NO.
Plaintiff’s Trial Exhibit 6 - Chain of Title with Applicable Deeds for 7608 Lowe Avenue, Las Vegas, Nevada 89131	02/14/2020	XIV/AA03128-03136
Plaintiff’s Trial Exhibit 7 - Affidavit of Custodian of Records and file from First American Title Company—purchase of 9517 Queen Charlotte Drive, Las Vegas, Nevada 89145 on October 7, 2004	02/14/2020	XIV/AA03137-03150
Plaintiff’s Trial Exhibit 8 - Certificate of Custodian of Records for Ticor Title of Nevada—purchase of 7608 Lowe Avenue, Las Vegas, Nevada 89131 on February 28, 2011	02/14/2020	XIV/AA03151-03164
Plaintiff’s Trial Exhibit 9 - 2005 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XIV/AA3165-03180
Plaintiff’s Trial Exhibit 10 - 2006 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XIV/AA03181-03196
Plaintiff’s Trial Exhibit 11 - 2007 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XIV/AA03197-03210
Plaintiff’s Trial Exhibit 12 - 2008 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XIV/AA03211-03224
Plaintiff’s Trial Exhibit 13 - 2009 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XIV/AA03225-XV/AA03262
Plaintiff’s Trial Exhibit 14 - 2010 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XV/AA03263-03319
Plaintiff’s Trial Exhibit 15 - 2011 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XV/AA03320-03372
Plaintiff’s Trial Exhibit 16 - 2012 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XV/AA03373-03429
Plaintiff’s Trial Exhibit 17 - 2013 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XV/AA03430-03478
Plaintiff’s Trial Exhibit 18 - 2014 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XV/AA03479-03494

CHRONOLOGICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE NO.
Plaintiff's Trial Exhibit 19 - 2015 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XV/AA03495- XVI/AA03543
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
Plaintiff's Trial Exhibit 22 - 2006 1040 Income Tax Return for Danka Michaels	02/14/2020	XVI/AA03736- XVII/AA03823
Plaintiff's Trial Exhibit 23 - 2007 1040 Income Tax Return for Danka Michaels	02/14/2020	XVII/AA03824- 03848
Plaintiff's Trial Exhibit 24 - 2008 1040 Income Tax Return for Danka Michaels	02/14/2020	XVII/AA03849- 03998
Plaintiff's Trial Exhibit 25 - 2009 1040 Income Tax Return for Danka Michaels	02/14/2020	XVII/AA03999 XVIII/AA04127
Plaintiff's Trial Exhibit 26 - 2010 1040 Income Tax Return for Danka Michaels	02/14/2020	XVIII/AA04128- 04239
Plaintiff's Trial Exhibit 27 - 2011 1040 Income Tax Return for Danka Michaels	02/14/2020	XVIII/AA04240- XIX/AA04361
Plaintiff's Trial Exhibit 28 - 2012 1040 Income Tax Return for Danka Michaels	02/14/2020	XIX/AA04362- 04482
Plaintiff's Trial Exhibit 29 - 2013 1040 Income Tax Return for Danka Michaels	02/14/2020	XIX/AA04483- XX/AA04646
Plaintiff's Trial Exhibit 30 - 2014 1040 Income Tax Return for Danka Michaels	02/14/2020	XX/AA04647- XXI/AA04755
Plaintiff's Trial Exhibit 31 - 2015 1040 Income Tax Return for Danka Michaels	02/14/2020	XXI/AA04756- 04842
Plaintiff's Trial Exhibit 32 - 2016 1040 Income Tax Return for Danka Michaels	02/14/2020	XXI/AA04843- 04879
Plaintiff's Trial Exhibit 35 - 2006 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXI/AA04880- 04908

CHRONOLOGICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff’s Trial Exhibit 36 - 2007 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXI/AA04909- XXII/AA05059
Plaintiff’s Trial Exhibit 37 - 2008 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXII/AA05060- 05200
Plaintiff’s Trial Exhibit 38 - 2009 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXII/AA05201- XXIII/AA05305
Plaintiff’s Trial Exhibit 39 - 2010 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXIII/AA05306- 05391
Plaintiff’s Trial Exhibit 40 - 2011 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXIII/AA05392- 05488
Plaintiff’s Trial Exhibit 41 - 2012 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXIII/AA05489- XXIV/AA05577
Plaintiff’s Trial Exhibit 42 - 2013 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXIV/AA05578- 05669
Plaintiff’s Trial Exhibit 43 - 2014 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXIV/AA05670- XXV/AA05758
Plaintiff’s Trial Exhibit 44 - 2015 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXV/AA05759- 05802
Plaintiff’s Trial Exhibit 45 - 2016 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXV/AA05803- 05934
Plaintiff’s Trial Exhibit 46 - 2017 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXV/AA005935- XXVI/AA06106

CHRONOLOGICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff’s Trial Exhibit 47 - 2012 1065 Income Tax Return for Patience One LLC	02/14/2020	XXVI/AA06107- XXVII/AA06297
Plaintiff’s Trial Exhibit 48 - 2013 1065 Income Tax Return for Patience One LLC	02/14/2020	XXVII/AA06298- 06490
Plaintiff’s Trial Exhibit 49 - 2014 1065 Income Tax Return for Patience One LLC	02/14/2020	XXVII/AA06491- XXVIII/ AA06589
Plaintiff’s Trial Exhibit 50 - 2015 1065 Income Tax Return for Patience One LLC	02/14/2020	XXVIII/ AA06590-06672
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
Plaintiff’s Trial Exhibit 58 - 2014 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXIX/ AA06963-06998

CHRONOLOGICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff's Trial Exhibit 59 - 2015 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXIX/ AA06999
Plaintiff's Trial Exhibit 60 - 2016 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXX/AA07000
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

CHRONOLOGICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE NO.
Plaintiff's Trial Exhibit 76 - Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2015 through 12/31/15	02/14/2020	XXX/AA07015- 07016
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

CHRONOLOGICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff's Trial Exhibit 86 - American Express Statements #72004 Thomas Pickens card #72004 Danka Michaels card #72020 12/16/14 through 12/15/15	02/14/2020	XXX/AA07060
Plaintiff's Trial Exhibit 87 - American Express Statements #72004 Thomas Pickens card #72004 #73002 Danka Michaels card #72020 12/16/15 through 12/15/16	02/14/2020	XXX/AA07061-07092
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

CHRONOLOGICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff's Trial Exhibit 99 - American Express Statements #63006 titled in the name of Thomas Pickens 12/08/12 through 12/08/13	02/14/2020	XXX/AA07237-07239
Plaintiff's Trial Exhibit 100 - American Express Statements #63006 titled in the name of Thomas Pickens 12/09/13 through 12/08/14	02/14/2020	XXX/AA07240-07247
Plaintiff's Trial Exhibit 101 - American Express Statements #63006 titled in the name of Thomas Pickens 12/09/14 through 12/08/15	02/14/2020	XXX/AA07248-07250
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
Plaintiff's Trial Exhibit 107 - American Express #51001 titled in the name of Blue Point Development 12/21/13 through 12/19/14	02/14/2020	XXXI/AA07263
Plaintiff's Trial Exhibit 108 - American Express #51001 titled in the name of Blue Point Development 12/20/14 through 12/20/15	02/14/2020	XXXI/AA07264-XXXII/AA07516
Plaintiff's Trial Exhibit 109 - American Express #51001 titled in the name of Blue Point Development 12/21/15 through 12/20/16	02/14/2020	XXXII/AA07517-07682

CHRONOLOGICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff’s Trial Exhibit 110 - American Express #51001 titled in the name of Blue Point Development 12/21/16 through 12/20/17	02/14/2020	XXXII/AA 07683-07685
Plaintiff’s Trial Exhibit 111 - American Express #51001 titled in the name of Blue Point Development 12/21/17 through 12/20/18	02/14/2020	XXXII/AA 07686-07687
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
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
Plaintiff’s Trial Exhibit 118 - Wells Fargo Checking #8952 titled in the name of Thomas Pickens 10/16/18 through 12/31/18	02/14/2020	XXXII/AA 07701-07702
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
Plaintiff’s Trial Exhibit 125 - Land Rover Financial Group statement 12/13/13 – 01/12/14	02/14/2020	XXXII/AA 07705-07706

CHRONOLOGICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff’s Trial Exhibit 126 - Lexus Statement – 12/24/13	02/14/2020	XXXII/AA 07707
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
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
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
Plaintiff’s Trial Exhibit 144 - JP Morgan Statements, Danka K. Michaels IRA, August 31, 2019 through September 30, 2019	02/14/2020	XXXIII/AA 07858-07866
Plaintiff’s Trial Exhibit 146 - Plaintiff email dated April 3, 2014	02/14/2020	XXXIII/AA 07867-07919
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
Plaintiff’s Trial Exhibit 149 - Plaintiff email dated July 9, 2012	02/14/2020	XXXIII/AA 07931-07933

**CHRONOLOGICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII**

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff’s Trial Exhibit 150 - Plaintiff email dated May 9, 2012	02/14/2020	XXXIII/AA 07934-07964
Plaintiff’s Trial Exhibit 151 - Plaintiff email dated November 13, 2011	02/14/2020	XXXIII/AA 07965-07998
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
Plaintiff’s Trial Exhibit 154 - #002651 Emails between Dr. Michaels and R. Semonian	02/21/2020	XXXIV/AA 08203-08209
Plaintiff’s Trial Exhibit 155 – NV Prescription Monitoring Program	02/21/2020	XXXIV/AA 08210-08247
Plaintiff’s Trial Exhibit 156 – Request to appeal denial of unemployment benefits	02/21/2020	XXXIV/AA 08248
Defendant’s Trial Exhibit A – Plaintiff’s Response to Defendant’s First Request for Production of Documents and Tangible Things from Plaintiff (with certain attachments thereto)	02/14/2020	XXXIV/AA 08249
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
Defendant’s Trial Exhibit J – Plaintiff’s Decree of Divorce filed June 26, 2021	02/14/2020	XXXV/AA 08271

CHRONOLOGICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
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
Defendant’s Trial Exhibit L – Wells Fargo billing Statement dated November 2016	02/14/2020	XXXV/AA 08273- XXXVI/AA 08571
Defendant’s Trial Exhibit M – Notice of Entry of Findings of Fact and Conclusions of Law filed on June 1, 2018 in the matter of <i>Bluepoint Development Inc. v. Patience One, LLC</i>	02/14/2020	XXXVI/AA 08572- XXXVII/AA 08867
Defendant’s Trial Exhibit N – Records evidencing attorney’s fees and expert fees paid by Defendant in this action	02/14/2020	XXXVII/AA 08868-08938
Receipt of Copy	11/10/2021	XXXVII/AA 08939

ALPHABETICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE NO.
Affidavit of Process Server	11/02/2017	I/AA00017-00022
Amended Notice of Taking Videotaped Deposition	03/05/2019	II/AA00376-00378
Answer to First Amended Complaint for Divorce; for Set Aside of Deeds of Real Property and Assignment of L.L.C. Interest; and for Alternative Equitable Relief Under the Putative Spouse Doctrine; Affirmative Defenses and Counterclaim	05/02/2018	I/AA00189-00211
Answer to Second Amended Complaint for Equitable Relief Under (1) the Putative Spouse Doctrine, and (2) Pursuant to Express and/or Implied Agreement to Hold Property as if the Parties Were Married Under <i>Michoff</i> ; and to Set Aside Deeds of Real Property and Assignment of L.L.C. Interest; Affirmative Defenses and Counterclaim	11/19/2018	II/AA00306-00329
Appendix of Exhibits in Support of Defendant’s Motion for Summary Judgement, to Dismiss, for Protective Order and for Attorney Fees	08/01/2019	III/AA00567-IV/AA00702
Appendix of Exhibits in Support of Defendant’s Motion to Compel Discovery Responses	04/22/2019	II/AA00398-00440
Appendix of Exhibits in Support of Defendant’s Motion to Dismiss	11/29/2017	I/AA00025-00044

ALPHABETICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Appendix of Exhibits in Support of Reply to Opposition to Defendant's Motion for Summary Judgement, to Dismiss, for Protective Order and for Attorney Fees and Opposition to Countermotion (1) to Dismiss or, in the Alternative, for Summary Judgement as to Defendant's Causes of Action for Intentional Misrepresentation; Breach of Implied Covenant of Good Faith and Fair Dealing; Promissory Estoppel; Express Agreement Implied Agreement; and Malicious Abuse of Process; (2) for Summary Judgement Setting Aside Deeds of Real Property and Assignment of LLC Interest; and (3) for Permission to Submit Points and Authorities in Excess of 30 Pages Pursuant to EDCR 5.503(e)	09/06/2019	V/AA00845-00861
Appendix of Exhibits to Plaintiff's Opposition to Defendant's Motion for Summary Judgement, to Dismiss, for Protective Order and for Attorney Fees and Countermotion 1) to Dismiss or, in the Alternative, for Summary Judgement as to Defendant's Causes of Action for Intentional Misrepresentation/Fraud; Negligent Misrepresentation; Breach of Implied Covenant of Good Faith and Fair Dealing; Promissory Estoppel; Express Agreement; Implied Agreement; and Malicious Abuse of Process; (2) for Summary Judgement Setting Aside Deeds of Real Property and Assignment of LLC Interest; and (3) for Permission to Submit Points and Authorities in Excess of 30 Pages Pursuant to EDCR 5.503(e)	08/19/2019	V/AA00763-00813
Appendix of Exhibits to Plaintiff's Response and Opposition to Defendant's Motion to Compel Discovery Responses	05/13/2019	II/AA00468-00495

ALPHABETICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Case and Trial Management Order	09/10/2018	II/AA00272-00274
Case Appeal Statement	09/02/2021	XII/AA02717-02743
Case Management Order – Domestic	03/21/2019	II/AA00389-00394
Certificate of Service	09/11/2018	II/AA00277-00278
Certificate of Service	01/09/2019	II/AA00359-00360
Certification of Transcripts Notification of Completion	10/28/2021	XIII/AA02886-02913
Complaint for Divorce and for Set Aside of Deeds of Real Property and Assignment of L.L.C. Interest	10/24/2017	I/AA00001-00015
Court Minutes	01/25/2018	I/AA00142-00143
Court Minutes	02/23/2018	I/AA00144-00145
Court Minutes	09/10/2018	II/AA00275-00276
Court Minutes	02/14/2020	VIII/AA01728
Court Minutes	02/21/2020	IX/AA01781-01793
Court Minutes	07/20/2020	IX/AA01820-01823
Court Minutes	01/22/2021	X/AA02210-02220
Court Minutes	03/05/2021	XI/AA02253-02261
Court Minutes	03/12/2021	XI/AA02272-02284
Court Minutes	04/02/2021	XI/AA02285-02301

ALPHABETICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Declaration of Danka K. Michaels in Support of Answer to Second Amended Complaint for Equitable Relief Under (1) the Putative Spouse Doctrine, and (2) Pursuant to Express and/or Implied Agreement to Hold Property as if the Parties Were Married Under <i>Michoff</i> ; and to Set Aside Deeds of Real Property and Assignment of L.L.C. Interest; Affirmative Defenses and Counterclaim	11/21/2018	II/AA00330-00332
Declaration of Service	07/13/2018	I/AA00230
Declaration of Service	07/19/2018	I/AA00238
Declaration of Service	09/05/2019	V/AA00844
Declaration of Service	11/01/2019	V/AA00882
Declaration of Service	12/20/2019	V/AA00886
Declaration of Service	02/04/2020	V/AA00910
Declaration of Service	02/05/2020	V/AA00911
Declaration of Service Robert Semonian	08/03/2018	I/AA00243
Declaration of Service Shannon L. Evans	08/03/2018	I/AA00244
Defendant Danka K. Michaels Memorandum of Fees and Costs	08/25/2021	XII/AA02658-02671
Defendant’s Closing Argument Brief	05/28/2021	XI/AA02444-02467
Defendant’s EDCR 7.27 Brief	04/02/2021	XI/AA02302-02320
Defendant’s Motion to Compel Discovery Responses	04/22/2019	II/AA00441-00458
Defendant’s Pre-Trial Memorandum	02/07/2020	V/AA00914-00932
Defendant’s Reply to Plaintiff’s Objection to Memorandum of Fees and Costs	09/20/2021	XIII/AA02855-02885
Defendant’s Second Supplemental Witness List (Non-Expert)	12/27/2019	V/AA00887-00891

ALPHABETICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Defendant's Supplemental Witness List (Non-Expert)	04/24/2019	II/AA00460-00464
Defendant's Trial Exhibit A – Plaintiff's Response to Defendant's First Request for Production of Documents and Tangible Things from Plaintiff (with certain attachments thereto)	02/14/2020	XXXIV/AA 08249
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
Defendant's Trial Exhibit J – Plaintiff's Decree of Divorce filed June 26, 2021	02/14/2020	XXXV/AA 08271
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
Defendant's Trial Exhibit L – Wells Fargo billing Statement dated November 2016	02/14/2020	XXXV/AA 08273-XXXVI/AA 08571
Defendant's Trial Exhibit M – Notice of Entry of Findings of Fact and Conclusions of Law filed on June 1, 2018 in the matter of <i>Bluepoint Development Inc. v. Patience One, LLC</i>	02/14/2020	XXXVI/AA 08572-XXXVII/AA 08867
Defendant's Trial Exhibit N – Records evidencing attorney's fees and expert fees paid by Defendant in this action	02/14/2020	XXXVII/AA 08868-08938
Defendant's Witness List (Non-Expert)	02/20/2019	II/AA00371-00375

ALPHABETICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Estimated Cost of Expedited Transcripts	07/22/2020	IX/AA01824-01826
Estimated Cost of Transcript	09/07/2021	XIII/AA02769-02791
Estimated Costs of Transcript	09/07/2021	XIII/AA02792-02822
Exhibit Appendix to Opposition to Defendant's Motion to Dismiss and Countermotion for Attorney's Fees and Costs	12/20/2017	I/AA00064-00093
Exhibit of Appendix to Defendant Danka K. Michaels Memorandum of Fees and Costs	08/25/2021	XII/AA02672-02716
Final Billing for Transcripts	09/01/2020	X/AA02052-02054
Final Billing for Transcripts	10/28/2021	XIII/AA02914-02956
Findings of Fact, Conclusions of Law and Judgement	08/03/2021	XII/AA02568-02613
First Amended Compliant for Divorce; for Set Aside of Deeds of Real Property and Assignment of L.L.C. Interest; and for Alternative Equitable Relief Under the Putative Spouse Doctrine	03/22/2018	I/AA00174-00188
General Financial Disclosure Form	02/13/2020	V/AA00964-00981
Joint Early Case Conference Report Pursuant to N.R.C..P 16.2(i)(2)	07/13/2018	I/AA00231-00237
Minute Order	09/10/2019	V/AA00880-00881
Motion for Leave to File Second Amended Complaint	09/07/2018	I/AA00245-II/AA00270
Motion for Summary Judgement, to Dismiss, for Protective Order and for Attorney Fees	08/01/2019	IV/AA00703-00736
Motion Opposition Fee Information Sheet	12/20/2017	I/AA00094

ALPHABETICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Motion Opposition Fee Information Sheet	09/07/2018	II/AA00271
Motion Opposition Fee Information Sheet	01/08/2019	II/AA00352
Motion to Dismiss	11/29/2017	I/AA00045-00061
Motion to Withdraw as Attorney of Records for Plaintiff	01/08/2019	II/AA00353-00358
Notice of Appeal	09/02/2021	XII/AA02744-XIII/AA02768
Notice of Appearance	03/08/2019	II/AA00382-00383
Notice of Appearance of Attorney	11/27/2017	I/AA00023-00024
Notice of Appearance of Co-Counsel for Defendant	10/16/2020	X/AA02087-02122
Notice of Attorney's Lien	04/05/2019	II/AA00395-00397
Notice of Change of Firm	06/26/2020	IX/AA01811-01819
Notice of Change of Firm Address	01/27/2021	X/AA02233-02243
Notice of Change of Firm Address	08/01/2021	XII/AA02525-02567
Notice of Department Reassignment	03/11/2019	II/AA00384-00385
Notice of Entry of Findings of Fact, Conclusions of Law, and Judgement	08/05/2021	XII/AA02614-02657
Notice of Entry of Order	03/12/2018	I/AA00155-00164
Notice of Entry of Order	12/17/2018	II/AA00345-00351
Notice of Entry of Order	02/06/2019	II/AA00363-00367
Notice of Entry of Order to Seal Records	01/03/2018	I/AA00120-00124
Notice of Entry of Stipulation and Order	12/29/2017	I/AA00116-000119

ALPHABETICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Notice of Entry of Stipulation and Order	10/10/2018	II/AA00282-00287
Notice of Entry of Stipulation and Order	08/16/2019	V/AA0055-00762
Notice of Entry of Stipulation and Order	06/25/2020	IX/AA01801-01810
Notice of Entry of Stipulation and Order	04/19/2021	XI/AA02330-02351
Notice of Entry of Stipulation and Order RE: Motion to Compel	05/29/2019	III/AA00535-00543
Notice of Entry of Stipulation and Order to Continue	06/13/2019	III/AA00545-00551
Notice of Entry of Stipulation and Order to Vacate Discovery Hearing	06/19/2019	III/AA00560-00564
Notice of Hearing	04/22/2019	II/AA00459
Notice of Hearing	08/01/2019	IV/AA00737
Notice of Hearing	03/20/2020	IX/AA01794-01798
Notice of Hearing	08/26/2020	IX/AA1827-X/AA2051
Notice of Hearing	10/26/2020	X/AA02123-02190
Notice of Hearing	11/17/2020	X/AA02191-02201
Notice of Hearing	11/25/2020	X/AA02202-02209
Notice of Hearing	01/22/2021	X/AA02221-02232
Notice of Hearing	02/23/2021	X/AA02244-XI/AA02252
Notice of Hearing	03/08/2021	XI/AA02262-02271

ALPHABETICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Notice of Intent to Appear by Communication Equipment	02/20/2020	VIII/AA01729-IX/01768
Notice of Non-Opposition to Plaintiff’s Request for the Court to Take Judicial Notice Pursuant to NRS 47.130	02/13/2020	V/AA00982-VII/AA01254
Notice of Taking Custodian of Records Deposition and Seven Day Notice of Intent to Serve Subpoena Duces Tecum	12/09/2019	V/AA00883-00885
Notice of Taking Videotaped Deposition	02/15/2019	II/AA00368-00370
Notice of Unavailability of Counsel	05/08/2019	II/AA00465-00467
Notice of Unavailability of Counsel	08/05/2019	IV/AA00738-00740
Opposition to Defendant’s Motion to Dismiss and Countermotion for Attorney’s Fees and Costs	12/20/2017	I/AA00095-I/AA00111
Order	03/09/2018	I/AA00146-00154
Order	03/12/2018	I/AA0065-00173
Order After Hearing of September 10, 2018	12/11/2018	II/AA00333-00336
Order Granting Withdrawal as Attorney of Record for Plaintiff	02/05/2019	II/AA00361-00362
Order Setting Case Management Conference and Directing Compliance with NRCp 16.2	07/31/2018	I/AA00239-00242
Order to Seal Records Pursuant to NRS 125.110(2)	12/22/2017	I/AA00112-I/AA00113
Peremptory Challenge of Judge	03/11/2019	II/AA00386-00388
Petition to Seal Records Pursuant to NRS 125.110(2)	12/15/2017	I/AA00062-00063
Plaintiff Thomas Pickens General Financial Disclosure Form-Trial	02/11/2020	V/AA00955-00962

ALPHABETICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff Thomas Pickens Pretrial Memorandum	02/07/2020	V/AA00933-00950
Plaintiff, Danka K. Michaels' Initial Expert Witness List	07/11/2018	I/AA00220-00229
Plaintiff's Closing Argument	04/23/2021	XI/AA02370-02834
Plaintiff's Objection to Defendant Danka K. Michaels' Memorandum of Fees and Costs	09/07/2021	XIII/AA02823-02854
Plaintiff's Opposition to Defendant's Motion for Summary Judgement, to Dismiss, for Protective Order and for Attorney Fees and Countermotion for Leave of Court to File Supplemental Points and Authorities	08/12/2019	IV/AA00746-V/AA00754
Plaintiff's Opposition to Defendant's Motion for Summary Judgement, to Dismiss, for Protective Order and for Attorney Fees and Countermotion (1) to Dismiss or, in the Alternative, for Summary Judgement as to Defendant's Causes of Action for International Misrepresentation/Fraud; Negligent Misrepresentation; Breach of Implied Covenant of Good Faith and Fair Dealing; Promissory Estoppel; Express Agreement; Implied Agreement; and Malicious Abuse of Process; (2) for Summary Judgement Setting Aside Deeds of Real Property and Assignment of LLC Interest; and (3) for Permission to Submit Points and Authorities in Excess of 30 Pages Pursuant to EDCR 5.503(e)	08/19/2019	V/AA00814-00843
Plaintiff's Rebuttal to Defendant's Closing Argument	06/15/2021	XI/AA02489-XII/AA02524
Plaintiff's Request for the Court to Take Judicial Notice Pursuant to NRS 47.130	02/10/2020	V/AA00951-00954

ALPHABETICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff's Request for the Court to take Judicial Notice Pursuant to NRS 47.130	02/20/2020	IX/AA01769-01770
Plaintiff's Request for the Court to take Judicial Notice Pursuant to NRS 47.130	02/20/2020	IX/AA01771-01780
Plaintiff's Request for the Court to Take Judicial Notice Pursuant to NRS 47.130	04/23/2021	XI/AA02835-02406
Plaintiff's Request for the Court to Take Judicial Notice Pursuant to NRS 47.130	04/23/2021	XI/AA02407-02424
Plaintiff's Request for the Court to Take Judicial Notice Pursuant to NRS 47.130	04/23/2021	XI/AA02425-02443
Plaintiff's Response and Opposition to Defendant's Motion to Compel Discovery Responses	05/13/2019	II/AA00496-III/AA00516
Plaintiff's Supplement to Response and Opposition to Defendant's Motion to Compel Discovery Responses	05/21/2019	III/AA00523-00527
Plaintiff's Trial Exhibit 1 - Photographs of the parties' wedding on April 7, 2002 and announcement	02/14/2020	XIV/AA03070-03083
Plaintiff's Trial Exhibit 10 - 2006 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XIV/AA03181-03196
Plaintiff's Trial Exhibit 100 - American Express Statements #63006 titled in the name of Thomas Pickens 12/09/13 through 12/08/14	02/14/2020	XXX/AA07240-07247
Plaintiff's Trial Exhibit 101 - American Express Statements #63006 titled in the name of Thomas Pickens 12/09/14 through 12/08/15	02/14/2020	XXX/AA07248-07250
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

ALPHABETICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
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
Plaintiff's Trial Exhibit 107 - American Express #51001 titled in the name of Blue Point Development 12/21/13 through 12/19/14	02/14/2020	XXXI/AA07263
Plaintiff's Trial Exhibit 108 - American Express #51001 titled in the name of Blue Point Development 12/20/14 through 12/20/15	02/14/2020	XXXI/AA07264-XXXII/AA07516
Plaintiff's Trial Exhibit 109 - American Express #51001 titled in the name of Blue Point Development 12/21/15 through 12/20/16	02/14/2020	XXXII/AA07517-07682
Plaintiff's Trial Exhibit 11 - 2007 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XIV/AA03197-03210
Plaintiff's Trial Exhibit 110 - American Express #51001 titled in the name of Blue Point Development 12/21/16 through 12/20/17	02/14/2020	XXXII/AA07683-07685
Plaintiff's Trial Exhibit 111 - American Express #51001 titled in the name of Blue Point Development 12/21/17 through 12/20/18	02/14/2020	XXXII/AA07686-07687
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/AA07688-07689
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/AA07690-07691

ALPHABETICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
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
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
Plaintiff’s Trial Exhibit 118 - Wells Fargo Checking #8952 titled in the name of Thomas Pickens 10/16/18 through 12/31/18	02/14/2020	XXXII/AA 07701-07702
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
Plaintiff’s Trial Exhibit 12 - 2008 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XIV/AA03211- 03224
Plaintiff’s Trial Exhibit 125 - Land Rover Financial Group statement 12/13/13 – 01/12/14	02/14/2020	XXXII/AA 07705-07706
Plaintiff’s Trial Exhibit 126 - Lexus Statement – 12/24/13	02/14/2020	XXXII/AA 07707
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
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

ALPHABETICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
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 13 - 2009 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XIV/AA03225- XV/AA03262
Plaintiff’s Trial Exhibit 132 - Danka Michaels Pinnacle Health Systems Statement 7/1/15	02/14/2020	XXXIII/AA 07779-07780
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
Plaintiff’s Trial Exhibit 14 - 2010 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XV/AA03263- 03319
Plaintiff’s Trial Exhibit 144 - JP Morgan Statements, Danka K. Michaels IRA, August 31, 2019 through September 30, 2019	02/14/2020	XXXIII/AA 07858-07866
Plaintiff’s Trial Exhibit 146 - Plaintiff email dated April 3, 2014	02/14/2020	XXXIII/AA 07867-07919
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
Plaintiff’s Trial Exhibit 149 - Plaintiff email dated July 9, 2012	02/14/2020	XXXIII/AA 07931-07933
Plaintiff’s Trial Exhibit 15 - 2011 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XV/AA03320- 03372
Plaintiff’s Trial Exhibit 150 - Plaintiff email dated May 9, 2012	02/14/2020	XXXIII/AA 07934-07964

ALPHABETICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff's Trial Exhibit 151 - Plaintiff email dated November 13, 2011	02/14/2020	XXXIII/AA 07965-07998
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
Plaintiff's Trial Exhibit 154 - #002651 Emails between Dr. Michaels and R. Semonian	02/21/2020	XXXIV/AA 08203-08209
Plaintiff's Trial Exhibit 155 – NV Prescription Monitoring Program	02/21/2020	XXXIV/AA 08210-08247
Plaintiff's Trial Exhibit 156 – Request to appeal denial of unemployment benefits	02/21/2020	XXXIV/AA 08248
Plaintiff's Trial Exhibit 16 - 2012 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XV/AA03373- 03429
Plaintiff's Trial Exhibit 17 - 2013 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XV/AA03430- 03478
Plaintiff's Trial Exhibit 18 - 2014 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XV/AA03479- 03494
Plaintiff's Trial Exhibit 19 - 2015 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XV/AA03495- XVI/AA03543
Plaintiff's Trial Exhibit 2 - Litterae Matrimoniales (Marriage Certificate) of Thomas Pickens and Danka Katarina Oltusova dated April 7, 2002	02/14/2020	XIV/AA03084- 03096
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
Plaintiff's Trial Exhibit 22 - 2006 1040 Income Tax Return for Danka Michaels	02/14/2020	XVI/AA03736- XVII/AA03823

ALPHABETICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff's Trial Exhibit 23 - 2007 1040 Income Tax Return for Danka Michaels	02/14/2020	XVII/AA03824-03848
Plaintiff's Trial Exhibit 24 - 2008 1040 Income Tax Return for Danka Michaels	02/14/2020	XVII/AA03849-03998
Plaintiff's Trial Exhibit 25 - 2009 1040 Income Tax Return for Danka Michaels	02/14/2020	XVII/AA03999 XVIII/AA04127
Plaintiff's Trial Exhibit 26 - 2010 1040 Income Tax Return for Danka Michaels	02/14/2020	XVIII/AA04128-04239
Plaintiff's Trial Exhibit 27 - 2011 1040 Income Tax Return for Danka Michaels	02/14/2020	XVIII/AA04240- XIX/AA04361
Plaintiff's Trial Exhibit 28 - 2012 1040 Income Tax Return for Danka Michaels	02/14/2020	XIX/AA04362-04482
Plaintiff's Trial Exhibit 29 - 2013 1040 Income Tax Return for Danka Michaels	02/14/2020	XIX/AA04483- XX/AA04646
Plaintiff's Trial Exhibit 3 - Medical Records for Tom Pickens produced by Danka Michaels, his physician	02/14/2020	XIV/AA03097-03111
Plaintiff's Trial Exhibit 30 - 2014 1040 Income Tax Return for Danka Michaels	02/14/2020	XX/AA04647- XXI/AA04755
Plaintiff's Trial Exhibit 31 - 2015 1040 Income Tax Return for Danka Michaels	02/14/2020	XXI/AA04756-04842
Plaintiff's Trial Exhibit 32 - 2016 1040 Income Tax Return for Danka Michaels	02/14/2020	XXI/AA04843-04879
Plaintiff's Trial Exhibit 35 - 2006 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXI/AA04880-04908
Plaintiff's Trial Exhibit 36 - 2007 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXI/AA04909- XXII/AA05059
Plaintiff's Trial Exhibit 37 - 2008 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXII/AA05060-05200

ALPHABETICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff’s Trial Exhibit 38 - 2009 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXII/AA05201- XXIII/AA05305
Plaintiff’s Trial Exhibit 39 - 2010 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXIII/AA05306- 05391
Plaintiff’s Trial Exhibit 4 - Nevada Prescription Monitoring Program Prescription log for Tom Pickens	02/14/2020	XIV/AA03112- 03116
Plaintiff’s Trial Exhibit 40 - 2011 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXIII/AA05392- 05488
Plaintiff’s Trial Exhibit 41 - 2012 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXIII/AA05489- XXIV/AA05577
Plaintiff’s Trial Exhibit 42 - 2013 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXIV/AA05578- 05669
Plaintiff’s Trial Exhibit 43 - 2014 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXIV/AA05670- XXV/AA05758
Plaintiff’s Trial Exhibit 44 - 2015 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXV/AA05759- 05802
Plaintiff’s Trial Exhibit 45 - 2016 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXV/AA05803- 05934
Plaintiff’s Trial Exhibit 46 - 2017 1120S Income Tax Return for Danka K. Michaels MD, PC	02/14/2020	XXV/AA005935- XXVI/AA06106
Plaintiff’s Trial Exhibit 47 - 2012 1065 Income Tax Return for Patience One LLC	02/14/2020	XXVI/AA06107- XXVII/AA06297

ALPHABETICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff's Trial Exhibit 48 - 2013 1065 Income Tax Return for Patience One LLC	02/14/2020	XXVII/AA06298-06490
Plaintiff's Trial Exhibit 49 - 2014 1065 Income Tax Return for Patience One LLC	02/14/2020	XXVII/AA06491-XXVIII/AA06589
Plaintiff's Trial Exhibit 5 - Chain of Title with Applicable Deeds for 9517 Queen Charlotte Drive, Las Vegas, Nevada 89145	02/14/2020	XIV/AA03117-03127
Plaintiff's Trial Exhibit 50 - 2015 1065 Income Tax Return for Patience One LLC	02/14/2020	XXVIII/AA06590-06672
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

ALPHABETICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Plaintiff’s Trial Exhibit 58 - 2014 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXIX/ AA06963-06998
Plaintiff’s Trial Exhibit 59 - 2015 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXIX/ AA06999
Plaintiff’s Trial Exhibit 6 - Chain of Title with Applicable Deeds for 7608 Lowe Avenue, Las Vegas, Nevada 89131	02/14/2020	XIV/AA03128- 03136
Plaintiff’s Trial Exhibit 60 - 2016 1120 Income Tax Return for Blue Point Development LLC	02/14/2020	XXX/AA07000
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 7 - Affidavit of Custodian of Records and file from First American Title Company—purchase of 9517 Queen Charlotte Drive, Las Vegas, Nevada 89145 on October 7, 2004	02/14/2020	XIV/AA03137- 03150

ALPHABETICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
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
Plaintiff’s Trial Exhibit 76 - Wells Fargo Checking ending 3436 titled in the names of Thomas A. Pickens and Danka K. Michaels 01/01/2015 through 12/31/15	02/14/2020	XXX/AA07015-07016
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 8 - Certificate of Custodian of Records for Ticor Title of Nevada—purchase of 7608 Lowe Avenue, Las Vegas, Nevada 89131 on February 28, 2011	02/14/2020	XIV/AA03151-03164
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

ALPHABETICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
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
Plaintiff's Trial Exhibit 86 - American Express Statements #72004 Thomas Pickens card #72004 Danka Michaels card #72020 12/16/14 through 12/15/15	02/14/2020	XXX/AA07060
Plaintiff's Trial Exhibit 87 - American Express Statements #72004 Thomas Pickens card #72004 #73002 Danka Michaels card #72020 12/16/15 through 12/15/16	02/14/2020	XXX/AA07061- 07092
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

ALPHABETICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
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 9 - 2005 1040 Income Tax Return for Thomas A. Pickens	02/14/2020	XIV/AA3165-03180
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
Plaintiff's Trial Exhibit 99 - American Express Statements #63006 titled in the name of Thomas Pickens 12/08/12 through 12/08/13	02/14/2020	XXX/AA07237-07239
Receipt of Check	06/03/2019	III/AA00544
Receipt of Copy	02/11/2020	V/AA00963
Receipt of Copy	11/10/2021	XIV/AA03055-03069
Receipt of Copy	11/10/2021	XXXVII/AA08939
Reply in Support of Defendant's Motion to Compel Discovery Responses	05/15/2019	III/AA00517-00522
Reply to Defendant's Counterclaim	05/30/2018	I/AA00212-00219

ALPHABETICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE NO.
Reply to Defendant's Counterclaim	12/12/2018	II/AA00337-00344
Reply to Opposition to Defendant's Motion for Summary Judgement, to Dismiss, for Protective Order and for Attorney Fees and Opposition to Countermotion (1) to Dismiss or, in the Alternative, for Summary Judgement as to Defendant's Causes of Action for Intentional Misrepresentation/Fraud; Negligent Misrepresentation; Breach of Implied Covenant of Good Faith and Fair Dealing; Promissory Estoppel; Express Agreement; Implied Agreement; and Malicious Abuse of Process; (2) for Summary Judgement Setting Aside Deeds of Real Property and Assignment of LLC Interest; and (3) for Permission to Submit Points and Authorities in Excess of 30 Pages Pursuant to EDCR 5.503(e)	09/06/2019	V/AA00862-00879
Reply to Opposition to Defendant's Motion to Dismiss and Opposition to Countermotion for Attorney's Fees and Costs	01/09/2018	I/AA00125-00141
Request for Issuance of Joint Preliminary Injunction	10/25/2017	I/AA00016
Satisfaction and Release of Lien	07/31/2019	III/AA00565-00566
Second Amended Complaint for Equitable Relief Under (1) the Putative Spouse Doctrine, and (2) Pursuant to Express and/or Implied Agreement to Hold Property as if the Parties Were Married Under <i>Michoff</i> ; and to Set Aside Deeds of Real Property and Assignment of L.L.C. Interest	10/15/2018	II/AA00288-00305
Second Amended Notice of Taking Videotaped Deposition	03/05/2019	II/AA00379-00381

ALPHABETICAL INDEX OF APPELLANT’S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
Stipulation and Order Granting Leave to File Second Amended Complaint, and Vacating Motion Hearing	10/08/2018	II/AA00279-00281
Stipulation and Order RE: Motion to Compel	05/28/2019	III/AA00528-00534
Stipulation and Order to Continue	06/13/2019	III/AA00552-00556
Stipulation and Order to Continue Day Three of Trial	06/24/2020	IX/AA01799-01800
Stipulation and Order to Continue Hearing	12/28/2017	I/AA00114-000115
Stipulation and Order to Extend Briefing Deadline	04/22/2021	XI/AA02352-02369
Stipulation and Order to Extend Briefing Deadlines	04/14/2021	XI/AA02321-02329
Stipulation and Order to Extend Deadline for Plaintiff to File His Rebuttal Brief	06/14/2021	XI/AA02468-02488
Stipulation and Order to Extend Filing of Pre-Trial Memorandum and Trial Exhibits	02/06/2020	V/AA00912-00913
Stipulation and Order to Vacate Discovery Hearing	06/18/2019	III/AA00557-00559
Stipulation to Extend Discovery Deadlines and Continue Trial (First Request) and Order Continuing Trial	08/05/2019	IV/AA00741-00745
Supplemental Exhibit in Support of Notice of Non-Opposition to Plaintiff’s Request for the Court to Take Judicial Notice Pursuant to NRS 47.130	02/13/2020	VII/AA01255-VIII/AA01727
Transcript RE: Non-Jury Trial	09/01/2020	X/AA02055-02070
Transcript RE: Non-Jury Trial Day 2	09/01/2020	X/AA02071-02086

ALPHABETICAL INDEX OF APPELLANT'S APPENDIX
VOLUME XXXVII OF XXXVII

DESCRIPTION	DATE FILED	VOL./PAGE No.
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
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Trial Subpoena Robert Semonian	01/28/2020	V/AA00892- 00898
Trial Subpoena Shannon L. Evans, Esq.	01/28/2020	V/AA00899- 00905

1 Q During the time of the deposition, right?

2 (No audible response)

3 Q Is that a yes? You've got to answer orally.

4 A Yes.

5 Q All right, thank you. And so, when you, at the time
6 that you executed these -- these deeds and assignment of
7 membership interest, you had Blue Point Development, which was
8 your company, right?

9 (No audible response)

10 Q And we already showed that it had \$524,000, in
11 buildings and other depreciable assets, right?

12 (No audible response)

13 Q We showed that it had \$150,660.04, in cash at the
14 time, right?

15 (No audible response)

16 Q And we showed that it had another \$251,076 --

17 MR. JONES: Can he answer one question at a time?

18 MR. GOLDSTEIN: He's nodding his head, so go ahead

19 and --

20 THE COURT: Well, you need --

21 MR. GOLDSTEIN: -- make him, orally.

22 THE COURT: -- to answer --

23 THE PLAINTIFF: Okay, --

24 THE COURT: -- out loud, --

1 THE PLAINTIFF: -- that's fine.

2 THE COURT: -- please.

3 BY MR. GOLDSTEIN:

4 Q All right, you nodded your head in the affirmative
5 to my questions, correct?

6 A I -- it -- I --

7 MS. LOBELLO: I did not see him nod his head.

8 MR. GOLDSTEIN: He's nodding his head. He's doing
9 this.

10 MR. JONES: Okay, answer --

11 MR. GOLDSTEIN: He knows he is.

12 MR. JONES: -- affirmatively.

13 THE PLAINTIFF: Okay. I -- that's fine. It --

14 MR. GOLDSTEIN: All right.

15 THE COURT: Start from --

16 MS. LOBELLO: Then I'm --

17 THE COURT: -- the top.

18 MS. LOBELLO: -- going to object, so we have a clear
19 record, that that's a ---

20 THE COURT: Yes.

21 MS. LOBELLO: -- cumulative question.

22 THE COURT: Thank you. Start from the top, ask each
23 element --

24 MR. GOLDSTEIN: I did. He gave me answers --

1 THE COURT: -- one-at-a-time.

2 MR. GOLDSTEIN: -- to each one.

3 THE COURT: Let's get yeses on the record.

4 MR. GOLDSTEIN: All right.

5 THE COURT: Go ahead.

6 BY MR. GOLDSTEIN:

7 Q To each of my questions that I just asked you, you
8 were nodding your head affirm --

9 A According to the tax re -- returns, that's what it
10 was.

11 Q All right. Well, and according to the bank
12 statements, right?

13 A Correct.

14 Q Okay. All right. You also had the 401k, correct?

15 A Correct.

16 Q And those contributions were all made by Danka's
17 company, correct?

18 A It -- no, that's not correct.

19 Q Okay. What other company con -- ho -- how --

20 A 401ks are part of a salary deduction or protection.

21 Q Correct.

22 A It's not something that Danka could --

23 Q The salary --

24 A -- put the total amount in.

1 Q The salary was from Danka's company --
2 A That's --
3 Q -- as well --
4 A -- correct.
5 Q So, all monies, whether it was your salary, from
6 which you, then contributed to the 401k and whether or not
7 Danka's company did an employer match, all of that money was
8 from Danka's company, correct?
9 A Correct. Well -- well, --
10 Q Okay. You didn't have a 401k with Stations, right?
11 A Well, I don't know if I did or not. I don't
12 remember.
13 Q Well, Stations does have a 401k plan, right?
14 A I --
15 Q Did at the time --
16 A You're asking --
17 Q -- you were --
18 A -- me for --
19 Q -- worked for --
20 A -- something I --
21 Q -- it, right?
22 A -- don't remember.
23 Q Okay. So you don't know if you have a 401k. You
24 might.

1 A At Stations?

2 Q Yeah.

3 A I don't recall.

4 Q Okay. You also received multiple vehicles, right?

5 A Do what?

6 Q You also had multiple vehicles -- you received
7 multiple vehicles, right?

8 A Received?

9 A Yes, multiple vehicles.

10 Q Why would you say received?

11 A I'm asking you the question, sir.

12 Q Do I have multiple vehicles? The answer is yes.

13 Q Okay. You had a Range Rover?

14 A Correct.

15 Q All right.

16 THE COURT: We're talking about 2016?

17 BY MR. GOLDSTEIN:

18 Q Correct, 2016, at the time of the signing of the
19 execution of these deeds. That's the time frame I'm talking
20 about, unless you hear -- un --

21 A Correct.

22 Q -- until you hear me talk about a different time
23 frame.

24 A Correct.

1 Q All right. And what were they, Range Rover?

2 A I had a Ra -- at -- in '16, I had a Range Rover, a
3 Porsche, a -- a Cadillac, and two old cars that my dad gave
4 me.

5 Q And how much did you buy the Range Rover for?

6 A I bought the Range Rover in 2012. It was probably,
7 \$89,000.

8 Q Okay. And how --

9 A Somewhere around there.

10 Q I'll just go to the next vehicle in line.

11 A I -- the --

12 Q Tell me what it is and how much you bought it (sic.)

13 A The Cadillac, I bought in Florida for -- I think it
14 was around the same amount, 80 or 90-something. Not sure
15 exact number.

16 Q And then the next vehicle?

17 A The Porsche, 128.

18 Q Okay. And the two Model Ts that you didn't -- I
19 assume you didn't buy --

20 A They --

21 Q -- them.

22 A -- were gifts.

23 Q All right. You said they were gifts. Gifts from
24 whom?

1 A My father.

2 Q Okay. And isn't it true, one of those was -- was

3 gifted to Dhaka?

4 A No.

5 Q You never told Danka that one of those vehicles was

6 her's?

7 A I don't recollect that.

8 Q You're not denying that you did. You --

9 A No, --

10 Q -- just said --

11 A -- I am --

12 Q -- that, right?

13 A -- denying it.

14 THE COURT: He says --

15 MR. JONES: He --

16 THE COURT: -- he doesn't --

17 MR. JONES: He -- he did --

18 THE COURT: -- re -- recollect.

19 MR. JONES: -- deny --

20 THE COURT: That means he doesn't know, one --

21 MR. GOLDSTEIN: He --

22 THE COURT: -- way or the other.

23 MR. GOLDSTEIN: -- says he di -- he didn't

24 recollect.

1 THE COURT: Right.

2 MR. GOLDSTEIN: Okay.

3 MR. JONES: No, he said he didn't recollect giving
4 her one. He said no, they weren't -- one wasn't her's.

5 THE COURT: The question was, do you re -- le -- do
6 you remember saying that to Danka, he says, I don't recollect
7 saying that Danka. That's my understanding of the record. Go
8 ahead, Counsel.

9 MR. GOLDSTEIN: Thank you, Your Honor.

10 BY MR. GOLDSTEIN:

11 Q You also received multiple bank accounts, correct?

12 A Do -- I'm trying to figure out, when you say --

13 Q In September --

14 A -- receive --

15 Q -- of 2016 --

16 THE COURT: Counsel, do you mean kept or received?

17 MR. JONES: Right.

18 THE COURT: Something --

19 THE PLAINTIFF: That's what --

20 MR. JONES: It -- he keeps using --

21 THE PLAINTIFF: -- I'm trying to figure out.

22 MR. GOLDSTEIN: It doesn't matter.

23 MR. JONES: -- the word received to imply something,
24 that there was a --

1 MR. GOLDSTEIN: Makes no --
2 MR. JONES: -- transaction.
3 MR. GOLDSTEIN: -- difference.
4 MR. JONES: If I own something on --
5 THE COURT: Counsel, --
6 MR. JONES: -- September 12, --
7 THE COURT: I get it.
8 MR. JONES: -- I still own it on September 14th and
9 no one gave it to me.
10 MR. GOLDSTEIN: Go ahead and clean it up then, John.
11 If you don't like it, go ahead and clean it up.
12 MR. JONES: I don't have any --
13 THE COURT: Go ahead.
14 MR. JONES: -- problem with it.
15 MR. GOLDSTEIN: Okay.
16 MR. JONES: It's just a colossal --
17 MS. ABRAMS: Well, I mean, --
18 MR. JONES: -- waste of time.
19 MS. ABRAMS: -- I think he means received from any
20 claims from -- or, any co -- you know, without having to pay
21 anything to Danka, specifically for it.
22 BY MR. GOLDSTEIN:
23 Q You didn't give Danka half of any of the interest in
24 any of those vehicles that you mentioned, right?

1 A Oh, yeah, I did.

2 Q You gave them to her on -- in -- on the September

3 13th time frame?

4 A She's driving a Porsche that I bought.

5 Q I'm --

6 A I didn't --

7 Q -- sorry, --

8 A -- give it to her, she took --

9 Q -- when I asked --

10 A -- title and --

11 Q -- you about vehicles, --

12 A -- got it transferred.

13 Q -- you didn't mention a Porsche, right?

14 MR. JONES: He -- he did.

15 MS. LOBELLO: He said Cayenne.

16 MR. JONES: He said the Porsche.

17 THE COURT: Yeah.

18 MR. GOLDSTEIN: No, no -- okay.

19 MR. JONES: It just happens to be her Porsche that

20 he mentioned.

21 MR. GOLDSTEIN: Okay. It's fine.

22 THE PLAINTIFF: I paid for it, she has it.

23 BY MR. GOLDSTEIN:

24 Q You didn't pay for it, did you?

1 A Yes, I did.

2 Q Personally?

3 A Well, Blue Point Development.

4 Q Okay. But, it -- so, you're Blue Point then, right?

5 I just want to make that clear. You --

6 A My company --

7 Q -- keep saying that.

8 A -- paid for it.

9 Q Oh, no, but you keep saying I did, so you -- there's
10 no distinction for you, between Blue Point and you, right?

11 MS. LOBELLO: Your Honor, this is argumentative --

12 THE COURT: It is.

13 MR. GOLDSTEIN: It's not.

14 MS. LOBELLO: -- and improper.

15 THE COURT: Thank you.

16 MR. JONES: It calls for a legal conclusion.

17 THE COURT: It does, thank you. Move on, Counsel.

18 MR. GOLDSTEIN: Okay, no problem.

19 BY MR. GOLDSTEIN:

20 Q You -- you had multiple bank accounts, correct?

21 A Yes.

22 Q Okay. And you had bank accounts that you didn't
23 disclose, correct?

24 A No.

1 Q Like a bank account at Community Bank?
2 A That was before this even happened.
3 Q Okay. And so, are you saying you didn't have that
4 bank account at the --
5 A I don't --
6 Q -- time --
7 A I think it was closed when we went to the (sic) Bank
8 of America --
9 Q Right.
10 A -- and that was probably, in -- I don't know what --
11 way back. And I don't -- it -- it -- as far as I know, it's
12 closed.
13 Q All right. And -- Exhibit 85.
14 (whispered conversation)
15 Q 85, Bates label 2799.
16 MS. STOLZ: No, 2599.
17 BY MR. GOLDSTEIN:
18 Q Oh, sorry, 2599.
19 A Which one?
20 Q 2599.
21 A 2599?
22 Q Uh-huh (affirmative).
23 A Okay.
24 Q Just in the middle there, do you see a -- well, this

1 is your American Express Platinum card, correct?

2 A Correct.

3 Q And the closing date of this statement says
4 08/15/14, right? At the top.

5 A Yeah.

6 Q Okay. And do you see in the middle, there's two
7 payments referenced there?

8 A Yep.

9 Q And so, did you make a payment of \$500 on 07/31/14?

10 A I -- I guess so.

11 Q Okay. And you made another payment of -- same date,
12 --

13 A Correct.

14 Q -- 07/31/14, of \$9,000, correct?

15 A Correct.

16 Q I'll represent to you, sir, that we've researched
17 and we cannot find a bank account corresponding to the
18 transaction for the \$500 payment there, from any of the
19 documents that are in discovery in this case. So I'll just
20 ask again, did you have a different bank account that you
21 didn't disclose?

22 A No, the only thing it -- I -- I'm going to try to
23 answer.

24 Q Okay.

1 A I -- I don't know if your payroll account -- I'm not
2 sure if the payroll account where that is -- I don't think
3 it's -- I think it's in my -- my -- but no, I don't -- I don't
4 know what you're talking about. I don't have any other
5 accounts.

6 Q There wer -- you had accounts --

7 MS. LOBELLO: It's 2014.

8 BY MR. GOLDSTEIN:

9 Q -- in September of 2016, when you signed over the
10 deeds and the assignment of interest, you accounts that Danka
11 didn't know about, right?

12 A No.

13 MR. GOLDSTEIN: Think it's a good time to take a --
14 a lunch break, Judge?

15 MS. LOBELLO: How much --

16 MR. GOLDSTEIN: It's 12:35.

17 MS. LOBELLO: -- longer does he have?

18 THE COURT: All right, we will --

19 MR. JONES: Don't -- don't bother asking (ph)***

20 12:33:03.

21 THE COURT: -- close up shop until 2:00 p.m.

22 MS. LOBELLO: What do you want?

23 (Off record)

24 THE COURT: Thank you. All the --

1 MR. GOLDSTEIN: Write some --

2 THE COURT: -- parties can --

3 MR. GOLDSTEIN: -- novels.

4 THE COURT: -- be seated. All the parties are here
5 from before and we will resume our questioning. Mr. Pickens,
6 can you take the stand? I don't believe we were through with
7 it.

8 MR. GOLDSTEIN: Not yet.

9 MR. JONES: No.

10 THE COURT: Okay.

11 THE BAILIFF: Watch your step up.

12 MR. GOLDSTEIN: It's possible, Judge, that we'll
13 finish before 5:00 p.m. today, in the hopes that we might do
14 what we did last time. Stop around 4:00-ish, pack up, talk to
15 you about briefing, or what's going to --

16 THE COURT: Okay.

17 MR. GOLDSTEIN: -- happen on the next one and we'll
18 go from there.

19 MR. JONES: I thought we covered that last week.

20 THE COURT: We sort of, did, but we didn't know if
21 we'd be done with the questioning.

22 MR. GOLDSTEIN: Right. And we also didn't set any
23 timelines or -- or schedules -- deadlines, whatever.

24 THE COURT: Very good. Let's go.

1 MR. GOLDSTEIN: Thank you. All right.

2 BY MR. GOLDSTEIN:

3 Q Mr. Pickens, the main trigger for you filing this
4 lawsuit was the \$2.4-million of gift tax, right?

5 A That was beginning, yes.

6 Q Okay. And -- and is it your belief now and
7 understanding that a -- a gift tax return may have to be
8 prepared an -- but however, you would not actually have to pay
9 any tax? Is that your --

10 A I --

11 Q -- understanding now?

12 A I -- I really don't have a clear understanding. I'm
13 going to say yes, --

14 Q Okay.

15 A -- but it -- I don't know if that's clear.

16 Q All right. Going back to the circumstances
17 surrounding --

18 (whispered conversation)

19 Q -- surrounding the -- the inc -- the night of the
20 evening where Danka learned of your relationship with Stacy,
21 do you recall sending her a text that evening at 7:20, saying
22 Danka, there's nothing that I can say that would change
23 anything that should have not happened, but it did. I will
24 sign everything that we have together over to you. I should

1 have not put myself into this position. I know you will never
2 forgive me and you shouldn't?

3 A I -- I don't remember. I mean, it's been a long
4 time ago.

5 Q Are you denying you sent that? You don't recall?

6 A I don't recall.

7 Q Okay. Just going to have you --

8 MS. LOBELLO: Authenticity.

9 MR. GOLDSTEIN: -- -- read -- the top -- sorry.

10 MS. LOBELLO: Object to au -- that was not produced.

11 MR. GOLDSTEIN: -- the top grey portion.

12 MR. JONES: Objection, Your Honor, we have --

13 MR. GOLDSTEIN: Just read --

14 MR. JONES: -- no way --

15 MR. GOLDSTEIN: -- this --

16 MR. JONES: -- this has never been produced, --

17 MR. GOLDSTEIN: It -- it's --

18 MR. JONES: -- it's never been vetted, --

19 MR. GOLDSTEIN: Hold on, it's rev -- refreshing --

20 MR. JONES: Even if he's trying to refresh
21 recollection, --

22 MR. GOLDSTEIN: I can use my shoe, in John Jones'
23 words. And it --

24 MR. JONES: Those aren't --

1 MR. GOLDSTEIN: -- doesn't have --
2 MR. JONES: -- my shoes.
3 MR. GOLDSTEIN: -- to be admissible or anything
4 else. It can be --
5 MS. LOBELLO: We don't know --
6 MR. GOLDSTEIN: -- literally, --
7 MS. LOBELLO: -- if it's --
8 THE COURT: He hasn't --
9 MS. LOBELLO: -- authentic.
10 MR. GOLDSTEIN: -- anything.
11 THE COURT: -- offered it at this time.
12 MR. JONES: It -- it's --
13 MR. GOLDSTEIN: That's right.
14 MR. JONES: -- never been produced.
15 MR. GOLDSTEIN: Can you re -- it --
16 THE COURT: He's not --
17 MR. GOLDSTEIN: -- doesn't have --
18 THE COURT: -- offering it.
19 MR. GOLDSTEIN: -- to; I'm not offering.
20 BY MR. GOLDSTEIN:
21 Q Just read this top part here, --
22 A Okay.
23 Q -- in the grey, okay?
24 A I read it.

1 Q Read it and let me know when you're done --
2 THE COURT: To yourself.
3 BY MR. GOLDSTEIN:
4 Q -- reading the whole thing.
5 A I'm done.
6 Q Read it -- the whole thing. You read the whole
7 thing?
8 MS. LOBELLO: Do you --
9 THE PLAINTIFF: Yep.
10 MS. LOBELLO: -- know how easy it is to make those
11 things up?
12 MR. JONES: Okay.
13 BY MR. GOLDSTEIN:
14 Q Okay, take a look. Does that refresh your
15 recollection, sir, as to saying this?
16 MR. JONES: Objection, foundation, whether he even
17 re -- what -- whether this text message says this, he --
18 MR. GOLDSTEIN: It's not --
19 MR. JONES: -- needs to establish --
20 MR. GOLDSTEIN: I'm not --
21 MR. JONES: -- that he actually --
22 MR. GOLDSTEIN: -- moving this --
23 MR. JONES: -- knows he --
24 MR. GOLDSTEIN: -- this in.

1 MR. JONES: -- sent it.
2 MR. GOLDSTEIN: I'm not --
3 MR. JONES: These things --
4 MR. GOLDSTEIN: -- moving --
5 MR. JONES: -- can be --
6 MR. GOLDSTEIN: No, --
7 MR. JONES: -- fabricated.
8 MR. GOLDSTEIN: -- no, no, I'm not moving this
9 document in.
10 MR. JONES: Nope. But you ca --
11 MR. GOLDSTEIN: I'm asking if he's (sic) --
12 recollection has been refreshed. Everything that I've done is
13 proper, --
14 MR. JONES: About --
15 MR. GOLDSTEIN: -- evidentiary --
16 MR. JONES: -- whether --
17 MR. GOLDSTEIN: -- wise.
18 MR. JONES: -- he -- about whether he --
19 MR. GOLDSTEIN: He may --
20 MR. JONES: -- sent it?
21 MR. GOLDSTEIN: -- not like it.
22 THE COURT: You can ask him if his recollection is
23 refreshed on the prior question of, --
24 MR. GOLDSTEIN: That's right.

1 THE COURT: -- did you remember sending said email
2 (sic.)
3 MR. GOLDSTEIN: That's right. That's what --
4 THE COURT: Is your --
5 MR. GOLDSTEIN: -- I'm asking.
6 THE COURT: -- recollection refreshed regarding
7 sending that email?
8 MR. GOLDSTEIN: Text message.
9 THE COURT: Text message, whatever.
10 THE PLAINTIFF: I mean, the -- the paperwork said I
11 did, so --
12 MR. JONES: That wasn't --
13 THE COURT: That's not the question.
14 MR. JONES: Objection, non-responsive --
15 MR. GOLDSTEIN: It's your own client's --
16 MR. JONES: -- move to strike.
17 MR. GOLDSTEIN: -- answer.
18 THE COURT: You were asked, --
19 MR. GOLDSTEIN: It's your own --
20 THE COURT: -- do you --
21 MR. GOLDSTEIN: -- client's answer.
22 THE COURT: -- recall sending --
23 THE PLAINTIFF: I don't --
24 THE COURT: -- that text message.

1 THE PLAINTIFF: I don't recall sending that text
2 message.

3 THE COURT: Okay.

4 BY MR. GOLDSTEIN:

5 Q I understand, but having looked at it, does that
6 refresh your recollection?

7 A Well, I still don't remember sending it.

8 Q All right. You're not denying that you sent it
9 through, right?

10 A Neither or.

11 Q Okay.

12 A I'm not denying, I'm not saying I did.

13 Q An -- because you told her that you would sign
14 everything over to her, right?

15 (No audible response)

16 Q You felt bad about what you did and you said listen,
17 I want to make this right, I'll sign everything over to you,
18 correct?

19 A During that moment, if that text message went out,
20 that's what I said.

21 (whispered conversation)

22 Q Because that's what you -- that's what you -- your
23 -- your whole idea about this is -- is doing what's right and
24 what's fair, correct?

1 A Well, you answer the question, what's fair.

2 Q What's right and what's fair. Those were your words
3 at your deposition. Do you recall that?

4 A What's fair, yes.

5 Q Okay. What's right and what's fair. Do you recall
6 that?

7 A No, I don't recall that.

8 Q All right. In your mind, it was the right thing to
9 do, to give her and transfer these properties over to her,
10 correct?

11 A In the heat of the moment, I probably said that.

12 Q All right. And certainly, on September 13th, when
13 you signed the documents.

14 A Well, --

15 Q That was two days later -- three days later.

16 MR. JONES: Objection, there's no date on this
17 alleged text message.

18 MR. GOLDSTEIN: Yeah, there is, right there,
19 Saturday, September --

20 MS. ABRAMS: Six days later.

21 MR. GOLDSTEIN: Se -- Saturday, September 10th.

22 MR. JONES: No, no, Saturday, September 10th is the
23 ones below. There is 00

24 MR. GOLDSTEIN: Oh.

1 MR. JONES: -- no Saturday, September -- there is no
2 Friday, September 9th, or any other date --
3 MR. GOLDSTEIN: Doesn't matter.
4 MR. JONES: -- at the ones above.
5 MR. GOLDSTEIN: I'm not asking about the document.
6 I'm not --
7 MR. JONES: You just --
8 MR. GOLDSTEIN: -- asking about a document --
9 MR. JONES: But the --
10 MR. GOLDSTEIN: -- that's not --
11 MR. JONES: -- question --
12 MR. GOLDSTEIN: --- in evidence.
13 MR. JONES: -- was, two days later.
14 THE COURT: I get it.
15 MR. JONES: Based upon --
16 MR. GOLDSTEIN: At --
17 MR. JONES: -- when he --
18 MR. GOLDSTEIN: The question --
19 MR. JONES: -- believes that --
20 MR. GOLDSTEIN: -- was, at --
21 MR. JONES: -- was sent.
22 MR. GOLDSTEIN: -- the time of the signing of the
23 documents, that's what you believed.
24 BY MR. GOLDSTEIN:

1 Q You believed it was the right thing to do because
2 you felt guilty for what you had done.

3 A There is no doubt, I felt guilty about everything.
4 I've -- I felt guilty about losing a child, I felt guilty
5 about a lot of things.

6 Q Let's talk about these other things, --

7 A Okay.

8 Q -- okay? Because your -- the reason why you said
9 you weren't in your right mind -- as your words, I think --
10 was because one, your mom had died, correct?

11 A My mom and my dad.

12 Q Okay, well, let -- I -- I'm just going to take each
13 one, individually --

14 A Okay, that's fine.

15 Q -- and then we'll go from there. So let's start
16 with the -- your mom, correct? That was one of the reasons
17 you used, right? When did she die, sir?

18 A I can't tell you the date now.

19 Q Right. But it wasn't -- it was 2015, right?

20 A '15.

21 Q Right, not '16.

22 A '15.

23 Q Correct. And your dad died in a -- in or about the
24 middle of 2016, --

1 A '16, --

2 Q -- correct?

3 A -- correct.

4 Q All right. And then another one of your reasons as
5 why your mind wasn't right was because, in your words, you
6 lost a child, right?

7 A No.

8 Q Okay. But -- but, I mean the -- what really
9 happened is, is Stacy had a voluntary abortion, correct?

10 (No audible response)

11 Q She chose to have an abortion, --

12 A She --

13 Q -- correct?

14 A She chose to have an abortion, --

15 Q All right.

16 A -- correct.

17 Q And -- and so -- oh, and then the other thing that
18 you referenced was your dog dying, right?

19 (No audible response)

20 Q You knew your dog was ill for a while, right?

21 (No audible response)

22 Q And Danka had told you about that, right?

23 (No audible response)

24 Q And I think your testimony was that she had sent you

1 a pictures and -- and the like, right?

2 A No, we FaceTimes --

3 Q Okay, FaceTime.

4 A -- when they put it down.

5 Q Right. And so, you -- you had the opportunity to
6 come back and you -- you still didn't come back so you can see
7 the dog, right?

8 A Well, the days she FaceTimed me was to put it down,
9 so I didn't have time to come back and see the dog.

10 Q No, I understand, but you knew the dog was doing
11 poorly for multiple days before that.

12 A Well, it -- it -- and I'd been there several times.

13 Q Sir, is the -- is the --

14 THE COURT: Can we --

15 MR. GOLDSTEIN: -- answer yes or no?

16 MR. GOLDSTEIN: -- just -- he lost his dog. Please
17 go forward.

18 MR. GOLDSTEIN: All right.

19 BY MR. GOLDSTEIN:

20 Q And those are the reasons why you said your mind
21 wasn't right, correct?

22 A And -- and medication that I was on.

23 Q Well, you didn't say that at your deposition.

24 A Well, that's fine.

1 Q Right? You didn't --
2 A I don't --
3 Q You didn't say that.
4 A I don't recall what I said on deposition.
5 Q You didn't say it would because of medicines, right?
6 A I don't know. I don't recall.
7 Q Okay. What you did say where those things: your mom
8 dying, your Dad dying, the dog dying, and the abortion, right?
9 (No audible response)
10 Q None of those things are Danka's fault, right?
11 (whispered conversation)
12 A N -- the answer is no.
13 Q Okay. She didn't cause any of those things to
14 happen, right?
15 A No.
16 Q You -- you -- you signed your 2016 tax return on
17 October -- correct date, here -- on October 16, 2017, right?
18 MR. JONES: Objection, Your Honor. Does the
19 document that he's referring to have --
20 MR. GOLDSTEIN: Exhibit 20.
21 MR. JONES: -- the witness' signature on it?
22 MR. GOLDSTEIN: Electronically. I said electronic -
23 -
24 MS. ABRAMS: Your Honor, he --

1 MR. JONES: No --

2 MS. ABRAMS: -- keeps making these objections.

3 These documents came in from subpoena to the CPA, Robert
4 Simonian, Simonian testified, the -- the documents are in
5 evidence. Now he wants to try to say that they -- that --
6 that they --

7 MR. JONES: No, --

8 MS. ABRAMS: -- weren't signed?

9 MR. JONES: No, no. No, the question was, you
10 signed your 2016 --

11 MR. GOLDSTEIN: No, I sa --

12 MR. JONES: -- tax return, --

13 MR. GOLDSTEIN: I said he --

14 MR. JONES: -- okay? I haven't seen a 2016 tax
15 return in this record that --

16 THE COURT: His --

17 MR. JONES: -- bears the --

18 THE COURT: Here's --

19 MR. JONES: -- witness' --

20 THE COURT: -- my --

21 MR. JONES: -- signature.

22 THE COURT: -- glaring problem with the two -- with
23 him signing his 2016 tax return in October of 2016.

24 MR. GOLDSTEIN: Sev --

1 THE COURT: It's problematic for me.
2 MR. GOLDSTEIN: It's '17.
3 THE COURT: Okay.
4 MR. JONES: Yeah, it would have been -- it would
5 have --
6 MR. GOLDSTEIN: It's --
7 MR. JONES: -- been filed --
8 MR. GOLDSTEIN: -- 2017.
9 MR. JONES: -- in '17. But what I'm saying --
10 THE COURT: 2017.
11 MR. JONES: -- is, --
12 MR. GOLDSTEIN: It's -- my question -- please listen
13 -- you electronically signed --
14 MR. JONES: No, that wasn't the question, though.
15 MR. GOLDSTEIN: Yes, it was.
16 MR. JONES: My objection was, he used only the word
17 signed.
18 THE COURT: Okay.
19 MR. GOLDSTEIN: The -- I don't need -- look,
20 electronic signature is the same thing as an ink signature,
21 for --
22 MR. JONES: No, it's not.
23 MR. GOLDSTEIN: -- all intents and purposes, under
24 the law, just like it is when we file documents with

1 electronic signatures, as we're doing every day now in COVID.

2 THE COURT: Yeah, I don't understand. I -- I guess,
3 maybe, I'm missing something or maybe, there's something going
4 on in the other case that I am not privy to. But the
5 documents, when we talked about them on the first day of the
6 hearing, Ms. Abrams only agreed to two documents because all
7 the others were just subpoenaed-in documents and she was
8 afraid some would be missing paperwork or -- or pages or
9 whatever, and she allowed to let them come in, unless it was a
10 relevancy objection. So, you entered these documents in,
11 don't have to worry about whether he's signed them or not,
12 please. They're in evidence.

13 MR. GOLDSTEIN: I --

14 THE COURT: Please --

15 MR. GOLDSTEIN: I understand. So -- so --

16 THE COURT: I don't know what you're trying to lay
17 groundwork for.

18 MR. GOLDSTEIN: I'm just going to get to it, if I --
19 if I --

20 THE COURT: Well, let's --

21 MR. GOLDSTEIN: -- don't have --

22 THE COURT: -- do that.

23 MR. GOLDSTEIN: -- to keep going through this --

24 THE COURT: Then -- then don't --

1 MR. GOLDSTEIN: It's not even an objection.

2 THE COURT: Then don't push Mr. Jones' button by
3 asking if he signed something and you know he hasn't
4 physically signed it.

5 MR. GOLDSTEIN: Electronic signature is the same.

6 THE COURT: I don't care to -- to --

7 MR. GOLDSTEIN: Okay.

8 THE COURT: -- argue the point with you.

9 MR. GOLDSTEIN: All right.

10 MR. JONES: And if -- just so --

11 THE COURT: I don't --

12 MR. JONES: -- the Court's (sic) --

13 THE COURT: -- care --

14 MR. JONES: -- understands, --

15 THE COURT: -- to argue the point with you.

16 MR. JONES: -- if he uses electronically signed in
17 every question, it will not draw an objection.

18 BY MR. GOLDSTEIN:

19 Q You electronically signed your tax return on October
20 16, 2017 -- that's Exhibit 20, Bates label 1301 -- correct?

21 A Well, I -- I can't recall the date, but if you say
22 so, I --

23 Q I'll show --

24 A -- I'm okay with that.

1 Q -- it to you. I just --
2 A Don't need to bring it to be.
3 Q I do. That's --
4 MR. JONES: Well, he needs to see the --
5 MR. GOLDSTEIN: You have to --
6 MR. JONES: -- witness copy.
7 THE COURT: When you say you don't know --
8 BY MR. GOLDSTEIN:
9 Q I have to it when there's a record --
10 A Okay.
11 Q -- and all that kind of stuff.
12 A All right.
13 Q So, --
14 A There's no signature on there, so I can't --
15 Q Right.
16 A -- say I signed it.
17 Q You electronically signed it --
18 A Okay.
19 Q -- on this date, correct.
20 A I -- I guess. I don't know what these are.
21 Q You do.
22 A I -- I -- no, I don't.
23 Q You do. It's electronically signed -- the document
24 was electronically signed on the 16th of October, 2017, right?

1 And that's, as we've already discussed, is you swore under the
2 penalty of perjury in that document, that you were a single
3 man, --

4 MR. JONES: Actually, --

5 MR. GOLDSTEIN: -- correct?

6 MR. JONES: -- Judge, this -- this exhibit --

7 THE COURT: We've already talked --

8 MR. JONES: -- doesn't --

9 THE COURT: -- about that.

10 MR. JONES: This exhibit --

11 MR. GOLDSTEIN: Right.

12 MR. JONES: -- doesn't --

13 MR. GOLDSTEIN: So, let me move to the next -- so --

14 MR. JONES: -- even have the part where he's
15 authorizing Simonian to file for him.

16 MR. GOLDSTEIN: Doesn't need to when it's got a
17 signature on that line, John. And you certainly could have
18 made that objection before you put these documents in evidence
19 in your trial books.

20 MR. JONES: I'm just telling you about the -- how
21 it's being characterized.

22 MR. GOLDSTEIN: Yeah, no, you're not.

23 THE COURT: Fine.

24 BY MR. GOLDSTEIN:

1 Q And one week later, you filed your lawsuit in this
2 case, where you signed verification, swearing under the
3 penalty of perjury, that you were married. One week later,
4 right? October 23rd, first complaint in this case, correct?

5 A I can't tell you because I don't know.

6 Q All right, the Court can take judicial notice of the
7 date --

8 THE COURT: I'll take --

9 MR. GOLDSTEIN: -- of the filing.

10 THE COURT: -- notice.

11 MR. GOLDSTEIN: Thank you.

12 BY MR. GOLDSTEIN:

13 Q So, which one did you lie in? Which one is perjury?

14 MR. JONES: Objection, argumentative.

15 THE COURT: Sustained.

16 BY MR. GOLDSTEIN:

17 Q Which one's not true, sir?

18 MR. JONES: Objection, argumentative.

19 THE COURT: Same thing.

20 MR. GOLDSTEIN: You think so?

21 THE COURT: Yeah.

22 MR. GOLDSTEIN: I'm not allowed to ask him which one
23 -- which one he's going to ask the Court to rely on -- which
24 document is he going to rely on for the truth? When they're

1 two different documents, both sworn under penalty of perjury,
2 I'm not allowed to ask him whether or not he wants the Court
3 to rely on one --

4 THE COURT: The --

5 MR. GOLDSTEIN: -- or the other?

6 THE COURT: You -- that's a different question than
7 which one did you lie on?

8 BY MR. GOLDSTEIN:

9 Q Which documents are you going to ask the Court to
10 rely on? Are you going to ask the Court to ignore all of your
11 tax returns that you have filed, swearing under the penalty of
12 perjury that you were single and unmarried?

13 A Whatever Bob sent me, I signed.

14 Q That's not my question.

15 MR. GOLDSTEIN: Move to strike as non-responsive.

16 THE COURT: Sustained. Stricken.

17 BY MR. GOLDSTEIN:

18 Q Please -- please answer the question.

19 A State your question again?

20 Q Are you going to ask the Court to ignore, to not
21 rely upon, to disregard all of your tax returns that you
22 signed under the penalty of perjury, swearing that you were a
23 single and unmarried person?

24 A I -- I'm not asking the Court to not pay attention

1 to anything. It's not my duty to do that to the Courts, they
2 decide what's right --

3 Q No, I'm --

4 A -- and wrong,

5 Q -- asking --

6 A -- not me.

7 Q No, these are your claims, sir, and I'm asking you
8 about your claims in your case.

9 MR. JONES: Well, he already answered --

10 THE COURT: He did --

11 MR. JONES: -- the question, no.

12 THE COURT: He says he's not asking the Court to
13 ignore anything. Go ahead.

14 MR. GOLDSTEIN: Okay.

15 BY MR. GOLDSTEIN:

16 Q Do each one of the form 8879s that you signed, are
17 you going to ask the Court to ignore those?

18 MR. JONES: It -- he already said I'm not asking the
19 Court to ignore anything. Anything means anything.

20 MR. GOLDSTEIN: It's not -- that -- that wasn't what
21 he said.

22 THE COURT: Yes, it is.

23 THE PLAINTIFF: Well, it --

24 MR. GOLDSTEIN: Anything?

1 MR. JONES: That's exactly --

2 THE COURT: He said --

3 MR. JONES: -- what he said.

4 THE COURT: -- anything.

5 MR. GOLDSTEIN: Anything under the who face of the
6 sun, then, I'll move to strike that is vague and unambiguous,
7 then. What does anything mean? You can't -- I mean, come on.
8 You ask -- you did the same thing, John.

9 THE COURT: Mr. Goldstein, --

10 MS. LOBELLO: I can't believe him.

11 THE COURT: -- you ask questions that don't really
12 need to be taking up our time.

13 MR. GOLDSTEIN: All right. I -- listen, I think
14 it's fair here, Judge, but if the Court doesn't find it to be
15 helpful, then I'll move on.

16 THE COURT: I don't because I --

17 MR. GOLDSTEIN: Fine.

18 THE COURT: -- have the documents here. I'm going
19 to be making a -- a determination of their worth in this case
20 and I believe that they were electronically signed.

21 MR. GOLDSTEIN: I understand.

22 THE COURT: So, go.

23 MR. GOLDSTEIN: Don't you think it's a -- it's a
24 fair question to understand -- to -- to ask him when he's

1 telling the truth and when he's not?

2 THE COURT: I'm going to pretend you didn't ask me
3 that question and tell you to please move on with your next
4 question of the -- I -- I'm not under trial, here.

5 MR. GOLDSTEIN: I understand. I understand, Judge.

6 THE COURT: In a way, I am, I guess. It -- we --
7 only if it goes to appeal.

8 BY MR. GOLDSTEIN:

9 Q Are all your sworn statements under oath truthful,
10 sir?

11 MR. JONES: The question's compound.

12 THE COURT: Sustained. It's just a backdoor way of
13 trying to get him to admit he lied about something. Go on,
14 Counsel. I can decide which one he lied about.

15 MR. GOLDSTEIN: Well, I'm trying to find out if he's
16 going to tell you himself.

17 THE COURT: He's not.

18 MR. GOLDSTEIN: I -- if I can ask the question, he
19 might.

20 (Pause)

21 BY MR. GOLDSTEIN:

22 Q All right. You've never filed a malpractice case
23 against Danko, correct?

24 A No.

1 Q And you haven't filed a grievance against her,
2 right?

3 A No.

4 Q And you've never made any ethical complaints against
5 her for anything, correct?

6 A In this -- no.

7 Q Isn't it true that you -- after Danka learned of
8 Stacy becoming pregnant, isn't true, sir, that you told her
9 that it wasn't sure -- it -- it wasn't your -- excuse me, it
10 was not your kid?

11 A No, I didn't say that.

12 Q Isn't it true that didn't believe it was your child?

13 A I didn't know that.

14 Q I'm not -- okay, I'm asking you for your belief.
15 Wasn't it your belief at the time --

16 A No, at --

17 Q -- that you --

18 A -- the time? No.

19 Q At -- no? At the time, you believed it was your
20 child?

21 A Well, I -- I believed it was my child.

22 Q That's not what you told Danka, right? In fact, you
23 told her that she --

24 A I don't remember what I told Danka.

1 Q Okay. You told her that she was sleeping with other
2 people, right?

3 A No, that's --

4 Q And that --

5 A -- what she said.

6 Q And that you were not able to get an erection,
7 right?

8 A That's what she said.

9 (whispered conversation)

10 Q Stacy was still your girlfriend at the time of your
11 deposition in May of two thou -- or, excuse me, March of 2019.
12 Is she still your girlfriend today?

13 A That -- that's correct.

14 Q And does she live with you?

15 A Yes.

16 Q You acquired a new home, we just commonly refer to
17 it as the Blue Mesa house. Is that right?

18 A Correct.

19 Q And just -- exhi -- Exhibit G.

20 (Pause - whispered conversation)

21 Q These are the -- these are the documents regarding
22 your purchase of the Blue Mesa property, correct?

23 A Correct.

24 Q All right. And turn to Bates label 42. Is that

1 your -- sorry, is that your signature on the bottom?

2 A Yes.

3 Q Okay. And you indicated and represent again, that
4 you were a single man that had never been married, correct?

5 A Yes.

6 Q And the title is also conveyed to you as a single
7 man, correct?

8 A Correct.

9 Q And you, on Bates 220, is that your signature also -
10 - below there? This is really small print as well.

11 A Which --

12 THE COURT: On where?

13 MR. GOLDSTEIN: Sorry, on -- on Bates 220, at the
14 top of the page.

15 THE COURT: In this exhibit?

16 MR. GOLDSTEIN: Yes.

17 MR. JONES: How is it Bates 220?

18 MR. GOLDSTEIN: They're really little

19 MR. JONES: Oh.

20 MR. GOLDSTEIN: They're really little, at the
21 bottom.

22 THE COURT: Got it. And your question again? I'm
23 sorry, I was looking for the exhibit.

24 MR. GOLDSTEIN: I'm sorry, is everybody there?

1 THE COURT: Yep, I am. Are you there, sir?

2 THE PLAINTIFF: No, not --

3 MR. GOLDSTEIN: Yeah, --

4 THE PLAINTIFF: -- quite.

5 MR. GOLDSTEIN: -- you are.

6 THE PLAINTIFF: Yep.

7 MR. GOLDSTEIN: All right.

8 THE COURT: Yeah.

9 BY MR. GOLDSTEIN:

10 Q Is that your signature at the top, there?

11 A Yes.

12 Q All right. And again, you represent that you were
13 unmarried, right?

14 (No audible response)

15 Q You see it, about -- just over halfway down the
16 page, on the left-hand side, under your Social Security
17 number?

18 A Yes.

19 Q And turning to 223.

20 A Okay.

21 Q And do you see where it says I/we fully understand
22 that it is a federal crime, punishable by fine or imprisonment
23 or both, to knowingly make any false statements concerning any
24 of the above facts, as applicable under the provisions of

1 Title 18 of the United States Code, section §101, et sec.? Do
2 you see that?

3 A I see it.

4 Q Is that your signature underneath it?

5 A It's my signature.

6 Q And is -- I can't read the date -- it looks like May
7 20 -- is that a -- is that a 25, sir, maybe?

8 A I couldn't --

9 Q It -- it's your --

10 A -- tell you.

11 Q -- handwriting. Do -- can you make out the date
12 there?

13 (Pause)

14 A No, I can't make out the date.

15 Q Okay. It looks like a May 25th. The document --
16 just the page before, 222 -- also has your signature on it.
17 Do you see that?

18 A Yep.

19 Q And that's under the section on -- titled
20 Acknowledgment and Agreement and so on. Do you see that?

21 A Yep.

22 Q And it looks to me, like that date's a little more
23 clear, 05/25/17, right?

24 A I can agree.

1 Q Sorry?

2 A I can agree.

3 Q Okay. And you signed these documents all on the --

4 A Correct.

5 Q -- same date? Okay.

6 (Pause - whispered conversation)

7 Q And you had received a -- an email from Wells Fargo
8 in March of 2014, right, with regard to the f -- this purchase
9 of the house? Do you recall that?

10 MR. JONES: March of 2014?

11 MR. GOLDSTEIN: Sorry, '17. Sorry, my -- my
12 apologies. 2017.

13 MR. JONES: And is there an exhibit we're talking
14 about?

15 MR. GOLDSTEIN: Sure, I'll move it into evidence.
16 It's part of Bob --

17 MR. JONES: Okay, I --

18 MR. GOLDSTEIN: -- Simonian's --

19 MR. JONES: I just --

20 MR. GOLDSTEIN: -- file.

21 MR. JONES: -- want to see -- I want to see what
22 you're talking about.

23 MR. GOLDSTEIN: Yep.

24 MR. JONES: Is it one of the exhibits?

1 MR. GOLDSTEIN: It will be.
2 MR. JONES: What?
3 MS. LOBELLO: This is part --
4 MR. JONES: No, is --
5 MS. LOBELLO: -- of Simonian.
6 MR. JONES: -- it one of the exhibits that was
7 produced prior to trial?
8 THE COURT: It has not --
9 MR. GOLDSTEIN: Yes, it's part of Robert Simonian's
10 file that you guys did not include that we reserved our right
11 to include the complete file for. This is part of those
12 documents.
13 (whispered conversation)
14 MR. GOLDSTEIN: And this -- mark this next in line,
15 I guess.
16 THE COURT: What's the number on it?
17 THE CLERK: It will be P.
18 THE COURT: P?
19 THE CLERK: P. The Defendant's propose P at this
20 time. It hasn't been entered yet.
21 (whispered conversation)
22 THE COURT: I don't want to see it until it's
23 entered.
24 MR. GOLDSTEIN: This was part of the -- the --

1 THE COURT: It's one of --

2 MR. GOLDSTEIN: -- Robert --

3 THE COURT: -- quirky things.

4 BY MR. GOLDSTEIN:

5 Q -- Simonian file that had been subpoenaed and
6 produced in this action. And this was an email from Wells
7 Fargo, Jeffrey Zackow (ph)*** 02:28:46 to tpickens@msn.com.
8 Tpickens@mss.com is you, right? That's --

9 A Yes.

10 Q -- your email address, correct?

11 A Yes.

12 Q All right. And then you took and forwarded this
13 email and you sent it to Bob Simonian, whose email address is
14 semon@prodigy.net, right?

15 A Correct.

16 Q Did that on March 28, 2017, and then Bob Simonian
17 replied and responded to you about a week later, so on
18 Thursday, April 6, 2017. Do you see that email at the top,
19 there? Top of the first page?

20 A Yeah.

21 Q Okay.

22 MR. GOLDSTEIN: Move for the admission.

23 MR. JONES: Objection, the portion from Wells Fargo
24 is clearly, hearsay.

1 MR. GOLDSTEIN: Business record.

2 MR. JONES: It's not a business -- they don't have a
3 business record affidavit from Wells Fargo.

4 MR. GOLDSTEIN: This -- you don't need one, it's --

5 MS. ABRAMS: This was part of the file.

6 MR. JONES: No, --

7 MS. ABRAMS: They only --

8 MR. JONES: Just --

9 MS. ABRAMS: -- submitted part of the file. They --

10 MR. GOLDSTEIN: That's right.

11 MS. ABRAMS: -- included the affidavit of custodian
12 of records, we --

13 MR. GOLDSTEIN: That's right.

14 MS. ABRAMS: -- reserved the right to supplement the
15 missing pages. And by the way, Your Honor, I have a very big
16 problem that fact that, in their listing of exhibits, they
17 didn't put that this was a partial pro --

18 MR. GOLDSTEIN: File.

19 MS. ABRAMS: -- production of the documents received
20 in response to subpoena. They didn't note that it was
21 partial. They didn't note that they cherry-picked documents
22 that they didn't like out of the paperwork. They made it
23 appear as if it was the full set of documents received in
24 response to subpoena and they included the affidavit of

1 custodian of records, saying that it was a complete response.
2 So we have a big problem with that and we reserve the right to
3 fill in the missing pages.

4 MS. LOBELLO: Where did we --

5 MS. ABRAMS: And now, --

6 MS. LOBELLO: -- mis-state?

7 MS. ABRAMS: -- of course, they want to object to
8 those because they know it hurts their case.

9 MR. JONES: Can I -- can I have a reference to the
10 mis-statement in our exhibit list, --

11 MS. LOBELLO: We said that --

12 MR. JONES: --- regarding --

13 MS. LOBELLO: -- there --

14 MR. JONES: -- Bob Simonian's file?

15 MS. LOBELLO: Because we separated everything out?

16 MS. ABRAMS: Yeah, where did you say it's a partial
17 file that's being produced -- that -- that's being included in
18 your exhibit book? Where do you say it's partial and it's not
19 complete?

20 MR. JONES: I --

21 MS. LOBELLO: Where do we say it's --

22 MR. JONES: I need you to show me what exhibit it
23 is.

24 THE COURT: Which exhibit are you referring to,

1 please?

2 MS. ABRAMS: Steph, which exhibit was that again,
3 please?

4 MS. STOLZ: 120.

5 MS. ABRAMS: I can try to pull it up. It was the
6 email us.

7 MS. STOLZ: It's 120.

8 MR. JONES: 140?

9 MS. ABRAMS: 120?

10 MS. STOLZ: No, 1-2-0, I'm sorry. It's the one --

11 MR. JONES: 120?

12 MS. STOLZ: -- that -- it -- yes. It's the one that
13 --

14 MR. JONES: That is emails from Bob Simonian.

15 MS. LOBELLO: It doesn't --

16 MR. JONES: Bo --

17 MS. LOBELLO: -- say file.

18 MR. JONES: It says emails from Bob Simonian file.

19 I didn't say all emails. I don't have to say all emails.

20 These are just emails.

21 MS. ABRAMS: But you didn't say it was cherry-picked
22 emails, okay?

23 MR. JONES: Oh. Oh. Oh, and -- and they couldn't
24 do their own review of Simonian's file and include their

1 exhibits?

2 MS. ABRAMS: We did, which is why we reserved and we
3 objected and now we're filling in the missing emails.

4 MR. JONES: Okay, it still doesn't change the fact
5 that the portion from Well -- Bob Simonian cannot do a
6 custodian of records affidavit for business records of Wells
7 Fargo. We know that, right?

8 MR. GOLDSTEIN: What are you talking about? If --

9 MS. ABRAMS: It was --

10 MR. GOLDSTEIN: -- you look --

11 MS. ABRAMS: -- an email --

12 MR. GOLDSTEIN: -- at your exhibit file, John, it
13 contains multiple emails from other people, including Wells
14 Fargo Bank. Iona --

15 MS. ABRAMS: Yep.

16 MR. GOLDSTEIN: -- Mitchell (ph)*** 02:32:06, Wells
17 Fargo, --

18 MR. JONES: It doesn't include this one.

19 MR. GOLDSTEIN: -- 2631. And so he wants to use
20 this -- I mean, the -- this is how disingenuous this is.

21 MS. LOBELLO: And they weren't admitted, it --

22 MR. JONES: Yeah.

23 MS. LOBELLO: -- doesn't -- were they? I mean, --

24 MR. JONES: Is 120 in?

1 MS. LOBELLO: -- the -- I don't know that they were
2 even admitted, I don't think.

3 THE COURT: Is 120 in?

4 THE CLERK: It is not.

5 MS. LOBELLO: It isn't.

6 MR. JONES: Of course, it's not in because it's full
7 of hearsay documents.

8 THE COURT: 120 is not in.

9 MR. GOLDSTEIN: I'm moving for the admission, Judge.

10 MR. JONES: And it's a hearsay document.

11 THE COURT: It's a hearsay document.

12 MR. GOLDSTEIN: And -- and there -- and it's a
13 business record exemption. When you have an email --

14 MR. JONES: Not from Wells Fargo.

15 MR. GOLDSTEIN: -- from hi -- his -- of course, it
16 is.

17 MR. JONES: Nope.

18 MR. GOLDSTEIN: It's -- it's fr -- an email from
19 Wells Fargo, the mortgage banker, about the business being
20 conducted for his loan.

21 MR. JONES: But Judge, you need --

22 MR. GOLDSTEIN: That is a --

23 MR. JONES: And we already went through the actual
24 definition records of -- ordinarily kept in the course of

1 business and it has to certify from the person who's
2 maintaining the record. And are they asserting that Bob
3 Simonian is the custodian of records of Wells Fargo Mortgage?

4 THE COURT: No, --

5 MR. JONES: Okay.

6 THE COURT: -- they're not. But let me just --

7 MR. GOLDSTEIN: It --

8 THE COURT: If -- excuse me. If records were
9 subpoenaed from Mr. Simonian and these are records he kept,
10 for whatever purpose for this file, then they are records that
11 he keeps to support what he does in his business, with regard
12 to things and conduct and transactions between him and his
13 clients. So, if he had those in his file that's regarding Mr.
14 Pickens, it is in the file.

15 MR. JONES: And I understand that.

16 MS. ABRAMS: Yes.

17 MR. JONES: And for -- for the -- for the purpose of
18 the communication between the parties -- or, I mean, between
19 Mr. Pickens and his CPA, that portion can come in all day.

20 THE COURT: But it --

21 MR. JONES: Okay? But --

22 THE COURT: -- says see attached and that's part of
23 the direction.

24 MR. JONES: I know, but Ms. Simonian --

1 THE COURT: I haven't read it. I'm assuming it says
2 --
3 MR. JONES: But Mr. Simonian --
4 THE COURT: -- I'm sending you --
5 MR. JONES: -- cannot certify anything about this
6 hearsay statement.
7 THE COURT: Okay. It will not come in as the truth
8 of the matter asserted, but it will certainly come in.
9 MR. GOLDSTEIN: Thank you.
10 MS. ABRAMS: Thank you, Your Honor.
11 THE COURT: Okay, so it's in. Now ask --
12 MR. GOLDSTEIN: All right.
13 THE COURT: -- your question about it.
14 MR. GOLDSTEIN: All right.
15 BY MR. GOLDSTEIN:
16 Q When you received this email, which advised that you
17 weren't officially married to Danka, and as you forward it to
18 Mr. Simonian, you didn't correct in any way, --
19 MR. JONES: Ob --
20 MR. GOLDSTEIN: -- shape, or form, --
21 MR. JONES: Objection --
22 MR. GOLDSTEIN: -- did you?
23 MR. JONES: -- to the characterization of what --
24 THE COURT: Sustained.

1 MR. JONES: -- the email says.

2 MR. GOLDSTEIN: Okay, I'm sorry. I understand that
3 you weren't officially married to Dhaka, so obviously, there
4 isn't a divorce decree.

5 MR. JONES: You've already said you're not accepting
6 that for the truth of the matter asserted.

7 MR. GOLDSTEIN: I --

8 THE COURT: I'm not.

9 MR. GOLDSTEIN: That's not. Right, exactly.

10 BY MR. GOLDSTEIN:

11 Q I'm say -- you didn't correct that statement, right?

12 (Pause)

13 A I didn't do anything to it.

14 Q You -- you communicated with Jeffrey Zack -- Zackow.
15 He was your private mortgage banker at Wells Fargo, correct?

16 A I -- I don't even remember this document, so I'd --

17 Q I understand. You communi -- my question to you
18 was, you communicated with Mr. Zackow in regards to getting
19 your loan for the -- for this --

20 A Correct.

21 Q -- Blue --

22 A I did.

23 Q -- Mesa house, right?

24 A Correct.

1 Q All right. And you told Mr. Zackow that you weren't
2 officially married to Danka, right?

3 A That's what it says on there.

4 Q And despite all of this, you testified under oath
5 here, both, on the 14th of February and today, that you
6 believe that you are legally married, right?

7 A Correct.

8 (Pause - whispered conversation)

9 Q Did you open a trust account in Florida, of any
10 kind?

11 A No.

12 Q Do you recall making a transfer to Deutsche Bank in
13 the amount of \$273,000?

14 A And if you look at that account, it's an ADP
15 account. It's an actual payroll account, so I don't know what
16 ADT (sic) -- or P did to it, but if you looked at that --
17 those two accounts, they're both for the same thing. It's for
18 my payroll for my company. I don't know how that number
19 changed or anything, but that's what it is.

20 Q You don't know how -- I'm sorry? You sa --

21 A I have no idea why it would say Deutsche Bank on it.
22 All I know is that's where the payroll account (sic) and how
23 it would have came there, I would -- I don't have --

24 Q Your --

1 A -- a clue.

2 Q -- payroll account wasn't at Deutsche Bank.

3 A No, that's what I can't understand. I saw --

4 Q Right.

5 A -- that too.

6 Q So you --

7 A I don't know why.

8 Q So you have no knowledge or information as to --

9 A There is no --

10 Q -- whether or not -- hold on, let ask the question,
11 please.

12 A Go ahead.

13 Q You have no knowledge or information as to whether
14 or not that \$273,000 transfer ever went to AD -- A -- did you
15 say ADP?

16 A Well, that's what it says on it. That's -- it says
17 right on it -- you can see it's a payroll --

18 MR. JONES: What document are we talking about?

19 MS. STOLZ: One second.

20 THE COURT: I don't know.

21 MR. GOLDSTEIN: One second, Judge, we're pulling --

22 THE PLAINTIFF: It's -- it's a payroll account. The
23 -- the upper one --

24 MR. JONES: Do you have an exhibit?

1 MR. GOLDSTEIN: Okay, yeah, --
2 THE PLAINTIFF: The upper --
3 MS. STOLZ: It's in here --
4 THE PLAINTIFF: -- one has --
5 MR. GOLDSTEIN: Just --
6 MS. STOLZ: -- in evi --
7 THE PLAINTIFF: -- the taxes, the low -- or the
8 upper one has the employees and the oth -- the lower one has
9 the taxes.
10 MR. GOLDSTEIN: Sorry.
11 THE PLAINTIFF: Why it was li -- done like that, I
12 don't have a clue.
13 (whispered conversation)
14 MR. JONES: What's the exhibit number?
15 MR. GOLDSTEIN: Si --
16 MS. STOLZ: 67.
17 MR. GOLDSTEIN: 67.
18 MS. STOLZ: Sorry.
19 THE COURT: 67?
20 MR. GOLDSTEIN: Yeah.
21 (whispered conversation)
22 MR. GOLDSTEIN: Sorry, November of '14. No, no,
23 it's not 67. It's going to be --
24 (whispered conversation)

1 MR. GOLDSTEIN: I believe it's 63.

2 THE COURT: And do you have a Bates stamp?

3 MR. GOLDSTEIN: Yep, all right, just getting there.

4 November -- November -- yeah, it's right here, Judge. 5459.

5 MR. JONES: 5459?

6 MR. GOLDSTEIN: That's right.

7 MR. JONES: Would that -- that -- is it Exhibit 66?

8 MR. GOLDSTEIN: 63.

9 MR. JONES: Oh, 63.

10 (whispered conversation)

11 BY MR. GOLDSTEIN:

12 Q 63 -- four -- all right. That's the one we're on.

13 (Pause)

14 Q All right, do you see -- do you see you see that?

15 A Oh, ye -- ye -- absolutely.

16 Q Okay. So -- and then, I see on 11/25, just below

17 that, it says ADPTX-FINCLSVCADP/tax, that kind of stuff,

18 \$113,768. Do you see that?

19 A Yeah, I -- that's what I'm saying. One --

20 Q You --

21 A One is --

22 Q So, you don't know why that happened?

23 A I don't have a clue because I do not have a Deutsche

24 Bank account.

1 (whispered conversation)

2 Q Did you ever look into it, say --

3 A No, --

4 Q -- hey, --

5 A -- I just --

6 Q -- what --

7 A -- saw it, I -- I went through the accounts the
8 other day and I'm saying, --

9 Q So, are you owed 273,000 bucks?

10 A It -- do what?

11 Q Are you owed 273 --

12 A No.

13 Q -- thous --

14 A What it -- what I'm saying is, that was paid -- it -
15 - it's -- if you looked on there, it also says in that same
16 group with that money on there, that it's ADP, which I don't
17 have a clue what that is.

18 Q Okay. So you --

19 A If you --

20 Q -- don't know.

21 A -- looked at it, it's ADP up top, which would
22 probably, be the pay -- employee payroll. And then the bottom
23 one would be the percentage of -- the 113 would have been the
24 ADP taxes for --

1 Q Okay.

2 A -- that amount.

3 Q How do you pay your payroll?

4 A Do what?

5 Q How do you pay your payroll?

6 A It goes to ADP.

7 Q No, I'm sorry, like, every two weeks, quarterly,

8 monthly? How do --

9 A Every two --

10 Q -- pay?

11 A -- weeks.

12 Q And so your payroll -- are -- are you saying your

13 payroll every two weeks was \$273,000?

14 A I don't know what it is. You could find that out

15 quick enough. Look at the next month.

16 Q Okay.

17 (whispered conversation)

18 A All I know is, ADP is the people that we use for

19 payroll.

20 (whispered conversation)

21 MR. GOLDSTEIN: Well, okay, you're going to have to

22 because I -- he doesn't clearly know that, John.

23 MR. JONES: Uh-huh (affirmative).

24 MR. GOLDSTEIN: Okay? That's the problem.

1 MR. JONES: Exactly.

2 MR. GOLDSTEIN: He doesn't know that.

3 (whispered conversation)

4 THE PLAINTIFF: The one thing I could tell you is
5 there's --

6 (whispered conversation)

7 THE PLAINTIFF: -- if you did reach the --

8 THE COURT: There's no question.

9 THE PLAINTIFF: Okay.

10 MR. JONES: Yeah, just wait.

11 (whispered conversation)

12 BY MR. GOLDSTEIN:

13 Q Oh, yeah. You had the -- you had control over the
14 finances, right?

15 A Do what?

16 Q You had control over the financed between the
17 parties, right? Between you and Danka, you had control,
18 right?

19 A Oh --

20 Q You were the one paying the bills, right? You were
21 the ones --

22 A Yes.

23 Q -- setting up all that kind of stuff, right? All
24 right.

1 A Yep.

2 Q And so -- and that stopped in 2016, right?

3 A Correct.

4 Q And that was ar -- just after the time of the filing
5 -- the time of the execution of the deeds and the assignment
6 of interest, right?

7 A Correct.

8 Q And so you went to the bank and -- well, you -- I'm
9 sorry, you gave Danka a letter to the Bank of America,
10 authorizing her to close the accounts, right?

11 A No.

12 Q You didn't give her that letter?

13 A No, you -- you're -- you're mixing apples and
14 oranges.

15 Q Okay.

16 A That wasn't given to her then, it was given to her
17 prior to that. Bank of America, when we changed from Wells --
18 from Bank of America to Wells Fargo, we left Bank of America's
19 accounts open, --

20 Q All right.

21 A -- which were never used.

22 Q All right. And you closed those accounts too,
23 though.

24 A And we closed those accounts.

1 Q All right. And then after though, after the
2 execution of the deeds, though, you separated the remaining
3 accounts that you had, correct?

4 A The answer is no.

5 Q Well, you had a joint account, right?

6 A We had a joint account that wasn't closed until, I'm
7 going to say 2017-2018.

8 Q Okay. All right. And you turned over all of the
9 leases for the Patient One building, right?

10 A All the leases were in the building, in my office
11 that she had access to.

12 Q Right and you directed your assistant, Sara (ph)***
13 02:44:28 to give it to her, correct?

14 A She had ac -- her son was there, they had access --

15 Q And you directed your assistant to give them to her,
16 correct?

17 A No -- no, I never directed her to give them to her.

18 (whispered conversation)

19 A That might have happened later, but Sara was -- oh,
20 when did Sara quit?

21 Q And you -- you stopped managing any of that, right?
22 You had no -- okay.

23 (whispered conversation)

24 Q You recall, you were asked in the other civil

1 action, and did there come a point in time when they took over
2 -- you handed over the leases, and you answered, correct. And
3 then the question was, to Patients One, and your answer was,
4 my --

5 MR. JONES: Objection--

6 MR. GOLDSTEIN: -- executive --

7 MR. JONES: -- Your honor. Is he -- is he --

8 MR. GOLDSTEIN: Hold on.

9 MR. JONES: -- trying to ask a question from a
10 deposition in another case?

11 MR. GOLDSTEIN: Nope, from the -- from the
12 transcript in the other case, I'm asking if he recalls this.

13 MR. JONES: What tra -- what other case?

14 MR. GOLDSTEIN: The civil case.

15 MR. JONES: What civil case?

16 MR. GOLDSTEIN: The only ci --

17 MR. JONES: There hasn't been a trial in the civil
18 case. There was an eviction case.

19 MR. GOLDSTEIN: That's right.

20 MR. JONES: Is -- is -- so, are you talking about
21 this eviction case?

22 MR. GOLDSTEIN: That's right. Case number
23 08C003465.

24 BY MR. GOLDSTEIN:

1 Q Do you recall testifying in that case, sir? You
2 recall --

3 A Yes.

4 Q -- you had a trial on April 20, 2018?

5 A Yes.

6 Q And you recall testifying in that case?

7 A Yeah, sure.

8 Q And you recall you were asked, okay --

9 MR. JONES: He -- this is improper --

10 MR. GOLDSTEIN: It's not.

11 MR. JONES: -- inquiry. He doesn't get to ask what
12 his testimony was at a trial. If he --

13 THE COURT: He gets to --

14 MR. JONES: -- wants to --

15 THE COURT: -- ask him --

16 MR. JONES: -- ask him a question --

17 THE COURT: -- a question. Yes, he's going to, I'm
18 sure of it.

19 MR. GOLDSTEIN: That's right.

20 THE COURT: What's your question?

21 BY MR. GOLDSTEIN:

22 Q Do you recall that you were asked questions in that
23 case about handing over the leases, and you answered
24 affirmative, correct?

1 A Wha -- absolutely. And -- and it --

2 Q All right.

3 A -- the same statement would be --

4 Q Hold on a second, sir.

5 A Okay, go ahead.

6 Q Wait a minute. And you a -- you were also asked
7 questions about your -- where you answered that your executive
8 turned it over and that was at your direction, correct?

9 (No audible response)

10 Q All right. And that executive --

11 THE COURT: Is that a yes?

12 THE PLAINTIFF: Yes.

13 BY MR. GOLDSTEIN:

14 Q -- was Sara, right? That executive was Sara,
15 correct?

16 A Correct.

17 Q All right. Now, you were -- you had a -- after that
18 -- after you turned over the leases, you no longer had a role
19 in managing the leases, right?

20 A Correct.

21 Q And you had no further role in marketing or finding
22 any new tenants for the building, right?

23 A Correct.

24 Q And you had no role in management of the building at

1 -- any longer, correct.

2 A Correct.

3 Q All right. And around September of 2016, you
4 stopped accessing the joint account with Dr. Michaels and it
5 was closed, correct?

6 A It -- which account?

7 Q The joint one.

8 A Her personal joint one?

9 Q Yeah.

10 A No.

11 MR. JONES: Objection, Your Honor --

12 THE PLAINTIFF: No.

13 MR. JONES: -- best evidence is the --

14 MR. GOLDSTEIN: And so --

15 MR. JONES: -- documents that are already in
16 evidence, not his memory of what transactions occurred.

17 THE COURT: That's true and I -- I don't -- and
18 you're talking about the Wells Fargo account?

19 MR. GOLDSTEIN: Yes.

20 THE COURT: Joint personal account?

21 MS. LOBELLO: We have records through --

22 MR. JONES: I know, I --

23 MS. STOLZ: I don't know.

24 MS. LOBELLO: -- 2018, --

1 THE COURT: She keeps saying this.

2 MS. LOBELLO: -- so that's just not true.

3 (Pause - whispered conversation)

4 BY MR. GOLDSTEIN:

5 Q Your test -- okay. Your position is that Danka had
6 access to it, but she didn't move any money, correct?

7 A Not that I know of. I don't --

8 Q All right.

9 A I don't pay --

10 Q Well, I --

11 A -- attention to it.

12 Q Right. But you -- I mean, you -- you ha -- you said
13 that she had no reason to even pay attention to it, right?

14 A Ye -- well, I don't know. If she wanted to, she had
15 the right to.

16 Q Okay.

17 A The account was in our names, she had the right to
18 look at -- do whatever she wanted with it.

19 Q Right, but you --

20 (whispered conversation)

21 A What I --

22 Q You recall, sir, --

23 A What I what I testified is, she ended up closing it
24 without me knowing in 2018 or '19. I don't know what date.

1 Q Your answer was, she had access all the time. Did
2 she move --

3 A She did.

4 Q -- any money, the answer is no, she had no reason to
5 even pay attention to it. Do you remember that?

6 A Well, I -- I'm okay with that answer.

7 Q All right. Because -- did you tell Danka, at the
8 time, that you are -- or, excuse me. Did you tell Danka,
9 after the execution of the deeds and the assignment of
10 interest, did you say hey, if we get back together, then can
11 you transfer these back to me? Do you remember telling her
12 that?

13 A Oh, yes.

14 Q Okay.

15 A I -- I didn't tell her that, I said it --

16 Q You asked he -- you asked Danka that, --

17 A Okay.

18 Q -- right?

19 A Fine.

20 Q Okay. You had -- after the signing of the deeds and
21 assignment of the interest, you -- Blue Point remained in the
22 building, correct?

23 A Correct.

24 Q And you were -- Blue Point was continuing to pay

1 rent every month?

2 A Correct.

3 Q For approximately, 13 months?

4 A I think until November s -- 2017, is when --

5 Q Right, until the -- until the -- you filed this case
6 on -- in Oc -- the end of October and then starting November
7 1, you stopped paying rent, right?

8 A Right.

9 Q Okay. You recall, there was an issue of rent
10 credits -- supposed rent credits, right?

11 A Correct.

12 Q Okay. But you didn't even bring those up until
13 (sic) the first time until (sic) May -- mid-2017, right?

14 A That's correct.

15 Q All right. And the reason why you did it then is
16 because you didn't want to hassle Dr. Michaels when you guys
17 were separated, right?

18 A No, that's not the reason why.

19 Q All right, well, let me just read it, I guess.

20 THE COURT: Reading from?

21 MR. GOLDSTEIN: This is the court transcript from
22 the civil --

23 MR. JONES: Can I have --

24 MR. GOLDSTEIN: -- case.

1 MR. JONES: -- a copy of it?
2 THE COURT: Yeah. You --
3 MS. STOLZ: It was filed with the Court.
4 MR. GOLDSTEIN: This one? This one, I believe --
5 MS. ABRAMS: I think --
6 MR. GOLDSTEIN: -- was filed --
7 MS. ABRAMS: -- we filed it --
8 MR. GOLDSTEIN: -- with this Court.
9 MS. ABRAMS: -- with the --
10 MS. STOLZ: It is filed.
11 MR. GOLDSTEIN: The -- this was filed with this
12 Court.
13 THE COURT: Filed with this Court?
14 MR. GOLDSTEIN: Yes.
15 MR. JONES: Does he have the --
16 MR. GOLDSTEIN: To take judi --
17 MR. JONES: -- original transcript?
18 MR. GOLDSTEIN: Right here. It's marked up, so you
19 can't have mine.
20 THE COURT: What's the date of the filing, --
21 MS. LOBELLO: Is it the original?
22 MS. STOLZ: February 13th.
23 THE COURT: -- please, of the original court in this
24 file, please?

1 MR. GOLDSTEIN: February 13, 2020, over a year ago.

2 MS. LOBELLO: It was filed in this case.

3 MR. JONES: February of -- oh, you're -- you're
4 talking about from day two of this trial?

5 MR. GOLDSTEIN: No, --

6 MS. STOLZ: We filed a copy of this in this Court,
7 on February 13th.

8 MR. GOLDSTEIN: Yes.

9 MR. JONES: Right, but it wasn't provided as part of
10 any of the exhibits or anything of that nature.

11 MS. STOLZ: Right, it was just filed.

12 MR. GOLDSTEIN: No, it's -- it's filed in this Court
13 to take judicial notice.

14 MR. JONES: Well, no -- was it -- there -- was there
15 a specific request that the Court take judicial notice?

16 MR. GOLDSTEIN: Yes, and you didn't oppose it or
17 move to strike it and it's been now, in the --

18 MR. JONES: No, no, --

19 MR. GOLDSTEIN: -- record for --

20 MR. JONES: -- so --

21 MR. GOLDSTEIN: -- over a year. And so, what is the
22 issue?

23 MR. JONES: I just want a copy of it.

24 MR. GOLDSTEIN: In the record.

1 MS. LOBELLO: He's not going to --
2 MR. JONES: Okay, but ---
3 MS. LOBELLO: -- give you --
4 MR. JONES: -- you --
5 MS. LOBELLO: -- a copy.
6 MR. JONES: Okay, you didn't bring a copy --
7 MS. LOBELLO: I have --
8 MR. JONES: -- of the --
9 MS. LOBELLO: -- it.
10 MR. JONES: -- transcript?
11 MR. GOLDSTEIN: I have my copy, John.
12 MS. LOBELLO: That's not it.
13 MR. JONES: And this is from the eviction case.
14 MR. GOLDSTEIN: Yeah. Why did you do it at that
15 point and why not earlier? Answer: okay, I agreed not to --
16 MR. JONES: Hey, okay, no, no -- again, he's got to
17 ask the question.
18 MR. GOLDSTEIN: I did.
19 MR. JONES: No, --
20 THE COURT: He did ask a question.
21 MR. JONES: No, but --
22 MR. GOLDSTEIN: I --
23 MR. JONES: -- he doesn't --
24 MR. GOLDSTEIN: -- did and then we get into a five-

1 minute diatribe, John, and then that's -- and then --

2 MR. JONES: So --

3 MR. GOLDSTEIN: -- you say I didn't answer (sic) the
4 question --

5 MR. JONES: No, but --

6 MR. GOLDSTEIN: -- and --

7 MR. JONES: -- the que --

8 MR. GOLDSTEIN: -- by that time, everybody's
9 forgotten what --

10 MR. JONES: If the --

11 MR. GOLDSTEIN: -- question was.

12 MR. JONES: -- question includes a statement as to
13 what he testified in a prior matter, it's an improper
14 question.

15 MR. GOLDSTEIN: That's not -- I can't -- do -- we --
16 we go around -- this -- every time.

17 THE COURT: On 02/13, there's a document filed,
18 notice of non-opposition.

19 MS. LOBELLO: That's their notice --

20 THE COURT: Supplemental exhibits in support of
21 notice of non-opposition to Plaintiff's request for the Court
22 to take judicial notice.

23 MS. STOLZ: Right.

24 THE COURT: It's quite lengthy. I can print --

1 MS. LOBELLO: I'm not --

2 THE COURT: -- it out for you.

3 MS. LOBELLO: -- saying they didn't -- I'm not
4 saying they --

5 MR. GOLDSTEIN: Isn't --

6 MS. LOBELLO: -- didn't file it.

7 BY MR. GOLDSTEIN:

8 Q -- it true, sir, in middle (sic) of 2017, you agreed
9 not to hassle Dr. Michaels when you had the separation, right?

10 (No audible response)

11 Q That's why you agreed to stay out of her life. You
12 agreed to not create any problems, right?

13 A I didn't create any problems.

14 Q So, everything I just said is correct, right?

15 (No audible response)

16 Q Right?

17 A That I agreed not to hassle her?

18 Q Yes, --

19 A I didn't --

20 Q -- you agreed --

21 A -- hassle her.

22 Q -- not to hassle her when you were separated, --

23 A I -- I didn't --

24 Q -- you agreed to --

1 A -- hassle her.

2 Q -- stay out of her life, and --

3 A I didn't --

4 Q -- you agreed to --

5 A -- hassle her.

6 Q -- not create any problems, correct?

7 A I didn't hassle her.

8 Q I'll -- is the answer yes to those three questions,

9 sir?

10 A I -- yes.

11 Q Okay, thank you.

12 THE COURT: I --

13 MR. GOLDSTEIN: After --

14 THE COURT: And I'd just like to -- to --

15 MR. GOLDSTEIN: Sorry. I'm almost finished, sorry,

16 but go ahead.

17 THE COURT: No, that's okay. This is important. It

18 -- I've always been of the mind set that you don't just file

19 things in the Court's file unless the Court says it's okay.

20 And I see, on 02/13/2020, that notice of non-opposition to

21 Plaintiff's request for the Court to take judicial notice.

22 When was the request to take judicial notice?

23 MR. JONES: We --

24 MS. LOBELLO: Probably -- it was probably, --

1 THE COURT: Well, no, I -- I'm -- I'm talking to
2 this --

3 MR. JONES: But I think --

4 MR. GOLDSTEIN: Well, ha --

5 MR. JONES: -- that was our request. We'd asked --
6 basically, what happened was, we asked the Court to take
7 judicial notice of the fact that this other lawsuit existed
8 because --

9 MR. GOLDSTEIN: And --

10 MR. JONES: -- that's a question of fact.

11 MR. GOLDSTEIN: They did.

12 MR. JONES: Right. And then they did it a non-
13 opposition to our request that you just take judicial notice
14 of the fact that the case existed --

15 THE COURT: Okay.

16 MR. JONES: -- and then they gave you the
17 transcript.

18 THE COURT: Transcript.

19 MR. JONES: To which, the transcript --

20 THE COURT: Fine.

21 MR. JONES: -- itself doesn't fall under either
22 charac -- ca -- category of judicial notice. You can take
23 judicial notice of facts --

24 MR. GOLDSTEIN: That's right.

1 MR. JONES: -- or of law.
2 MR. GOLDSTEIN: Which are contained in the
3 transcript.
4 MR. JONES: No, no. There is --
5 THE COURT: I can --
6 MR. GOLDSTEIN: The testimony.
7 THE COURT: -- take --
8 MR. JONES: No, --
9 THE COURT: -- judicial notice that there is a
10 transcript, --
11 MR. JONES: But you can't take judicial notice of
12 the contents of the transcript.
13 MR. GOLDSTEIN: Not true, because the --
14 THE COURT: I --
15 MR. GOLDSTEIN: -- contents --
16 THE COURT: I --
17 MR. GOLDSTEIN: -- of the --
18 THE COURT: I can, --
19 MR. GOLDSTEIN: Yes.
20 THE COURT: -- Mr. Jones.
21 MR. JONES: Ye -- okay, matters of fact, okay? You
22 --
23 THE COURT: Go ahead, read them.
24 MR. JONES: There -- there can be no conclusion at

1 this point that a transcript of any proceeding, everything in
2 it, is a fact, right?

3 THE COURT: It -- let me just explain. It's a fact,
4 there's a trial. It's a --

5 MR. JONES: Uh-huh (affirmative).

6 THE COURT: -- fact that there's a transcript. It's
7 not a fact that everything in the transcript is true, --

8 MR. JONES: Thank you.

9 THE COURT: -- but there's a transcript.

10 MR. JONES: Correct.

11 THE COURT: And factual question he's asking is,
12 factually, did you say this or that in the transcript in --

13 MR. JONES: Okay.

14 THE COURT: -- the other hearing. That's all I
15 would take.

16 MR. JONES: Okay.

17 THE COURT: Okay?

18 MR. JONES: Fine.

19 THE COURT: That's where we are.

20 MR. GOLDSTEIN: And then I asked him the follow-up
21 questions of -- of just the questions being the three that I
22 just said and asked and he said I was correct on all three, --

23 THE COURT: Okay.

24 MR. GOLDSTEIN: -- which is, he didn't hassle her in

1 the separation, right, he didn't cause her any problems, he
2 agreed to stay out of her life. To which he answered those
3 three questions affirmative.

4 THE COURT: It doesn't mean that everything in that
5 transcript is something I'm going to say oh, that's a true
6 statement because it's in a transcript.

7 MR. GOLDSTEIN: No, but he --

8 THE COURT: It just --

9 MR. GOLDSTEIN: -- just testified yes, so --

10 THE COURT: Okay, thank you.

11 MR. GOLDSTEIN: -- now it is true.

12 THE COURT: As long as we're all on the same page.

13 MS. LOBELLO: We are all on the same page.

14 MR. GOLDSTEIN: All right. Judge, if I could just
15 break for five minutes to see if I'm done, I want to confer
16 with my co-counsel, but I may pass the witness.

17 THE COURT: You may --

18 MR. GOLDSTEIN: Thank you.

19 THE COURT: -- take a few moments to talk to your --

20 MR. GOLDSTEIN: Just a few minutes. I'm going to
21 call Ms. Abrams from the --

22 THE COURT: We'll take --

23 MR. GOLDSTEIN: -- other room.

24 THE COURT: -- her off of the --

1 MR. GOLDSTEIN: Take her off the video?

2 THE COURT: -- or put her in a different room or
3 something, --

4 MR. GOLDSTEIN: I'm just --

5 THE COURT: -- Madam --

6 MR. GOLDSTEIN: I'm --

7 THE COURT: -- Clerk?

8 MR. GOLDSTEIN: -- going to go to the other room,
9 there.

10 THE COURT: And --

11 (Off record)

12 THE COURT: Back on the record.

13 BY MR. GOLDSTEIN:

14 Q Just going back to the purchase of the Blue Mesa
15 house, the reason you purchased that house as a single,
16 unmarried man is because in the United States, you and Danka
17 were not married, right?

18 A That's correct.

19 Q And this might have been asked already, but I can't
20 recall, so I'll just have you confirm that your -- your
21 intimate sexual relationship with Danka was over in 2004,
22 right?

23 (Pause)

24 A I'll be straightforward. We no longer had sex after

1 2004.

2 Q Thank you. For the Patients -- for the purchase of
3 the Patients One building, you did not put any money down,
4 correct?

5 A That's correct.

6 Q And you put Stacy on your payroll at Blue Point
7 Development, right?

8 A Correct.

9 Q Never put Danka on her's -- on your -- on --

10 A No.

11 Q -- your payroll, right?

12 A I did put her on my insurance -- health insurance.

13 Q But not on the payroll, right?

14 A No.

15 MS. ABRAMS: Objection, non-responsive, --

16 MR. GOLDSTEIN: All right, --

17 MS. ABRAMS: -- move to strike.

18 MR. GOLDSTEIN: -- well, --

19 MR. JONES: I'm sorry, but --

20 MR. GOLDSTEIN: -- it's --

21 MR. JONES: -- only the person answer -- asking --

22 MR. GOLDSTEIN: It's okay.

23 MR. JONES: -- questions gets to -- to objections

24 (sic.)

1 MR. GOLDSTEIN: I -- it's okay.

2 BY MR. GOLDSTEIN:

3 Q My question was about the payroll, right?

4 A Correct.

5 Q And then you took Danka off your insurance, though,
6 correct?

7 A Correct.

8 Q And -- and that was in 2016, right?

9 A I don't remember when it --

10 Q Around the end of 2016.

11 A Yeah, I -- I don't know for sure.

12 Q And you were shopping for new insurance for you and
13 Stacy and your child, correct?

14 A Correct.

15 Q All right.

16 (whispered conversation)

17 MR. GOLDSTEIN: Pass the witness.

18 THE COURT: All right. Cross?

19 (whispered conversation)

20 CROSS EXAMINATION

21 BY MR. JONES:

22 Q Have you take a look at ex -- Exhibit 63, looking at
23 Bates number 5459.

24 MR. GOLDSTEIN: Exhibit 63, and it's 5459. Okay.

1 BY MR. JONES:
2 Q Do you have that page?
3 A Yes, sir.
4 Q And you --
5 THE COURT: I'm sorry, three --
6 MR. JONES: -- were asked earlier about --
7 THE COURT: Exhibit 3?
8 MS. LOBELLO: Sorry, Exhibit 63.
9 MR. JONES: 63.
10 THE PLAINTIFF: 63, five --
11 MR. GOLDSTEIN: 63.
12 THE COURT: Okay, go ahead. I got it.
13 BY MR. JONES:
14 Q Do you recall being asked a few minutes ago about
15 the wire transfer out -- wire transfers out on November 25?
16 A Correct.
17 Q All right. The first one says wire transfer,
18 Federal Deutsche Bank Trust for the benefit of ADP. Do you
19 see that?
20 A Correct.
21 Q Now, when you recei -- when Blue Point received the
22 million-dollar bonus, did you, then pay yourself a bonus?
23 A Yes, I did.
24 Q Did you pay any of your other employees a bonus?

1 A Yes, I did.

2 Q All right. I'm going to have you turn ahead to --
3 (whispered conversation)

4 Q -- Exhibit 74.

5 A Another book.

6 Q Oh, that's right, those books wrote different --
7 differently than mine. I apologize.

8 MR. GOLDSTEIN: You said 74, John?

9 MR. JONES: Yeah.

10 (Pause)

11 BY MR. JONES:

12 Q Turn the Bates 5674, of Exhibit 74.

13 A Okay.

14 Q Turn -- or, looking at page 5674, at date 11/26,
15 there is a deposit into the joint account. What's the total
16 of that deposit?

17 A \$216,316.92.

18 MR. GOLDSTEIN: No.

19 BY MR. JONES:

20 Q All right. If it says 218, would that be a matter
21 of your eyesight?

22 A I -- it could be. 218?

23 Q Okay, and --

24 A I -- to --

1 Q -- that was one day after the transfer out of Blue
2 Point to ADP. Is that right?

3 A It -- correct.

4 Q And that money was received into the joint account
5 from what source?

6 A A direct deposit from my payroll account.

7 Q From Blue Point Development?

8 A Correct.

9 Q Okay. Did you have any control over Danka's
10 accounts -- bank accounts?

11 A No.

12 Q Have you ever even seen statements produced in
13 discovery of any of her personal accounts?

14 A No.

15 Q Bob Simonian, he was the CPA -- was he the CPA for
16 you, personally, as well as for your business?

17 A Yes, he was.

18 Q Do you have any understanding as to how he made what
19 Blue Point earned show up on your personal return?

20 A No. I think he split everything --

21 MR. GOLDSTEIN: No, --

22 THE PLAINTIFF: -- 50/50.

23 MR. GOLDSTEIN: Objection, move to --

24 THE PLAINTIFF: -- I'm not sure.

1 MR. GOLDSTEIN: -- strike anything after no.

2 THE COURT: Sustained.

3 BY MR. JONES:

4 Q Now, in looking at the tax returns regarding Lowe --
5 the Lowe property that you were asked to review earlier, how
6 much was the rent on Lowe each month?

7 A 800.

8 Q Eight -- the -- your tax return reflected \$4,800 in
9 rent received. Do you know why it only reflected half of the
10 rent?

11 A Half was taken out on her's and half of it was taken
12 out of mine.

13 Q Were the expenses for the home equally apportioned
14 between the two returns as well?

15 A I would --

16 MR. GOLDSTEIN: Objection, --

17 THE PLAINTIFF: -- believe --

18 MR. GOLDSTEIN: -- the documents --

19 THE PLAINTIFF: -- so, yes.

20 MR. GOLDSTEIN: -- are in evidence. He asked --

21 THE COURT: Sus --

22 MR. GOLDSTEIN: -- about what the documents say.

23 THE COURT: The documents do speak for themselves,
24 he's already answered, I'm going to take his answer.

1 MR. JONES: That's fine. Thank you, Your Honor.

2 BY MR. JONES:

3 Q Now, did you know that in August of last year, Danka
4 sold the Lowe property for \$290,000?

5 A I had no idea.

6 Q And --

7 MR. GOLDSTEIN: Wait, objection, foundation. Is it
8 in the record that she sold it? There's been no testimony by
9 her.

10 MR. JONES: No, I found out about it about two hours
11 ago.

12 MR. GOLDSTEIN: Okay, so --

13 MR. JONES: So, --

14 MR. GOLDSTEIN: -- you can't test --

15 MR. JONES: -- in my rebuttal case, I'll --

16 MR. GOLDSTEIN: You can't --

17 MR. JONES: -- call her --

18 MR. GOLDSTEIN: -- testify.

19 MR. JONES: -- as a witness.

20 THE COURT: The answer's already in and out, it's
21 fine. Go ahead.

22 BY MR. JONES:

23 Q Now, in looking at your Blue Point Development bank
24 statements, is that the place where the Court will be able to

1 see all the places that you paid rent to Patients One?

2 A The -- the majority of them, yes. And the only
3 other funds would have come from our personal account.

4 (Pause - whispered conversation)

5 MS. STOLZ: What is he pulling? What exhibit, D?

6 MR. GOLDSTEIN: He didn't say. John, where are you
7 at?

8 MR. JONES: Exhibit D, maybe.

9 MR. GOLDSTEIN: Maybe? B, as in boy?

10 (whispered conversation)

11 BY MR. JONES:

12 Q Now, you were asked to look at the deeds for the
13 purchase of Queen Charlotte and the Lowe property. Do you
14 recall looking at those?

15 A I -- I do.

16 Q Exhibits 7 and 8? You were asked where your
17 signature was on a deed, by which you received the property.
18 Do you recall that?

19 MR. GOLDSTEIN: No, --

20 THE PLAINTIFF: Yes.

21 MR. GOLDSTEIN: -- that's not what I asked. I -- I
22 asked him that it wasn't on there. Not -- I didn't say where
23 is your signature, I -- I said it's -- it's not on the deed.

24 MR. JONES: Okay.

1 BY MR. JONES:

2 Q You were questioned about the absence on a deed
3 transferring the property to you, of your signature. Do you
4 recall that?

5 A Yes.

6 Q Okay. Looking at Exhibit 7 -- or, actually, Exhibit
7 8, Bates number 45.

8 (whispered conversation)

9 MR. GOLDSTEIN: What Bates?

10 MR. JONES: Bates number zero --

11 (whispered conversation)

12 MR. JONES: On Exhibit 8, we're going to look at --
13 oh, it's the two Bates number problem. The --

14 THE COURT: About one-fourth down.

15 BY MR. JONES:

16 Q Yeah, we're going to do the -- the one furthest, so
17 it's Bates number 7-3-4, of Exhibit A (sic) -- 8.

18 (whispered conversation)

19 Q Because that -- do you have the State of Nevada dec
20 -- declaration of value form.

21 A Yes, I do.

22 MR. GOLDSTEIN: Objection, outside the scope. I
23 didn't ask about this stuff, John.

24 MR. JONES: He asked for the docu -- he asked for

1 the deed to which this is attached.

2 MR. GOLDSTEIN: It's not -- a declaration of value
3 page is a completely separate document. It is not. That is
4 re -- filed and recorded as a separate document and I didn't
5 ask him any questions about it.

6 MS. LOBELLO: You can't record it without the
7 declaration.

8 MR. JONES: He asked --

9 MR. GOLDSTEIN: Yes, you --

10 MR. JONES: -- about --

11 MR. GOLDSTEIN: -- can.

12 MR. JONES: -- his absence of signature on the deed,
13 Judge. This line of questioning is, --

14 THE COURT: True.

15 MR. JONES: -- is that your signature on the
16 declaration of value and is that your signature on the deed of
17 trust?

18 MR. GOLDSTEIN: I didn't ask about the --

19 MR. JONES: If you're --

20 MR. GOLDSTEIN: -- deed or --

21 MR. JONES: -- telling me --

22 MR. GOLDSTEIN: -- trust or the --

23 MR. JONES: -- that's not --

24 MR. GOLDSTEIN: -- declaration of --

1 MR. JONES: -- linked to --
2 MR. GOLDSTEIN: -- value.
3 MR. JONES: -- his line of questioning, then I'll
4 just do it in rebuttal and we can waste more time today.
5 MR. GOLDSTEIN: All right, I'm not gon -- I've got
6 to make my appropriate objections, John.
7 MS. LOBELLO: You can't record it --
8 THE COURT: He did not --
9 MR. GOLDSTEIN: Because --
10 MS. LOBELLO: -- without --
11 THE COURT: -- ask about --
12 MS. LOBELLO: -- the declaration.
13 THE COURT: -- this document.
14 MR. JONES: I -- I understand, Judge, but he asked
15 about the deed.
16 MR. GOLDSTEIN: That's right.
17 THE COURT: Right.
18 MR. GOLDSTEIN: And that's it.
19 MR. JONES: So you want me to wait until either, --
20 THE COURT: I guess --
21 MR. JONES: -- they rest --
22 THE COURT: -- you're going to have to. We're
23 trying to keep it clean, so we -- I guess so, yes.
24 MR. JONES: Okay. Even though it's the same

1 transaction?

2 THE COURT: Same transaction.

3 MR. JONES: Okay.

4 THE COURT: Different document.

5 MR. JONES: I got it.

6 BY MR. JONES:

7 Q And you were -- were -- were you, in fact, an
8 obligor on the mortgage for Queen Charlotte?

9 A Yes.

10 Q And until you paid it off, were you the obli -- one
11 of the co-obligors of the -- the property at Lowe?

12 A Yes.

13 MS. ABRAMS: Objection, assumed facts not in
14 evidence. I don't believe Queen Charlotte was ever paid off.

15 THE COURT: I'm sorry, I did not understand what you
16 said. Can you say it again?

17 MS. ABRAMS: I said --

18 MR. GOLDSTEIN: Assumes facts --

19 MS. ABRAMS: -- objection,

20 MR. GOLDSTEIN: -- not in evidence.

21 MS. ABRAMS: -- assumes facts not in evidence
22 because I don't believe there was any testimony that Queen
23 Charlotte was paid off.

24 MR. JONES: In fact, the Defendant testified

1 unequivocally, last Friday, that he paid it off --

2 MR. JONES: Not q --

3 MR. JONES: -- and she was annoyed by it. Or, no,
4 no, not -- not --

5 MR. GOLDSTEIN: Not Queen Charlotte.

6 MR. JONES: I -- no, my question was Lowe.

7 MS. ABRAMS: Yeah, but you said Queen Charlotte.

8 MR. GOLDSTEIN: Yeah.

9 MR. JONES: I -- I don't think I did. I asked a
10 Queen Charlotte son -- question and then I asked about the
11 Lowe property.

12 THE PLAINTIFF: Right.

13 THE COURT: Okay, and the next --

14 MS. ABRAMS: The reason I objected is because you
15 said Queen Charlotte was paid off.

16 MR. JONES: Was what?

17 THE COURT: Paid off.

18 MR. GOLDSTEIN: Was paid off.

19 MR. JONES: Oh.

20 (whispered conversation)

21 BY MR. JONES:

22 Q Now, with regard to your bonus, that money was
23 received by what entity?

24 A Blue Point Development.

1 Q And was it deposited in November of '14, into the
2 Blue Point checking account?

3 A That's correct.

4 Q And from that bonus, what did you -- we've already
5 talked about the transfer of \$218,000, to your joint account.
6 Where else did the money -- the million-dollar bonus go?

7 MR. GOLDSTEIN: This is outside the scope, Judge.

8 THE COURT: I -- I don't think he re -- said
9 anything about that.

10 MR. JONES: He didn't ask any questions about the
11 bonus today?

12 MR. GOLDSTEIN: Nope.

13 THE COURT: I don't think so. You did --

14 MR. GOLDSTEIN: Yep.

15 THE COURT: -- earlier, but I don't believe --

16 MR. GOLDSTEIN: Not me.

17 THE COURT: -- Mr. Goldstein did.

18 MR. GOLDSTEIN: Did not.

19 MR. JONES: That's fine.

20 (Pause)

21 BY MR. JONES:

22 Q Oh, Exhibit 78. And it's Bates number 5863.

23 A What number, John?

24 Q 78. Do you have 78?

1 A Yeah.

2 Q Bates number 5863. You were asked about the death

3 of your father. Do you recall that?

4 A Yes.

5 Q Now, in the -- this bank statement is for the joint

6 account for October of 2016. Do you re -- do you see that?

7 A I'm not sure. What -- what's the number again?

8 Q 5863.

9 A That's correct, I do.

10 Q Okay. On October 7th, there's a deposit of \$22,235

11 and 90 ni -- 91 cents. Do you know the source of that

12 deposit?

13 A That was my inheritance from my family.

14 MR. GOLDSTEIN: Objection, this is outside the

15 scope. I didn't ask him about --

16 MR. JONES: He asked him --

17 MR. GOLDSTEIN: -- an inheritance or any --

18 MR. JONES: -- about his father's death.

19 THE COURT: You asked about the father's death,

20 there was an inheritance here, what else?

21 MR. JONES: Well -- yeah.

22 THE COURT: I -- I'm just going to let it go, then.

23 MR. GOLDSTEIN: Okay.

24 BY MR. JONES:

1 Q From the -- you were asked about the cars. On
2 September 6th -- September 13, 2016, whose name was the
3 Porsche Cayenne titled in?
4 A Ny name.
5 Q Do you have any idea how it came to be titled in
6 Danka's name, sometime thereafter?
7 A I have --
8 MR. GOLDSTEIN: Objection --
9 THE PLAINTIFF: -- no idea.
10 MR. GOLDSTEIN: -- assumes facts not in evidence.
11 There's -- there --
12 MR. JONES: She -- she testified earlier --
13 MR. GOLDSTEIN: That the title --
14 MR. JONES: -- that she --
15 MR. GOLDSTEIN: -- was in her --
16 MR. JONES: -- put the title --
17 MR. GOLDSTEIN: -- name?
18 MR. JONES: -- in her name.
19 THE COURT: Yes.
20 MR. GOLDSTEIN: Did she? All --
21 MR. JONES: She said --
22 MR. GOLDSTEIN: -- right.
23 MR. JONES: -- she put the title in her name.
24 THE COURT: She did.

1 MR. GOLDSTEIN: Okay.

2 MR. JONES: So I am asking him --

3 THE COURT: Okay.

4 BY MR. JONES:

5 Q -- who -- where the -- where the title was on
6 September 13, and you already said it was in your name.

7 A Correct.

8 Q Do you have any idea how she transferred it into
9 your (sic) name?

10 A I have no id --

11 Q Her -- into her name, rather.

12 A Have no idea.

13 MR. JONES: That's all I have, as far as cross, Your
14 Honor.

15 THE COURT: Thank you so much. Do you have any
16 redirect?

17 REDIRECT EXAMINATION

18 BY MR. GOLDSTEIN:

19 Q You -- you were shown the \$273,000 deposit. Your
20 testimony was that was for payroll, right?

21 A That's correct.

22 Q Okay. And your Blue Point Development bank
23 statements, you were asked as to whether or not that would be
24 where the Court would look for the mortgage statements,

1 correct?

2 MR. JONES: I did not ask that question, Your Honor.
3 Objection, --

4 MR. GOLDSTEIN: That's -- no, that's --

5 MR. JONES: -- mis-states my question, which was, is
6 that where the Court would look to see all the rent payments
7 to Patients One.

8 MR. GOLDSTEIN: Nope, you said funds for the
9 mortgage. I wrote it down.

10 THE COURT: He did -- he said --

11 MR. JONES: I said rent, --

12 THE COURT: He said --

13 MR. JONES: -- Counsel.

14 THE COURT: -- rents payment.

15 MR. GOLDSTEIN: He said funds for the mortgage.

16 MS. ABRAMS: But it wasn't for Patients One, it was
17 for Lowe. You were talking about Lowe.

18 MR. GOLDSTEIN: That -- it was --

19 MR. JONES: Nope.

20 MR. GOLDSTEIN: -- talking about --

21 MR. JONES: No.

22 MR. GOLDSTEIN: -- Lowe --

23 MR. JONES: No.

24 MR. GOLDSTEIN: -- and that's where --

1 MR. JONES: No.

2 MR. GOLDSTEIN: -- the funds for the mor -- I wrote
3 it down. Funds for the mortgage in the personal account, and
4 he said that's where you would see it and you -- you would see
5 it from there and from the personal account.

6 MR. JONES: Judge, --

7 MS. ABRAMS: I --

8 MR. JONES: -- I never asked a question about Blue
9 Point paying a mortgage, I asked the question, if the Court
10 wanted to see all the rent that Blue Point paid to Patients
11 One, would it be in these bank statements. And he -- his
12 exact answer was, most of it and some of it will be from the
13 joint account.

14 THE COURT: Fro -- that's what I heard.

15 MR. JONES: Those we -- that was the exact question
16 and the --

17 THE COURT: Yes.

18 MR. JONES: -- exact answer.

19 BY MR. GOLDSTEIN:

20 Q Oh, s -- the Porsche, was that in your name or was
21 that in Blue Point Developments name?

22 A It was in my name. I mean, Blue Point Development -
23 - I think -- I don't know how that works with the cars.

24 Q Well, but you -- you -- the reason bou -- you bought

1 that car is because it weighed over the weight limit, so you
2 could reduce the tax obligation to --

3 A No.

4 Q -- Blue Point, right?

5 A No. No, that's not the reason I bought that car.

6 Q Well, okay. You claimed it on your taxes, as far as
7 its --

8 A Well, it --

9 Q -- depreciation --

10 A -- of cour --

11 Q -- from an --

12 A -- of course --

13 Q -- oh -- yeah.

14 A Of course.

15 Q All right. The -- oh, you were asked about whether
16 Danka produced any bank statements in this case. Do you
17 remember being asked that?

18 A Yeah.

19 MS. LOBELLO: Personal.

20 MR. JONES: I said for her personal

21 THE COURT: Yes.

22 MR. JONES: -- account. If we're going to be exact,
23 let's --

24 THE COURT: Pers --

1 MR. JONES: -- be exact.

2 THE COURT: Any of her personal accounts.

3 MR. GOLDSTEIN: All right.

4 THE PLAINTIFF: I had no knowledge of it.

5 THE COURT: No question in front of you.

6 (whispered conversation)

7 THE PLAINTIFF: Okay, thank you.

8 (whispered conversation)

9 BY MR. GOLDSTEIN:

10 Q I'm going to represent to you, sir, that Danka K.
11 Michaels Bates label 2974, is a personal checking account
12 statement from Chase Private Client, in the name of Danka K.
13 Michaels from August 31, 2019 through September 30, 2019. Do
14 you have any belie -- reason to believe the representation I
15 just made is false?

16 A I don't know.

17 THE COURT: Is there an exhibit number?

18 MR. JONES: Yeah, there isn't.

19 MR. GOLDSTEIN: No, it's not --

20 THE COURT: You gave -- no?

21 MR. GOLDSTEIN: No. Because he's asking questions
22 about what was produced in discovery and it wasn't --

23 MR. JONES: I asked if he saw --

24 MR. GOLDSTEIN: Right.

1 MR. JONES: -- any of her personal bank statements.
2 And I'm glad they're making this point because you'll learn
3 very soon that, I --

4 MR. GOLDSTEIN: Wether he --

5 MR. JONES: -- think they produced --

6 MR. GOLDSTEIN: -- saw it or not --

7 MR. JONES: -- one statement.

8 MR. GOLDSTEIN: Whether he saw it or not, what --
9 what is the relevance of that, then?

10 MR. JONES: Well, that question was asked and
11 answered and -- and I passed the witness.

12 THE COURT: Right.

13 MR. GOLDSTEIN: Okay.

14 BY MR. GOLDSTEIN:

15 Q Did you look at all the documents that have been
16 produced in this case? Have you read each and every one of
17 these pages of documents here? We got many thousands of them,
18 sir, did you?

19 A The answer is no.

20 Q Okay. You didn't see all the documents that you
21 produced in this case?

22 A Well, I probably saw the majority of mine.

23 Q Well, but not all of them, right?

24 A Not -- not all of them.

1 Q Okay, thank you.

2 MR. GOLDSTEIN: I don't believe I have any further

3 questions.

4 MR. JONES: Why did you buy the Porsche?

5 MR. GOLDSTEIN: Why does he get to ask any more -- I

6 -- what -- this is the third, fourth time he gets to question

7 him?

8 MR. JONES: Well, I get to --

9 MR. GOLDSTEIN: No, no, he had -- he's already put

10 on his case --

11 THE COURT: I --

12 MR. GOLDSTEIN: -- in-chief.

13 THE COURT: He has and he -- you put on --

14 MR. GOLDSTEIN: So it's --

15 THE COURT: -- your case --

16 MR. GOLDSTEIN: -- me, then --

17 THE COURT: -- he crossed --

18 MR. GOLDSTEIN: -- he gets a chance, and --

19 THE COURT: -- then you re --

20 MR. GOLDSTEIN: -- then I'm (sic) --

21 THE COURT: -- direct --

22 MR. GOLDSTEIN: -- get -- and then that's it.

23 MR. JONES: No, no --

24 THE COURT: And I let you --

1 MR. JONES: Judge, --

2 THE COURT: -- have a follow-up question once
3 earlier, so go ahead --

4 MR. JONES: But --

5 THE COURT: -- if it's --

6 MR. JONES: But more --

7 THE COURT: -- one --

8 MR. JONES: -- more --

9 THE COURT: -- question.

10 MR. JONES: -- importantly -- I -- I've never had
11 there be a limit to the number of directs --

12 THE COURT: I --

13 MR. JONES: -- and redirects and crossed --

14 THE COURT: Because --

15 MR. JONES: -- and recrosses.

16 THE COURT: -- nobody's probably made an objection.

17 MR. GOLDSTEIN: Well, no, because --

18 MR. JONES: Why --

19 MR. GOLDSTEIN: -- it does happen.

20 BY MR. JONES:

21 Q Why did you buy the Porsche?

22 A Danka was driving a little car. She is not the best
23 driver, she's been in a few accidents, and I was worried about
24 her safety, so I wanted her to be in a bigger car so she would

1 be protected. And that's -- that's why I bought the Porsche.

2 Q Had you not, that very month, received a million-
3 dollar bonus, would you have bought it for her?

4 A That made it easier, for sure. I still wanted her
5 to have a bigger car.

6 MR. JONES: No further questions.

7 THE COURT: And I recall, he's already had that --
8 given that same testimony in a previous query, so -- all
9 right, you can step down.

10 THE PLAINTIFF: Thank you.

11 MR. JONES: Well, he might be going back up.

12 THE COURT: He might be.

13 MR. GOLDSTEIN: Well, okay. We --

14 THE COURT: Are you resting?

15 MR. GOLDSTEIN: The answer is -- okay. The -- this
16 is the answer to the question. We are considering calling
17 Roberto Carillo, Judge. We didn't expect to get this matter
18 completed right now and so we asked him to be available on our
19 next available date, knowing that we had the full day to do
20 so.

21 THE COURT: Oh, I'm sorry. This morning, you said
22 you were going to be done by noon.

23 MR. GOLDSTEIN: No, John said he was going to be
24 done by noon, --

1 MS. ABRAMS: John said it.

2 MR. GOLDSTEIN: -- okay? And we said absolutely
3 not. But in light of the fact of the way that the questioning
4 went, it certainly has gone farther. So if Mr. Jones wants to
5 call Mr. Pickens back to the stand as a rebuttal witness out
6 of order and allow us, on -- you know, briefly, on -- what is
7 it?

8 THE COURT: April 2nd.

9 MR. GOLDSTEIN: 2nd that we're coming back to finish
10 up, that would be what we would ask the Court to do.

11 MR. JONES: I don't have a problem with that.

12 THE COURT: You want to do --

13 MR. JONES: I mean, --

14 THE COURT: -- your rebuttal case now or do you want
15 to have -- wait until he's rested before -- and see if there's
16 any other --

17 MR. JONES: You know what?

18 MS. LOBELLO: Yeah, --

19 MR. JONES: I prob --

20 MS. LOBELLO: -- let's wait.

21 MR. JONES: I probably should wait until Carillo
22 testifies.

23 THE COURT: Because I don't -- you know, I'd rather
24 not have a rebuttal --

1 MR. JONES: And then --
2 THE COURT: -- partial --
3 MR. JONES: -- a rebuttal.
4 THE COURT: -- and then another part of the case and
5 then another rebuttal partial and --
6 MR. GOLDSTEIN: Everything's --
7 THE COURT: I think --
8 MR. GOLDSTEIN: -- been taken out of order, and I
9 understand that to be the case. This has been a difficult
10 trial.
11 THE COURT: Well, you guys --
12 MS. LOBELLO: No, it hasn't.
13 THE COURT: -- have really been great, except for
14 sometimes, you guys gets a little bit too focused on things
15 that are not as important, I don't -- I don't think. But --
16 MR. GOLDSTEIN: The snippiness between John and I is
17 just because I love him.
18 MR. JONES: I have yet to be snippy.
19 THE COURT: All right, then. So we'll come back on
20 April 2nd and we'll discuss the briefing for the closing
21 arguments and the final closing argument to be presented.
22 MR. GOLDSTEIN: I -- I guess, the question would be,
23 is the -- is the Court's expectation that we have a brief done
24 before that date --

1 THE COURT: You know, I'd be --
2 MR. GOLDSTEIN: -- or not?
3 THE COURT: -- surprised if you guys weren't already
4 working on it.
5 MR. GOLDSTEIN: Well, sure, but I'm just saying, are
6 we going to -- in other words, are we going to say --
7 MS. LOBELLO: How can --
8 MR. GOLDSTEIN: -- okay, --
9 MS. LOBELLO: -- we do a --
10 MR. GOLDSTEIN: -- March 30th, --
11 MS. LOBELLO: -- brief before we're done?
12 MR. GOLDSTEIN: -- both sides exchange blind briefs,
13 we file and --
14 THE COURT: No.
15 MR. GOLDSTEIN: -- argue them that day.
16 THE COURT: No, you're not going to be able to that.
17 The ca -- the case isn't over.
18 MR. GOLDSTEIN: I --
19 MS. LOBELLO: The case is not --
20 MR. GOLDSTEIN: I get it. So that's -- I guess,
21 what I'm saying is --
22 THE COURT: So, on April 2nd, I'll give you a
23 briefing schedule.
24 MR. JONES: Oh, Judge, the one thing I -- we didn't

1 -- when we talked about Exhibit 67, when we were doing the
2 summary fight prior to -- we had the issue of his summary of
3 all the payments to pay down the mortgage on the Lowe
4 property, which then, the Defendant admitted that he paid it
5 off, we realized that there was the August of --

6 THE COURT: There was a missing --

7 MS. LOBELLO: One missing statement and --

8 THE COURT: Statement.

9 MS. LOBELLO: -- we have that --

10 MR. JONES: No, no --

11 MS. LOBELLO: -- one statement.

12 MR. JONES: Right.

13 THE COURT: Okay. And your --

14 MR. JONES: The Blue Point missing statement that
15 goes into Exhibit 67.

16 MS. LOBELLO: But we can put it --

17 MR. JONES: Do you --

18 MS. LOBELLO: -- as the next --

19 MR. JONES: -- want to call it --

20 MS. LOBELLO: -- number.

21 MR. JONES: -- next to order?

22 MR. GOLDSTEIN: Wait a minute. Is this being
23 disclosed for the first time today?

24 MS. LOBELLO: No, we --

1 MR. JONES: No, it was --
2 MS. LOBELLO: -- produced it.
3 THE COURT: -- produced in discovery.
4 THE COURT: They just didn't get --
5 MR. JONES: It just --
6 THE COURT: -- it into the --
7 MR. JONES: There was a copy problem. Remember, we
8 were missing one statement?
9 MR. GOLDSTEIN: Yeah, I don't know -- I'd have to
10 defer to Jennifer. I just --
11 MR. JONES: Here it is.
12 MR. GOLDSTEIN: -- haven't done it.
13 MR. JONES: We can --
14 THE COURT: Well, we'll --
15 MR. JONES: I'm just giving --
16 THE COURT: -- make that --
17 MR. JONES: -- him the copy.
18 THE COURT: -- decision in our initial decision-
19 making on April 2nd.
20 MR. JONES: Okay. And so, next is order would be --
21 MR. GOLDSTEIN: These are not Bates labeled, though.
22 MR. JONES: I understand.
23 MR. GOLDSTEIN: So, how -- when were they produced
24 in discovery?

1 MR. JONES: We'll -- we'll give you the proof of the
2 production.

3 MR. GOLDSTEIN: Okay. Oh, okay, I'm just asking the
4 question, guys. I -- I wasn't there. I wasn't involved at
5 that time.

6 MS. LOBELLO: Heather said they were produced and I
7 trust her.

8 THE COURT: I find that --

9 MR. GOLDSTEIN: I trust --

10 THE COURT: -- that document --

11 MR. GOLDSTEIN: -- Heather.

12 THE COURT: -- is important --

13 MR. GOLDSTEIN: That's for sure.

14 THE COURT: -- to the Court because I was baffled by
15 its absence. So, we'll probably --

16 MR. JONES: Well, particularly, --

17 THE COURT: -- bring it in.

18 MR. JONES: -- when you have a year's worth of
19 statements and somehow, one doesn't get copied.

20 MR. JONES: Yeah, I know what you're saying. We
21 better look to see if -- this one kind of, look -- you're
22 right, it looks like there's a copy in chronolo -- this part
23 is down here.

24 MS. LOBELLO: You mean, like, our copier isn't

1 working?

2 MR. JONES: You might --

3 MS. LOBELLO: Bingo.

4 MR. JONES: Just take -- take this and make a note
5 that it would be proposed next in order. We'll confirm it's -
6 -

7 MS. LOBELLO: We were having copy problems this
8 morning.

9 MR. JONES: We'll --

10 THE COURT: We'll --

11 MR. JONES: We'll --

12 THE COURT: -- confirm --

13 MR. JONES: -- confirm --

14 THE COURT: -- whether there is --

15 MR. JONES: -- it's production --

16 THE COURT: -- any objection at the next hearing.

17 He'll have an opportunity to look through --

18 MS. LOBELLO: Thank you, Judge.

19 MR. GOLDSTEIN: Thank you, Your Honor.

20 MR. JONES: Thank you, Your Honor. And have a
21 lovely weekend.

22 MR. GOLDSTEIN: Thank you for --

23 THE COURT: Okay.

24 MR. JONES: Even though the weather is a disaster.

1 MR. GOLDSTEIN: Thank you, Judge. Thank --
2 THE COURT: Thank you, --
3 MS. LOBELLO: I'm sorry, --
4 THE COURT: -- everybody.
5 MR. GOLDSTEIN: -- your staff --
6 MS. LOBELLO: -- is it April 2nd? Are we at 9:00
7 again and we have a whole day?
8 THE COURT: Yes.
9 MS. LOBELLO: Thank you.
10 THE COURT: As far as I know, unless you don't need
11 the whole day. But --
12 MR. GOLDSTEIN: Well, --
13 MS. LOBELLO: Well, we --
14 MR. GOLDSTEIN: -- for example, --
15 MS. LOBELLO: -- don't want to need the whole day.
16 MR. GOLDSTEIN: -- let's say we're done before noon.
17 Is the anticipation, we're going to make oral closing
18 arguments in the afternoon?
19 MR. JONES: No.
20 MR. GOLDSTEIN: That's what I'm --
21 MR. GOLDSTEIN: Okay.
22 MS. LOBELLO: She already said no to that.
23 MR. GOLDSTEIN: Okay.
24 THE COURT: No.

1 MR. GOLDSTEIN: That's what I'm trying to --

2 THE COURT: Yeah.

3 MR. GOLDSTEIN: -- be clear. I wasn't clear on that
4 at all.

5 THE COURT: I --

6 MR. GOLDSTEIN: Thank you.

7 THE COURT: I understand that some attorneys write
8 better than they speak and some speak better than they write.
9 And so I would like you to write down for me, your closing
10 brief so that you can give it to me orally and I can figure
11 out what you meant by some of the things that you maybe,
12 didn't -- weren't clear on when you wrote it.

13 MR. GOLDSTEIN: We understand now, thank you.
14 That's --

15 MR. JONES: Makes all the sense in the world, Judge.

16 MR. GOLDSTEIN: -- very clear now. Thank you.

17 THE COURT: Especially on a case with this much
18 documentation and importance, actually --

19 MR. GOLDSTEIN: Only a few pages here.

20 THE COURT: -- for the parties.

21 (whispered conversation)

22 MR. GOLDSTEIN: Only a few pages.

23 THE CLERK: Are we ready to go off?

24 THE COURT: We're off the record.

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(PROCEEDINGS CONCLUDED AT 03:40:41)

* * * * *

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

/s/Shellie A. Callaway
Shellie A. Callaway

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TRANS

FILED

OCT 28 2021

COPY

Alanna A. Hoffman
CLERK OF COURT

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

THOMAS A. PICKENS,)	
)	
Plaintiff,)	CASE NO. D-17-560737-D
)	
vs.)	DEPT. J
)	
DANKA K. MICHAELS,)	APPEAL NO. 82388
)	
Defendant.)	
)	

BEFORE THE HONORABLE DIANNE STEEL
DISTRICT COURT JUDGE

TRANSCRIPT RE: NON-JURY TRIAL (DAY 5)

FRIDAY, APRIL 2, 2021

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APPEARANCES:

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I N D E X O F W I T N E S S E S

<u>PLAINTIFF'S</u> <u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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THOMAS A. PICKENS	19	40	--	--
DANKA K. MICHAELS	50	55	--	--

DEFENDANT'S
WITNESSES:

ROBERTO CARILLO	5	13	17	--
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* * * * *

I N D E X O F E X H I B I T S

<u>PLAINTIFF'S</u> <u>EXHIBITS:</u>	<u>ADMITTED</u>
--	-----------------

(None presented)

DEFENDANT'S
EXHIBITS:

(None presented)

1 LAS VEGAS, NEVADA

FRIDAY, APRIL 2, 2021

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

3 (THE PROCEEDINGS BEGAN AT 09:11:44)

4

5 THE COURT: Good morning. We are here on the
6 Pickens matter. This is case number 560737. Can I have
7 appearances for the record, please?

8 MR. JONES: John Jones, Bar number 6699, and
9 Michelle Lobello, Bar number 5527, appearing on behalf of the
10 Plaintiff, who is also present.

11 THE COURT: Thank you.

12 MR. GOLDSTEIN: Good morning, Your Honor, Shawn
13 Goldstein, Bar number 9814, appearing on behalf of the def --
14 of the Defendant. Danka is here and Ms. Abrams is appearing
15 via video and Ms. Stephanie Stolz, her paralegal here (sic) as
16 well.

17 THE COURT: Ms. Abrams, your Bar number?

18 MS. ABRAMS: 7575.

19 THE COURT: Thank you so much. All right, I believe
20 we're here on a rebuttal case?

21 MR. GOLDSTEIN: We --

22 MR. JONES: Actually, they --

23 MR. GOLDSTEIN: We --

24 MR. JONES: -- have a witness.

1 MR. GOLDSTEIN: We just have one witness, Your
2 Honor, --

3 THE COURT: Okay.

4 MR. GOLDSTEIN: -- that we were going to call, Mr.
5 Roberto Carillo, who is outside.

6 THE COURT: Okay.

7 (Witness is retrieved)

8 THE COURT: Good morning again.

9 THE BAILIFF: Face the clerk, raise your right hand.
10 (Oath administered)

11 THE WITNESS: I do.

12 ROBERTO CARILLO

13 called as a witness on behalf of the Defendant, did testify as
14 follows on:

15 THE CLERK: Can you state your name and spell it for
16 the record, please?

17 THE WITNESS: My name is Robert Carillo, R-o-b-e-r-
18 t-o C-a-r-i-l-l-o.

19 THE CLERK: Okay, thank you.

20 THE WITNESS: May I sit?

21 DIRECT EXAMINATION

22 BY MR. GOLDSTEIN:

23 Q Good morning, Mr. Carillo.

24 A Good morning.

1 Q Sir, do you hold any licenses here, in the state of
2 Nevada?

3 A I hold two licenses in the state of Nevada. I'm a
4 registered nurse, and an advanced practice registered nurse.

5 Q Advanced practice registered nurse. Can I fairly
6 abbreviate that to APRN?

7 A Yes.

8 Q And registered nurse is just an RN.

9 A Correct.

10 Q Okay. And when did you obtain your APRN license?

11 A 2009.

12 Q Okay. In addition to these two licenses, are you
13 also board-certified?

14 A Yes.

15 Q And in what are you board certified in?

16 A As a family nurse practitioner.

17 Q Okay. Now, as an APRN, do you have the ability to
18 treat patients independently?

19 A Yes.

20 Q And can you do so without a medical doctor's
21 supervision?

22 A Yes.

23 Q Okay. And how long has that been since you -- did
24 that happen when you got your license?

1 A Yes.

2 Q Okay. Does that -- do you also have the ability to
3 prescribe medications?

4 A Yes.

5 Q Independently?

6 A Yes.

7 Q And without a doctor's supervision?

8 A Yes.

9 Q Okay. Do you have a prescription license to
10 prescribe narcotics?

11 A Yes.

12 Q And -- and how -- who is that through?

13 A The DEA.

14 Q Okay. Are you currently employed, sir?

15 A Yes.

16 Q And where are you currently employed?

17 A Blue Point Medical Group.

18 Q Okay. And approximately, since when?

19 A 2009.

20 Q All right. And do you know the -- the Plaintiff
21 here, Tom Pickens?

22 A Yes.

23 Q Okay. Do you see him in this courtroom?

24 A Yes.

1 Q Can you just point him out for the judge?
2 A He's sitting over there.
3 Q Thank you. All right. And when did you first meet
4 Tom, approximately, when?
5 A Approximately, 2008.
6 Q Okay. And did Tom, at some point, become your
7 patient?
8 A Yes.
9 Q And how did that happen?
10 A Dr. Michaels had asked me to become his primary --
11 MR. JONES: Objection, --
12 THE WITNESS: -- care provider.
13 MR. JONES: -- hearsay.
14 BY MR. GOLDSTEIN:
15 Q Okay. Without saying what Dr. Michaels -- well,
16 I'll let the Court rule.
17 THE COURT: Yeah, I will rule that as hearsay.
18 MR. GOLDSTEIN: Okay.
19 THE COURT: You need to ask your --
20 MR. GOLDSTEIN: Certainly.
21 THE COURT: -- question a --
22 MR. GOLDSTEIN: Right.
23 THE COURT: -- different way, please.
24 BY MR. GOLDSTEIN:

1 Q Without saying -- without telling the Court exactly
2 what Dr. Michaels said, just explain to the judge, how is it
3 that it became about (sic) that -- that Tom became your
4 patient?

5 A Tom needed another primary care, other than the
6 doctor that was there, so I --

7 Q Okay.

8 A -- became as primary care.

9 Q And who was that doctor?

10 A Dr. Michaels.

11 Q Okay. Now, during your treatment of Tom, did you
12 prescribed him medications?

13 A I did.

14 Q All right. And did you do so from 2008 through
15 about 2016?

16 A Yes.

17 Q Okay. Did you -- did -- during your treatment of
18 Mr. Pickens, did he ever express to you, any issues or
19 concerns with your treatment of him?

20 A No.

21 Q And you did prescribe him narcotic medication. Is
22 that right?

23 A Yes.

24 Q All right. And was that at his request?

1 A Yes.

2 Q Did Mr. Pickens ever express to you that he felt
3 vulnerable from these medications -- these narcotic
4 medications?

5 MR. JONES: Objection, leading, Your Honor.

6 THE COURT: Sustained.

7 MR. GOLDSTEIN: Okay.

8 BY MR. GOLDSTEIN:

9 Q What, if anything, did Mr. Pickens express to you
10 about these narcotic medications?

11 A I do not recall him expressing anything to me,
12 specifically about the medications.

13 Q Did he ever express any concerns?

14 A No.

15 Q Okay. If he -- if he did -- if he had done so,
16 would you have continued to prescribe him those medications?

17 A No.

18 Q Did -- during of your treatment of him, did you --
19 did you have an opportunity to observe him and his behaviors?

20 A Yes.

21 Q Okay. And what, if anything, did you observe of
22 him?

23 A I observed him to be alert and lucid whenever we
24 spoke.

1 Q All right. During your treatment of him between
2 2008 and 2016, were there times that my client, Danka -- did
3 she also see Tom?

4 A Yes.

5 Q Okay. And do -- do you know why that would have
6 been?

7 A When I am not available, the provider that's there
8 sees my patients and we call that cross coverage.

9 Q So, can you just explain to the Court, a little bit,
10 what cross coverage means?

11 A There are times where I am not available to see my
12 patient, so the patient can see the other provider in the
13 office.

14 Q Okay. All right. Directing your attention to
15 August 15, 2015 -- just want to get Exhibit 4.

16 (Pause)

17 MR. JONES: Actually, Counsel?

18 MR. GOLDSTEIN: Yes?

19 MR. JONES: Do you mind using the --

20 MR. GOLDSTEIN: Oh, the -- oh, I'm sorry. Yeah.

21 MR. JONES: -- the witness books?

22 MR. GOLDSTEIN: Absolutely.

23 MR. JONES: I don't know if there's any notes or
24 anything --

1 MR. GOLDSTEIN: Nope, no, --
2 MR. JONES: -- on your --
3 MR. GOLDSTEIN: -- nothing --
4 MR. JONES: -- copy.
5 MR. GOLDSTEIN: -- going on there, but that --
6 you're right.
7 THE COURT: Can you show me the volume and --
8 MR. GOLDSTEIN: Sorry, Your Honor, it's --
9 THE COURT: -- whatever --
10 MR. GOLDSTEIN: -- Exhibit 4, volume one. It's --
11 THE COURT: Exhibit 4?
12 MR. GOLDSTEIN: -- the prescription --
13 THE COURT: Thank you.
14 MR. GOLDSTEIN: -- medication document that we've
15 all become so familiar with.
16 (whispered conversation)
17 BY MR. GOLDSTEIN:
18 Q And the -- this would be Bates label TP-06413. I'm
19 just directing your attention to the August 15, 2015, entry
20 there, looks like there was a prescription for Oxycodone,
21 acetaminophen, 10-325, and it has your initials, ROCAR. Well,
22 can you confirm to the Court, is that your initials?
23 A That is correct.
24 Q O --

1 A That is my initials.

2 Q Okay. And so, that means that -- does that mean
3 that you were the one who prescribed that -- that medication?

4 A Yes.

5 Q Okay. And can you tell the Court what, if anything,
6 you recall about that particular prescription?

7 A Tom had run out of his pain prescription and he
8 asked Dr. Michaels, on his behalf to ask the office for a
9 refill. She requested a refill from myself and I approved the
10 refill.

11 Q All right.

12 MR. GOLDSTEIN: Okay, pass the witness.

13 THE COURT: Questions?

14 MS. LOBELLO: Ask him if he remembers all the other
15 specific ones.

16 REDIRECT EXAMINATION

17 BY MR. JONES:

18 Q Just to be clear, you're not a physician, right?

19 A No.

20 Q So you're not -- you've never been Tom Pickens'
21 primary care physician, right?

22 A I was the primary medical person --

23 Q Oh, --

24 A -- for him in --

1 Q -- okay.

2 A -- the office, yes.

3 MR. JONES: Move to strike, non-responsive. You
4 were --

5 THE COURT: Sustained.

6 BY MR. JONES:

7 Q -- never his primary care physician, right?

8 A Yes.

9 Q And you've been an employee of Dr. Michaels' for
10 roughly, 20 years?

11 MR. GOLDSTEIN: Okay, well --

12 THE WITNESS: 12 years.

13 MR. GOLDSTEIN: -- yeah. He said 2008.

14 THE WITNESS: 2009, 12 years.

15 BY MR. JONES:

16 Q All right, well, I -- I read the website. It said
17 for over 20 years, so I was just using 20 years as a -- a
18 guideline. So, how lon -- I'll ask you this. How long have
19 you been employed by Dr. Michaels?

20 MR. GOLDSTEIN: He testified. Objection, asked-and-
21 answer.

22 THE COURT: Let him answer it again and --

23 MR. GOLDSTEIN: Sure.

24 THE WITNESS: 12 years.

1 THE COURT: It's quick. Thank you.

2 BY MR. JONES:

3 Q 12 years?

4 A Yes.

5 Q Okay. And Blue Point Medical is Dr. Michaels'
6 business. Is that --

7 A That's --

8 Q -- right?

9 A That's correct.

10 Q Okay. Do you maintain your own malpractice
11 insurance?

12 A I do.

13 Q Do you still have that book in front of you?

14 (No audible response)

15 MR. JONES: Moving to Exhibit 3, Your Honor, Bates
16 number 5434.

17 BY MR. JONES:

18 Q I'm going to have you take a look at -- if you want
19 to look at the history of the three-page document within this
20 big document, the Bates number is 5432. But I'm going to ask
21 you to look at page three, but feel free to look at page one
22 and two if you'd like to --

23 THE COURT: What's the --

24 MR. JONES: -- make sure --

1 THE COURT: -- Bates label, -34?

2 MR. GOLDSTEIN: So which one do you want him to look
3 at, John?

4 MS. LOBELLO: Page three.

5 MR. JONES: Page three of -- which is the original
6 Bates number I pointed to, --

7 MR. GOLDSTEIN: 5434.

8 MR. JONES: Yep.

9 MR. GOLDSTEIN: Okay.

10 THE WITNESS: All right, I am on page three.

11 BY MR. JONES:

12 Q Okay. There, --

13 (whispered conversation)

14 Q On page three, there's a list of referrals to
15 specialists that was made by Dr. Michaels. Do you see that?

16 MR. GOLDSTEIN: Objection, Your Honor, this is
17 outside the scope of my direct examination.

18 THE COURT: Counsel?

19 MR. JONES: He asked him about what his role in
20 treatment of Tom Pickens is, Your Honor.

21 THE COURT: That's fine, but you're asking about
22 something Dr. Michaels did. So --

23 MR. JONES: No, no, I -- I'm just asking him about
24 who made the last referral to a specialist.

1 MR. GOLDSTEIN: That's -- that's outside the scope
2 of my direct.

3 THE COURT: It certainly is.

4 MR. JONES: Okay. I mean, the document's already in
5 evidence, so it doesn't really matter. I have no further
6 question, Your Honor.

7 THE COURT: Redirect?

8 BY MR. GOLDSTEIN:

9 Q Ju -- just to be clear, you were asked a question
10 about whether you're (sic) not you were a physician -- whether
11 or not you were Tom's primary care physician and answered no.
12 Were you his primary care provider?

13 A Yes.

14 Q Thank you.

15 MR. GOLDSTEIN: No further questions.

16 THE COURT: All right. Looks like you're -- can
17 leave for the day. I don't see any reason to hold him back.

18 MR. GOLDSTEIN: Nope.

19 MR. JONES: Me either, --

20 THE COURT: Okay.

21 MR. JONES: -- Your Honor.

22 THE COURT: Go do your work.

23 THE WITNESS: Thank you. This way?

24 THE COURT: Take care of people.

1 MR. GOLDSTEIN: Thank you, sir.
2 THE WITNESS: Thank you.
3 THE COURT: Yes.
4 MR. GOLDSTEIN: Mr. Jones may begin his rebuttal
5 case.
6 THE COURT: Thank you.
7 MR. JONES: Let's recall Tom Pickens, then.
8 MS. LOBELLO: Here, Tom.
9 MR. GOLDSTEIN: Are you -- are you trying to get
10 that exhibit in?
11 MR. JONES: It's already in.
12 THE CLERK: Your Honor, do you want him sworn again?
13 MR. GOLDSTEIN: 96 is --
14 THE COURT: Yes, --
15 MR. GOLDSTEIN: -- in?
16 THE COURT: -- please.
17 MR. JONES: Oh, 96 is --
18 THE COURT: It's a fresh day, --
19 MR. JONES: -- not in. You --
20 THE COURT: -- so we'll --
21 MR. JONES: -- have and issue --
22 THE COURT: -- swear in anybody --
23 MR. JONES: -- with 96?
24 THE COURT: -- who comes in today.

1 MR. GOLDSTEIN: I don't think so, so I don't --

2 MR. JONES: It's a recorded --

3 MR. GOLDSTEIN: Yeah, no, no, --

4 MR. JONES: Deed of trust --

5 MR. GOLDSTEIN: -- I don't --

6 MR. JONES: -- is a recorded --

7 MR. GOLDSTEIN: -- I know.

8 MR. JONES: -- document.

9 (Oath administered)

10 THE PLAINTIFF: I do.

11 (whispered conversation)

12 THE CLERK: Thank you.

13 THOMAS A. PICKENS

14 called as a witness on his own behalf, did testify as follows
15 on:

16 DIRECT REBUTTAL EXAMINATION

17 BY MR. JONES:

18 Q Tom, at any time when you were over in Slovenia for
19 your ceremony, did you ever tell Danka that you knew it was
20 not a real marriage?

21 A No.

22 Q I'm sorry, --

23 A No.

24 Q -- I couldn't hear you.

1 A No, --

2 MR. GOLDSTEIN: That's --

3 THE PLAINTIFF: -- I did not.

4 MR. GOLDSTEIN: Objection, leading.

5 THE COURT: I've already got the answer. I'm not
6 going to make him go through that.

7 MR. GOLDSTEIN: Okay, just me.

8 BY MR. JONES:

9 Q When did you first learn that the marriage had a
10 legal impediment to it?

11 A Once my lawyer hired a -- a per --

12 MR. GOLDSTEIN: This has been asked and answered.

13 THE PLAINTIFF: -- a perf --

14 THE COURT: This has been asked and --

15 MR. JONES: Oh, --

16 THE COURT: -- answered.

17 MR. JONES: -- has it?

18 THE COURT: Yes.

19 MR. JONES: Okay. The hard part about having trial
20 over this many days --

21 THE COURT: Years.

22 MR. JONES: -- even when you go back over the course
23 of all the transcripts, sometimes -- and I already had
24 eliminated a bunch of questions, so -- but I --

1 THE COURT: All right.

2 MR. JONES: -- I -- if it's asked and answered, then
3 I'm -- we're okay.

4 BY MR. JONES:

5 Q Prior to the purchase of the Patients One building,
6 did you and Dr. Michaels look at other commercial buildings?

7 A Several. Probably, six.

8 Q And did you find the Patients One building together?

9 A No, she found it and then that night, we went and
10 looked at it.

11 Q Did you ever tell the Defendant that you were
12 against buying a commercial building?

13 A No.

14 MR. GOLDSTEIN: Objection, leading. These are --

15 THE COURT: Sustained.

16 MR. GOLDSTEIN: These are all leading.

17 MR. JONES: Okay. Okay.

18 BY MR. JONES:

19 Q Dr. Michaels testified that you were upset that she
20 wanted to buy a commercial building. Do you recall that
21 testimony?

22 A I do.

23 Q Was that true?

24 A No.

1 Q Can you, please explain to the Court, how a
2 construction loan works?

3 A If you're going in for a construction loan, you go
4 to the bank, you give them a value of what you think the work
5 is going to cost, you give them a schedule of values of -- of
6 -- from a sub -- or contractor to verify that number. Once
7 the -- the loan is approved, you go through the process that,
8 when you invoice the job, it goes directly through the bank --
9 it doesn't go through a third-party, it doesn't go out to a
10 third-party. All funding is issued to the subcon -- or, the
11 contractor and the lien release are (sic) accompanied by that
12 invoice.

13 Q So, as it pertains the \$450,000 loan that we talked
14 about a few days back -- a few trial days back, that is -- did
15 Tom Pickens ever receive any of those dollars?

16 A No.

17 Q Did Blue Point Development ever receive any of those
18 dollars?

19 A No.

20 Q Did Danka Michaels ever receive any of those
21 dollars?

22 A No.

23 Q Did anyone other than the contractors who did the
24 work ever receive any of those dollars?

1 A The -- the only person that could possibly get it is
2 who was in the original loan. If she put in for FF&E, then
3 the person she put in for F and -- FF&E would have got a
4 portion of it. The contractor would have been the only other
5 person that --

6 MR. GOLDSTEIN: Objection, move to strike as
7 non-responsive. This is just -- it was a yes-or-no question,
8 which was leading anyway, and now he's testifying about
9 hypothetical stuff. If she would have done this, then that --

10 THE COURT: I'll -- I'll strike it from when he
11 began to say if she.

12 MR. JONES: That's fine.

13 THE COURT: Everything else is fine.

14 BY MR. JONES:

15 Q What project was the \$450,000 loan for?

16 A Her -- her TI loan. It was for her renovation of
17 her space.

18 Q Of her medical practice space?

19 A Of her medical practice space.

20 Q Where there other improvement projects at the
21 Patients One building?

22 A Yes.

23 Q What -- what projects were those?

24 A Every single space in there was renovated.

1 Q And did you supervise those renovations for the
2 building?

3 A Yes.

4 Q As far as the Blue Point Development space that you
5 had there, how many square feet was it?

6 A 4,095 --

7 MR. GOLDSTEIN: Objection, asked-and --

8 THE PLAINTIFF: -- square feet.

9 MR. GOLDSTEIN: -- answered. This is a -- this is
10 supposed to be rebuttal.

11 MR. JONES: But --

12 MR. GOLDSTEIN: It's --

13 MR. JONES: -- did we cover --

14 MR. GOLDSTEIN: Yeah.

15 THE COURT: Yes.

16 MR. JONES: -- whether it was 4,000 square feet?

17 Okay, no problem. And we covered the price-per-square-foot?

18 MR. GOLDSTEIN: Yeah.

19 MR. JONES: Okay. Exhibit 67.

20 (whispered conversation)

21 MR. JONES: Exhibit 67, Your Honor, Bates 5558.

22 MS. LOBELLO: Book four.

23 BY MR. JONES:

24 Q Okay, taking a look at that page, what is that a

1 page of?

2 A It's a Wells Fargo Bank statement.

3 Q For what company?

4 A Blue Point Development.

5 Q On that page that I've pointed you to, there are
6 multiple payments from Blue Point to Patients One. Do you see
7 those?

8 A That's correct.

9 Q What are the -- what are the amounts of those
10 payments?

11 MR. GOLDSTEIN: Objection, the documents speaks for
12 itself.

13 MR. JONES: Okay.

14 BY MR. JONES:

15 Q Were those pay -- what were those payments for?

16 A Rent.

17 Q And your rent was how much per --

18 A Four --

19 Q -- month?

20 MR. GOLDSTEIN: Objection, --

21 THE PLAINTIFF: \$4,000.

22 MR. GOLDSTEIN: -- this is asked and an -- this was
23 supposed to be rebuttal, Judge.

24 THE COURT: Yes.

1 MR. GOLDSTEIN: This is not a n -- continuation of
2 his direct testimony.

3 MR. JONES: In their --

4 THE COURT: I understand.

5 MR. JONES: -- case, they tried to allege he didn't
6 pay rent. This is --

7 THE COURT: Okay.

8 MR. JONES: -- just proof that he paid rent.

9 THE COURT: All right.

10 MR. JONES: It's a two-minute line of questioning,
11 Judge.

12 MR. GOLDSTEIN: We never alleged in September, that
13 he didn't pay rent. It's in the documents.

14 MR. JONES: Okay.

15 BY MR. JONES:

16 Q There was a discussion by Dr. Michaels about the
17 security deposits for Patients One. Do you recall that?

18 A Yes.

19 Q Where were those security deposits dep -- security
20 deposits posited (sic) -- dep --

21 A Patients One's account.

22 Q Okay. During that time, did the Patients One
23 account ever go lower than the amount of the security
24 deposits?

1 A From the very first, it was low.

2 Q I'm sorry?

3 A From the very first day we bought the building, it
4 was low.

5 Q Right, but when the security --

6 MR. GOLDSTEIN: Objection --

7 MR. JONES: -- deposits were --

8 MR. GOLDSTEIN: Ob --

9 MR. JONES: -- deposited into --

10 MR. GOLDSTEIN: Ob --

11 BY MR. JONES:

12 Q -- the Patients One account, did that account,
13 thereafter go below the amount of the deposits?

14 A No.

15 THE COURT: Can I --

16 MR. GOLDSTEIN: It --

17 THE COURT: -- get some clarification for my own?

18 So I'm understanding -- I guess I could get next to a
19 microphone. My understanding is Blue Point One had different
20 con -- contracting accounts and you're talking about the Blue
21 Point One Patients One account, or are you talking about a
22 bank statement that's Patients One?

23 MR. JONES: Just Patience One.

24 THE COURT: Just Patients One that's -- that would

1 be controlled by Dr. Michaels.

2 MR. JONES: Or by both --

3 MR. GOLDSTEIN: No, --

4 MR. JONES: -- of them; they were both managers of
5 the LLC.

6 MR. GOLDSTEIN: No, you -- well, then you need to
7 lay some -- I think the Court --

8 THE COURT: It's the --

9 MR. GOLDSTEIN: -- is confused --

10 THE COURT: -- contractors --

11 MR. GOLDSTEIN: -- about the time.

12 THE COURT: It's the contractors' money.

13 MR. JONES: No, I'm talking about the operating
14 account of --

15 THE COURT: Okay.

16 MR. JONES: -- of the --

17 THE COURT: Thank you.

18 MR. JONES: -- building that --

19 THE COURT: Got it.

20 MR. JONES: -- takes in rent and pays expenses.

21 THE COURT: That had the \$450,000 in it --

22 MR. GOLDSTEIN: No.

23 MR. JONES: Well, --

24 THE COURT: -- for --

1 MR. JONES: -- no, that never went into any account

2 --

3 THE COURT: Okay.

4 MR. JONES: -- because it went directly from Bank
5 of America to the contractors.

6 THE COURT: Okay.

7 MS. LOBELLO: He's talking about rent now.

8 MR. JONES: I'm just --

9 MS. LOBELLO: He's not --

10 MR. JONES: -- talking about --

11 MS. LOBELLO: -- talking about the bank anymore.

12 MR. JONES: -- rent and security deposits.

13 MS. LOBELLO: He's not talking about construction
14 anymore.

15 THE COURT: Got it. Go ahead.

16 MR. JONES: Okay. Sorry. Sorry if I was unclear,
17 Your Honor.

18 THE COURT: It's all right.

19 BY MR. JONES:

20 Q In 2015, did Blue Point, at any time, ever have to
21 borrow money from Dr. Michaels?

22 A We never borrowed money from each other. Whatever
23 we needed to pay the bills, we --

24 MR. GOLDSTEIN: Objection, --

1 THE PLAINTIFF: -- paid.

2 MR. GOLDSTEIN: -- non-responsive. It's a yes-or-
3 no. You --

4 THE COURT: It's a yes-or-no and then you can build
5 on that. So, did you ever borrow money?

6 BY MR. JONES:

7 Q There was testimony by Dr. Michaels that in 2015,
8 you told her, you s -- told her you couldn't make payroll and
9 you needed to borrow money from her. I was asking you if
10 there was any time in 2015, you -- you -- your company
11 borrowed money from Dr. Michaels.

12 A Yes.

13 Q How much money did you borrow?

14 A I don't -- I -- I don't remember. I mean, I -- the
15 money would have went to American --

16 MR. GOLDSTEIN: Objection, --

17 THE PLAINTIFF: -- Express card.

18 MR. GOLDSTEIN: -- it's non-responsive. Everything
19 after I don't remember.

20 THE COURT: Sustained.

21 BY MR. GOLDSTEIN:

22 Q Did you borrow \$30,000 from -- did -- did Blue Point
23 borrow \$30,000 from Dr. --

24 MR. GOLDSTEIN: Objection, --

1 MR. JONES: -- Michaels?

2 MR. GOLDSTEIN: -- leading.

3 THE COURT: Sustained.

4 MS. ABRAMS: Objection, leading.

5 MR. GOLDSTEIN: Are -- thanks, Jen, I got it.

6 BY MR. JONES:

7 Q Do you know what the amount of monies that you might
8 have borrowed from Dr. Michaels in 2015 were?

9 A No.

10 Q Okay. Now, who prepared your tax returns for Blue
11 Point Development?

12 A Bob Simonian.

13 Q Okay. And --

14 MR. JONES: It's just foundational, please.

15 MR. GOLDSTEIN: It's already in evidence and this is
16 rebuttal, John.

17 MS. ABRAMS: Can I just interject? The -- the
18 camera is not picking up Tom Pickens when he's testifying, so
19 I'm only seeing Mr. Jones and Judge Steel, but I -- I can't
20 see Mr. Pickens. Is he excluded for some reason?

21 THE CLERK: No.

22 MR. JONES: No. Maybe he's not sitting close enough
23 to the microphone. It might not be picking up his voice.
24 Thank you for -- like, can you say something, sir?

1 THE PLAINTIFF: Can you hear me now?
2 MS. ABRAMS: I can --
3 THE COURT: Can you se --
4 MS. ABRAMS: -- hear you, I -- but it's not -- the
5 camera is not --
6 THE COURT: Picking up.
7 THE PLAINTIFF: She can't.
8 MS. ABRAMS: -- showing Mr. Pickens.
9 THE CLERK: Is his mic on or is there an on/off
10 switch on it?
11 THE BAILIFF: I'll check, Judge.
12 THE COURT: Let's ma -- let's check this out.
13 THE PLAINTIFF: It's on.
14 MR. JONES: Should we go off the record?
15 MR. GOLDSTEIN: Ma --
16 THE COURT: Yeah, let's go off the record and make
17 sure that we've got --
18 (Off record)
19 THE COURT: Thank you for letting us know that.
20 THE CLERK: We're back --
21 THE COURT: Go --
22 THE CLERK: -- on.
23 THE COURT: -- ahead.
24 MR. JONES: Okay. We're back on?

1 THE CLERK: Yes.

2 THE COURT: We're back on.

3 BY MR. JONES:

4 Q Do you have an -- any understanding as to how Mr.
5 Simonian scheduled the income from Blue Point Development on
6 to your personal tax return?

7 A No, I don't.

8 MR. GOLDSTEIN: I'm going to -- I'm sorry, I'm going
9 to object to that question, as assuming facts not in evidence.

10 MS. LOBELLO: He said he didn't know.

11 MR. JONES: I asked him if he had --

12 THE COURT: He said --

13 MR. JONES: -- any --

14 THE COURT: -- he didn't know.

15 MR. JONES: -- understanding.

16 MR. GOLDSTEIN: Yeah, but --

17 THE COURT: Right.

18 MR. GOLDSTEIN: Okay, but the basis of the question
19 -- the Court will recall, this -- this company is a C-corp,
20 not an S-corp. No income from the company goes to his
21 personal return.

22 MR. JONES: He's making an arguing now.

23 MR. GOLDSTEIN: It's not --

24 MR. JONES: I just --

1 MR. GOLDSTEIN: -- no, --

2 MR. JONES: -- asked him if he knew how the magic
3 happened because with the CPA.

4 MR. GOLDSTEIN: That assumed that it actually
5 happened. That's the fact not in evidence that I'm saying it
6 assumes. And by --

7 THE COURT: You can't --

8 MR. GOLDSTEIN: -- asking him --

9 THE COURT: -- have it in evidence until we ask
10 questions about it.

11 MR. GOLDSTEIN: No, no, I -- okay. No, --

12 THE COURT: Is the document you're referring to,
13 Counsel, is in evidence?

14 MR. GOLDSTEIN: The tax return --

15 MR. JONES: I'm not referring to a document. I --
16 yeah, the tax returns are all in evidence.

17 MR. GOLDSTEIN: He's not --

18 THE COURT: Okay.

19 MR. GOLDSTEIN: But he's not referring to that. The
20 -- the Bate -- if I just may be heard so I can clarify this,
21 Judge?

22 THE COURT: Sure.

23 MR. GOLDSTEIN: The -- the basis of -- the premise
24 of Mr. Jones' question about whether or not he knew how Mr.

1 Simonian applied the income from his company to his personal
2 tax return assumes that that can happen. It cannot; it's a C-
3 corporation, not an S-corp, so it doesn't flow through to his
4 personal tax return. It's a separate and independent legal
5 entity that's double-taxed at its own individual level. It
6 doesn't ever flow through. So to suggest that he would know
7 or not know, you have to have the basic premise first, that it
8 actually can happen --

9 MR. JONES: Okay.

10 MR. GOLDSTEIN: -- and it can't.

11 THE COURT: Thank you.

12 MR. JONES: That --

13 THE COURT: You can --

14 MR. JONES: That --

15 THE COURT: -- put that in your closing argument.

16 Counsel, please proceed.

17 MR. JONES: Thank you, Your Honor.

18 THE COURT: What's the -- what's the number that --

19 MR. JONES: I'm moving to a different issue. BY

20 BY MR. JONES:

21 Q Can you, please turn to exhibit -- actually, let me
22 get it for you.

23 MS. LOBELLO: What exhibit is it?

24 MR. JONES: Seven. Now, looking at --

1 MR. GOLDSTEIN: Sorry, what is it?

2 MR. JONES: -- Bates --

3 MS. LOBELLO: Seven.

4 MR. JONES:

5 BY MR. JONES:

6 Q -- Bates number 506. Look at that.

7 (Pause)

8 Q Okay, do you see Bates number 506?

9 A Yes.

10 Q Does your signature appear anywhere on that -- well,
11 what -- what is that document?

12 A The value declaration of a -- the -- the value.

13 Q Okay. Does your name -- does your signature appear
14 on that page?

15 A Yes, is it does.

16 Q Turn to Bates number 520, of the same exhibit,
17 please.

18 (Pause)

19 Q No, same exhibit, --

20 A Oh.

21 Q -- Exhibit 7, but Bates number 520, so it's 16 pages
22 later -- or, 14 pages later, sorry. And I think --

23 A Was it --

24 Q -- there's probably a sticky note on it.

1 MR. GOLDSTEIN: This is the witness copy?

2 MR. JONES: I'm sorry?

3 MS. LOBELLO: He just put the sticky on before we
4 started.

5 MR. JONES: I put the sticky on right now, just so
6 we could save time today.

7 MR. GOLDSTEIN: Okay.

8 MS. LOBELLO: You -- you can check it.

9 MR. JONES: This morning.

10 MR. GOLDSTEIN: Fine.

11 MR. JONES: There's no notes on it.

12 BY MR. JONES:

13 Q Make sure you're looking at --

14 A This one, right?

15 Q That is the correct page. Looking at page 520, do -
16 - is that -- is it your signature on that page?

17 A Yes, it is.

18 Q Okay. Please turn to Exhibit 8, the next exhibit.

19 MR. GOLDSTEIN: So, are your questions only about
20 whether he signed these documents? They're already in record
21 with his signature.

22 MR. JONES: You asked him in your examination if he
23 signed the deed, by which he received the property. I, then
24 tried to ask questions about whether he signed the statement

1 of value in the deed of trust and I was told it was beyond the
2 scope and --

3 MR. GOLDSTEIN: That's not --

4 MR. JONES: -- and to bring it up in rebuttal.

5 THE COURT: Thank you.

6 MR. GOLDSTEIN: That's not it, but go ahead.

7 BY MR. JONES:

8 Q Looking at Bates number -- in Exhibit A, Bates
9 number 31. There should be a sticky note on that one too.

10 A I got it.

11 Q Is that your -- is (sic) your signature appear on
12 that statement of value?

13 A Yes, it does.

14 Q And then, please turn to -- it -- Bates number 45,
15 of the same exhibit. Is that your signature as well?

16 A Yes, it is.

17 MR. JONES: Madam Clerk, is Exhibit 96 in evidence?

18 THE CLERK: It's not, I asked her.

19 MR. JONES: Oh, you did.

20 BY MR. JONES:

21 Q Going to show you Exhibit 96, Bates number 6289. Is
22 that your signature as well, on the deed of trust?

23 A Yes, it is.

24 MR. JONES: Judge, I'd move 96 into evidence. The

1 copies that were in the book don't have the COR declaration,
2 but the only part of the exhibit I want is the deed of trust,
3 which is a recorded document. I don't think Counsel has an
4 objection to it.

5 THE COURT: Can you give me the Bates stamps for
6 that? I can make a specific --

7 MR. JONES: Yes.

8 THE COURT: -- ruling that, out of this exhibit,
9 those Bates numbers would be entered, not the entire document.

10 MR. GOLDSTEIN: Looks like it's 6267, is where the
11 deed of trust starts.

12 MR. JONES: Correct. 6267 --

13 MR. GOLDSTEIN: 629 --

14 MR. JONES: -- through 6296.

15 MR. GOLDSTEIN: No, i -- no, -93, I think. -94,
16 five, and six are instructions and general provisions.

17 MR. JONES: Uh-huh (affirmative), but they had to be
18 signed.

19 MR. GOLDSTEIN: I understand, but the -- that --
20 that doesn't give the Court anything.

21 MR. JONES: Okay, then we'll just go through to --

22 MR. GOLDSTEIN: -93, I think is where it ends.

23 MR. JONES: -- 6293. That's fine. And we can make
24 it Plaintiffs next in order.

1 THE COURT: Thank you.

2 MS. LOBELLO: Ask what the next in order is. 156?

3 MR. JONES: Madam Clerk, what is the next in order,
4 just so we're clear?

5 THE CLERK: It will be 96A.

6 MR. JONES: 90 si -- okay, we'll make it 96A?

7 THE CLERK: Yes.

8 MR. JONES: That's fine.

9 (Plaintiff's Exhibit 96A admitted)

10 BY MR. JONES:

11 Q At all times -- well, okay, strike that. Where did
12 your income from Blue Point Development get deposited?

13 A Our joint account.

14 Q Where did your income from da -- Danka's medical
15 practice get deposited?

16 A Our joint account.

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

18 THE COURT: Thank you. Counsel?

19 MR. GOLDSTEIN: Yes, Your Honor.

20 CROSS REBUTTAL EXAMINATION

21 BY MR. GOLDSTEIN:

22 Q You were asked questions about this \$450,000
23 construction loan and whether or not you were supervising that
24 project, as well as other rehabs in the building. Do you

1 recall that?

2 A I do.

3 Q And you -- and you were the one, in fact, who was
4 supervising, coordinating, managing, whatever those terms are,
5 the process for the rehab for the Blue Point Medical Group
6 space, cCorrect?

7 A That's correct.

8 Q All right. And you coordinated with your -- friends
9 of yours to try to get discounts, I think was originally,
10 you're testimony, right?

11 A True.

12 Q Okay. And you received monies and other kickbacks
13 from them for that, right?

14 A No.

15 THE COURT: Sir, you need to sit closer to the
16 microphone; we're not picking up your face.

17 THE PLAINTIFF: No.

18 BY MR. GOLDSTEIN:

19 Q When you say income that deposited into the joint
20 account, do you -- was that the account that you l -- called
21 Tom's account?

22 A It's the joint account.

23 Q Right, and that was the one you referred to as Tom's
24 account, right?

1 A Earlier in this process, three years ago, maybe.

2 Q So, the answer is yes, right?

3 A Yes.

4 Q Okay. You were asked about security deposits and I
5 just wanted to -- there was just some confusion.

6 MR. GOLDSTEIN: I -- is the Court satisfied with the
7 explanation about the security deposit issue? If -- if you
8 were, that was where it was a little confusing about whether
9 or not he was talking about the loan for \$450,000; the
10 construction, or whether he was talking about the rent and the
11 security deposit. If you're --

12 THE COURT: I'm okay --

13 MR. GOLDSTEIN: -- clear --

14 THE COURT: -- with it now.

15 MR. GOLDSTEIN: -- with that, then --

16 THE COURT: Yeah.

17 MR. GOLDSTEIN: -- I don't need to --

18 THE COURT: Uh-huh (affirmative).

19 MR. GOLDSTEIN: All right, that's fine.

20 BY MR. GOLDSTEIN:

21 Q And do you have an understanding, sir, or -- well,
22 let me ask you this. Your -- your company, Blue Point is a C-
23 corporation, correct?

24 A Correct.

1 Q Thank you.

2 THE COURT: Okay, we're still not picking him up, so
3 he's not --

4 THE PLAINTIFF: Correct.

5 THE COURT: -- speaking into the microphone. Can
6 you point it to kind of, towards you? Because I think my --

7 THE PLAINTIFF: Correct.

8 THE COURT: -- microphone is picking up your voice.
9 All right, we'll give that a try. Thank you.

10 MR. GOLDSTEIN: Can you -- just try to -- okay,
11 there it -- I see Tom.

12 (whispered conversation)

13 MR. GOLDSTEIN: Just give me just one minute, Judge.
14 I just want to ask my co-counsel if she has anything else for
15 him, because I don't know that I do.

16 THE COURT: Ms. Abrams?

17 MR. GOLDSTEIN: Jennifer, do you have any --

18 MS. ABRAMS: I'm sorry, what was --

19 MR. GOLDSTEIN: Do you have any questions for Mr.
20 Pickens? I just wanted to conf -- to discuss with you,
21 whether or not you had que -- I don't --

22 THE COURT: Oh, did you --

23 MR. GOLDSTEIN: -- have any other --

24 THE COURT: -- want to go --

1 MR. GOLDSTEIN: -- questions.
2 THE COURT: -- off the record and discuss?
3 MR. GOLDSTEIN: Well, I just wanted to see if she
4 did and so, it's just hard for -- obviously, to --
5 THE COURT: Right.
6 MR. GOLDSTEIN: -- do this, so can you just give us
7 one minute?
8 THE COURT: Sure. We'll go --
9 MR. GOLDSTEIN: Okay.
10 THE COURT: -- off the record.
11 MR. GOLDSTEIN: Thank you.
12 MR. JONES: That's fine.
13 MR. GOLDSTEIN: Just call her.
14 (Off record)
15 THE COURT: We're going --
16 (cross talk)
17 THE COURT: Excuse me, we're --
18 MR. JONES: It was already in the --
19 THE COURT: -- going to go on --
20 MR. GOLDSTEIN: Sorry.
21 THE COURT: -- the record.
22 MR. JONES: Yes, sorry.
23 THE COURT: Can we go back on the record?
24 THE CLERK: We're back --

1 THE COURT: We're on?

2 THE CLERK: -- on the record, Judge.

3 THE COURT: Thank you. While you were out having
4 your conversation, my clerk discovered that the portion of the
5 last exhibit that we made 96A, or whatever it was, was already
6 admitted as next in order at our previous hearing. So --

7 MR. GOLDSTEIN: Okay.

8 THE COURT: -- can you get him that -- that number,
9 the -- where it's -- currently is?

10 THE CLERK: It is 153, and it include -- it includes
11 Bates 6267-6299.

12 THE COURT: Okay, --

13 MR. GOLDSTEIN: Oh, okay.

14 THE COURT: -- so it was already in evidence.

15 MR. GOLDSTEIN: All right.

16 THE COURT: And we're not going to --

17 MR. GOLDSTEIN: That's fine.

18 THE COURT: -- admit the 96A.

19 MR. GOLDSTEIN: No problem. So that -- and that's
20 153?

21 THE CLERK: Yes.

22 THE COURT: Right. We'd already taken it out of
23 this exhibit and made it its own exhibit.

24 MR. GOLDSTEIN: Fine.

1 THE COURT: So, any reference to 96 previously,
2 would have been directed to that number. Go ahead.

3 MR. GOLDSTEIN: Okay. 96 is -- that's the deed of
4 trust for the Patients One building, right?

5 THE COURT: Not -- not anymore.

6 MR. JONES: It's --

7 THE COURT: It's --

8 MR. JONES: -- 153.

9 THE COURT: -- 153 --

10 MR. GOLDSTEIN: Sorry, --

11 THE COURT: -- now.

12 MR. GOLDSTEIN: -- 153, is the --

13 THE COURT: Okay.

14 MR. GOLDSTEIN: -- that -- that was previously
15 entered as the deed of trust, then.

16 MR. JONES: Uh-huh (affirmative).

17 THE COURT: Yes.

18 MR. GOLDSTEIN: All right.

19 BY MR. GOLDSTEIN:

20 Q So, you were asked about that deed of trust. Do you
21 know, sir, if you've been relieved from that obligation?

22 A I don't know.

23 Q You don't know?

24 A Well, I -- I'm assuming -- I'd -- I'm -- I don't

1 know.

2 Q Okay.

3 A I signed papers, but I don't know what I basically,
4 signed if it said --

5 Q Wait -- no further questions.

6 MR. JONES: No --

7 THE COURT: Redirect?

8 MR. JONES: -- questions.

9 THE COURT: Nothing?

10 MR. JONES: Nothing for this witness. I would
11 recall the Defendant for five questions and then we're --
12 we're done.

13 THE COURT: Okay, you may step down, sir.

14 THE PLAINTIFF: Thank you.

15 THE COURT: I would object to him recalling my
16 client. This is his rebuttal case. He's --

17 THE COURT: That's right.

18 MR. GOLDSTEIN: -- already cal -- he's already
19 called my client in his case-in-chief.

20 THE COURT: He called his client in his
21 case-in-chief.

22 MR. GOLDSTEIN: I understand, but he can do that to
23 have him rebut whatever she's saying. What is he -- what is
24 he going to have her rebut? He can't -- there's no -- you

1 can't -- you see what --

2 MR. JONES: Your Honor, --

3 MR. GOLDSTEIN: -- I'm saying, Judge?

4 MR. JONES: We learned that she s --

5 MR. GOLDSTEIN: It's a rebuttal case.

6 MR. JONES: We learned that she sold the Lowe house
7 during these proceedings.

8 MR. GOLDSTEIN: He wants another bite at the --

9 MR. JONES: We -- no, no --

10 THE COURT: Excuse me.

11 MR. JONES: -- we --

12 MR. GOLDSTEIN: Sorry.

13 MR. JONES: -- we learned it after day three of
14 trial, okay? If this Court is going to say I can't ask her --

15 MR. GOLDSTEIN: Cannot.

16 MR. JONES: -- her about her selling the Lowe house,
17 I mean, I can -- here -- the -- I mean, if the Court --

18 THE COURT: Well, --

19 MR. JONES: -- would prefer, I could ask the Court -
20 - I'll file it and ask request to take judicial notice of the
21 recording of the transfer. I mean, I could give you the deed
22 whereby, she sold it. But the --

23 MR. GOLDSTEIN: No, you --

24 MR. JONES: -- issue is, --

1 MR. GOLDSTEIN: -- can't.

2 MR. JONES: -- there was a JPI served on her and she
3 sold one of the assets that the claims were based upon.

4 THE COURT: Yeah, but that should have been case-in-
5 chief.

6 MR. GOLDSTEIN: That's right.

7 THE COURT: This is not rebuttal. He's right.

8 MR. JONES: Okay. Then I just have one question
9 regarding one other issue and then we're done.

10 THE COURT: For who?

11 MR. JONES: For Dr. Michaels.

12 THE COURT: Rebutting her own testimony?

13 MR. JONES: No, rebutting Carillo's testimony.

14 MR. GOLDSTEIN: What?

15 (Pause - whispered conversation)

16 THE COURT: You want to call the Defendant --

17 MR. JONES: I have one --

18 THE COURT: -- on rebuttal --

19 MR. JONES: -- question to ask, based upon what
20 Carillo just testified to.

21 THE COURT: And that was their witness, so I will
22 permit it. Come on up, Ms. Michaels --

23 (whispered conversation)

24 THE COURT: -- and be re-sworn for today.

1 MR. GOLDSTEIN: I'll just -- I'll make the same
2 objection, just to note for the record, Your Honor.

3 THE COURT: It's noted.

4 THE BAILIFF: Raise your right hand, face the clerk.
5 (Oath administered)

6 THE DEFENDANT: I do. I do.

7 DANKA MICHAELS

8 called as a witness on behalf of the Defendant, did testify as
9 follows on:

10 THE COURT: And in case it got watered over, I have
11 noted his objection to her being recalled. Go ahead, Counsel.

12 MR. JONES: Thank you.

13 THE DEFENDANT: I'm good.

14 DIRECT REBUTTAL EXAMINATION

15 BY MR. JONES:

16 Q Dr. Michaels, you're familiar with your obligations
17 as a physician in the state of Nevada, correct?

18 A Yes.

19 MR. GOLDSTEIN: Objection, relevance.

20 MR. JONES: It -- it's just foundational.

21 MR. GOLDSTEIN: But it's not --

22 MS. ABRAMS: Yeah, objection, what --

23 MR. GOLDSTEIN: This is not --

24 MR. JONES: You know, there is --

1 MS. ABRAMS: -- does this have --

2 MR. JONES: -- such a thing -- ju -- it was
3 foundational.

4 MR. GOLDSTEIN: But this --

5 THE COURT: Sub -- subject to me striking the whole
6 thing.

7 MR. JONES: Fine.

8 THE COURT: Go ahead.

9 BY MR. JONES:

10 Q Now, you -- you know that you are required by law to
11 supervise the nurse practitioner in your employ, correct?

12 A No.

13 Q No further questions.

14 THE COURT: All right, you may step down. Unless
15 you --

16 MR. GOLDSTEIN: Wait --

17 THE COURT: -- have a --

18 MR. GOLDSTEIN: What --

19 THE COURT: -- question that you want to ask her,
20 sir, to --

21 MR. GOLDSTEIN: I --

22 THE COURT: -- clarify.

23 MR. GOLDSTEIN: I -- okay. I would -- the -- the
24 answer wou -- all right. Well, I would like to make an

1 objection to that question again, as assuming facts not in
2 evidence. Because he's -- he's saying you were required --
3 THE COURT: Do --
4 MR. GOLDSTEIN: -- to do so. There is no --
5 THE COURT: She said --
6 MR. JONES: She said no.
7 THE COURT: He said --
8 MR. JONES: She --
9 MR. GOLDSTEIN: Then I'm going --
10 THE COURT: Excuse me.
11 MR. GOLDSTEIN: -- to object to foundation.
12 THE COURT: Excuse me, he asked her if she knew she
13 was responsible to do so, under her licensure. She said no.
14 Do you --
15 THE DEFENDANT: No.
16 THE COURT: -- want to --
17 MR. GOLDSTEIN: But --
18 THE COURT: -- further --
19 MR. GOLDSTEIN: -- doesn't that --
20 THE COURT: -- examine her, --
21 MR. GOLDSTEIN: -- assume --
22 THE COURT: -- based --
23 MR. GOLDSTEIN: -- from --
24 THE COURT: -- on that question?

1 MR. GOLDSTEIN: My question is, doesn't that assume
2 the foundational predicate that there is such a requirement?

3 MR. JONES: I can give you the statute that says --

4 THE COURT: No.

5 MR. JONES: -- she's required to do so, Judge. We
6 could have you take judicial notice --

7 THE COURT: Do you --

8 MR. JONES: -- of --

9 THE COURT: -- want --

10 MR. JONES: -- Nevada Administrative Code --

11 THE COURT: Sorry.

12 MR. JONES: -- 630.320.

13 THE COURT: Please. Do you want to ask her any
14 further questions on the question that has been presented to
15 her, Counsel?

16 MR. GOLDSTEIN: Let -- let me just hear the exact
17 question again, John. I just want to --

18 MR. JONES: The question was, you are aware that
19 you're required to supervise the nurse practitioner in your
20 employ.

21 THE COURT: And she said no. Do you want to ask any
22 further question, Counsel?

23 MR. GOLDSTEIN: I don't think so. Jennifer, do you
24 want to ask any questions, based on that? I don't think so.

1 (Pause)

2 MR. GOLDSTEIN: Think she wants to get just a second

3 to the statute. What was --

4 THE COURT: That's fine.

5 MR. GOLDSTEIN: -- it, John? What was it, John?

6 MR. JONES: Nevada Administrative Code 630.230, pro

7 -- prohibited professional conduct, and the section is (1)(I).

8 No, I'm sorry, that's physician assistant. Oh, no, (1)(I).

9 And I have a copy for it -- you, --

10 THE DEFENDANT: It --

11 MR. GOLDSTEIN: Sure.

12 MR. JONES: -- if you'd like.

13 MR. GOLDSTEIN: Yeah, that'd --

14 THE DEFENDANT: It's not --

15 MR. GOLDSTEIN: -- be great.

16 THE DEFENDANT: -- physician's assistant.

17 THE COURT: Stop. Don't say anything, please.

18 MR. JONES: Here you go.

19 MR. GOLDSTEIN: 630.230?

20 (whispered conversation)

21 MS. ABRAMS: Okay, but that doesn't apply to it an

22 FNP, so it's a -- it -- it's --

23 MR. GOLDSTEIN: An APRN.

24 MS. ABRAMS: -- irrelevant, Your Honor.

1 THE COURT: DO you want to ask her a question.
2 That's the only thing that's before you right now --

3 MR. GOLDSTEIN: Okay.

4 (whispered conversation)

5 THE COURT: -- on the original question. Any
6 follow-up question?

7 CROSS REBUTTAL EXAMINATION

8 BY MR. GOLDSTEIN:

9 Q Are you familiar with the NAC 630.230(1)(I)?

10 A No.

11 Q No? Let me read it for you, okay? It -- (1) says a
12 person who is licensed as a physician or a physician assistant
13 shall not: (I) if the person is a physician, failed to provide
14 adequate supervision of a physician assistant or advanced
15 practicing registered nurse. You -- do you -- are you
16 familiar with that, now that I read it to you? Does that
17 refresh your recollection as to any duties that you may have?

18 A No. As far as I know, --

19 MR. JONES: Objection, non-responsive. Any --
20 everything after no.

21 MR. GOLDSTEIN: All right.

22 THE DEFENDANT: No.

23 THE COURT: Striking it now.

24 BY MR. GOLDSTEIN:

1 Q Have you ever failed to adequately supervise Mr.
2 Carillo?

3 A No.

4 Q Okay. Are you aware as to what the statute requires
5 by adequate supervision? Are you in -- do you even know,
6 under this? You -- you know what? Ne -- nevermind.

7 A I --

8 Q I withdraw --

9 A I don --

10 Q -- the question.

11 THE COURT: Withdrawn.

12 MR. GOLDSTEIN: Withdraw.

13 THE DEFENDANT: I don't know what it means.

14 MR. GOLDSTEIN: Withdraw the --

15 THE COURT: Question withdrawn.

16 MR. GOLDSTEIN: -- question. I mo -- I'm done.

17 THE COURT: Any re --

18 MR. JONES: No further questions.

19 THE COURT: Okay, you may step down.

20 THE DEFENDANT: Thank you.

21 THE COURT: Now I guess we just have some -- is
22 there anything else from --

23 MR. JONES: No, I --

24 THE COURT: -- either party that I need to address

1 right now?

2 MR. JONES: I think that closes the evidence portion
3 of --

4 THE COURT: All right.

5 MR. JONES: -- our journey.

6 THE COURT: So now, our next step is to have you
7 prepare for the Court, your closing arguments, where you will
8 cite to your Bates stamps or whatever or por -- portions of
9 the testimony that support your theory of the case.

10 MR. GOLDSTEIN: Yes.

11 THE COURT: And once I have those in my hands, I
12 will determine whether or not I need further testimony from
13 you guys. Or if you'd like, sometimes, people write better
14 than they speak and vice versa. If you would like to have an
15 opportunity to do both, to address the closing argument
16 orally, I would entertain that.

17 MR. GOLDSTEIN: I would.

18 THE COURT: Okay.

19 MS. LOBELLO: Your Honor, I would just like to point
20 out that my client never got an order of an award of
21 preliminary fees, okay? You've seen the evidence, so you know
22 that this case is putting a large drain on my law firm --

23 THE COURT: Uh-huh (affirmative).

24 MS. LOBELLO: -- and my old law firm.

1 THE COURT: Uh-huh (affirmative).

2 MS. LOBELLO: To make it clear, Mr. Pickens
3 certainly doesn't have --

4 THE COURT: Right.

5 MS. LOBELLO: -- the resources that have been
6 expended by Dr. Michaels.

7 MR. GOLDSTEIN: That's not true.

8 THE COURT: I --

9 MS. LOBELLO: Assuming --

10 THE COURT: I -- I --

11 MS. LOBELLO: Assuming that -- that all of her
12 lawyer being paid, including Marquis and Arbock (ph)***
13 10:00:13 in the civil case. So, to have us come for another
14 day to do oral closings would be lovely. It's not necessary -
15 -

16 THE COURT: Okay.

17 MS. LOBELLO: -- and I would ask you to just take
18 into account, my client's lack of resources in making that
19 determination.

20 THE COURT: If I need further instruction from both
21 parties, I will ask to have you come in and -- and make a
22 limit presentation on a question that I may have.

23 MR. JONES: I think --

24 MS. LOBELLO: Thank you, Judge.

1 MR. JONES: -- that makes sense.

2 MR. GOLDSTEIN: I -- okay. Can I -- well, I'd like

3 to address Ms. Lobello's statements if the Court would permit

4 me to.

5 MS. ABRAMS: May we submit written closings?

6 THE COURT: Yes, --

7 MR. JONES: Well, no, --

8 THE COURT: -- absolutely.

9 MR. JONES: -- that's what we're doing.

10 MR. GOLDSTEIN: Yes, we're do -- we're definitely --

11 MS. ABRAMS: Okay.

12 MR. GOLDSTEIN: -- doing written --

13 MR. JONES: And that's --

14 MR. GOLDSTEIN: -- closings.

15 THE COURT: Definitely doing --

16 MR. JONES: -- actually what --

17 THE COURT: -- written.

18 MR. JONES: -- we stipulated to on day two of the

19 trial.

20 MR. GOLDSTEIN: It's only whether or not --

21 THE COURT: Definitely doing written closings.

22 MR. GOLDSTEIN: Right.

23 THE COURT: If I am unclear on a particular issue

24 before me from the closings, I may ask for a limited argument

1 orally, so that I may have the information that I need.

2 MS. ABRAMS: Okay.

3 MR. GOLDSTEIN: All right. May I ask the Court, one
4 is, are we -- what is the deadline --

5 THE COURT: Okay.

6 MR. GOLDSTEIN: -- and what is the page limitation,
7 number one, number two. Number three would be, may we also --
8 I would like to -- submit with our closing argument brief, our
9 proposed finding of facts, conclusion of law? Mr. Jones is --

10 MR. JONES: I was gon --

11 MR. GOLDSTEIN: -- shaking his head.

12 MR. JONES: I was going to do that, whether you --

13 MR. GOLDSTEIN: He want tha --

14 MR. JONES: -- you gave --

15 THE COURT: I think --

16 MR. JONES: -- me permission --

17 THE COURT: -- that is --

18 MR. JONES: -- or not.

19 MR. GOLDSTEIN: That --

20 THE COURT: -- very clever to --

21 MR. GOLDSTEIN: And that's --

22 THE COURT: -- do that, yes.

23 MR. GOLDSTEIN: So -- so separately, two documents.

24 Obviously, the findings of fact can be as long as it needs to

1 be for either one of us to sum up you know, the finding that
2 we want the Court to do. But the closing argument brief, is
3 there a page limit that this Court -- I mean, normally, it's a
4 30-page limit. So I don't know, given the voluminous nature
5 of this case, whether we can fit it within 30 pages, but if
6 the Court would just give us some guidance there?

7 THE COURT: Okay. What -- how long do you think
8 that you will need to prepare your closing arguments, time-
9 wise?

10 MR. JONES: Two weeks?

11 MR. GOLDSTEIN: I would say --

12 MS. ABRAMS: I would say 7-10 days.

13 MR. JONES: 10 days is fine.

14 MR. GOLDSTEIN: I -- give me two weeks.

15 THE COURT: 10 days for your --

16 MR. GOLDSTEIN: Give me --

17 THE COURT: -- closing --

18 MR. GOLDSTEIN: -- two weeks.

19 THE COURT: -- arguments, another five days if you
20 need to make comment on the other side's closing arguments.

21 MR. JONES: Okay, and then would be taking it
22 from 30 pages to 15 pages, for any responsive brief?

23 THE COURT: Yes.

24 MR. GOLDSTEIN: Ri -- so, this is entire --

1 THE COURT: 30 doesn't seem -- I mean, I don't
2 really --

3 MR. GOLDSTEIN: No.

4 THE COURT: -- want to limit you. I don't want you
5 to give --

6 MR. JONES: Okay.

7 THE COURT: -- me 1,000 pages, but I think that it's
8 important enough and you have covered enough territory with
9 enough days, certainly, to make your closing brief as thorough
10 as you need to make it. So I'm not going to --

11 MR. JONES: Okay.

12 THE COURT: -- put a limitation there. I will put a
13 --

14 MS. ABRAMS: Your Honor, --

15 THE COURT: -- a 15-page limitation on any rebuttal.

16 MR. GOLDSTEIN: Why -- why is there a rebuttal
17 brief? I just --

18 MS. ABRAMS: Can we --

19 MR. GOLDSTEIN: --- my only question.

20 THE COURT: Because if you --

21 MS. ABRAMS: May I just --

22 THE COURT: -- are doing it -- excuse me. If you
23 were doing it in open court, there's always that second
24 opportunity. So if you only want Mr. Jones to have that

1 opportunity, I can do that.

2 MS. ABRAMS: So, I was just going to --

3 MR. GOLDSTEIN: Certainly not.

4 THE COURT: I'm trying to --

5 MS. ABRAMS: -- try to suggest that --

6 THE COURT: -- let both sides have the same fair
7 shot, is all I'm trying to do. Yes, ma'am, Ms. Abrams?

8 MS. ABRAMS: So, if we were doing closing arguments
9 in open court, Mr. Jones would go first, then we would have
10 our closing, and then he may have a short response to that.
11 If we're going to do it in -- in writing, maybe we should
12 follow that same path, where he has a week to do his closing,
13 we --

14 MS. LOBELLO: No.

15 MS. ABRAMS: -- have a week to do ours, and then he
16 can be limited in --

17 MR. JONES: No.

18 MS. ABRAMS: -- responding to --

19 THE COURT: Okay.

20 MS. LOBELLO: We already --

21 MS. ABRAMS: -- to --

22 MS. LOBELLO: -- stipulated on this.

23 THE COURT: Point well-taken,

24 MR. GOLDSTEIN: My --

1 THE COURT: -- thank you. This identify what -- I
2 know you guys stipulated, but I haven't ordered it yet, so
3 here we go. I'm going to give them two weeks to do their
4 closing argument. I will give you the same two weeks to do
5 your closing argument. And then, Mr. Jones, I will give you
6 the final bite at that apple. Five days later, you need to
7 have in, any rebuttal remarks. If you need a -- sir,
8 rebuttal, or if you need something else, sir, you'll need to
9 request it.

10 MR. GOLDSTEIN: I understand, Your Honor, and I
11 appreciate the -- the courtesy in --

12 THE COURT: I think --

13 MR. GOLDSTEIN: -- doing that.

14 THE COURT: -- this is -- is probably, more in line
15 with doing oral arguments, so I --

16 MR. JONES: Right.

17 THE COURT: -- I will --

18 MR. GOLDSTEIN: So, ju --

19 MR. JONES: I agree, --

20 THE COURT: -- let them have it.

21 MR. JONES: -- Your Honor.

22 MR. GOLDSTEIN: So, I'll just set the dates, then.

23 So, Mr. Jones' brief will be due on April 16th, two weeks from
24 today. Then our brief will be due April 30th, two weeks after

1 that.

2 MS. LOBELLO: April 16th. Is there any way we can
3 try -- you know what? That's fine. We'll just --

4 MR. GOLDSTEIN: And then --

5 MS. LOBELLO: -- submit it early.

6 MR. GOLDSTEIN: -- May 7th will be his final brief.

7 THE COURT: Okay.

8 MR. GOLDSTEIN: And --

9 MR. JONES: Perfect.

10 THE COURT: That sounds good to me. And will you be
11 attaching your findings of facts and --

12 MR. JONES: Yeah.

13 THE COURT: -- conclusions of law to each of your
14 briefs?

15 MR. JONES: Or submitting them separately.

16 MR. GOLDSTEIN: Or s -- yeah.

17 MR. JONES: What I usually do is, I'll give you a
18 hard copy and I'll send it to you in Word.

19 MR. GOLDSTEIN: That's right.

20 THE COURT: Okay.

21 MR. JONES: So if you want to have somebody edit it
22 or take some of his and put it in ours --

23 THE COURT: Whatever --

24 MR. JONES: -- or vice versa, --

1 THE COURT: Yeah.

2 MR. JONES: -- it just makes it easier.

3 MR. GOLDSTEIN: Same thing.

4 THE COURT: I agree.

5 MR. JONES: Also --

6 MR. GOLDSTEIN: I'll -- we submit it as a separate
7 document, just because I think it will be --

8 MR. JONES: Are you --

9 MR. GOLDSTEIN: -- open --

10 MR. JONES: -- a paper reader or do you read on a
11 screen, as your preference?

12 THE COURT: It depends. I -- I like to read on the
13 screen. I ha -- I -- I have adopted the paperless thing, but
14 sometimes, I need the hard copy so I can make scribbles on it
15 and tab it and things like that. So --

16 MR. JONES: The reason I asked is because I -- what
17 I've done before in a case with this voluminous of exhibits,
18 is I would submit the brief on an iPad and I'd submit the
19 exhibits we reference in the brief on an iPad to you and give
20 you two iPads. I'd like them back, but if that's something --
21 if that's something that you --

22 THE COURT: Otherwise, it would be a gift and that
23 would be bad.

24 MR. GOLDSTEIN: Yeah, that's right.

1 MR. JONES: It would -- it --
2 MS. LOBELLO: That would --
3 MR. JONES: -- would be.
4 MS. LOBELLO: -- be wrong.
5 THE COURT: It would be wrong.
6 MR. JONES: But if it -- I -- that's the reason --
7 some people are paper readers and some people you know, like
8 to scroll down a screen. If you do -- you know, I try to make
9 it a easy on the Court as I can.
10 THE COURT: Yeah, just -- just file it in --
11 MR. JONES: Okay.
12 THE COURT: -- regular file. That's fine with me.
13 MR. JONES: That's fine. Because I -- I know from
14 history, that Shawn would have an objection to me submitted
15 (sic) it -- I -- if I don't give him --
16 MR. GOLDSTEIN: That's right.
17 MR. JONES: -- iPads as well.
18 MR. GOLDSTEIN: That's ri -- well, ye -- that's
19 right.
20 THE COURT: I do -- yes. That --
21 MR. GOLDSTEIN: We appreciated the iPad.
22 MR. JONES: His former firm has two of my iPads.
23 MR. GOLDSTEIN: That's right.
24 THE COURT: I appreciate that. Let's just do it in

1 the fi -- in the actual record.

2 MR. JONES: That's fine, Your Honor.

3 THE COURT: And then as far as putting something in
4 a (sic) email so that I can play with them, please send --

5 MR. GOLDSTEIN: We'll send it to --

6 THE COURT: -- those --

7 MR. GOLDSTEIN: -- you in Word.

8 THE COURT: -- to Eileen, so that --

9 MR. GOLDSTEIN: Okay.

10 THE COURT: -- I can --

11 MR. GOLDSTEIN: Yeah, that's fine.

12 THE COURT: She'll transfer them over to me and --

13 MR. GOLDSTEIN: Yeah.

14 THE COURT: -- we'll do what we can do there.

15 MR. JONES: I may -- I may send it on a flash drive
16 as well. Emails can get wonky.

17 THE COURT: That's fine.

18 MS. ABRAMS: So ye -- I'll -- I'll probably, put the
19 brief and the findings in a little binder and a flash drive of
20 the brief and the -- and the findings in --

21 THE COURT: Just let Eileen know that --

22 MR. JONES: I will --

23 THE COURT: -- that's what it is --

24 MR. JONES: -- make sure.

1 THE COURT: -- so that -- all right? Do you have
2 anything else, Counsel, Mr. Goldstein?

3 MR. GOLDSTEIN: No -- no, Judge, I -- other than
4 after you receive Mr. Jones' brief on the -- final brief on
5 the 7th, you will let us know, then if we will have --

6 THE COURT: I'll let --

7 MR. GOLDSTEIN: -- some closing --

8 THE COURT: -- you know --

9 MR. GOLDSTEIN: -- argument?

10 THE COURT: -- what decade I'll be ruling in.

11 MR. GOLDSTEIN: Okay. And if we wanted a closing
12 argument, we can still make that request of you, I guess?

13 THE COURT: You can if you think it's necessary.

14 MR. GOLDSTEIN: I understand.

15 THE COURT: I don't know if I'll grant it or not.

16 MR. GOLDSTEIN: I understand.

17 THE COURT: And Ms. Abrams, do you have anything
18 further, since -- you are the lead counsel, really in this
19 case? Only because of --

20 MS. ABRAMS: Nothing further.

21 THE COURT: -- COVID, are you not in the room.
22 Anything else? Nothing?

23 MS. ABRAMS: Nothing further, no.

24 THE COURT: Okay. Please remember that I do not

1 take letters or memos or notes, even if it's signed off by
2 both sides. I'm not your pen pal. If you need to do anything
3 with me, put it into motion if there's something else further
4 that the Court needs to address.

5 MR. JONES: I understand --

6 MR. GOLDSTEIN: Fair enough, Judge.

7 MR. JONES: -- that, Your Honor.

8 MS. ABRAMS: We did file our 727 brief and you
9 should have that and it was served as well.

10 THE COURT: Thank you.

11 MR. GOLDSTEIN: Thank you.

12 THE COURT: She's filed her 727 brief. Any --

13 MR. JONES: That's fine.

14 THE COURT: Anybody else? Okay.

15 MR. GOLDSTEIN: Thank you.

16 THE COURT: There we are. Thank you, everyone.

17 MR. GOLDSTEIN: Thank you.

18 MS. ABRAMS: Thank you.

19 THE COURT: Okay.

20 (PROCEEDINGS CONCLUDED AT 10:08:16)

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

/s/Shellie A. Callaway
Shellie A. Callaway

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William A. Johnson
CLERK OF COURT

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

THOMAS A. PICKENS,) CASE NO. D-17-560737-D
Plaintiff,) DEPT. J
vs.) NV SUPREME CT. APPEAL NO. 82388
DANKA K. MICHAELS,) SEALED
Defendant.)

RECEIPT OF COPY

RECEIPT OF COPY of Transcripts and Certification of the
following proceeding in the above-captioned case:

MARCH 05, 2021; MARCH 12, 2021; APRIL 02, 2021
(FEBRUARY 14, 2020; FEBRUARY 21, 2020 - previously transcribed.)

Were filed October 28, 2021 for Michelle LoBello, Esq., is
hereby acknowledged this 10 day of Nov, 2021.

BY Michelle LoBello
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