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STATE OF ILLINOIS)
) SS:
COUNTY OF DU PAGE)

IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT
DU PAGE COUNTY, ILLINOIS

GRETCHEN WILKINSON, et al.,)
)
 Plaintiffs,) **A.M. SESSION**
)
 - vs -) No. 2015 L 980
)
INSTITUTE IN BASIC LIFE) Hearing on motion
PRINCIPLES, INC., and WILLIAM) for protective
W. GOTHARD, JR.,) order, Rule 137
) and 219(e)
) motions
 Defendants.)

REPORT OF PROCEEDINGS had at the hearing of
the above-entitled cause, before the Honorable KENNETH
POPEJOY, Judge of said court, recorded on the DuPage
County Computer Based Digital Recording System, DuPage
County, Illinois, and transcribed by ANGELA M. MONTINI,
Certified Shorthand Official Court Reporter, commencing
on the 10th day of January, 2019.

Angela M. Montini, CSR, RPR, CRR,
Official Court Reporter
CSR License No. 084-003716

1 PRESENT:

2 MEYERS & FLOWERS, LLC, by
3 MR. JONATHAN P. MINCIELI,

4 - and -

5 BRYANT LAW CENTER, PSC, by
6 MR. MARK P. BRYANT,
7 MS. EMILY WARD ROARK,

8 appeared on behalf of the Plaintiffs;

9 THE COLLINS LAW FIRM, P.C., by
10 MR. ROBERT L. DAWIDIUK,
11 MR. JEFFREY M. CISOWSKI

12 appeared on behalf of Defendant, IBLP;

13 MR. DAVID SOTOMAYOR,

14 appeared on behalf of Defendant,
15 William W. Gothard, Jr.
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1 THE COURT: Wilkinson, Institute of Basic Life
2 Principles. You can stand down and identify yourselves
3 for the record, that's fine.

4 MR. MINCIELI: Jonathan Mincieli, M-i-n-c-i-e-l-i,
5 for the plaintiffs.

6 MR. SOTOMAYOR: David Sotomayor,
7 S-o-t-o-m-a-y-o-r, on behalf of Mr. Gothard who is
8 present in court and I appear on his behalf.

9 MR. DAWIDIUK: Robert Dawidiuk, D-a-w-i-d-i-u-k,
10 for IBLP.

11 MR. CISOWSKI: Jeffrey Cisowski, C-i-s-o-w-s-k-i,
12 also for IBLP.

13 MR. MINCIELI: Your Honor, just before we start,
14 we have additional counsel for the plaintiff.

15 THE COURT: Oh, I'm sorry, go ahead then, yeah.

16 MR. MINCIELI: That's fine.

17 MS. ROARK: Emily Roark, R-o-a-r-k, for the
18 plaintiff, Wilkinson.

19 MR. BRYANT: And Mark Bryant, counsel for the
20 plaintiffs. Thank you.

21 THE COURT: Okay.

22 MR. SOTOMAYOR: Judge, with respect to that
23 statement, I know there is a Rule 137 that goes
24 directly against the named plaintiffs pursuant to the

1 filings and to the law firm of Meyers & Flowers.

2 To the extent that Mr. Bryant -- and I
3 apologize, I didn't remember the other counsel's
4 name -- if they are, in fact, going to be witnesses on
5 this case, I would like to know that ahead of time.

6 If they are going to be participating in the
7 representation of the seven plaintiffs that are the
8 subject matter of the Rule 137, I want to know that as
9 well.

10 THE COURT: Counsel.

11 MR. MINCIELI: They will not be witnesses, your
12 Honor. They are here as pro hac counsel on behalf of
13 the plaintiffs. I don't anticipate they will be
14 participating in the hearing answering questions or
15 anything along those lines.

16 THE COURT: Okay. All right.

17 Then first motion that we have, we have
18 the -- we're hearing eight motions today. And under
19 the parameters of the terms that I referenced,
20 40 minutes will be allotted to each motion.

21 The movant will have 20 minutes to complete
22 whatever presentation they wish in regard to their
23 motion, including any testimony, argument, or the like.

24 There will be 15 minutes for the respondent

1 to the motion to provide any testimony, argument or the
2 like.

3 There will be five minutes for the movant to
4 do any final testimony, rebuttal testimony, or argument
5 and the like.

6 At the end of that 40 minutes, that motion
7 will be done. At the end of each of those time frames,
8 they will be done. And people will be stopped at mid
9 sentence if that is what it takes, one way or the
10 other. There will be no more than 40 minutes allocated
11 to each motion.

12 We have plaintiffs' motion to enter a
13 protective order, and then we have 137 and 219(e)
14 motions against Jane Doe III, Jane Doe IV, and Jane Doe
15 V, and then against Barker and Frost and Lees and Lind.

16 If we do follow that schedule, the first four
17 motions would be taken care of by the end of the
18 morning hour. We would then take a one-hour break and
19 return for the Barker, Frost, Lees and Lind motions for
20 the afternoon.

21 So given that, first motion, plaintiffs'
22 motion to enter protective order, ready to go?

23 MR. MINCIELI: Your Honor, would you like us to
24 approach?

1 THE COURT: No, have a chair. Relax. You guys
2 can sit there.

3 MR. MINCIELI: Thank you.

4 MR. DAWIDIUK: Your Honor, may I be heard briefly?
5 I think I have a way of expediting matters before we
6 begin all this testimony and hearing.

7 THE COURT: Okay.

8 MR. DAWIDIUK: Just very briefly, Judge, as I
9 reread the motion to enter a protective order, I note
10 that the --

11 THE COURT: You filed a response also, didn't you?

12 MR. DAWIDIUK: We filed a response as well, and
13 our response is basically that it should not include
14 IBLP. And as I reread the motion itself, it is
15 directed at conduct of a person Alfred Corduan, who
16 we're going to hear about; another woman, Johanna
17 Shepherd, who we're going to hear about, but I don't
18 see any allegations or anything directed at the IBLP.

19 If counsel agrees that at the end of his
20 presentation he is not going to seek an entry of any
21 order that affects IBLP or its employees, then we can
22 shortcut this because then I will have no need to
23 cross-examine these witnesses to elicit testimony to
24 support my position, which is that -- which is that it

1 should not affect or impact or be directed to go
2 against the IBLP.

3 So if counsel agrees, then I don't have to be
4 involved in this direct or redirect.

5 MR. MINCIELI: Your Honor, I agree the motion is
6 not directed at IBLP. To the extent that the
7 individuals named in the motion are not employees of
8 IBLP, then it is not directed at the IBLP.

9 THE COURT: Okay. Satisfactory?

10 MR. DAWIDIUK: Thank you, Judge.

11 MR. SOTOMAYOR: Judge, I just have one more point.
12 You listed or you have named the parties, even though I
13 know and everybody knows the true identity of the Jane
14 Does, for purposes of this hearing, we are restricted
15 to refer to them in their fictitious name?

16 THE COURT: Correct.

17 MR. MINCIELI: Thank you.

18 THE COURT: Yep. Okay. Then at 9:40, plaintiffs'
19 motion to enter a protective order.

20 MR. MINCIELI: Your Honor, and I do have one
21 administrative matter that I thought we would mention.
22 I don't intend to take testimony on this motion. I
23 intend to only orally argue it.

24 THE COURT: Well, you've got 20 minutes to do

1 whatever you want to do.

2 MR. MINCIELI: I appreciate it. To the extent --

3 THE COURT: So knock yourself out.

4 MR. MINCIELI: I agree. To the extent that we
5 don't take 40 minutes on this motion, can we reserve
6 time?

7 THE COURT: No.

8 MR. MINCIELI: And the reason I ask is because --

9 THE COURT: No, no. 40 minutes for each motion,
10 period. If some of them are less, then we're done
11 earlier this afternoon.

12 MR. MINCIELI: Understood. My only concern, your
13 Honor, is that there might be a witness or two that can
14 give testimony initially that would be used for all
15 purposes -- purposes of all the motions, and rather
16 than continuing to call them in each motion --

17 THE COURT: It is going to be your call. I mean,
18 if you think you can do it efficiently that way, great.
19 I agree there is an amazing amount of stuff that is
20 overlapping in these eight, but the proof that I am
21 taking in regard -- but there is also an amazing amount
22 of allegations that are unique to each of the seven,
23 I'm sorry, not eight, to each of the seven, 137 and
24 219(e) motions.

1 So you guys handle it however you want. Yes,
2 there is an amount of overlap, but it is going to be
3 40 minutes each.

4 MR. MINCIELI: Understood. Thank you.

5 THE COURT: So protective order. Start.

6 MR. MINCIELI: Your Honor, I am going to largely
7 rest on the protective order and the pleadings and
8 the --

9 THE COURT: I should say for the record, I have
10 read in the entirety everything that has been presented
11 to me. All the motions, all the responses, all the
12 replies. I have reviewed the content of the complaint.

13 I have reviewed all aspects of the exhibits
14 that have been referenced therein in regard to same, as
15 well as the previous pleadings, previous court file,
16 and previous orders that have been entered by this
17 Court in regard to these proceedings.

18 So in regard to the protective order, you
19 wish to do what now, just rely on your brief at the
20 moment?

21 MR. MINCIELI: No, I will add to it, but knowing
22 that you have read all the materials and are familiar
23 with them, I am not going to rehash them, your Honor.

24 THE COURT: Awesome.

1 MR. MINCIELI: What I will tell you, though,
2 however, is I think that what the materials that were
3 part of our motion make clear is that there is a
4 misunderstanding about boundaries and there is a
5 misunderstanding about boundaries not only personally,
6 but also with respect to the rules of professional
7 responsibility.

8 And I think what we observed in this motion
9 is that -- and even in counsel for Gothard's statement
10 here this morning, is that there has always been an
11 interest in, a desire to, and a need on the part of
12 counsel for Mr. Gothard and Mr. Gothard himself, and
13 individuals who support him, to try and unearth the
14 names and disclose the names of the Jane Doe
15 plaintiffs, get them out there.

16 There has been an effort that you see even
17 from counsel for Mr. Gothard, to belittle the
18 plaintiffs in the language used in the communications,
19 to threaten, from the very outset of the case.

20 That being said, your Honor, I know that --
21 and there is a need. There is a need for privacy. We
22 have made that clear through the filing of the request
23 for the fictitious names.

24 But even if an individual in this case, a

1 plaintiff, is willing to have their name disclosed,
2 which is their right, they still have a need for
3 privacy. And to the extent that there is an intention
4 on the part of a defense team to expose and embarrass,
5 I think we're entitled to protections from that. And
6 it is clear here.

7 What I will tell you is that in response to
8 the motion, it was characterized as being some
9 injunctive relief, and that is not the case. What
10 we're looking for is a protective order and a
11 protective order that, essentially, requires the
12 individuals who have been either described by Gothard's
13 attorney or by themselves as part of the defense team
14 to comply with the rules of professional responsibility
15 and stop reaching out to people who are parties to a
16 case that are represented by counsel in one way or
17 another.

18 Despite the fact that that has been denied,
19 your Honor, if I can approach, I have an exhibit that
20 we would like to add to our motion --

21 THE COURT: Okay.

22 MR. MINCIELI: -- for today's date.

23 THE COURT: Copy for counsel.

24 MR. MINCIELI: I've marked it Exhibit 1, I am

1 handing it up. It is an e-mail from September of this
2 year sent to --

3 MR. SOTOMAYOR: Judge, at this point, I am going
4 to object. This could have been attached to the
5 original motion when it was filed.

6 Now, counsel is asking you to consider this
7 as evidence in his argument. At this point, this was
8 never tendered to me prior to today's date. I don't
9 know if it was tendered. I don't believe it was
10 tendered to Mr. Glenn Gaffney, who was the attorney of
11 record.

12 THE COURT: I don't see a purpose for it. I'm not
13 going consider it. Continue on.

14 MR. MINCIELI: In any event --

15 THE COURT: Continue on.

16 MR. MINCIELI: Thank you, your Honor.

17 Nevertheless, so what we're experiencing
18 here, your Honor, is that still in the most recent
19 times, post the filing of this motion, this motion was
20 filed in April, fully briefed by June, up to September
21 of this past year, Bill Gothard is directing
22 individuals to contact plaintiffs in this case, which
23 is a violation of the Rules of Professional
24 Responsibility.

1 Beyond that --

2 THE COURT: Wait. Mr. Gothard is violating the
3 Rules of Professional Responsibility? He is not a
4 licensed attorney, is he?

5 MR. MINCIELI: He is not a licensed attorney.

6 THE COURT: No, I just want to make sure. You're
7 saying he is violating the Rules of Professional
8 Responsibility, but the Rules of Professional
9 Responsibility apply to licensed attorneys within the
10 State of Illinois.

11 He is not licensed, correct?

12 MR. MINCIELI: Correct.

13 THE COURT: Okay. Go ahead then.

14 MR. MINCIELI: Your Honor, so, ultimately, what
15 we're still seeing are individuals reaching out to
16 plaintiffs saying things to the extent that Mr. Gothard
17 is telling me to contact you. Okay? Individuals who
18 are known by Gothard and his defense team to be
19 represented by counsel.

20 Most troubling, though, is that Jane Doe
21 plaintiffs have been contacted by individuals, which
22 means that people from the defense team are disclosing
23 who Jane Doe plaintiffs are. And for those reasons, we
24 need some boundaries put in place here.

1 And the boundaries are limited to individuals
2 on the defense team, Mr. Gaffney, Mr. Sotomayor, and
3 individuals who have been described by them as being
4 part of that defense team. Alfred Corduan, Johanna
5 Shepherd, et cetera, so --

6 THE COURT: Are those last two licensed attorneys
7 or just --

8 MR. MINCIELI: They are not licensed attorneys --

9 THE COURT: Well, so Mr. Gaffney and Mr. Sotomayor
10 are --

11 MR. MINCIELI: -- as far as I know.

12 THE COURT: -- the only ones you're referencing
13 that are licensed attorneys, correct?

14 MR. MINCIELI: Correct.

15 THE COURT: Is that correct?

16 MR. MINCIELI: Yes.

17 THE COURT: Okay. Thanks.

18 MR. MINCIELI: And besides that, your Honor, I
19 will rest on the arguments in the motion.

20 THE COURT: Okay. Response.

21 MR. SOTOMAYOR: Yes, your Honor.

22 THE COURT: You have 15 minutes.

23 MR. SOTOMAYOR: First of all --

24 THE COURT: You can stay seated, it's okay.

1 THE CLERK: Excuse me, your Honor. CourtSmart is
2 asking me to have each attorney announce their name.

3 THE COURT: And you need to stay seated so the
4 microphone works, sir. There is no microphone sitting
5 in the middle of this place to talk about. So your
6 name, sir?

7 MR. SOTOMAYOR: My name is David, last name is
8 spelled S-o-t-o-m-a-y-o-r.

9 THE COURT: Okay. Go ahead.

10 MR. SOTOMAYOR: Thank you, Judge.

11 First of all, I take exception to any
12 reference of conduct by myself that in this motion
13 somehow that I have violated the Code of Professional
14 Responsibility. I don't think there is any assertion
15 or any evidence to that effect, so I take exception to
16 that.

17 For purposes of the plaintiffs' motion, I
18 will rest -- I mean, I will stand on Glenn Gaffney's
19 response which the Court has indicated it has read.

20 THE COURT: Okay.

21 MR. SOTOMAYOR: I don't have to go through all of
22 his arguments, but, essentially --

23 THE COURT: I have read them all.

24 MR. SOTOMAYOR: But, essentially, the most

1 prominent argument is the balance between a first
2 amendment right for an individual to speak out to
3 defend themselves against what he contends are false
4 allegations, not only brought by these plaintiffs,
5 including the Jane Does, but also perpetrating a fraud
6 upon the Court in connection with the entire
7 third-party complaint, which is now the subject matter
8 of the 137 and 219 motions.

9 To the extent that this is all the evidence
10 that counsel has presented is his motion with no
11 evidence to support that motion by way of testimony, I
12 am going to suggest that the Court not enter the
13 protective order because there has been insufficient
14 evidence by way of testimony to support that.

15 Furthermore, with respect to Jane Doe III, as
16 the pleadings indicate, Jane Doe III herself, through
17 e-mail, Facebook, chat time or whatever else it is
18 called, exposed herself as, and without referencing her
19 name, my name is blank blank, I am Jane Doe III.

20 So how the heck does a person who claimed
21 they wanted anonymity because of the things that she
22 set forth in her motion, goes ahead and contrary to
23 that position makes it known to the public who she is
24 and then comes into this courtroom asking for the

1 relief she does.

2 With that, Judge, I will rest.

3 THE COURT: Anything further you have in your last
4 five minutes?

5 MR. MINCIELI: My last point, your Honor, is with
6 respect to Jane Doe III. She has a right to change her
7 mind about her Jane Doe status if that status has
8 changed for her. Because somebody is either a Jane Doe
9 or a directly named plaintiff, they still have a right
10 to a reasonable amount of privacy and to be free from
11 harassment.

12 So the fact that she has exposed herself now
13 because the reasons behind her wanting to remain a Jane
14 Doe are no longer in place, well, it doesn't negate the
15 fact that she is still entitled to be free from
16 harassment.

17 THE COURT: Thank you very much. Appreciate the
18 arguments of both counsel in regard to same.

19 The plaintiffs' motion to enter a protective
20 order shall be denied. There was a request about not
21 disseminating any of plaintiffs' discovery requests or
22 documents from the lawsuit.

23 One, those are all a matter of public record.
24 They are in the court file. Unless they are placed

1 under seal, I am not removing any seal, but unless they
2 have been placed under seal, there is an expectation of
3 public awareness by anything that is from the lawsuit
4 and disseminated as part of discovery responses.

5 Two, there is a request for posting further
6 online in relation to any of the plaintiffs. Everybody
7 seems to go online in regard to this case. Everybody
8 seems to talk about numerous things about this case
9 online, and I am not going to try to manage social
10 media, especially at my ripe old age of 68 when I don't
11 understand half of it, but, nonetheless, I am not going
12 to be managing that over the years as things go on.

13 Three, contacting of any of the plaintiffs by
14 telephone, e-mail, U.S. mail, or in person. You know,
15 I can't put a constraint against somebody doing what
16 they want to do in this world. Our country has a right
17 of free speech, our country has a right of free
18 association.

19 People that are phone called or contacted can
20 reject that. They cannot take that. They cannot
21 pursue it any further. If it becomes anything of a
22 harassment point of view or this, that and the other,
23 there are remedies with orders of protection, civil
24 orders of protection that come out where you allege

1 what harm there is being done in regard to a particular
2 contact.

3 And each of these plaintiffs can proceed with
4 some type of protection in that regard, but pursuant to
5 any allegations of harassment, harm or the like. But
6 for me to continue to manage what interactions all
7 these people will have with each other over the years
8 isn't going to happen.

9 In regard to this response, though, I do want
10 to make note of the fact that on Page 2, Mr. Gaffney,
11 in his pleadings, said that the Court can, quote, take
12 judicial notice, end of quote, of the adverse publicity
13 Gothard has been inundated with over the years from
14 Recovering Grace. And that I can additionally, quote,
15 take judicial notice, end of quote, of adverse
16 publicity of Gothard by doing a Google word search.

17 I am not going to do either one. I am not
18 going to look at the video, and I don't take judicial
19 notice of anything. I do note that the motion was
20 unverified and I think any chance of getting anything
21 would have required a verification, but it still would
22 have been rejected with the verification in regard to
23 same.

24 Finally, I want to -- I just want to make

1 particular note of the fact that there was something in
2 Mr. Gaffney's pleadings in Roman Numeral III, Gothard's
3 personal request. Gothard requests that plaintiffs and
4 this Court consider his personal request for biblical
5 reconciliation and peace as stated with attached
6 Exhibit 1.

7 This Court does not consider his personal
8 request for biblical reconciliation. There is a
9 difference between church and state, and this part is
10 State, and I don't get involved in any biblical
11 reconciliation.

12 The plaintiffs can do that if they wish. If
13 they don't wish to do so, then there won't be anything
14 done in regard to same.

15 So for the reasons stated, plaintiffs' motion
16 to enter protective order is denied. And that exhibit
17 that was tendered is returned back to the plaintiff as
18 having not been utilized, entered or considered by this
19 Court.

20 MR. MINCIELI: Thank you, your Honor.

21 THE COURT: Next. Gothard's motion pursuant to
22 Illinois Supreme Court Rules 137 and 219(e) for
23 sanctions and other relief against Jane Doe III.

24 9:53, you may start.

1 MR. SOTOMAYOR: Thank you. Judge, for the record,
2 I will first call Jane Doe III.

3 THE COURT: Okay. Please come forward, Jane Doe
4 III.

5 MR. SOTOMAYOR: Once again, a motion to exclude
6 witnesses.

7 THE COURT: You want to exclude all of these?

8 MR. SOTOMAYOR: Well, no, no, they are parties, so
9 they don't -- I mean, if there are any other witnesses.

10 THE COURT: Are there any other witnesses in the
11 room besides the parties, the seven parties and the
12 recipients of these motions? Yes? No?

13 MR. MINCIELI: Our side?

14 THE COURT: Yes.

15 MR. MINCIELI: Yes, your Honor.

16 THE COURT: Well, if there are other witnesses,
17 they need to wait outside.

18 MR. MINCIELI: And, your Honor, we would like it
19 to be reciprocal.

20 THE COURT: Yes, of course.

21 Any witnesses you have?

22 MR. DAWIDIUK: Judge, from the IBLP, there was a
23 237 notice for Dr. Tim Levendusky and he is present in
24 the courtroom.

1 THE COURT: Okay. So he can stay in the
2 courtroom. He is a party, Institute of Basic Life
3 Principles.

4 MR. SOTOMAYOR: I am just asking to exclude any
5 witness that counsel for the plaintiffs is going to use
6 in connection with the 137, 219.

7 THE COURT: If they are one of the seven
8 plaintiffs, they are all staying in.

9 MR. SOTOMAYOR: Right.

10 THE COURT: Are there any other witnesses other
11 than the seven plaintiffs?

12 MR. MINCIELI: No.

13 MR. SOTOMAYOR: Oh, okay.

14 THE COURT: There you go.

15 Do you have any witnesses other than the
16 seven plaintiffs and Mr. Gothard?

17 MR. SOTOMAYOR: No.

18 THE COURT: Okay. There we go then.

19 MR. MINCIELI: Your Honor, I did serve 237
20 requests for witnesses from them, Mr. Corduan and, as
21 you know, Tim Levendusky.

22 MR. SOTOMAYOR: Well, Judge --

23 THE COURT: From them? Who is them?

24 MR. MINCIELI: From defense.

1 THE COURT: There is two defendants.

2 MR. MINCIELI: Yes, and I served a 237 request for
3 a gentleman named Alfred Corduan, who is part of the
4 defense team. Mr. Gaffney accepted it and agreed that
5 he would produce Mr. Corduan pursuant to the 237
6 request.

7 THE COURT: Okay. Is he here in the courtroom?

8 MR. SOTOMAYOR: He is here in the courtroom,
9 Judge, however, I believe that related to the motion --

10 THE COURT: So he's not going to testify in any
11 manner, shape or form from your point of view?

12 MR. SOTOMAYOR: From my point of view.

13 THE COURT: Are you going to call him to testify?

14 MR. MINCIELI: Yes.

15 THE COURT: He's out. Out in the hallway. Next.
16 Anybody else?

17 Okay. You may proceed now. 9:55.

18 MR. SOTOMAYOR: Thank you.

19 THE COURT: Oh, please turn and raise your right
20 hand.

21 (Witness sworn.)

22 THE COURT: We are identifying you solely as Jane
23 Doe III. There will be no other identification, use of
24 your name and first name, second name, anything at all.

1 Please have a chair.

2 You may inquire.

3 MR. SOTOMAYOR: Thank you.

4 JANE DOE III,

5 called as a witness, having been first duly sworn, was
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. SOTOMAYOR:

9 Q. Ma'am, can I just refer to you as Jane Doe
10 III throughout these proceedings?

11 THE COURT: Is that okay --

12 THE WITNESS: Yes, sir.

13 THE COURT: -- to reference that way? Okay.

14 MR. SOTOMAYOR: Thank you.

15 BY MR. MINCIELI:

16 Q. Ms. Doe III, what day did you first come in
17 contact with William Gothard?

18 A. Can you please repeat the question.

19 Q. What date did you first come into contact
20 with William Gothard?

21 A. I do not recall the exact date.

22 Q. Have you ever made a representation in any
23 court pleadings of a timeframe in which you first
24 became acquainted or came into contact with William

1 Gothard?

2 A. Yes.

3 Q. Okay. Now, do you have an independent
4 recollection as to when that was?

5 A. I know how old I was.

6 Q. Ma'am, can you simply answer my question. Do
7 you have an independent recollection as to when that
8 was?

9 A. Yes.

10 Q. Okay. Tell us.

11 A. I was 13 years old.

12 Q. Okay. Using your math, because I don't want
13 to ask you how old you are, tell me what year that was.

14 A. I'm afraid I am not very good at that. It is
15 either 2005 or 2006.

16 Q. Now, when was the last time that you had any
17 contact with William Gothard in connection with the
18 allegations that you set forth in the complaint that
19 was dismissed in --

20 THE COURT: Okay. I am going to correct you right
21 now because I am going to correct you through all these
22 pleadings in there. It was nonsuited.

23 MR. SOTOMAYOR: I'm sorry.

24 THE COURT: The case was not dismissed on any

1 motion by this Court, or by any substantive ruling of
2 this Court, or by any briefing that was done in regard
3 to pleadings and questions of pleadings and issues of
4 pleadings by this Court.

5 MR. SOTOMAYOR: I apologize.

6 THE COURT: It was nonsuited on the plaintiffs'
7 motion and everything through all seven of these
8 motions says it was dismissed. It was not dismissed.
9 It was nonsuited on motion of the plaintiff without
10 substantive rulings by this Court on the underlying
11 pleadings that other than what had already been done,
12 which denied all motions to dismiss on a 2-615 or 2-619
13 basis. You may continue.

14 MR. SOTOMAYOR: I apologize, Judge. I should have
15 said voluntary -- voluntarily dismissed.

16 THE COURT: Right.

17 MR. SOTOMAYOR: Thank you.

18 BY MR. SOTOMAYOR:

19 Q. Since the date -- since the time that you
20 first had contact with Mr. Gothard, when was the last
21 time that you had contact with Mr. Gothard in
22 connection with the allegations that were set forth in
23 the Third Amended Complaint?

24 A. Approximately May of 2012.

1 Q. Now, between --

2 A. Excuse me, I apologize. I did forget two
3 other instances and I do not know the dates. I have --
4 my attorneys have e-mails, but Mr. Gothard reached out
5 to me two other times after that fact. I apologize.

6 Q. What year was that?

7 A. It was -- the last time he called was
8 February of 2017. I apologize --

9 Q. Is that --

10 A. -- that's not correct. I'm sorry, sir.

11 Q. You said that is not correct. Tell me what
12 is correct.

13 A. It was five years ago.

14 Q. Okay. So five years ago from today's date?
15 That would be sometime in 2014, if my math is correct;
16 is that correct?

17 A. It was after '14.

18 Q. Well, tell me what year.

19 Well, let me withdraw that question and just
20 ask you this simply because I have a short amount of
21 time here.

22 Between the time of the allegations you set
23 forth that occurred in your filings to today's date,
24 January 10th, 2019, have you ever suffered from

1 repressed memory syndrome, yes or no?

2 MR. MINCIELI: Objection to form, foundation.

3 THE COURT: Calls for a medical opinion on behalf
4 of this client. She is not qualified to do so.

5 Objection sustained.

6 BY MR. SOTOMAYOR:

7 Q. Ma'am, in your pleadings, did you set forth
8 that you suffered from a condition that caused you to
9 repress your memory? Did you set forth that in your
10 Third Amended Complaint, yes or no?

11 A. The amended complaint said repressed memories
12 and/or --

13 Q. That is not the question I am asking you. I
14 am asking you a specific question. Did you, in your
15 complaint, allege that you, based upon a condition that
16 you had, suffered from repressed memory, yes or no?

17 A. Yes.

18 Q. Tell me -- tell the Court when that condition
19 first began and when did it end.

20 A. It was a very slow, gradual process of
21 recalling the memories.

22 Q. Oh, okay. Can you listen to my question?

23 A. Yes, sir.

24 Q. I asked you to tell the Court when that

1 alleged condition began and when did it end?

2 MR. MINCIELI: Objection to form.

3 THE COURT: Overruled. You can answer if you can.

4 BY THE WITNESS:

5 A. It was from a process from spring of 2014 to
6 the current.

7 BY MR. SOTOMAYOR:

8 Q. So, as you sit here today, you are suffering
9 from suppressed memory; is that correct?

10 A. I am currently continuing to realize the
11 effect that the abuse had on me.

12 Q. Ma'am, that is not the question I asked you.
13 Can you answer the question?

14 THE COURT: I think she answered the question.
15 Your next question, please.

16 BY MR. SOTOMAYOR:

17 Q. All right. When did you first realize that
18 you had suppressed memory?

19 A. Spring of 2014.

20 Q. Okay. And from the spring of 2014, tell the
21 Court what, if anything, you did in connection to seek
22 treatment for what you refer to as suppressed memory?

23 A. I began counseling in December of 2015.

24 Q. With who?

1 A. Dr. Chuck Lynch.

2 THE COURT: Can you spell that please, as best you
3 can.

4 THE WITNESS: L-y-n-c-h.

5 THE COURT: Okay. Chuck Lynch. I thought that
6 whole thing was the last name. Okay, thanks.

7 THE WITNESS: Sure.

8 BY MR. SOTOMAYOR:

9 Q. Where is this doctor located?

10 A. He is a licensed professional counselor. He
11 is located in Blue Springs, Missouri.

12 Q. So he is -- is he a doctor of psychology?

13 A. No.

14 Q. Well, let me ask you this. Have you ever
15 been diagnosed by a medical professional, licensed in
16 any state, to having memory suppressed syndrome?

17 MR. MINCIELI: Objection to form and foundation.

18 THE COURT: Sustained.

19 BY MR. SOTOMAYOR:

20 Q. Have you ever been diagnosed as having --
21 clinically diagnosed as having any condition that
22 suppresses your memory?

23 A. Yes.

24 Q. When and by whom?

1 A. PTSD.

2 Q. I don't know what PTSD is.

3 A. Post traumatic stress disorder.

4 Q. And who diagnosed that?

5 A. Dr. Lynch was the first to suggest that and I
6 had two others confirm.

7 Q. Ma'am, you said "suggest that." What I am
8 asking is, was there a clinical diagnosis?

9 A. Yes.

10 Q. Okay. Did you provide that information to
11 anyone?

12 A. I --

13 MR. MINCIELI: Objection to form.

14 THE COURT: Sustained. No parameters as to time,
15 whatever, prior to a certain date, after a certain
16 date, whatever.

17 BY MR. SOTOMAYOR:

18 Q. You claim that you were diagnosed -- or I'm
19 sorry. Did you use the word diagnose or was it
20 suggested that you may have this --

21 A. It was both. Dr. Lynch suggested it. I went
22 to my primary care physician, Dr. Nancy Russell. She
23 confirmed the diagnosis of PTSD and my psychologist
24 later confirmed the diagnosis of PTSD.

1 Q. Give me the names of all these individuals
2 you are speaking of.

3 A. Sir, my primary care, again, is Dr. Nancy
4 Russell, R-u-s-s-e-l-l.

5 Q. Located where?

6 A. North Kansas City, Missouri.

7 Q. And who was the other individual?

8 A. My psychologist, Dr. Lori Edwards.

9 Q. Where is she located?

10 A. Kansas City, Missouri.

11 Q. And when was that, the year of this diagnosis
12 or suggestion?

13 A. Approximately -- it was in February of 2018.

14 Q. Okay. So this diagnosis did not occur until
15 2018, correct?

16 A. The diagnosis. The symptoms had been going
17 on for --

18 Q. Ma'am, the diagnosis?

19 A. Yes, sir.

20 Q. Now, when you filed the lawsuit in this case,
21 did you discuss with your attorneys the fact that you
22 had not yet been diagnosed with memory suppression?

23 MR. MINCIELI: Objection.

24 THE COURT: Sustained. Attorney/client privilege.

1 MR. SOTOMAYOR: Judge, just --

2 THE COURT: Attorney/client privilege, sustained.

3 BY MR. SOTOMAYOR:

4 Q. What, if any, information did you give to
5 anyone else about your diagnosis?

6 MR. MINCIELI: Form.

7 THE COURT: Sustained.

8 BY MR. SOTOMAYOR:

9 Q. Ma'am, you participated in an internet chat
10 with various members -- various plaintiffs; is that
11 correct?

12 A. Correct.

13 Q. And in connection with that, isn't it true
14 that you indicated that you -- that the reason why you
15 wanted your identity kept secret was because you were
16 still a part of a very conservative pro-Gothard
17 community, and if they found out, your reputation would
18 be ruined, right?

19 A. That was written by me.

20 Q. Okay. So you made that statement. When did
21 you make that statement?

22 A. Why did I make that statement?

23 Q. When did you make that statement?

24 A. Approximately -- it was either November or

1 December of 2015.

2 Q. Was it before the lawsuit was filed?

3 A. No.

4 Q. It was after the lawsuit was filed, correct?

5 A. May I correct that? It was after I had
6 signed my attorney -- I had signed on my paperwork, but
7 it would be a few weeks before the lawsuit was
8 submitted to the court.

9 Q. So was that the true purpose in protecting
10 your identity is because at the time that you initiated
11 the lawsuit, you were still a pro-Gothard individual,
12 correct?

13 A. Correct.

14 Q. So --

15 A. May I --

16 Q. So then the -- so then your affidavit to keep
17 your identity secret, based upon the fact that you
18 didn't want anybody to know that your father had
19 sexually abused you, was not the true reason for your
20 pleadings requesting your identity be kept secret?

21 MR. MINCIELI: Objection to form.

22 THE COURT: You may answer.

23 BY THE WITNESS:

24 A. The affidavit gives two reasons, both my

1 father and then also the second line lists the
2 pro-Gothard community.

3 BY MR. SOTOMAYOR:

4 Q. Okay. So you then, after the voluntary
5 dismissal of this lawsuit, decided to go ahead and
6 contact an individual by the name of Alfred, asking
7 that he publish your story, right?

8 A. Incorrect.

9 Q. What is incorrect about that?

10 A. Bill wrote a letter to me and I wrote -- a
11 public letter to me, and I wrote a public response and
12 I --

13 THE COURT: Bill who, ma'am?

14 THE WITNESS: I'm sorry. Bill Gothard.

15 THE COURT: Okay. Thank you. Go ahead.

16 BY THE WITNESS:

17 A. So I suggested to Alfred that fair journalism
18 would suggest that I get to post my reply to Bill since
19 he wrote a letter to me.

20 BY MR. SOTOMAYOR:

21 Q. Well, Alfred hadn't written a letter to you;
22 is that correct?

23 A. Alfred posted it on Bill's behalf.

24 Q. Ma'am, Alfred didn't write a letter to you;

1 is that correct?

2 A. Correct.

3 Q. So what you did is you contacted Alfred
4 because Alfred had a Facebook site in which he posted
5 comments, correct?

6 A. Correct.

7 Q. And that was for the world to see, correct?

8 A. Correct.

9 Q. And you wanted everybody to know your true
10 name and identity shortly after the voluntary dismissal
11 by your attorneys of this lawsuit, correct?

12 A. Correct.

13 Q. So the truth is, you never feared any
14 retaliation by your father or your pro-Gothard people?

15 A. Incorrect.

16 Q. What is incorrect about that?

17 A. The reason I came out with my name is because
18 Gaffney called my father and told him I was involved in
19 the lawsuit before it was dismissed.

20 MR. SOTOMAYOR: At this point, Judge, I am going
21 to object to the non --

22 THE COURT: Overruled. You asked for it.

23 BY MR. SOTOMAYOR:

24 Q. Okay. So your father told you this or --

1 A. My father called me.

2 Q. -- or Mr. Gaffney told you this, which one
3 was it?

4 A. My father called me immediately after Gaffney
5 called him and wanted to talk.

6 Q. That is what your father told you; is that
7 correct?

8 A. Yes.

9 Q. So you never heard from Mr. Gaffney. This
10 was something that you believed to be accurate solely
11 based upon your father's statement to you, right?

12 A. I have a voicemail from Gaffney left on my
13 mother's cell phone that said he called my father. I
14 listened to it.

15 Q. When did this allegedly occur?

16 A. December of 2017.

17 Q. Well, ma'am, you said that you decided to go
18 public after the voluntary dismissal of this lawsuit,
19 which occurred February 26th of 2018; isn't that true?

20 A. Yes, sir.

21 Q. So then when your mother allegedly -- or when
22 you allegedly had this contact with Glenn Gaffney or
23 your mother, did you report that to the Court?

24 A. I reported it to my attorneys.

1 Q. Did you report it -- did you ask your
2 attorneys to come before the Court for sanctions
3 against Mr. Gaffney for this communication with your
4 mother?

5 MR. MINCIELI: Objection. Attorney/client
6 privilege.

7 THE COURT: Asking her communication with her
8 attorneys, sustained.

9 Two minutes left.

10 MR. SOTOMAYOR: I have no further questions of
11 this witness.

12 THE COURT: Any other witnesses?

13 MR. SOTOMAYOR: Yes.

14 THE COURT: Call them.

15 MR. SOTOMAYOR: I am going to call Mr. Mincieli.

16 THE COURT: Mr. Mincieli, come forward.

17 You may step down. Thank you very much. I
18 apologize.

19 Raise your right hand to be sworn.

20 (Witness sworn.)

21 THE COURT: Please have a chair. State your name
22 for the record and spell your last name.

23 THE WITNESS: Jonathan Mincieli, M-i-n-c-i-e-l-i.
24

1 JONATHAN MINCIELI,
2 called as a witness, having been first duly sworn, was
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. SOTOMAYOR:

6 Q. Mr. Mincieli, tell the Court what, if
7 anything, you did to verify or to investigate the
8 claims of suppressed memory made by -- or suppressed
9 memory contained within the Third Amended Complaint
10 attributable to Jane Doe III.

11 MR. BRYANT: If the Court please, we're going to
12 object to the question this counsel is asking as it's
13 attorney/client privileged.

14 THE COURT: As far as what he does with any
15 discussions outside of any of the plaintiffs that are
16 involved. If his answer is in regard to my general
17 interactions with the seven plaintiffs that are
18 involved in this case, it will stop at that.

19 If there are other people, then what those
20 other people or other things that he did to verify it
21 is acceptable for him to go into because in his
22 response on Page 8, he said, quote, he conducted a
23 reasonable inquiry prior to filing and, quote, engaged
24 in extensive due diligence, end of quote.

1 So other than his conversations with his
2 clients, he may inquire as to -- he may answer as to
3 anything else that he did.

4 BY THE WITNESS:

5 A. I have had conversation with my clients, but
6 besides that, the complaint had been investigated and
7 filed prior to my involvement in the case.

8 BY MR. SOTOMAYOR:

9 Q. Well, sir --

10 THE COURT: Thank you very much, Mr. Sotomayor.
11 You may step down. That is 20 minutes.

12 And you have 15 minutes to do any response
13 that you wish.

14 MR. MINCIELI: Thank you, your Honor.

15 I would like to recall Jane Doe III.

16 THE COURT: Okay. Jane Doe III, please come
17 forward. You understand you're under the same oath
18 that you took a few minutes ago?

19 THE WITNESS: Yes, sir.

20 THE COURT: Please have a chair. You may
21 continue. You have 15 minutes.

22 MR. MINCIELI: Thank you, your Honor.

23

24

1 JANE DOE III,
2 recalled as a witness, having been previously duly
3 sworn, was examined and testified further as follows:

4 DIRECT EXAMINATION

5 BY MR. MINCIELI:

6 Q. I am going to work in backward order a little
7 bit.

8 A. Okay.

9 Q. There was some questioning made to you about
10 an affidavit that you signed that was alleged to be
11 false.

12 MR. MINCIELI: Your Honor, may I approach?

13 THE COURT: You may.

14 BY MR. MINCIELI:

15 Q. I am going to show you what we marked as
16 Exhibit 3 today.

17 MR. SOTOMAYOR: Can I get a copy real quickly?

18 MR. MINCIELI: I have a copy for you.

19 BY MR. MINCIELI:

20 Q. Is this a copy of your affidavit?

21 A. Yes, sir.

22 Q. Is this the affidavit that you submitted with
23 respect to the application for a fictitious name?

24 A. Yes.

1 Q. I will ask you to take a look at the
2 allegations in the affidavit on the second page.

3 A. Yes.

4 Q. Starting with No. 12, can you read those out
5 loud.

6 A. No. 12. My father does not know I am a part
7 of this lawsuit. I am fearful that if my identity is
8 revealed, my father will become aware of the claims I
9 have made in this lawsuit.

10 Q. I will ask you to stop right there. Was that
11 statement true at the time that you made it?

12 A. Yes.

13 Q. Next one, Paragraph 13.

14 A. If my identity is revealed, my father will
15 find out that I publicly disclosed that he sexually
16 abused me and that will place me in personal danger, as
17 well as cause me psychological and emotional distress.

18 Q. Did you believe that to be true at the time
19 you signed this affidavit?

20 A. Yes.

21 Q. Next.

22 A. If my identity is revealed, I risk being
23 harassed by those who are affiliated with Mr. Gothard
24 and/or IBLP.

1 Q. And when you say those who are affiliated
2 with Mr. Gothard and/or IBLP, who are you speaking
3 about in that statement?

4 A. My current community, my support systems at
5 home.

6 Q. Is that the church community that you were
7 referencing in the chat that Mr. Sotomayor brought up
8 to you?

9 A. Yes.

10 Q. That was true at the time you signed this?

11 A. Yes.

12 Q. And you -- did you learn at some point that
13 during the pendency of this case, Mr. Gaffney, attorney
14 for Bill Gothard, did, in fact, contact your father and
15 reveal the fact that you are a plaintiff in this
16 lawsuit?

17 A. Yes.

18 MR. SOTOMAYOR: Objection. Based upon -- hearsay
19 is what my objection is.

20 THE COURT: Overruled. You asked her that
21 question in direct examination and elicited answers
22 from her on how she knew about it and in what manner
23 she knew about it and the voicemail that she heard that
24 was left by Mr. Gaffney to her mother, so it's a

1 bizarre objection. Completely overruled.

2 Continue on.

3 BY MR. MINCIELI:

4 Q. So at the time that it was disclosed to your
5 father that the lawsuit -- that you were a member of
6 the lawsuit, you no longer needed -- that reason for
7 the protection was no longer present, correct?

8 A. Correct.

9 Q. I would like to show you next --
10 Mr. Sotomayor made a point of the fact that you have
11 been diagnosed with PTSD?

12 A. Correct.

13 Q. I am going to show you --

14 MR. MINCIELI: If I may approach, your Honor?

15 THE COURT: You may.

16 BY MR. MINCIELI:

17 Q. -- what has been marked as Exhibit 2. I have
18 a copy for Mr. Sotomayor. Are these your supplemental
19 answers to IBLP's first set of interrogatories in the
20 case?

21 A. Yes.

22 Q. And if you go to the second to last page,
23 which is titled 22, is that your signature there on
24 those?

1 A. Yes, sir.

2 Q. Thankfully the interrogatories are numbered.
3 If you go to Page 20, they talk about individuals that
4 will testify on your behalf. Actually, No. 28, on
5 Page 19, where it is asked: Are you claiming any
6 psychiatric, psychological or emotional injuries as a
7 result of the alleged misconduct? If so, state the
8 name of any psychiatric, psychological, and emotional
9 injury claimed.

10 Did you answer that?

11 A. Yes, I did.

12 Q. And did you claim that you are suffering from
13 psychological and emotional trauma?

14 A. Yes.

15 Q. Did we also provide the names of your
16 counselors and physicians and their addresses and
17 exactly what they talked to you about --

18 A. Yes.

19 Q. -- to defense counsel?

20 A. Yes.

21 Q. And then if you turn to Page 18 where it asks
22 you to identify the precise nature of the physical
23 injuries which you alleged were caused by this conduct
24 alleged in the complaint, did we identify in No. 27

1 that you had PTSD-like symptoms?

2 A. Yes.

3 Q. And did it turn out after these were filed in
4 2017 and provided, that you actually had the diagnosis
5 confirmed?

6 A. Correct.

7 Q. Thank you.

8 After the case was voluntarily nonsuited, why
9 did you disclose your name?

10 A. Two reasons: My father had been told, so I
11 had no reason to remain anonymous for that, and I am a
12 completely different woman than I was three years ago
13 when I filed this suit.

14 Q. Stronger?

15 A. Very much so. I have a new support community
16 that is not affiliated with Gothard anymore and I have
17 the strength and courage to be me.

18 MR. MINCIELI: Your Honor, I don't think I have
19 anything else for this witness.

20 THE COURT: Okay. Mr. Sotomayor, your last five
21 minutes.

22 MR. SOTOMAYOR: Does that include my argument?

23 THE COURT: You have five minutes, I told you.

24 MR. SOTOMAYOR: Okay. Thank you.

1 THE COURT: Everything is being done within
2 40 minutes. Argue, testimony, cross-examine, anything,
3 it is done in five minutes. You have five minutes
4 left. Go ahead.

5 MR. SOTOMAYOR: Thank you.

6 CROSS EXAMINATION

7 BY MR. SOTOMAYOR:

8 Q. Ma'am, you testified that it wasn't until
9 February of 2018 that this diagnosis or suggestion came
10 from Dr. Russell and Dr. -- the doctors that you listed
11 in your interrogatories?

12 A. Correct.

13 Q. Right?

14 A. Correct.

15 Q. That is correct as you sit here today?

16 A. Yes.

17 Q. So that at the time of the filing of this
18 lawsuit, you had not been diagnosed with any type of
19 suppressed memory; isn't that true?

20 MR. MINCIELI: Objection. Form.

21 THE COURT: Overruled. You may answer.

22 BY MR. SOTOMAYOR:

23 Q. Isn't that true?

24 A. No.

1 Q. It's not true?

2 A. No.

3 Q. Tell me how it is not true.

4 A. Through my counseling sessions with
5 Dr. Lynch, which began at the time I joined the
6 lawsuit, he had explained to me --

7 Q. I'm sorry, you said at the time that you --

8 THE COURT: Next time she is going to finish her
9 answer before you interrupt.

10 MR. SOTOMAYOR: I'm sorry. You're absolutely
11 right, your Honor.

12 THE COURT: Every now and then.

13 BY MR. SOTOMAYOR:

14 Q. Finish your answer.

15 THE COURT: Go ahead.

16 BY THE WITNESS:

17 A. Yes, sir.

18 So when I began my counseling with Dr. Lynch,
19 he was able to help me understand why there were the
20 memory gaps and why I did not appreciate the abuse at
21 the time.

22 BY MR. SOTOMAYOR:

23 Q. Was this after you filed the lawsuit?

24 A. At the same time.

1 Q. Well, it can't be at the same time, ma'am.

2 MR. MINCIELI: Objection. Form.

3 THE COURT: You're not providing testimony,
4 counsel. You can continue to inquire.

5 BY MR. SOTOMAYOR:

6 Q. Ma'am, are you saying on the same day that
7 you filed the lawsuit, that you had conversations with
8 this doctor?

9 A. This lawsuit was -- I officially joined the
10 lawsuit on January 10th of 2016 and I began counseling
11 with Dr. Lynch December 15th, 2015.

12 MR. SOTOMAYOR: I have no further questions. I
13 want to reserve the rest of my time for my argument,
14 Judge.

15 THE COURT: Go ahead: You may step down. Thank
16 you. Leave whatever document up there.

17 MR. SOTOMAYOR: The first thing I want you to do
18 is I want you to take judicial notice of the affidavit
19 filed by Glenn Gaffney in connection with the costs and
20 the time spent on the litigation for purposes of -- for
21 purposes of the 137.

22 Second, I want the Court to take judicial
23 notice of the court file with respect to the 219
24 motion. And that is that there was a compliance -- a

1 motion to compel that had been filed by Mr. Gaffney
2 with compliance to be had by or on February 26th, 2018,
3 with respect to certain chat rooms.

4 I don't know if it was defined as R2D2 in
5 which the plaintiffs conducted exchanges with respect
6 to this lawsuit, with respect to other statements. The
7 court order for that date, counsel filed a motion to
8 voluntarily dismiss. I don't think that that -- and
9 that is not that I don't think, the Appellate Courts
10 say that that does not alleviate the compliance with
11 that.

12 As of today's date, there hasn't been
13 compliance. I know that the State -- that the
14 plaintiffs dismissed without prejudice or asked for
15 voluntary dismissal without prejudice. They have until
16 a certain date to do so.

17 However, I believe that they are still in
18 violation of that order by not providing those
19 documents which would contain information, we submit,
20 would be beneficial to the defendant.

21 THE COURT: Okay. Thank you. That's the close of
22 proofs for Jane Doe III.

23 Jane Doe IV, please step forward.

24 MR. SOTOMAYOR: Judge, I'm sorry, I am going to go

1 out of order on this. I am going to call Mr. Mincieli.

2 THE COURT: Oh, I apologize. I didn't realize.
3 Mr. Mincieli, please step forward.

4 MR. SOTOMAYOR: So I have 20 minutes, Judge,
5 right?

6 THE COURT: Yes. You understand you are under the
7 oath you previously took this morning?

8 THE WITNESS: I do.

9 THE COURT: Thank you. State your name, please.

10 THE WITNESS: Jonathan Mincieli, M-i-n-c-i-e-l-i.

11 THE COURT: Yeah, they got the spelling from now
12 on, so one time is good. Go ahead, sir.

13 JONATHAN MINCIELI,
14 called as a witness, having been first duly sworn, was
15 examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. SOTOMAYOR:

18 Q. Sir, you filed a cause of action on behalf of
19 Jane Doe IV in which you said the complainant was
20 suffering from a condition that caused her to repress
21 the memories of abuse and/or did not know her injuries
22 were caused by the abuse.

23 Can you tell the Court what was the basis of
24 making that statement with respect to the complaint?

1 A. It would involve attorney/client privileged
2 conversations.

3 MR. SOTOMAYOR: Judge, I understand that -- I --

4 THE COURT: If you understand, then you know what
5 my ruling is. We're not going into attorney/client
6 privilege. You have the obligation and you have the
7 burden of proof of showing things that were not done
8 properly.

9 You will not invade the attorney/client
10 privilege in regard to his discussions of reasonable
11 inquiry or reasonable diligence prior to filing a
12 lawsuit. He conferred with his clients. Based on
13 conferring with his clients, this lawsuit was pending.

14 You may deal with his clients in what they
15 advised and this, that and the other and what
16 situations they have factually. You may not invade the
17 attorney/client privilege. The objection is sustained.
18 BY MR. SOTOMAYOR:

19 Q. Sir, how many different clients did you join
20 in this lawsuit -- sir, isn't it true that there were
21 18 -- I'm sorry -- 17 individual plaintiffs all
22 alleging the same condition, repressed memory; isn't
23 that true?

24 A. I don't recall.

1 Q. What would help refresh your recollection,
2 looking at the lawsuit?

3 A. Maybe. If you have a copy of the complaint,
4 I could count.

5 MR. SOTOMAYOR: Judge, with all due respect, I
6 know the complaint -- well --

7 THE COURT: It's your call, sir.

8 MR. SOTOMAYOR: Can I have the court file to help
9 refresh counsel's memory?

10 THE COURT: Do you want to pick up a computer?
11 Everything is electronic court files.

12 MR. SOTOMAYOR: I understand, your Honor.

13 BY MR. SOTOMAYOR:

14 Q. Well, it was in excess of ten, wasn't it?

15 A. I believe so.

16 Q. So was it in excess of 15?

17 A. I don't know. As I sit here today, I don't
18 know.

19 Q. So it was at least ten plaintiffs all
20 alleging the same type of alleged suppression of
21 memory; is that correct?

22 A. Or an inability to comprehend, so it is
23 double. You continue to use the suppress memory
24 syndrome with just that one. There is a coupling of

1 different allegations.

2 Q. Well, with respect, specifically, to Jane Doe
3 IV, you said that she was suffering from a condition
4 that caused her to repress the memories of abuse and/or
5 did not know her injuries were caused by the abuse,
6 correct?

7 A. If that is -- you're not --

8 Q. Sir, is that what you said?

9 A. Let me answer. If that is what the complaint
10 says verbatim, then that is what it says. You're
11 reading something to me that I don't see. I am not
12 denying what the complaint says, if that satisfies you.

13 Q. Then I want you to tell this Court, once you
14 got that information, specifically with respect to Jane
15 Doe IV, what, if anything, did you do to investigate
16 that claim?

17 A. That invades the attorney/client privilege.

18 MR. SOTOMAYOR: Judge, I don't believe it does.
19 Supreme Court Rule 137 for sanctions, the inquiry --

20 THE COURT: If he consulted with anybody other
21 than any of the plaintiffs in regard to same to
22 investigate, he is to disclose what he did outside the
23 discussions with his clients in order to do some
24 investigation.

1 If it is just with his discussions with his
2 clients, then that does invade attorney/client
3 privilege and he will not be required to be specific in
4 regard to same.

5 BY MR. SOTOMAYOR:

6 Q. Do you understand the judge's ruling?

7 A. Yes, I do.

8 Q. Okay. Now, can you answer my question?

9 A. I discussed it with my client and I learned
10 what it was, the diagnosis that she has that causes her
11 to repress memories.

12 Q. And let me ask you this. Did you ever
13 consult or send the client to a medical professional or
14 a psychologist or a psychiatrist to determine whether
15 or not she was truly suffering from the clinical
16 diagnosis of repressed memory syndrome, yes or no?

17 A. What I did with respect to my client or did
18 not do is part of the attorney/client privilege. My
19 direction --

20 THE COURT: I am going to ask you to answer
21 whether you sent any of your clients, prior to filing
22 any of the complaints, did you send any client to any
23 third-party medical professional?

24 THE WITNESS: I did not send anybody to a

1 third-party medical professional.

2 THE COURT: Thank you.

3 BY MR. SOTOMAYOR:

4 Q. When you say, "I," you have knowledge of
5 this -- of this file because you were the attorney
6 responsible for the file with respect to
7 Meyers & Flowers, correct?

8 A. At one point, yes.

9 Q. Okay. And so you know the entire file with
10 respect to what was done or what wasn't done with Jane
11 Doe IV, right?

12 A. No.

13 Q. Oh, you don't?

14 A. I don't.

15 Q. So you can't tell this Court whether you
16 individually or anybody else from the firm conducted an
17 investigation to determine whether or not Jane
18 Doe IV was sent to any medical professional to
19 substantiate her claim of repressed memory syndrome?

20 A. I believe that she did not need to be sent to
21 another medical professional. She already sees medical
22 professionals who diagnosed her with that.

23 Q. Sir, you're not a licensed psychiatrist in
24 the State of Illinois?

1 A. No, I am not.

2 Q. You're not a licensed medical professional,
3 correct?

4 A. I am not.

5 Q. You don't have the ability to make a
6 diagnosis as to whether or not an individual is
7 fabricating, whether or not they are suffering from a
8 medical condition, correct?

9 A. That was compound, but I suppose I don't.

10 Q. So you never did anything else except take
11 the word of your client with respect to a medical
12 condition that she claimed that she was suffering; is
13 that correct?

14 A. I take the word of my client. Absolutely, I
15 take the word of my client.

16 Q. And that is all you did in this case, right?

17 A. I became involved in this case after the
18 complaint was filed.

19 Q. Sir, you proceeded to prosecute this case --

20 MR. BRYANT: If the Court please, I am going to
21 object to this as argumentative.

22 BY MR. SOTOMAYOR:

23 Q. -- up until February 26 of 2018? I'm sorry.

24 THE COURT: Overruled. You may answer.

1 BY MR. SOTOMAYOR:

2 Q. Right?

3 A. I did continue to prosecute the case.

4 Q. And isn't it true that during the prosecution
5 of this case, you learned from your clients that they
6 had indicated they did not have repressed memory; isn't
7 that true?

8 A. No.

9 Q. Isn't it true that Rachel Lees communicated
10 with you directly and said, what is this? I don't have
11 repressed memory. Isn't that true?

12 MR. BRYANT: If the Court please, that is
13 attorney/client privilege and we object.

14 THE COURT: Sustained.

15 BY MR. SOTOMAYOR:

16 Q. Well, sir, did --

17 MR. SOTOMAYOR: And, Judge, just for the record,
18 when there is an indication of fraud, the
19 attorney/client privilege does not cover that and I
20 just add that for the record, Judge.

21 THE COURT: And I don't have any indication of
22 fraud. You're seeking 137 sanctions. I don't believe
23 137 -- I will check it out -- but I don't believe it
24 says anything about, quote, fraud, and of quote, nor

1 have you brought any independent cause of action for
2 any fraudulent activity.

3 You may continue.

4 MR. SOTOMAYOR: Just for the record, the fraud is
5 a fraud upon the Court by filing false pleadings. I
6 believe that is what the caselaw talks about and
7 that --

8 THE COURT: It isn't what 137 says specifically --

9 MR. SOTOMAYOR: Correct.

10 THE COURT: -- so nonetheless --

11 MR. SOTOMAYOR: 137, an attorney cannot use the
12 attorney/client privilege as a shield to bar evidence
13 that would -- that the Court could consider.

14 THE COURT: And you have every one of his clients
15 in here to try to substantiate or unsubstantiate
16 anything that he did in regard to the factual basis of
17 what those clients were experiencing or not
18 experiencing. You have pled it in every one of your
19 pleadings. You have a 237 for every one of those
20 people to be here.

21 You do not need to invade attorney/client
22 privilege with an attorney on the stand when you have
23 brought these people in, when you're asking questions
24 about them factually point by point of what they did or

1 didn't do in regard to their personal life.

2 And as such, no, you don't need to get into
3 attorney/client privilege, and that is not the basis
4 for 137, for the record.

5 Continue.

6 MR. SOTOMAYOR: Thank you.

7 BY MR. SOTOMAYOR:

8 Q. So you had available to you and disclosed in
9 discovery certain texts and communications that was
10 made part of a Recovering Grace chat line; is that
11 correct?

12 A. I received those, yes.

13 Q. Okay. And you went over those, correct?

14 A. Not all of them, most of them, much of it.

15 Q. Did you go over any of the communications by
16 Rachel Lees in those texts/e-mails that were provided
17 for in discovery?

18 A. I believe so, but, your Honor, we're not on
19 Rachel Lees' motion.

20 THE COURT: I understand that.

21 BY MR. SOTOMAYOR:

22 Q. You went through them, correct?

23 A. I can't recall if I went through Rachel's or
24 not. We sort of split it up among different people

1 because there was so much of it.

2 Q. But you were the one responsible for helping
3 assist all these plaintiffs in answering the
4 interrogatories, correct?

5 A. Yes, I am their attorney.

6 Q. And in connection with their attorney, that
7 was the attorney for all of the individuals including
8 Rachel Lees, correct?

9 A. Yes, but you asked me if I read Rachel's
10 Facebook post and I don't recall if I was the person
11 that did that or not.

12 Q. Well, did you have subordinates that worked
13 at the law firm responsible for informing you of
14 anything that would discount the allegations that they
15 had made?

16 A. I think that invades the attorney/client
17 privilege.

18 MR. SOTOMAYOR: Judge, I don't believe it does.

19 THE COURT: I believe it does. Sustained. Move
20 on.

21 BY MR. SOTOMAYOR:

22 Q. So if I understand this correctly, you're
23 saying that you had no independent knowledge of any of
24 these plaintiffs indicating to you that they did not

1 have repressed memory? Is that what you are saying?

2 MR. BRYANT: If the Court please, I am going to
3 object to that as a violation of the attorney/client
4 privilege and asked and answered.

5 THE COURT: Overruled. He can answer yes or no to
6 that.

7 THE WITNESS: Can you repeat the question.

8 BY MR. SOTOMAYOR:

9 Q. Are you saying that you never had any
10 information from any of the plaintiffs that indicated
11 to you that they did not have repressed memory?

12 A. I did not. Yes, that is true.

13 Q. Well, sir, isn't it true that the basis of
14 the voluntary dismissal was that you had been ordered
15 to turn over certain chat room sites that had been
16 established to -- to have been established for the
17 plaintiffs to submit messages about the case?

18 A. No, the reasoning behind the voluntary
19 dismissal was attorney/client privileged.

20 Q. Did you -- you were ordered to comply with a
21 motion for discovery. As a matter of fact, it was
22 compelled upon you to turn over this chat room site on
23 or before February 26th, 2018, correct?

24 A. I know there was an order. I don't recall

1 the date, though.

2 Q. Okay. What was the order for?

3 A. To compel us to turn over anything that
4 existed that we did not already turn over. I think you
5 misunderstand. We turned over thousands and thousands
6 and thousands of pages of Facebook documents. We made
7 assertions to the Court based on what my clients told
8 me, that that was all there was.

9 We were compelled at that point to turn over
10 whatever was not turned over, which there was nothing
11 left, or file affidavits that said we turned over
12 everything. In the meantime, we took a nonsuit.

13 Q. Well, sir, this Court conducted a hearing in
14 connection with the motion to compel and ordered,
15 specifically, that you turn over items relating to this
16 R2D2 chat site; isn't that true?

17 A. I don't know if that is what the order said,
18 but I believe that encompassed it, yeah.

19 Q. Yeah. The R2D2 was a secret chat site that
20 these women had been talking on regarding this specific
21 case, correct?

22 A. Well, it wasn't so secret because we turned
23 over all those materials.

24 Q. The R2D2 was the subject matter of the motion

1 to compel, correct?

2 A. It was one of them, yeah. There were several
3 websites.

4 Q. So there were more websites that hadn't been
5 turned over and that was what was required to be done
6 by you, your firm, on February 26th, 2018?

7 A. That's not true.

8 Q. What is not true about it?

9 A. What is not true is that there was nothing
10 that was not turned over. We turned over everything.

11 Q. No, what I am saying is the order required
12 you to do that, correct?

13 A. The order required us to turn over either
14 what was not turned over, or get to the defendant
15 something saying we have turned over everything.

16 Q. And you never filed any affidavit saying that
17 you turned over everything because there was still
18 outstanding things you hadn't turned over?

19 A. No, that is not true. I hadn't filed
20 anything because we nonsuited the case. The case no
21 longer existed.

22 MR. SOTOMAYOR: I have no further questions of
23 this witness.

24 THE COURT: Thank you.

1 MR. SOTOMAYOR: How much time do I have, Judge?

2 THE COURT: You may step down.

3 You have seven minutes left.

4 MR. SOTOMAYOR: Thank you. Judge, I am going to
5 call Jane Doe IV.

6 THE COURT: Okay. Please come forward. If you
7 would stand and raise your right hand to be sworn.

8 (Witness sworn.)

9 THE COURT: Please understand that you will be
10 designated as Jane Doe IV. Make any references to
11 yourself as Jane Doe IV. There will be no first name,
12 last name, or anything else utilized either in the
13 questioning or the answers.

14 THE WITNESS: Thank you.

15 THE COURT: Thank you. You may inquire.

16 JANE DOE IV,

17 called as a witness, having been first duly sworn, was
18 examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. SOTOMAYOR:

21 Q. Ma'am, did you, in connection with a lawsuit
22 against Mr. William Gothard, indicate that you had
23 repressed memory?

24 A. That is part of it, yes, sir.

1 Q. No, did you indicate that?

2 A. I'm sorry?

3 Q. Did you indicate that?

4 A. Indicate that I had repressed memory?

5 Q. Yes.

6 A. That is part of it, yes, sir.

7 Q. Well, I am not saying that is part of it. I
8 understand that is part of it. I am asking if you
9 specifically indicated you had repressed memory?

10 A. Yes, sir, that is correct, I do.

11 MR. MINCIELI: Your Honor, this is getting
12 argumentative.

13 THE COURT: She answered the question, yes, she
14 did indicate that she had repressed memory.

15 Next question.

16 BY MR. SOTOMAYOR:

17 Q. Who came up with the term "repressed memory"?

18 A. My therapist, Dr. Jerry Langford and I went
19 through medical evaluation under a psychologist. I did
20 a psych eval under Karen Valentine, MD, where I was
21 diagnosed.

22 BY MR. SOTOMAYOR:

23 Q. Now, let me ask you this.

24 A. Yes, sir.

1 Q. Dr. Karen Valentine, MD, when was this
2 evaluation done?

3 A. I don't know. I started counseling in 2014.
4 It was done sometime after that, by the recommendation
5 of my medical doctor, Amy Brittain, MD, who also
6 thought I suffered from complex PTSD.

7 MR. SOTOMAYOR: Okay. Judge, I am going to object
8 to her --

9 THE COURT: She answered the question. She is
10 doing a nice job to save you some time.

11 THE WITNESS: I am helping you out, sir. Be
12 respectful.

13 THE COURT: I think your next question is
14 appropriate.

15 BY MR. SOTOMAYOR:

16 Q. Okay. Well, see if you can help me out some
17 more.

18 A. I would be happy to.

19 Q. Did you ever communicate to Mr. -- to any of
20 your lawyers that you did not have repressed syndrome?

21 MR. MINCIELI: Objection. Attorney/client
22 privilege.

23 THE COURT: Sustained. Attorney/client privilege.
24

1 BY MR. SOTOMAYOR:

2 Q. Let me ask you this. You recall specifically
3 joining a lawsuit, right?

4 A. Yes, sir.

5 Q. That was -- did you have discussions on
6 July 25th, 2015, regarding joining the lawsuit?

7 A. I don't recall any dates, sir.

8 Q. Well, let me ask you this. Do you recall
9 having a conversation on a chat site called Recovering
10 Grace?

11 A. I did not get on Recovering Grace, sir. I
12 have never communicated by Recovering Grace. I am not
13 part of Recovering Grace. I never recorded any stories
14 there.

15 Q. Well, let me ask you this. On March 1st,
16 2017, did you recall saying the following: I just
17 drank two glasses of wine and watched a documentary on
18 IPLB [sic]. I thought it was basic and good. Just a
19 reminder of what we -- why we are exposing them because
20 of their false teachings, hurt, pain that will cause to
21 others.

22 Do you recall that?

23 MR. MINCIELI: Objection.

24 THE WITNESS: And that was not --

1 THE COURT: Hold on, hold on, hold on. When there
2 is an objection, you have to stop.

3 THE WITNESS: Okay. Sorry.

4 THE COURT: What is the objection?

5 MR. MINCIELI: Objection to relevance. Your Honor
6 ordered directly that this hearing should maintain
7 solely to the subject matter of the motion. I don't
8 see where this comes in.

9 THE COURT: Overruled. You may answer.

10 BY THE WITNESS:

11 A. That is not part of Recovering Grace, sir.

12 BY MR. SOTOMAYOR:

13 Q. What is it part of?

14 A. It is part of a private group of girls that
15 had been abused -- men and women that had been part of
16 that ATI family. It's not part of Recovering Grace,
17 not connected with it.

18 Q. But you indicated that --

19 A. I was indicating that as a Jane Doe, none of
20 them have any idea that I am in a lawsuit. Excuse me,
21 sir, I am going to answer.

22 None of them have any idea that I'm in the
23 lawsuit. And I indicated that as they were saying the
24 documentary was exposing Bill Gothard and his false

1 teachings. Nothing to do with the lawsuit, sir.

2 Q. So tell us some more about this --

3 A. No, you ask me the questions and I will
4 answer. Thank you.

5 Q. I am starting to ask that question.

6 THE COURT: Let him finish the question he is
7 asking and then we'll deal with whether it is in proper
8 form or not, ma'am.

9 THE WITNESS: Okay.

10 BY MR. SOTOMAYOR:

11 Q. Tell me some more about this chat site that
12 you said wasn't Recovering Grace, but was a chat site
13 that you were expressing these feelings on.

14 A. It is a private chat site for people that had
15 been affected by IBLP.

16 Q. What was it called?

17 A. I don't know what the name of it is called.
18 There is a couple of them.

19 Q. Tell me the couple that you are aware of.

20 A. Is this -- is this relevant?

21 Q. Your lawyer can make objections.

22 THE COURT: They will make objections. You can
23 answer the questions.

24 THE WITNESS: What the names of them are?

1 BY MR. SOTOMAYOR:

2 Q. That is the question.

3 A. ATI Student Recovery, ATI Student Survivors.

4 Q. And was that part of a chat site that was
5 instituted by you, your attorneys, who was that set up
6 by?

7 A. I have no clue who it was set up by, sir.

8 Q. But you participated in discussing this case?

9 A. Never.

10 Q. Well, did you discuss it with any of the
11 other plaintiffs?

12 A. Did I discuss -- the other plaintiffs know
13 that I am Jane Doe IV, yes, sir.

14 Q. Okay. And with respect to your motive in
15 bringing this lawsuit, isn't it true that you indicated
16 it was based upon Gothard's false teachings?

17 A. Incorrect, that is not.

18 Q. What is incorrect about that?

19 A. I wasn't talking the lawsuit in that
20 situation. None of them know I am in the lawsuit. I
21 don't want people to know. I am Jane Doe IV.

22 Q. I understand, but did you make a
23 representation that the lawsuit was based on Gothard's
24 false teachings?

1 A. Does that statement say that the lawsuit is
2 based upon that?

3 Q. You --

4 A. Does that statement contain lawsuit based
5 upon that?

6 Q. You --

7 A. Does that statement contain lawsuit based
8 upon that?

9 Q. Ma'am --

10 THE COURT: Read the statement again, counsel.
11 Read the statement again.

12 BY MR. SOTOMAYOR:

13 Q. I thought it was basic and good, just a good
14 reminder of what and why we are exposing them because
15 of the false teachings, hurt and pain that were caused
16 to others.

17 A. There is only --

18 THE COURT: Where is there any reference of this
19 lawsuit in what you have just read, sir?

20 MR. SOTOMAYOR: Well --

21 THE COURT: You can expose people any number of
22 ways. By other chats, by other --

23 THE WITNESS: That was referring to a documentary.

24 THE COURT: Ma'am, ma'am --

1 THE WITNESS: Sorry.

2 THE COURT: Let me roll with it, okay? I can take
3 care of myself on certain things. I will look to you
4 when I need some more help.

5 So it doesn't reference the specific lawsuit
6 in regard. There are lots of other things that people
7 can do in the world besides lawsuits. Next question.
8 You have one minute left.

9 BY MR. SOTOMAYOR:

10 Q. Did you allege sexual abuse by Mr. Gothard?

11 A. Yes, sir, I did, sexual harassment.

12 Q. Well, sexual abuse. You know the difference
13 between sexual abuse and sexual harassment?

14 A. Yes, I am well aware. I am a rape victim. I
15 am well aware of what those two things are. Thank you.

16 Q. The conduct that you allege Mr. Gothard had
17 done that constituted this sexual abuse is that he gave
18 you hugs, correct?

19 A. No, sir, that is not it completely.

20 Q. Did you ever say Mr. Gothard gave me two
21 unwanted full-on front hugs?

22 A. That's correct. Very tight frontal hugs.

23 Q. And with respect to any sexual acts in
24 connection with the interrogatories, you indicated that

1 he had done nothing of sexual contact, correct?

2 A. Incorrect.

3 MR. MINCIELI: Objection to form.

4 BY MR. SOTOMAYOR:

5 Q. What is incorrect about that?

6 A. He took his foot and ran it up my legs and
7 then underneath things and held my hands. That is
8 considered sexual harassment and sexual abuse because
9 it is unwanted and unconsented.

10 THE COURT: Thank you very much.

11 Response.

12 MR. MINCIELI: Yeah, I have just a couple of
13 questions.

14 THE COURT: Okay.

15 MR. MINCIELI: Thank you.

16 THE COURT: You have 15 minutes.

17 CROSS EXAMINATION

18 BY MR. MINCIELI:

19 Q. Jane Doe IV.

20 A. Yes.

21 Q. Calm down.

22 A. All right. Thank you.

23 Q. You talk very fast.

24 A. Yes, I do.

1 THE COURT: Judicial notice is taken.

2 MR. MINCIELI: Thank you.

3 BY MR. MINCIELI:

4 Q. I was asked on the stand a lot of questions
5 about whether or not you have a condition that
6 represses memories.

7 A. Yes, sir, I do.

8 Q. And everybody in the courtroom just heard how
9 fast you talk.

10 A. Yes, sir.

11 Q. Is there a condition that you have that
12 causes that reaction in you?

13 A. Yes, sir.

14 MR. SOTOMAYOR: I object to her -- objection was
15 made before when I asked a question as to a medical
16 condition without the proper foundation.

17 THE WITNESS: I have a medical condition with a
18 proper foundation, thank you.

19 MR. SOTOMAYOR: Sorry.

20 THE COURT: All right. The objection is
21 sustained. It calls for a medical opinion on someone
22 not licensed to provide a medical opinion.

23 MR. MINCIELI: Thank you.

24 THE COURT: You can say one of the end results of

1 her concerns is talking that way, if you want, but not
2 that she have a, quote, medical condition, end of
3 quote.

4 MR. MINCIELI: That's fine.

5 BY MR. MINCIELI:

6 Q. Why is it that you talk so fast, that you
7 understand?

8 A. Well, according to my therapist --

9 MR. SOTOMAYOR: Objection.

10 THE COURT: Sustained as to according to the
11 therapist.

12 BY MR. MINCIELI:

13 Q. What do you understand it is that causes you
14 to talk so fast?

15 MR. SOTOMAYOR: I am going to object.

16 THE COURT: Overruled. You may answer.

17 BY THE WITNESS:

18 A. I have post-traumatic stress syndrome, sir.

19 MR. SOTOMAYOR: Objection. That is a diagnosis.

20 THE WITNESS: I have the diagnosis, sir.

21 THE COURT: Ms. Doe, please. Let's keep it all --
22 that is why we're doing this today and we're doing it
23 in the decorum of the courtroom.

24 THE WITNESS: Thank you. I am sorry, sir. I

1 apologize. I was wrong.

2 THE COURT: You have to respect this Court like I
3 ask everybody else in this courtroom to respect the
4 Court.

5 THE WITNESS: Yes, sir.

6 MR. SOTOMAYOR: Judge, just for purposes of the
7 record, I wanted to indicate that the witness took her
8 both fists, slammed them down on the podium or the
9 desk.

10 THE COURT: The Court notes that the witness is
11 upset. I get it. Now, in regard to having, quote,
12 PTSD or not PTSD, you made inquiries of the previous
13 Jane Doe III in regard to that and testimony was
14 allowed in regard to that, so I am overruling it.

15 She can say that she feels she is suffering
16 from PTSD.

17 MR. SOTOMAYOR: Judge, just for the record, you
18 said each one of these --

19 THE COURT: You don't need to -- you keep saying
20 just for the record, because everything you say is for
21 the record. I get it. And everything that I say is
22 just for the record. And everything that the witnesses
23 say is just for the record. And that is why we have a
24 record.

1 Go ahead, sir. What did you want to say?

2 MR. SOTOMAYOR: Okay. Without spinning that
3 record, I believe the objection is proper. Just
4 because other witnesses may have testified to things
5 that weren't objected to doesn't open the door with
6 respect to this witness. This witness I am
7 specifically --

8 THE COURT: But you have opened the door in regard
9 to all the things that these people have stated in
10 their discovery responses and their requests, in their
11 pleadings, in their e-mails and the like.

12 So I think you have opened the door to that
13 type of thing. Not what a doctor said to them and not
14 something else, but in regard to whether they are
15 suffering from something, whether they feel they are
16 suffering from something.

17 I think you have opened the door by all the
18 pleadings that were filed by Mr. Gaffney and the
19 Pages 4 through 8 of almost every one that goes through
20 by point by point by point of what the, quote, alleged
21 false pleadings, end of quote, are. So I think it has
22 opened the door to that extent. The objection is
23 overruled.

24 MR. MINCIELI: Your Honor, I am sorry for

1 interrupting. If I could make a point, too. Part of
2 the motion is that they are claiming that the clients
3 do not have bona fide psychological or psychiatric
4 conditions. I believe it is proper that --

5 THE WITNESS: Please.

6 MR. MINCIELI: -- if the plaintiff knows and has
7 been told by a doctor that they have a certain
8 diagnosis that they can say that on the stand.

9 THE COURT: And they have the burden of proving
10 that they don't do it. And to date, I haven't seen any
11 notice of any doctors, psychological professional, or
12 anybody else that has evaluated the medical records or
13 that has treated any of these people that they are
14 intending to call.

15 So they are going to fail on their burden of
16 proof in that regard if they say they are not suffering
17 from these things, unless they have some medical
18 testimony to the contrary.

19 Your next question, please.

20 MR. SOTOMAYOR: Judge, at this point, based upon
21 that statement, which I think is improper, you have
22 already made a decision in this case. I ask that you
23 recuse yourself, for the record.

24 THE COURT: You have got to be out of your mind,

1 counsel.

2 MR. SOTOMAYOR: No, Judge --

3 THE COURT: I have been involved in this case --

4 MR. SOTOMAYOR: No, Judge.

5 THE COURT: -- from the very start, number one.

6 These pleadings, these pleadings, you have
7 the burden of proving what you allege in these
8 pleadings. You have that burden. And if you can do so
9 without medical professionals, you may be able to do
10 so, and you have every right to do so.

11 MR. SOTOMAYOR: I understand what you're saying
12 now, Judge, but --

13 THE COURT: All I am saying is when we're dealing
14 with what, quote, unquote, doctors are saying or not
15 saying, I am not aware of any testimony of any doctors
16 that are going to be presented to me that are stating
17 that these various individuals are not suffering from
18 the maladies that they are claiming.

19 You have lots of other allegations in here
20 that Mr. Gaffney prepared in regard to same, but it
21 doesn't talk about saying that they don't suffer from
22 these injuries or from these symptoms from a medical
23 point of view, and you don't have any doctors that are
24 going to be testifying is my understanding, so --

1 MR. SOTOMAYOR: Well, Judge, the problem is that
2 this is not just limited to what these people claim now
3 in court that they have, and I'm not going to be
4 back-doored by counsel by saying, well, she can testify
5 to a medical condition.

6 The issue becomes in this case, on a 137, it
7 goes to the law firm for false pleadings. And I have
8 done this before and I know the case law on it, I am
9 allowed to get into that. As a matter of fact, it's a
10 conflict of interest, as I indicated on my motion in
11 response to the emergency motion, for counsel to be
12 representing these individuals when the bottom line is
13 that these are allegations that go against the law
14 firm.

15 And while the Court has prohibited me from
16 inquiring to what I believe I am allowed to do with
17 respect to these actions that counsel took based upon
18 the representations from these clients, and on the last
19 client solely he said he didn't do anything, but take
20 the client's word.

21 And the record is clear as to that. So when
22 the Court says you're going to lose, and I haven't even
23 presented my case, I think that that indicates the
24 Court is already biased towards my client's position.

1 THE COURT: I am going to say I am going -- I said
2 you're going to lose? You better be very careful about
3 what you said that I said, sir, because I will play it
4 back right now and we will sit and listen. And if I
5 didn't say you're going to lose, then maybe we will
6 sanction you, how about that? Do you want to go that
7 way, too?

8 MR. SOTOMAYOR: Judge --

9 THE COURT: I have read eight sets of pleadings.
10 I have read eight sets of pleadings. You have four to
11 six pages in every one of these pleadings as to the
12 allegations that you claim were done in violation of
13 137.

14 You can prove those in any number of ways, by
15 the individuals, by Mr. Gothard, by other witnesses, by
16 other medical professionals. I don't know what you're
17 going to do. I am relying on these pleadings and so
18 are you, because you didn't draft these pleadings,
19 Mr. Gaffney drafted these pleadings.

20 But what I do know is the hearing is limited
21 to the content of the pleadings and what is alleged
22 within these pleadings. And there is no allegation in
23 these pleadings that people were not suffering the
24 medical condition that they alleged and there is no

1 medical basis in the pleadings to support them.

2 There may be any number of bases that can
3 provide you relief. I am merely saying I am not aware
4 of any doctors coming in to testify as to what
5 conditions did or didn't exist, nor am I aware of
6 plaintiff bringing any doctors in in response to your
7 motion to substantiate that they were suffering from
8 something or not suffering from something. So that is
9 the purpose of that.

10 You may continue your inquiry.

11 MR. MINCIELI: Thank you, your Honor. I will be
12 brief.

13 BY MR. MINCIELI:

14 Q. Is it your understanding that you have an
15 emotional condition?

16 A. Yes.

17 MR. SOTOMAYOR: Objection. Form of the question.

18 THE WITNESS: Yes, sir, as diagnosed --

19 THE COURT: Overruled.

20 THE WITNESS: -- by a clinical psychologist.

21 BY MR. MINCIELI:

22 Q. Let me finish my question.

23 You have already testified that you believe
24 you have PTSD.

1 MR. SOTOMAYOR: Objection.

2 BY MR. MINCIELI:

3 Q. Are there any other conditions that you
4 believe you have?

5 MR. SOTOMAYOR: Objection to the form of the
6 question.

7 THE WITNESS: I disassociate --

8 THE COURT: Ma'am, ma'am, when there is an
9 objection --

10 THE WITNESS: I am so sorry, sir.

11 THE COURT: I know, but you have to stop when
12 there is an objection.

13 She may testify as to what her understanding
14 is. She may not provide a medical basis for same or
15 the like.

16 THE WITNESS: If I have medical basis, may I do
17 that?

18 THE COURT: You may not because you're not a
19 licensed medical professional, ma'am.

20 THE WITNESS: I have a letter from my doctor who
21 would be --

22 THE COURT: That's hearsay, not admissible.

23 BY MR. MINCIELI:

24 Q. I will reask the question. You have already

1 testified that it is your understanding you suffer from
2 PTSD --

3 THE COURT: And here is the thing, let's make
4 this -- rethinking this. You're putting labels on
5 various things. And labels are diagnoses that come
6 from doctors. Labels aren't going to work because that
7 does require her to state a medical opinion as to
8 what -- that she has, quote, PTSD, end of quote.

9 If you want to talk about what symptoms she
10 is suffering from, that is one thing, but to name it, I
11 do agree that that does call for a medical opinion,
12 that is conclusory, and any reference to same shall be
13 stricken from the record in regard to the testimony of
14 Jane Doe IV.

15 MR. MINCIELI: Thank you, your Honor. I
16 appreciate that. Thank you. And I will go that way.

17 BY MR. MINCIELI:

18 Q. You have been counseling with a counselor, a
19 licensed clinician, for some time now?

20 A. Two different ones, yes, sir.

21 Q. And throughout that counseling, have you
22 learned that there is -- one of the symptoms that you
23 have of whatever conditions you might have is that you
24 repress memories?

1 MR. SOTOMAYOR: Objection.

2 BY THE WITNESS:

3 A. Yes.

4 THE COURT: Sustained. And hearsay.

5 BY MR. MINCIELI:

6 Q. What are the symptoms of your medical
7 condition, mental health conditions?

8 A. My symptoms is by a rape, I have blocked
9 memories from my mind from 11 to 22.

10 MR. SOTOMAYOR: Objection.

11 THE COURT: What is the basis of the objection,
12 counsel?

13 MR. SOTOMAYOR: It is conclusionary without a
14 proper foundation to indicate what she is testifying
15 to.

16 THE COURT: She is testifying as to her factual
17 circumstances of what is happening within her,
18 mentally, emotionally, or the like. It is not -- it is
19 not stating a medical diagnosis, nor does it require
20 medical testimony for her to relate what she is doing
21 or not doing or what is happening to her. Overruled.

22 BY MR. MINCIELI:

23 Q. You may answer.

24 A. I suffered from being violently attacked and

1 raped at 11 years old and blocked the memory from my
2 mind until I was 22 years old. I met -- the part of my
3 coping mechanism is the fear of admitting that somebody
4 is traumatic and trying to abuse me. When I suffered
5 sexual harassment abuse from Bill Gothard, I blamed
6 myself as a form of coping mechanism.

7 MR. SOTOMAYOR: Objection.

8 THE COURT: Basis?

9 MR. SOTOMAYOR: The volunteered portion -- to the
10 volunteered portion. He was asking about her symptom
11 and now she is going into --

12 THE COURT: Sustained. The latter portion shall
13 be stricken. Your next question.

14 MR. MINCIELI: May I approach, your Honor?

15 THE COURT: You may.

16 BY MR. MINCIELI:

17 Q. I am handing you what has been marked as
18 Exhibit 4. Can you read the title of that.

19 A. I'm sorry, I am confused. Which one?

20 Q. The title.

21 A. Jane Doe Supplements Answers to the Institute
22 in Basic Life Principles' First Set of Interrogatories.

23 Q. Is that Jane Doe IV?

24 A. Yes, Jane Doe IV.

1 Q. That would be you, right?

2 A. Uh-huh.

3 Q. And if we go to the -- going from the back,
4 second to last page, that is your signature?

5 A. Let me look, sir, to make sure. Yes, that is
6 me.

7 Q. If we go to Page 19 at the bottom, can you
8 identify Jerry Langford, LPCS, and Dr. Karen Valentine,
9 MD?

10 A. Yes, sir.

11 Q. Life care counseling and coaching?

12 A. Yes, sir.

13 Q. Is that one -- is that your counselor and
14 physician?

15 A. Those were my former counselor and -- she was
16 a psychologist. She is not my actual physician that I
17 was seeing.

18 Q. The next page, we have Dr. Amy Brittain, MD?

19 A. That is my doctor, women's doctor.

20 Q. Okay. If we go to the answer to No. 5, yeah,
21 answer to Interrogatory No. 5, which is also on Page 5,
22 does that answer describe the actions taken by Bill
23 Gothard against you that you believe to be sexual
24 harassment and abuse?

1 A. Yes, sir, it is.

2 Q. If we go to the answer to No. 17 --

3 A. Yes, sir.

4 Q. -- does that talk about when you first
5 started recalling the events with Bill Gothard and
6 recognized that they -- the impact they had upon you?

7 A. I am trying to find exactly where that is.

8 Q. I'm sorry, Page 11, the answer to No. 15.

9 A. I just want to make sure, 11, answer -- okay.
10 Yes.

11 Q. Now, if you turn to Page 12 --

12 A. Yes, sir.

13 Q. -- answer to No. 17?

14 A. Yes, sir.

15 Q. Is that where we explained in our answers to
16 interrogatories that you were diagnosed and it was
17 explained to you how your mind uses dissociation --

18 A. Yes.

19 Q. -- when faced with trauma as a coping
20 mechanism?

21 A. Yes, sir.

22 Q. What is your understanding of what that
23 dissociation is?

24 MR. SOTOMAYOR: Objection.

1 THE COURT: Sustained. Thank you very much,
2 counsel.

3 Your five minutes, Mr. Sotomayor.

4 RE CROSS EXAMINATION

5 BY MR. SOTOMAYOR:

6 Q. So you were suffering from these mental
7 conditions prior to the filing of the lawsuit; is that
8 correct?

9 A. Yes, sir.

10 Q. And the conditions you were having treatment
11 for; is that correct?

12 A. I'm sorry?

13 Q. Your condition that you referred to with
14 respect to the doctors you testified to all related to
15 this rape that you were --

16 A. No, sir, it was not all related to the rape.

17 Q. Prior to the lawsuit, tell me what it was
18 related to?

19 MR. MINCIELI: Objection. He's asking for a
20 medical diagnosis.

21 MR. SOTOMAYOR: I am asking why she was seeing
22 these individuals, not for a diagnosis.

23 MR. MINCIELI: That invades the
24 doctor-physician/patient privilege.

1 THE COURT: Why she was going to see these
2 doctors, if there was any reason other than the one
3 aspect of the rape at 11 years old, she can state what
4 those other reasons might have been.

5 BY THE WITNESS:

6 A. The reason was -- is from the counseling Bill
7 Gothard gave me was the reason why I started
8 counseling.

9 BY MR. SOTOMAYOR:

10 Q. Well, ma'am, I asked you before the -- before
11 the subject matter of the lawsuit against Mr. Gothard,
12 you were seeing these doctors, correct?

13 A. Correct.

14 Q. And they were for what conditions other than
15 the rape that you talked about?

16 A. From the counsel that Bill Gothard gave me
17 regarding the rape that I experienced.

18 Q. But that was -- my question to you is, what
19 were you seeing them far apart from that? You said a
20 rape?

21 A. I saw them under no other conditions other
22 than my marriage, Bill Gothard, and the rape. I never
23 discussed or went to counseling for any other reasons.

24 Q. And did you provide these documents to your

1 lawyers with respect to these conditions?

2 A. Yes, sir, I did.

3 Q. When was that?

4 A. Jerry Langford and Amy Brittain sent in a
5 letter to my lawyers stating how Bill Gothard had
6 damaged me.

7 Q. No, I am asking you when in terms of
8 timeframe that --

9 A. I can't recall that, sir.

10 Q. Well, was that after or before the lawsuit?

11 A. If it was -- if I was sending something to my
12 lawyers, it would have been after the lawsuit, correct?

13 Q. I don't know. You tell me.

14 THE COURT: You could have communicated with the
15 lawyers before the lawsuit, too, ma'am.

16 BY THE WITNESS:

17 A. I don't recall, sir. I'm sorry, I can't
18 answer that.

19 MR. SOTOMAYOR: Judge, I have no further
20 questions.

21 THE COURT: Thank you.

22 MR. SOTOMAYOR: Simply with respect to the --

23 THE COURT: You may step down.

24 THE WITNESS: Thank you very much. I'm sorry,

1 sir, about that.

2 THE COURT: Go ahead, sir.

3 MR. SOTOMAYOR: With respect to the 219 and the
4 137 motions, there is incorporated within the file an
5 affidavit from Mr. Gaffney with respect to time spent,
6 the hours that were spent. I want the Court to take
7 judicial notice of the Court's own orders and the
8 history of the case with respect to the motion to
9 compel, and what this Court ordered to be produced on
10 the 26th of February, 2018.

11 And with that, for purposes of No. 4, I am
12 going to rest.

13 THE COURT: Thank you.

14 MR. DAWIDIUK: Judge, I just want to be clear
15 because we're sitting here at the table, the IBLP is
16 not moving for sanctions against Jane Doe III or Jane
17 Doe IV, or any of the other --

18 THE COURT: Or any of the other people.

19 MR. DAWIDIUK: -- or any of the other people. I
20 just want that to be clear.

21 THE COURT: I should make -- for the record, I
22 attempted to contact everybody and I said if you
23 would -- I confirmed, had my secretary confirm that you
24 have not filed any motions for sanctions and that you

1 had only filed a responsive pleading in regard to the
2 protective order.

3 And I told your attorney the other day when
4 he was in here, your associate, if you want to leave
5 after the protective order, you're welcome to leave
6 after the protective order hearing, but that is
7 entirely your choice, obviously, but that is why I am
8 not looking at you for part of this questioning and the
9 like because you haven't filed any pleading for or
10 against either way.

11 MR. DAWIDIUK: Yeah, I just want -- to the extent
12 that we're making a transcript here.

13 THE COURT: Yeah.

14 MR. DAWIDIUK: Thank you.

15 THE COURT: Thanks. Okay. Jane Doe V. Who do
16 you wish to call?

17 MR. SOTOMAYOR: I am going to call -- first, I am
18 going to call Mr. Mincieli again.

19 THE COURT: Mr. Mincieli, come on back up. You
20 understand you're under the same oath that you took
21 previously this evening or this morning?

22 THE WITNESS: I do, your Honor.

23 THE COURT: And your name, your spelling hasn't
24 changed.

1 THE WITNESS: It has not.

2 MR. BRYANT: If the Court please, neither has my
3 objection, your Honor. Could I just object to him
4 being called at all.

5 THE COURT: You can, but the objection is going to
6 be overruled --

7 MR. BRYANT: All right.

8 THE COURT: -- because responsive allegations
9 state that they engaged in extensive due diligence by
10 vetting facts and circumstances, and they conducted a
11 reasonable inquiry. And part of the burden of 137 is
12 for them to show that they did do that one way or the
13 other.

14 So I don't know how they would do it without
15 them being called to testify without invading the
16 attorney/client privilege aspects of things. So the
17 objection is overruled. It is noted to be continuing
18 through the course of all of the motions that we're
19 dealing with today.

20 You may continue, sir.

21 MR. SOTOMAYOR: Thank you.

22

23

24

1 JONATHAN MINCIELI,
2 called as a witness, having been first duly sworn, was
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. SOTOMAYOR:

6 Q. Counsel, I am going to direct your attention
7 to the lawsuit in the Third Amended Complaint which was
8 filed by your law firm and which I believe you
9 participated in.

10 And with respect to Jane Doe V, it is alleged
11 that she was suffering from a condition that caused her
12 to repress the memories of abuse and/or did not know
13 her injuries were caused by the abuse.

14 Tell the Court how you came up with that
15 allegation.

16 A. I was not the person that came up with that
17 allegation. I did not draft that.

18 Q. Who was the person that came up with that
19 allegation?

20 A. I don't know which person it was in my office
21 that drafted that. There were several involved.

22 Q. Well, you were responsible for this lawsuit,
23 prosecuting this lawsuit, correct?

24 A. From the time that I became involved after

1 that was filed.

2 Q. As an attorney, you are required to examine
3 the file, correct?

4 A. Required by what?

5 Q. Required by the Code of Civil Procedure --
6 the Code of Professional Responsibility with respect to
7 statements that you are presenting to the Court as
8 being true, right?

9 A. I don't know if it is my role as an attorney
10 once I become involved in a file to go back and review
11 everything that has been done with respect to a view
12 towards the Rules of Professional Responsibility. I
13 don't know that.

14 Q. Oh, so your understanding is that the Rules
15 of Professional Responsibility do not require you to
16 examine pleadings to determine the veracity of those
17 pleadings, is that what you're saying?

18 A. After they have already been filed, I don't
19 know if that is the case or not.

20 Q. Okay. So then if you don't know that is the
21 case, can you tell this Court if you ever, during the
22 course of your representation in prosecuting this
23 lawsuit, ever conducted an investigation after you got
24 this lawsuit to determine the veracity of the

1 statements contained within your pleadings?

2 A. If you're asking me if I know that
3 Jane Doe V has a mental condition, or I should say an
4 emotional condition that causes her to repress
5 memories, yes, I do know that, and she does.

6 Q. How do you know that?

7 A. Because I have spoken to her about it.

8 Q. So is that the only thing that you have done
9 in connection with conducting an investigation to
10 determine whether or not she has a repressed memory?

11 A. Me personally, yes.

12 Q. Okay. And since you are responsible for the
13 actions of your -- the other lawyers in the office,
14 tell the Court what, if any, investigation you
15 conducted with respect to interviewing -- oh, first of
16 all, how many other lawyers are in the law firm?

17 A. Roughly another 12, I think.

18 Q. Okay. And tell the Court what, if anything,
19 you did to converse with any of those other 12 lawyers
20 to determine whether or not Jane Doe V possessed
21 suppressed memory?

22 A. That would be privileged.

23 Q. Pardon?

24 A. That would be privileged.

1 Q. No, I am asking you, did you ever communicate
2 with any of the other 12 lawyers as to whether or not
3 Jane Doe V possessed repressed memory?

4 A. Yes.

5 Q. Okay. Who?

6 A. Probably my partner, Frank Cesarone.

7 THE COURT: Spell the last name, please.

8 THE WITNESS: C-e-s-a-r-o-n-e.

9 BY MR. SOTOMAYOR:

10 Q. And how long did that conversation last?

11 A. I don't recall.

12 Q. Was it just one conversation?

13 A. I don't recall.

14 Q. You don't recall?

15 A. No.

16 Q. Well, let me see if you recall this. Did you
17 ever submit or ask Plaintiff No. 5, Jane Doe, to
18 conduct or present you with medical evidence to support
19 this allegation, yes or no?

20 A. Yeah, I discussed her medical with her.

21 Q. No, that is not the question I am asking you.
22 Did you ever direct Jane Doe V to present you
23 documentation to substantiate her claim to you that she
24 was suffering from memory suppression?

1 A. That would be privileged.

2 MR. BRYANT: Yes.

3 MR. SOTOMAYOR: Judge, I don't think that is
4 privileged. And for the record, I am simply asking
5 him, because an element of this 137 --

6 THE COURT: I think you are able to answer whether
7 you received any physical documents from the clients
8 that substantiated things at the time that you were
9 involved in the initial pleadings of this.

10 THE WITNESS: I did not receive medical records
11 from them.

12 BY MR. SOTOMAYOR:

13 Q. Did you ever request Jane Doe V to present
14 you with documentation to support her claim?

15 A. Yes.

16 Q. When?

17 A. I don't recall. It was during the discovery
18 process probably.

19 Q. Oh, so if it is during the discovery process,
20 that request did not occur until after you filed the
21 lawsuit, correct?

22 A. Yeah, when I became involved --

23 Q. Okay. So then --

24 A. -- in answer to discovery.

1 Q. So then you filed the lawsuit simply on the
2 representation by Jane Doe telling you that she had
3 repressed memory, right?

4 A. I did not file the lawsuit, so I don't know
5 what the representation was.

6 Q. You prosecuted the lawsuit?

7 A. Yes, but because I prosecuted the lawsuit
8 doesn't mean I can go back in time.

9 Q. I am not asking you to go back in time.
10 When --

11 A. I hope not.

12 Q. -- during your prosecution of the lawsuit,
13 did you make this alleged request to Jane Doe V for
14 medical records?

15 A. I don't recall when it was.

16 Q. Well, was it the first year of the lawsuit,
17 was it the second year of the lawsuit, was it moments
18 before you voluntarily dismissed the lawsuit? When?

19 A. It was very early on when I became involved.
20 I don't recall what year that was. The lawsuit has
21 been going on for some time.

22 Q. Tell the Court what reasonable efforts,
23 inquiry you made to substantiate the veracity of the
24 statements that you filed January of 2016?

1 A. I didn't file anything in January of 2016.

2 Q. Were you working for the law firm in January
3 of '16?

4 A. Yes, I was not working on this case.

5 Q. Okay. When you became -- when did you become
6 involved in this case?

7 A. I think it was sometime in 2017.

8 Q. So in 2017, when you got involved in this
9 case, you asked the client for the production of
10 medical records; is that correct?

11 A. Yeah, we might have had some already, I don't
12 recall. I asked the client to help me respond to the
13 written discovery requests, which we did.

14 Q. And in connection with the discovery request
15 in this case, did you ever turn over to Mr. Gaffney or
16 myself any records from a medical doctor, a
17 psychiatrist, a psychologist that established that this
18 client had repressed memory syndrome?

19 A. I don't recall if we turned over the medical,
20 but we turned over the names of the treaters and so
21 forth --

22 Q. Sir --

23 A. -- which was asked for in discovery.

24 Q. -- if you had the names of the treaters --

1 you said you had the names of the treaters? What, if
2 any, action did you do to obtain documents from those
3 treaters to substantiate the allegation that
4 Jane Doe V had made?

5 A. I think you're asking me for privileged
6 information.

7 THE COURT: I don't believe so. You can answer.
8 BY THE WITNESS:

9 A. I honestly don't recall.

10 BY MR. SOTOMAYOR:

11 Q. You knew that this 137 motion was going to
12 subject you to questions regarding your reasonable
13 inquiry, correct?

14 A. No.

15 Q. You didn't know that?

16 A. I didn't know I would be called today. You
17 didn't tell me that.

18 Q. Sir, when you read -- you read the motion for
19 the 137?

20 A. Sure.

21 Q. And you read in the motion that it is
22 alleging that you did not conduct -- you or your law
23 firm did not conduct a reasonable inquiry into the
24 allegations by Jane Doe V, correct?

1 A. I did.

2 Q. And you signed some of the pleadings in
3 connection with this case that involved Jane Doe V,
4 correct?

5 A. I did.

6 Q. And in signing those pleadings, you verified
7 under oath that the statements contained therein are
8 true and accurate, correct?

9 A. In the pleadings I signed, yes.

10 Q. And you conducted a reasonable inquiry into
11 their veracity, correct?

12 A. Yeah, I believe so.

13 Q. Okay. So tell us exactly, so there is no
14 question in the world, the exact inquiry that you
15 conducted in connection with Jane Doe V?

16 A. With respect to what?

17 Q. With respect to the allegation of suppressed
18 memory, sir.

19 A. I didn't investigate that. I didn't file the
20 complaint. It was already filed.

21 Q. So is it your defense to 137 that you didn't
22 file the complaint? Right?

23 A. No, that is not my defense. If you wanted to
24 know who did file the complaint and asked them what

1 they did, you should have asked who filed the complaint
2 and ask for 237 to them. Don't point at me. Your
3 Honor.

4 THE COURT: Please.

5 MR. SOTOMAYOR: I will step back. I can be
6 intimidating, I guess, to some people. I don't know
7 why.

8 BY MR. SOTOMAYOR:

9 Q. Sir, you signed the pleadings in connection
10 with this case, correct?

11 A. Some. Like I said, some.

12 Q. By signing the pleadings in connection with
13 this case, are you aware that pursuant to Supreme Court
14 137 and the mandates thereof, that you are required to
15 ascertain whether the allegations are true, are you
16 aware of that?

17 A. I am familiar with Rule 137, yes.

18 Q. Okay. Then if you're familiar with Rule 137,
19 then you're familiar with the fact that you are
20 required when you testify to submit evidence as to your
21 reasonable inquiry, correct?

22 A. Right, but what you're asking me to do,
23 you're asking me what my reasonable inquiry was in
24 filing a complaint that was filed by somebody else that

1 I did not have any involvement in.

2 So I cannot tell you that I did anything with
3 respect to the inquiry for the allegations in that
4 complaint when I did not draft the complaint, I did not
5 file the complaint, and I did not work on this file. I
6 cannot go back in time, I cannot be someone else.

7 Q. Sir, during the course of your handling of
8 this case, you were submitted interrogatories by
9 Mr. Gaffney to have -- you were propounded
10 interrogatories by Mr. Gaffney to have Jane Doe V
11 complete those, correct?

12 A. Correct.

13 Q. And in completing them, you asked her certain
14 questions, right?

15 A. I object. That is attorney/client
16 privileged.

17 THE COURT: Well, you did ask her questions?

18 THE WITNESS: I did. I made inquiries.

19 BY MR. SOTOMAYOR:

20 Q. And some of those inquiries that are
21 contained and filed within this cause of action include
22 statements as to any treating physicians, correct?

23 A. True.

24 Q. So you knew that Ms. -- that Jane Doe V was

1 alleging that she had seen certain doctors with respect
2 to her claim of memory suppression, correct?

3 A. Correct.

4 Q. Okay. So then it would be incumbent upon
5 you, then, to inquire as to the veracity of these
6 allegations what was contained in those doctors'
7 reports, correct?

8 A. No, it would require me in answering the
9 interrogatories to obtain that information and answer
10 the interrogatories and provide it to, at that point in
11 time, Mr. Gaffney, which is what I did.

12 Q. Once you were made aware who the
13 interrogatories -- that there were alleged doctors who
14 had treated your client for whatever condition she
15 claims she had, what inquiry did you make of those
16 doctors as to the veracity of her statement that that
17 was for suppressed memory?

18 A. Well, let me say they are not alleged
19 doctors, they are doctors, but at the point in time
20 that I was answering discovery, my goal was to answer
21 discovery fully and adequately, which we did, and we
22 identified all those people.

23 I was not making an inquiry at that time in
24 answering discovery as to the truth of the allegations

1 in the complaint, which had already been challenged by
2 motions to dismiss, several, and survived them. I
3 already had believed my client and I believe all my
4 clients.

5 Q. And that's the only thing that you did to
6 inquire as to the veracity of this statement of
7 suppressed memory, correct?

8 A. I did not do the inquiry with respect to the
9 complaint. So when I talked to them about discovery, I
10 talked to them, yes.

11 Q. Sir, are you aware that pursuant to the Code
12 of Professional Responsibility, you have a continuing
13 duty to ascertain the veracity of the complaint. And
14 if at any time during its prosecution you have
15 information to the contrary, that you must inform the
16 Court so the fraud is not committed upon the Court?
17 Are you aware of that?

18 A. I don't know if that is exact -- I don't know
19 if I have an obligation to inform the Court if there is
20 a mistake in the complaint or pleading, but we can
21 amend, I suppose, is another option. I don't know if
22 that is the only option.

23 Q. Counsel, I am not talking about a mistake. I
24 am talking about the veracity of the complaint, that

1 you were on a continuing duty throughout the litigation
2 to determine the truth of those allegations. And if
3 you have any information that those allegations may not
4 be truthful, that you have a duty to present that to
5 the Court. Do you understand that?

6 A. Right, but I had no information that they
7 were not truthful. I had no reason to believe that at
8 any time.

9 Q. And the only reason you had no information is
10 because you conducted no further inquiry other than
11 asking the plaintiff for her side of the story, right?

12 A. No, that is not accurate.

13 Q. What is inaccurate about that, counsel?

14 A. I have spoken to these clients of mine, these
15 plaintiffs, multiple times, for hours on end, including
16 Jane Doe V. I have spoken to them hours on end --

17 Q. Well, then you --

18 THE COURT: Counsel.

19 BY THE WITNESS:

20 A. Don't cut me off, counsel. Don't cut me off.
21 I have met my obligation under Rule 137. I am
22 confident that everything we filed is accurate. I know
23 their stories as has been told to me and I believed
24 them. And as I sit in this stand under oath, I believe

1 them as well.

2 BY MR. SOTOMAYOR:

3 Q. Okay. So you think it is sufficient because
4 you believe their stories and you do not inquire or
5 require them to produce doctors' reports,
6 notwithstanding the fact that you have what they
7 presented to you as doctors, right?

8 A. No, I believe them because it is true. That
9 is what --

10 Q. And you decide that it is true, correct?

11 A. No.

12 Q. Has a Court decided it is true?

13 A. The complaint survived several motions to
14 dismiss.

15 Q. Not because the judge said they were true.
16 You met a prima facie case with respect to continuing
17 the case. This judge, his Honor, Kenneth Popejoy,
18 never told you that he believed your clients'
19 statements to be true, did he?

20 A. No, he did not tell me that.

21 Q. Okay. So, then, it wasn't because of an
22 action of the Court, it was because of your independent
23 decision making, judge and jury, that you believed them
24 to be true, correct?

1 A. No, I know them to be true.

2 Q. Oh, and how is that? You were present? You
3 were present?

4 A. Are we going to be argumentative?

5 Q. You said you know them to be true. I want
6 you to set forth on the record how you know them to be
7 true.

8 THE COURT: That question is okay. Go ahead and
9 answer that.

10 BY THE WITNESS:

11 A. Because I would say much of this is
12 privileged, but through the discussions I have had with
13 them, I have enough information that I have obtained
14 from them that I know their information to be true.

15 BY MR. SOTOMAYOR:

16 Q. Good. Through enough of the conversations
17 with them. That includes Rachel Lees, right? Right?
18 Then -- you just opened the door. You said Rachel
19 Lees, right?

20 A. I didn't say Rachel Lees.

21 Q. I mean, the plaintiffs.

22 A. Yeah, but we're talking about Jane Doe V.

23 Q. Well, no, you said I have talked to them, the
24 plaintiffs, and I know that to be true, isn't that what

1 you just testified to?

2 A. I have spoken to all of them, yes.

3 Q. And that includes Rachel Lees, right?

4 A. That includes Rachel Lees.

5 Q. And isn't it true that Rachel Lees in
6 connection with this discovery -- well, Rachel Lees
7 contacted you and said this isn't true, I never said I
8 had repressed memory; isn't that true?

9 A. That is attorney/client privileged.

10 Q. I am not --

11 MR. SOTOMAYOR: Judge, at this point, I am asking
12 your Honor, and I know I am loud and I don't want to
13 be --

14 THE COURT: When you get into Rachel Lees, we will
15 maybe have some latitude with regards to things, but
16 we're dealing with Jane Doe V.

17 MR. SOTOMAYOR: Thank you. I appreciate it.

18 THE COURT: Any other witnesses you have? You
19 have three minutes left.

20 MR. SOTOMAYOR: No, Judge.

21 THE COURT: Okay. Mr. Mincieli, you may proceed
22 with your 15-minute response.

23 MR. MINCIELI: Thank you, Judge.

24 Can I have one moment, your Honor? I

1 understand we have a time limit.

2 THE COURT: You may. You can use your 15 minutes
3 however you want.

4 MR. MINCIELI: We're going to call Jane Doe V to
5 the stand.

6 THE COURT: Okay. Please come forward. Raise
7 your right hand to be sworn.

8 (Witness sworn.)

9 THE COURT: Please have a chair. You're going to
10 be referred to as Jane Doe V, no other first or last
11 name designation or the like, and you're to keep your
12 references to Jane Doe V, also.

13 THE WITNESS: Yes, your Honor.

14 THE COURT: You may continue.

15 JANE DOE V,
16 called as a witness, having been first duly sworn, was
17 examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. MINCIELI:

20 Q. I am going to be brief. I am showing you
21 what has been marked as Exhibit 5. I am going to ask
22 you, is this Jane Doe V's Supplemental Answers to
23 Institute in Basic Life Principles First Set of
24 Interrogatories?

1 A. Yes, it is.

2 Q. If you go to the second to last page, which
3 is No. 18, is that your signature?

4 A. Yes.

5 Q. If you turn to Page 9 and 10, you were asked
6 in Interrogatory No. 17 to identify the precise
7 condition or conditions which caused you to repress
8 memories of abuse. Can you read the answer on Page 10.

9 A. I have been diagnosed with PTSD. I was
10 diagnosed --

11 MR. SOTOMAYOR: Judge, I am going to object
12 because it is being offered for the truth of the matter
13 asserted, so I am going to object.

14 THE COURT: But this is an interrogatory that was
15 part of discovery that was filed with the Court, then
16 whatever answer is in there is part of the court
17 record. And an answer to specific question of
18 interrogatory can be read to the Court. I can open up
19 the court file and find it, too.

20 MR. SOTOMAYOR: No, Judge, what I am saying is
21 this. I agree that it is part of the court file and
22 certainly it would be part of the court file for
23 purposes of impeachment, but for purposes of direct
24 testimony with respect to a condition, it still falls

1 under the foundational objection that I would have as
2 if she simply stated.

3 They cannot go around the foundational
4 objection simply by asking her to read an
5 interrogatory.

6 THE COURT: Okay. So I, in my ruling of the case,
7 since you have referenced the various interrogatories
8 and the various discovery requests that have been done
9 in regard to this case, and since because you
10 referenced it in your pleadings, I am able to review
11 those and the like, then, yes, I suppose I don't need
12 the testimony for her to read it because I can look at
13 the court file and determine it for myself because that
14 is a part of what you're saying is the alleged, quote
15 fraud, end of quote, against this Court or the 137
16 bases, and you have referenced the interrogatories
17 throughout, so we will go that route.

18 Because I have looked at all the
19 interrogatories, I have looked at the questions, and I
20 have looked at all the answers in regard to same, so we
21 will not have an indirect way for her to state what
22 diagnosis or medical condition she had. It is part of
23 the record. So move on.

24 MR. MINCIELI: Thank you.

1 BY MR. MINCIELI:

2 Q. In fact, if you turn to Page 16, did we
3 identify your counselors Ronna Letner and Donnalea
4 Holtson as witnesses in response to these questions?

5 A. Ronna Letner, yes.

6 Q. I'm not going to ask you what your specific
7 condition is that you have been diagnosed with. Have
8 you learned through counseling that whatever condition
9 you have causes you to repress memories?

10 MR. SOTOMAYOR: Objection.

11 THE COURT: Yeah, I think that calls for a medical
12 conclusion. Sustained.

13 BY MR. MINCIELI:

14 Q. Is a symptom that you suffer from, for
15 whatever reason, repression of memories?

16 A. Yes.

17 Q. Including traumatic memories?

18 A. Yes.

19 MR. SOTOMAYOR: Objection.

20 THE COURT: Overruled.

21 BY MR. MINCIELI:

22 Q. Did you, in fact, repress the memories of the
23 abuse that you suffered from Bill Gothard up until some
24 point in time that you went to counseling in 2015 as we

1 identified in these answers to interrogatories?

2 MR. SOTOMAYOR: Objection to the form of the
3 question. Not only is it compound, it calls for a
4 conclusion.

5 THE COURT: As to the compound nature, it will be
6 sustained. You may reask.

7 BY MR. MINCIELI:

8 Q. Did you repress memories of the abuse you
9 suffered from Bill Gothard until sometime in, I
10 believe, 2015?

11 MR. SOTOMAYOR: Objection.

12 THE COURT: Basis?

13 MR. SOTOMAYOR: At this point, leading. This is
14 his witness.

15 THE COURT: Overruled. You may answer.

16 BY THE WITNESS:

17 A. Yes.

18 BY MR. MINCIELI:

19 Q. Is that something that you explored through
20 counseling?

21 A. Yes.

22 Q. Tell me about what happened, generally
23 speaking, when you went to counseling?

24 MR. SOTOMAYOR: Objection. Foundation, time.

1 THE COURT: Sustained as to foundation, time
2 parameters, et cetera.

3 BY MR. MINCIELI:

4 Q. Tell me how you reacted to the counseling.

5 MR. SOTOMAYOR: Judge, once again, same objection.
6 Foundation, time, what --

7 THE COURT: What time are you doing? Counseling
8 in 2002, last week? I don't know.

9 MR. MINCIELI: I'm sorry, your Honor, I am sorry.
10 You're right.

11 THE COURT: Every now and again, as I said before.

12 BY THE WITNESS:

13 A. I believe I started at some point in 2016.

14 BY MR. MINCIELI:

15 Q. I'm sorry, I was wrong on the dates.

16 What did you -- what kind of reaction did you
17 have when you went to counseling?

18 MR. SOTOMAYOR: Objection.

19 THE COURT: Yeah, as to the form of the question,
20 sustained.

21 BY MR. MINCIELI:

22 Q. What kind of emotional reaction did you have
23 from the counseling?

24 MR. SOTOMAYOR: Objection. What time are we

1 talking about? She said she began counseling sometime
2 in 2016, we don't even know the date. Now, he is
3 asking for a reaction. When?

4 THE COURT: Sustained.

5 BY MR. MINCIELI:

6 Q. How long -- what time period did you go to
7 counseling, sorry, in 2016, and ending when?

8 A. I don't know exact dates. I began counseling
9 with Ronna Letner shortly after joining the lawsuit. I
10 counseled with her for several months. The exploration
11 of memories that I had packed away for 20 years --

12 MR. SOTOMAYOR: Objection to the conclusionary
13 statement.

14 THE COURT: Overruled. She is able to say what
15 she did or didn't have with her memory for the past
16 20 years. That is her independent statement of what
17 she has discovered about herself. Overruled.

18 BY THE WITNESS:

19 A. I began to process memories, raw emotion that
20 I had packed away for 20 years that I had never -- that
21 I had never processed through. And it came out in a
22 torrent. It affected me, my home life, my marriage.

23 MR. SOTOMAYOR: Objection. Objection.

24 THE COURT: Basis?

1 MR. SOTOMAYOR: Judge, she is testifying about how
2 this repressed -- alleged repressed memory affected her
3 home life. That wasn't the subject matter of the
4 question. He said what was her reaction.

5 THE COURT: As to what it was doing with her home
6 life, the objection is sustained and any response to
7 that or statement, rather, is stricken.

8 MR. MINCIELI: Okay.

9 THE WITNESS: Your Honor, I have small children at
10 home.

11 MR. SOTOMAYOR: Objection. No question pending.

12 THE COURT: I understand what is going on. You
13 have an attorney who is involved with the question.
14 You may continue.

15 MR. MINCIELI: And my response to the objection,
16 your Honor, is that they do, as part of the motion,
17 they also allege that the plaintiffs have no damages,
18 either, to speak of. Significant enough damage. I
19 think this goes to that.

20 THE COURT: I don't think we're going to get to
21 the damage aspect of things. I don't think that is --

22 MR. MINCIELI: That's fine.

23 THE COURT: -- a part of these motions. This
24 motion is dealing with the pleadings that are

1 involved --

2 MR. MINCIELI: Understood.

3 THE COURT: -- and the aspect of what discovery
4 was left over or not left over at the time of the
5 voluntary nonsuit.

6 MR. MINCIELI: Thank you, your Honor. I don't
7 have anything further then.

8 THE COURT: Thank you. Mr. Sotomayor, five
9 minutes.

10 MR. SOTOMAYOR: Five minutes?

11 THE COURT: Yep.

12 MR. MINCIELI: Thank you.

13 CROSS EXAMINATION

14 BY MR. SOTOMAYOR:

15 Q. Ma'am, you filed a lawsuit and then you began
16 treatment, correct?

17 A. Correct.

18 Q. So that at the time that you filed the
19 lawsuit, you had not been diagnosed with any medical
20 condition such that you were suppressing memories;
21 isn't that true?

22 A. No.

23 Q. That is not true? What is not true about
24 that?

1 A. I was not formally diagnosed.

2 Q. Okay. Well, my question to you is this, at
3 the time that you filed the lawsuit, there was no
4 medical diagnosis that you had suppressed memory; isn't
5 that true?

6 A. I did not have a diagnosis, that is true.

7 Q. Okay. As a matter of fact, the truth of the
8 matter is, your initial attorney who filed the lawsuit
9 was an individual by the name of David
10 Gibbs III, correct?

11 A. Yes.

12 Q. And then you learned that this Honorable
13 Court discharged Mr. Gibbs sometime in May of 2016,
14 correct?

15 A. Yes.

16 Q. Thereafter, you went on a chat site and
17 indicated, I am sure Tara is a very good attorney, but
18 so much for this being a group decision.

19 MR. MINCIELI: Objection. Relevance to the
20 motion.

21 BY MR. SOTOMAYOR:

22 Q. I feel very slighted and disregarded. And if
23 our group breaks apart, there is going -- there goes
24 our strength in numbers and maybe one by one cases

1 crumble away.

2 Do you remember making that statement?

3 THE COURT: The objection is overruled. You may
4 answer.

5 BY MR. SOTOMAYOR:

6 Q. Do you remember making that statement?

7 A. I do.

8 Q. And when you said that there is strength in
9 numbers, you were referring, were you not, to the fact
10 that you had participated in a chat group wherein all
11 the plaintiffs were discussing the nature of the case,
12 right?

13 A. Yes.

14 Q. And discussing this repressed memory, right?

15 A. Yes.

16 Q. And at that point, you didn't think you had
17 repressed memory, did you?

18 A. I did have repressed memory.

19 Q. No, you didn't think you had repressed
20 memory, did you?

21 MR. MINCIELI: Objection, your Honor. He is
22 asking her if she thought she had something that caused
23 her not to know.

24 THE COURT: To the form of the question,

1 sustained.

2 BY MR. SOTOMAYOR:

3 Q. Ma'am, isn't it true that it was through
4 these conversations with these other women who claimed
5 they had repressed memory that you kind of then joined
6 in on the case, right?

7 A. That is incorrect.

8 Q. What is incorrect about that?

9 A. I joined in the case for my own healing.

10 Q. After speaking with other women who had
11 indicated that that was what they were doing, right?

12 A. When I was contacted about the case
13 initially, I honestly had no -- I had no contact with
14 any of these people prior to that. I did not know
15 that -- I couldn't put words to what I was feeling or
16 what I was experiencing --

17 Q. Well, let me see if I can help you put words
18 to it.

19 MR. MINCIELI: I am going to ask that he doesn't
20 cut her off.

21 THE COURT: Yeah, were you finished with your
22 answer?

23 THE WITNESS: I was not, no.

24 THE COURT: Continue with your answer.

1 BY THE WITNESS:

2 A. When I left ATI 20 years ago, I locked it
3 away. I didn't keep in touch with any of these people.
4 I had no idea that there were people in the same
5 situation that I was in. And when it became known to
6 me that I was not alone and there was a reason for my
7 feelings and my emotions that I had kept locked away, I
8 found solace in that group. And that, to me, was the
9 start of my healing.

10 BY MR. SOTOMAYOR:

11 Q. So you said when you were approached, do you
12 remember testifying to that just a little while ago?

13 A. Yes.

14 Q. Who were you approached by?

15 A. I was approached by two separate people.

16 Q. Okay.

17 A. The first was -- I believe it was Carmen, and
18 I don't know --

19 Q. Does Carmen have a last name?

20 A. I don't remember her last name.

21 Q. Was she an attorney?

22 A. Nope. She was somebody that I roomed with
23 while I was at headquarters.

24 Q. And who else?

1 A. Monica Navarro was another.

2 Q. Who was that?

3 A. I had -- I had known her when I was down in
4 Indianapolis.

5 Q. How did they approach you?

6 A. They contacted me via Facebook.

7 Q. Did they indicate to you or, rather, were you
8 approached by Attorney Gibbs?

9 A. I don't recall what our initial contact was
10 between myself and Gibbs. At some point, I did have
11 contact with him, yes.

12 Q. Well, you remember -- do you remember signing
13 a Third Amended Complaint with the law firm of Meyers &
14 Flowers?

15 A. Yes.

16 Q. And who came up with the -- who came up with
17 this statement? I was suffering from a condition that
18 caused me to repress the memories of abuse and I did
19 not know my injuries were caused by the abuse. Did you
20 come up with that?

21 MR. MINCIELI: Objection to the characterization.
22 I don't think it is accurate, the statement he just
23 read.

24 THE COURT: First, I don't know where the

1 statement is from, so where is the statement from?

2 MR. SOTOMAYOR: The statement is from the
3 complaint, your Honor.

4 THE COURT: Which -- reference the page, the
5 paragraph number.

6 BY MR. SOTOMAYOR:

7 Q. Well, let me ask you this because of the time
8 period. Did you ever tell anyone that you -- well,
9 tell the Court how it is that repressed memory got
10 involved in the allegations of this lawsuit?

11 MR. MINCIELI: Objection to attorney/client
12 privilege, your Honor, and work product privilege.

13 THE COURT: Overruled. You can answer to the
14 extent that you have knowledge of it yourself.

15 THE WITNESS: Please restate the question.

16 BY MR. SOTOMAYOR:

17 Q. How is it that the term repressed memory came
18 to be inserted as an allegation in this lawsuit?

19 THE COURT: Now, that does call for
20 attorney/client privilege because the attorney is the
21 one that put the allegation in there.

22 MR. MINCIELI: Thank you, your Honor.

23 THE COURT: You can ask her what she did to give
24 any attorney any indication of suppressed allegation,

1 or what her understanding of it was, that would be
2 fine.

3 BY MR. SOTOMAYOR:

4 Q. Did you ever indicate to anyone in the legal
5 profession that you possessed suppressed memory?

6 MR. MINCIELI: Objection to attorney/client
7 privilege. That is asking for direct communications
8 with legal professionals.

9 THE COURT: It does ask for a communication with
10 an attorney. You can ask her understanding of what it
11 is. What was her understanding?

12 BY MR. SOTOMAYOR:

13 Q. Let me ask it this way. You signed a
14 pleading, correct?

15 A. Yes.

16 Q. And do you know the contents of that pleading
17 that you signed?

18 A. Yes.

19 Q. Okay. Are you aware that you signed a
20 pleading indicating that you had suppressed memory?

21 MR. MINCIELI: I object. It is not a verified
22 pleading.

23 THE COURT: She can still answer that question.

24 MR. MINCIELI: All right.

1 THE COURT: You may answer.

2 BY THE WITNESS:

3 A. I know, for me, that I have holes in my
4 memory. There are events that I don't recall, there
5 are people that I don't remember, there are times and
6 dates and time frames that I don't have any
7 recollection of.

8 THE COURT: Okay. Thank you, counsel.

9 MR. SOTOMAYOR: Thank you, Judge.

10 THE COURT: I gave you an additional two minutes
11 to finish up that line of thought in regard to same.
12 You may step down.

13 We're going to do one more. Charis Barker.
14 It's your motion.

15 MR. SOTOMAYOR: Yes, yes.

16 THE COURT: Who are you going to call?

17 MR. SOTOMAYOR: Yes, I am going to call
18 Ms. Barker.

19 THE COURT: Okay. Will you please come forward.
20 Stand and raise your right hand to be sworn.

21 (Witness sworn.)

22 THE COURT: Please have a chair. State your full
23 name, spell your first name and last name for the
24 record, please.

1 THE WITNESS: Elizabeth Charis Wood Barker
2 Elizabeth is E-l-i-z-a-b-e-t-h, and Charis is
3 C-h-a-r-i-s.

4 ELIZABETH CHARIS WOOD BARKER,
5 called as a witness, having been first duly sworn, was
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. SOTOMAYOR:

9 Q. Are you also known as Lizzy?

10 A. No.

11 Q. Well, let me ask you this. Ms. Barker, you
12 were an interim employee from 1999 to 2000 at the
13 Institute of Basic Life Principles; is that correct?

14 A. No.

15 Q. What is incorrect about that?

16 A. The dates are incorrect.

17 Q. Okay. Tell me the dates, the correct dates,
18 that is.

19 A. It will take me a second. It was January
20 of 1999 that I was interim to approximately that
21 summer.

22 Q. When you say that summer, the summer of '99?

23 A. The summer of '99.

24 Q. So that was the last time that you had

1 contact with the Institute, as well as with
2 Mr. Gothard?

3 A. No.

4 Q. Okay. When was the last time you had contact
5 with the Institute? When is the last time you had
6 contact with Mr. Gothard?

7 A. I last had contact with Gothard in person in
8 2000, and the last contact with IBLP in 2011.

9 Q. Now, in connection with the filing of this
10 lawsuit, when did you join this lawsuit, if you recall?

11 A. I was one of the original five filers.

12 Q. And where were you working in 1998? That is,
13 prior to working with the Institute for Basic Life
14 Principles?

15 A. I worked for my father's construction
16 business.

17 Q. Did you recall -- do you recall having a
18 conversation regarding repressed memories with Rachel
19 Lees, do you recall that?

20 A. Yes.

21 Q. Okay. And tell the Court the context of the
22 conversations in terms of where you were and how they
23 ensued?

24 A. I believe they were over Facebook.

1 Q. Okay. Now, when you say over Facebook, isn't
2 it true that there was a chat site that was established
3 for you and the other plaintiffs to interact about
4 these allegations, right?

5 A. That was in a private message.

6 Q. But even though it was a private message,
7 that was the basis of this Facebook account, correct?

8 A. I would not be able to answer yes or no to
9 that.

10 Q. Well, let me ask you this. That is what
11 occurred in connection with these messages, right?

12 A. We did discuss the lawsuit on Facebook.

13 Q. And with respect to discussing the lawsuit,
14 specifically you had indicated to Rachel Lees, I told
15 them I was sure I didn't have any repressed memories.
16 You remember making that statement, right?

17 A. I do.

18 Q. And when you said I told them I was sure I
19 didn't have any repressed memories, the "them" was the
20 law firm, right?

21 A. Not Jonathan, but, yes, my attorneys at the
22 time.

23 Q. Okay. And who were those attorneys?

24 A. Mark and Emily, or Mark Bryant and Emily

1 Roark.

2 Q. And you then, after telling -- and you didn't
3 just tell Rachel Lees, tell the Court how many other
4 people you told.

5 A. I believe Rachel Lees and Rachel Frost.

6 Q. Rachel Frost, one of the other --

7 A. Uh-huh.

8 Q. Okay. And what was the response -- what
9 happened after you told them?

10 A. I requested an explanation from them and
11 wrote them a letter expressing my concerns.

12 Q. Wrote who a letter?

13 A. Mark and Emily.

14 Q. Okay. So you wrote --

15 MR. MINCIELI: Your Honor, I want to object to --

16 THE COURT: Wait, wait, just wait a second. What
17 is your objection, sir?

18 MR. MINCIELI: Attorney/client privilege.

19 THE COURT: They are not going into it at the
20 moment. She said she wrote a letter. So that
21 objection is overruled at the current time.

22 BY MR. SOTOMAYOR:

23 Q. Without telling me the exact verbiage of the
24 letter, tell me what was the basis that you were

1 writing the letter?

2 A. I did not understand the legal language used
3 in the filing.

4 Q. And when you say the "legal language used,"
5 you were referring to specifically repressed memories,
6 correct?

7 A. It was used in conjunction with another
8 claim.

9 Q. But that also included repressed memories,
10 correct?

11 A. That is not the entire complaint.

12 Q. I understand, but that was one of the
13 complaints that you were having, this allegation about
14 repressed memories, correct?

15 A. Yes or no would not be an accurate answer to
16 that question.

17 Q. Well, but that is what I am asking, for yes
18 or no.

19 A. I can't give it.

20 Q. Was the repressed memories a concern that you
21 had with respect to the lawsuit?

22 A. I was concerned about the verbiage.

23 Q. And when you were concerned about the
24 verbiage is because you never had indicated to any

1 lawyer that you had repressed memories, right?

2 A. That --

3 MR. MINCIELI: Objection. Attorney/client
4 privilege.

5 THE COURT: Overruled in regard to that. She can
6 answer that question.

7 BY MR. SOTOMAYOR:

8 Q. Correct?

9 A. That is correct.

10 Q. And in connection with the representation by
11 the firm of Meyers & Flowers in prosecuting this claim,
12 did you ever raise that concern with them with respect
13 to that verbiage?

14 A. I don't recall.

15 Q. Okay. When you say you don't recall, you're
16 not saying that it didn't happen, but that you just
17 don't have an independent recollection of that right
18 now, correct?

19 A. No, I believe I received sufficient response
20 from my attorneys in response to my letter that I was
21 satisfied.

22 Q. Okay. Well, so they were the ones who told
23 you you had repressed memory?

24 A. I did not say that.

1 Q. Okay. Well, then tell me. They responded to
2 you that you had repressed memories?

3 MR. MINCIELI: Objection. Attorney/client
4 privilege.

5 THE COURT: Sustained as to the verbiage and the
6 form of the question.

7 BY MR. SOTOMAYOR:

8 Q. Well, did you have -- at the time you filed
9 the lawsuit, did you have repressed memory?

10 A. No.

11 Q. And that continues to today's date, correct?
12 Correct, ma'am? That is a yes or no as well, correct?

13 A. That would not be a yes or no answer to that
14 question.

15 Q. Are you asserting today that you have
16 repressed memory?

17 A. No.

18 MR. SOTOMAYOR: No further questions.

19 THE COURT: Your 15 minutes.

20 MR. MINCIELI: Thank you, your Honor.

21 CROSS EXAMINATION

22 BY MR. MINCIELI:

23 Q. Charis, you mentioned a moment ago that when
24 you wrote to your attorneys because you questioned the

1 repressed memory concept, did you know what that meant
2 from a legal standpoint?

3 A. I did not.

4 Q. Then when you heard back from them, did you
5 understand that --

6 MR. SOTOMAYOR: Objection. Because now -- he had
7 an objection with respect to attorney/client privilege.
8 He cannot then ask these questions without opening the
9 door to allow me to find out what that conversation
10 was.

11 THE COURT: Sustained.

12 MR. SOTOMAYOR: Thank you.

13 BY MR. MINCIELI:

14 Q. You mentioned on the stand a moment ago you
15 were satisfied?

16 A. I was.

17 Q. What did you mean by that?

18 A. After writing the letter and discussing with
19 them on the phone --

20 MR. SOTOMAYOR: Objection.

21 THE COURT: Just a minute. You can't get into any
22 content of what was discussed. Were you satisfied with
23 the pleadings standing as is?

24 THE WITNESS: I was.

1 THE COURT: Thank you. Next question.

2 BY MR. MINCIELI:

3 Q. And at that point in time, did you believe
4 the pleadings as written were true with respect to you?

5 MR. SOTOMAYOR: Objection.

6 THE COURT: Basis?

7 MR. SOTOMAYOR: What she believed.

8 THE COURT: What she believed, that is the point.

9 MR. SOTOMAYOR: Based upon a conversation with an
10 attorney, Judge.

11 THE COURT: Well, that is what she believes,
12 though. The end result of all of that, what did she
13 believe at that time.

14 MR. SOTOMAYOR: Okay.

15 THE COURT: She can answer that.

16 MR. SOTOMAYOR: And the objection would only be
17 foundation. What timeframe are we talking about.

18 THE COURT: Okay. Foundation, that is fine. Yes,
19 you can lay a foundation for the timeframe for her
20 subsequent belief.

21 BY MR. MINCIELI:

22 Q. You were referencing earlier, in response to
23 questions by Mr. Sotomayor, a statement you made on
24 Facebook about talking or saying to them I never told

1 them that I was -- that I had repressed memories.
2 Following that, you had some communications with your
3 counsel and --

4 MR. SOTOMAYOR: Objection. Counsel. Because we
5 have two different --

6 THE COURT: Just when was the date that she came
7 to the belief that what was in the complaint was
8 acceptable from her point of view. Answer that
9 question, please.

10 BY MR. MINCIELI:

11 Q. I guess I will ask this. Which complaint are
12 we talking about? Was it the first complaint, the
13 second complaint, do you know?

14 A. I do not know the exact complaint number.

15 Q. Okay. That's fine. Do you recall when this
16 was that these conversations took place?

17 A. Uh-huh. After the amended complaint was
18 filed by Mark and Emily.

19 Q. And you spoke to them about it and then you
20 were satisfied, at that point in time, that the
21 allegations in the complaint as stated were truthful?

22 A. Yes.

23 Q. And you still hold that belief as you sit
24 here today?

1 A. Yes.

2 MR. MINCIELI: I don't have anything further.

3 MR. SOTOMAYOR: Do I have minute or no, Judge?

4 THE COURT: You have five minutes.

5 MR. SOTOMAYOR: Oh, good.

6 THE COURT: Yeah.

7 MR. SOTOMAYOR: Thank you.

8 REDIRECT EXAMINATION

9 BY MR. SOTOMAYOR:

10 Q. Well, ma'am -- I'm sorry, I shouldn't call
11 you ma'am. That sometimes is not a very nice thing to
12 call someone.

13 Elizabeth -- can I call you Elizabeth?

14 A. That is not what most people call me, but
15 sure.

16 Q. How would you like me to address you because
17 I will do it in that fashion.

18 A. You can address me as Mrs. Barker.

19 Q. Mrs. Barker.

20 Mrs. Barker, you just testified a little
21 while ago that you today and never -- well, let me ask
22 you this. You have never suffered from repressed
23 memory syndrome; isn't that true?

24 A. Not to my knowledge.

1 MR. MINCIELI: Objection. Now, he is asking for a
2 diagnosis again.

3 THE COURT: To repressive memory syndrome, the
4 objection is sustained. That calls for her to make a
5 legal determination of a diagnosis of a particular
6 disease. Whether she feels her memory has ever been
7 repressed, you may ask that.

8 BY MR. SOTOMAYOR:

9 Q. Let me ask it this way. You testified a
10 little while ago that you were not suffering from
11 repressed memory on today's date, correct?

12 A. Correct.

13 Q. And you testified that earlier when you first
14 had the conversation with your attorneys, Mark, and I
15 apologize, the female lawyer --

16 THE COURT: Emily.

17 BY MR. SOTOMAYOR:

18 Q. -- Emily, that you did not have repressed
19 memory at that time, correct?

20 A. Correct.

21 Q. Would it be fair to say from that moment in
22 time when you first spoke to Mark and Emily, to today's
23 date, that you never suffered from repressed memory,
24 correct?

1 A. That is correct.

2 Q. And as a matter of fact, you were
3 communicating with lawyers to let them know that,
4 correct?

5 A. Correct.

6 Q. And now, when counsel asked you for an
7 opinion as to whether or not the lawsuit is truthful
8 and correct, you said in response to Mr. Mincieli, yes,
9 correct?

10 A. Yes.

11 Q. However, if I told you that the lawsuit
12 alleges that you had repressed memory, that would not
13 be true, would it?

14 A. May I explain?

15 Q. No, just yes or no? He will get a chance to
16 come up. That would be true, correct?

17 A. Repeat the question, please.

18 Q. If I told you that the lawsuit alleges that
19 you had repressed memory at the institution of the
20 lawsuit, that would be not true; isn't that correct?

21 A. No.

22 Q. Not correct or correct, Mr. Sotomayor? Which
23 one is it? It is correct that an allegation that you
24 had repressed memory would not be true?

1 MR. MINCIELI: Objection to form.

2 THE WITNESS: I cannot answer yes or no. It would
3 require explanation.

4 THE COURT: Next question then.

5 BY MR. SOTOMAYOR:

6 Q. Did anybody provide you with an explanation
7 as to repressed memory?

8 MR. MINCIELI: Objection.

9 THE COURT: Other than any attorney that you
10 consulted? Did anybody every tell you what repressed
11 memory is, other than any attorney that you might have
12 consulted?

13 THE WITNESS: No.

14 THE COURT: Thank you. Next question.

15 MR. SOTOMAYOR: No further questions.

16 THE COURT: Nothing? Thank you. You may step
17 down.

18 Okay. We will stand in recess then until
19 1:00 this afternoon.

20 MR. MINCIELI: Thank you, your Honor.

21 THE COURT: All 237s are continued until that
22 time.

23 MR. SOTOMAYOR: Judge, I know I asked before for
24 you to take judicial notice, so I don't want to be

1 accused of not making that same argument. I am going
2 to adopt the same argument for purposes --

3 THE COURT: Judicial notice of what, sir?

4 MR. SOTOMAYOR: Of the arguments that I made.

5 THE COURT: Oh, I see what you're saying. Yeah,
6 every argument that you have made in these pleadings,
7 sir, I have read, I reviewed, and I will have
8 considered at the time I make any appropriate rulings
9 in regard to the case.

10 MR. SOTOMAYOR: Thank you, Judge.

11 What time do you want us back?

12 THE COURT: 1:00.

13 MR. MINCIELI: Thank you, Judge.

14 THE COURT: You can leave the materials on the
15 desk if you want. It will be locked up until a few
16 minutes before 1:00.

17 (A lunch recess was had.)

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1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF DU PAGE)

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