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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,        ) No. 2015 L 980  
                                  ) )  
                                  ) -vs-        ) **P.M. SESSION**  
                                  ) )  
INSTITUTE IN BASIC LIFE        ) Before Judge  
PRINCIPLES, INC., and WILLIAM    ) Kenneth Popejoy  
W. GOTHARD, JR.,        ) )  
                                  ) January 10, 2019  
                                  ) Defendants.        ) 1:00 p.m.

Court convened pursuant to recess.

PRESENT:

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

-and-

BRYANT LAW CENTER, PSC, by  
MR. MARK P. BRYANT,  
MS. EMILY WARD ROARK,  
                                  appeared on behalf of the Plaintiffs;

THE COLLINS LAW FIRM, P.C., by  
MR. ROBERT L. DAWIDIUK,  
MR. JEFFREY M. CISOWSKI  
                                  appeared on behalf of Defendant, IBLP;

MR. DAVID SOTOMAYOR,  
                                  appeared on behalf of Defendant,  
William W. Gothard, Jr.

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24

INDEX

WITNESS:

PAGE:

<b>RACHEL FROST</b>		
	<i>DIRECT EXAMINATION</i>	3
	<i>CROSS EXAMINATION</i>	20
	<i>REDIRECT EXAMINATION</i>	24
<b>JONATHAN MINCIELI</b>		
	<i>DIRECT EXAMINATION</i>	28
<b>MEGAN LIND</b>		
	<i>DIRECT EXAMINATION</i>	57
	<i>CROSS EXAMINATION</i>	67

1 THE COURT: Back on the record. Rachel Frost.

2 MR. SOTOMAYOR: Frost, yes, Judge. I would be  
3 calling her to the stand next.

4 THE COURT: Okay. Ms. Frost, please come  
5 forward. If you would stand and raise your right  
6 hand to be sworn.

7 (Witness sworn.)

8 THE COURT: Please have a chair. State your  
9 name, spell your full or your first and last name for  
10 the record, please.

11 THE WITNESS: My name is Rachel Frost,  
12 F-r-o-s-t.

13 THE COURT: Thank you. You may inquire.

14 MR. SOTOMAYOR: Thank you, Judge.

15 RACHEL FROST,  
16 called as a witness, having been first duly sworn, was  
17 examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. SOTOMAYOR:

20 Q. Ms. Frost, when was the last time you had  
21 any contact with Mr. William Gothard?

22 A. That would be -- in any form?

23 Q. Well, in any form if that is what you want  
24 to answer, sure.

1           A.     That would be an e-mail exchange that I had  
2 with him in 2014, the end of 2014, beginning of 2015,  
3 I believe, when he reached out to me and I responded.  
4 He responded and I responded.

5           Q.     Now, was that before or after you initiated  
6 the lawsuit against him?

7           A.     This was before.

8           Q.     Now, before that e-mail communication, when  
9 was the last time that you had physical contact with  
10 Mr. Gothard?

11          A.     I am unsure of the date of physical  
12 contact.

13          Q.     What about the year?

14          A.     It would be early 2000s, probably, when I  
15 physically saw him.

16          Q.     At some point you filed a lawsuit against  
17 Mr. Gothard in which the lawsuit claimed that there  
18 was criminal sexual assault performed by Mr. Gothard  
19 towards you, do you recall that?

20          A.     I do not recall that language of criminal  
21 sexual assault.

22          Q.     What, specifically, do you recall it being?

23          A.     I can't recall the exact wording.

24          Q.     Well, let me see if I can help refresh your

1 recollection. Did you -- was it referred to as  
2 sexual abuse?

3 A. Yes.

4 Q. Okay. Now, you had a problem with that,  
5 did you not?

6 A. In the beginning, yes.

7 Q. Okay. When you say "in the beginning," I  
8 want you to tell his Honor, Judge Popejoy, when in  
9 the beginning you had a problem with that?

10 A. Since I am not a legal expert, I did not  
11 know terminology. And when the filing -- I don't  
12 even know for sure that it was a filing, it may have  
13 been a draft -- was sent to us by Attorney Gibbs,  
14 there was language in there that I didn't understand  
15 and I asked for clarification.

16 Q. Who did you ask for clarification on it?

17 A. Someone in the Gibbs Law Firm.

18 Q. Would it be fair to say that the concern  
19 that you had caused you to interact with other  
20 plaintiffs in the case, specifically Ms. Barker and  
21 possibly Ms. Lees, with respect to those statements?

22 A. Yes.

23 Q. And, specifically, you had stated on a chat  
24 room or Facebook, "They had sexual abuse listed on

1 mine as well, which I have questioned. Miller said  
2 that they were on the fence with that for me,  
3 especially with the rough hair grab incident. When  
4 he sent me the legal definition for sexual abuse,  
5 though, I really don't feel right about calling my  
6 experience that. I had asked him to remove it and  
7 only list sexual harassment."

8 Do you remember voicing that objection via  
9 Facebook?

10 A. Yes, I do.

11 Q. And who were the participants in this  
12 Facebook communication at that time?

13 A. Charis and Rachel.

14 Q. And when you say Rachel, Rachel who?

15 A. Rachel Lees.

16 Q. And who is -- well, I don't want you to  
17 expose any other names. If you have to call them  
18 Jane Doe, call them Jane Doe, but are you saying the  
19 other was Ms. Barker?

20 A. Yes.

21 Q. Now, in connection with that concern you  
22 had, did you share that with your lawyers?

23 A. I don't recall.

24 MR. MINCIELI: Objection. Attorney/client

1 privilege.

2 MR. SOTOMAYOR: Judge, it goes to the --

3 THE COURT: Overruled. You can answer that.

4 BY THE WITNESS:

5 A. I don't recall if I had actually talked to  
6 anyone at the Gibbs Law Firm, or if I was just  
7 processing it myself at that time.

8 BY MR. SOTOMAYOR:

9 Q. Well, now, at some point there was what is  
10 called a Third Amended Complaint that was filed in  
11 this case, in which you signed; is that correct?

12 A. Yes.

13 MR. MINCIELI: Objection. It is not a verified  
14 complaint.

15 MR. SOTOMAYOR: It doesn't matter. It is a  
16 pleading, Judge.

17 THE COURT: He can ask if she signed a pleading  
18 and you can cross-examine where it was signed or how  
19 it was signed or whatever it is. Overruled. You can  
20 answer.

21 MR. SOTOMAYOR: Thank you.

22 BY MR. SOTOMAYOR:

23 Q. So you signed this Third Amended Complaint,  
24 correct?

1           A.     I guess I would need to see my signature to  
2 answer that with certainty.

3           Q.     Okay. Are you saying that -- okay. Well,  
4 let me ask you this. You -- did you meet with  
5 anybody from the Meyers & Flowers law firm in  
6 conjunction with you being a party to this lawsuit  
7 entitled the Third Amended Complaint?

8           A.     Yes.

9           Q.     Okay. And who did you meet with at the law  
10 firm of Meyers & Flowers?

11          A.     These were phone interviews.

12          Q.     With who, specifically?

13          A.     I can't recall the specific person.

14          Q.     Well, let me see if you can recall, was one  
15 of those phone conversations or communications with  
16 the lawyer who is sitting here in court today?

17          A.     One of them was, yes.

18          Q.     And when I say the lawyer, that is  
19 Mr. Mincieli, right?

20          A.     Uh-huh.

21          Q.     You have to answer yes or no for the court  
22 reporter.

23          A.     Yes, I believe.

24          Q.     And you reviewed the complaint, right?



1 A. I can't recall.

2 Q. Well, did you review a complaint?

3 A. Yes.

4 Q. And did you -- when you read the complaint,  
5 did it contain the language about sexual abuse?

6 A. Yes, it did.

7 Q. Okay. And at that time, you still had the  
8 same objection to the reference to sexual abuse  
9 because you did not believe that what conduct you  
10 attributed to Mr. Gothard was, in fact, sexual abuse,  
11 correct?

12 A. No, that is not correct.

13 Q. Tell me what is not correct about it?

14 A. Because if you or Attorney Gaffney had  
15 bothered to read any further in that conversation,  
16 you would have seen in a couple of comments later  
17 that I was second guessing that and needing to think  
18 about it more myself, and concluding in those  
19 comments that, yes, even though I had no legal  
20 expertise, that was appropriate because when he  
21 grabbed my hair, it hurt. And it fit into the  
22 definition that Mr. Miller gave me, so, yes, I agreed  
23 with that --

24 Q. The definition --

1 THE COURT: Let her finish her response.

2 MR. SOTOMAYOR: I'm sorry.

3 THE COURT: Please.

4 BY THE WITNESS:

5 A. I agreed with my filing.

6 BY MR. SOTOMAYOR:

7 Q. When was that that you agreed with the  
8 filing?

9 A. Two seconds after you cherry picked that  
10 comment out that I didn't agree.

11 Q. So when you say two seconds after you  
12 cherry picked that comment, you mean at the time that  
13 you had this concern, you were actually in the  
14 presence of a lawyer?

15 A. At the time I had a concern, I was  
16 processing it out loud and trying to understand  
17 legalese, of which I am not a professional, and I  
18 understood with just talking it out with some friends  
19 that it actually probably did fit the definition.

20 Q. Okay. First of all, talking it out with  
21 friends, what friends were you referring to?

22 A. Ms. Barker and Ms. Lees.

23 Q. And how were you talking it out with them?

24 A. Unwisely on Facebook Messenger.

1 Q. And so that, in fact, when you made the  
2 comment that I referred to earlier, that you claim is  
3 cherry picking, that was the comment that you had a  
4 concern because you didn't believe it was sexual  
5 abuse, correct?

6 A. That is the only part that you picked out  
7 of that whole conversation.

8 Q. Can you just simply answer my question.

9 A. What is your question?

10 Q. My question is, isn't it true that the  
11 conversation you were having with Ms. Lees, Rachel  
12 Lees, and Ms. Elizabeth Barker was the fact that you  
13 didn't believe that the representation that had been  
14 made that the actions of Mr. Gothard amounted to  
15 sexual abuse was accurate; isn't that true?

16 A. No, because that was not the conclusion of  
17 that conversation.

18 Q. At the time that you made the statement  
19 that I just read, you were under the belief that that  
20 was not -- those actions did not constitute sexual  
21 abuse, correct?

22 A. Nope. I was processing.

23 Q. You were processing. Well, if you were  
24 processing, did you include in your statement, hey,

1 girls, by the way, right now I am processing?

2 A. Actually, I think that is in there if you  
3 care to look at the whole conversation. I said I  
4 need to think about this a little bit more. That --

5 Q. And that was after the lawsuit had been  
6 filed?

7 A. -- one could infer is processing.

8 Q. That was after the lawsuit had been filed?

9 A. No. We were discussing drafts of the  
10 lawsuit to be filed with the Gibbs Law Firm.

11 Q. When you say, "We were discussing drafts,"  
12 who is we? Who is the we?

13 A. I already told you it was Ms. Barker and  
14 Ms. Lees.

15 Q. Well, so you guys were coming up with the  
16 drafts for the lawsuit, is that what you said?

17 A. I had requested my draft so I could look at  
18 it.

19 Q. Who had you requested it from?

20 A. From Miller.

21 Q. The lawyer?

22 A. Miller or Gibbs at the law firm, the Gibbs  
23 Law Firm.

24 Q. And then they sent you something that they

1 had prepared, correct?

2 A. It was in draft form.

3 Q. Okay. And they asked you to review it,  
4 correct?

5 A. Correct.

6 Q. And you told them that that was -- or you  
7 felt that was not an accurate depiction of what it is  
8 that you were alleging, correct?

9 MR. MINCIELI: Objection. Attorney/client  
10 privilege.

11 THE WITNESS: Objection. And --

12 THE COURT: Hold on. When there is an  
13 objection, hold on a minute. I'm sorry. I don't  
14 think that is and I am going to overrule the  
15 objection. You can continue your answer.

16 THE WITNESS: And now I forgot the question.

17 BY MR. SOTOMAYOR:

18 Q. So you asked for -- you were submitted a  
19 draft that had been prepared and then you were  
20 reviewing it for its accuracy, correct?

21 A. Yes.

22 Q. And at that point, you didn't feel that it  
23 was accurate, correct?

24 A. No, because that wasn't the conclusion of

1 my conversation.

2 Q. Well, if you didn't feel as if it was  
3 accurate, then tell me why you communicated with  
4 Facebook or on Facebook with Rachel Lees and  
5 Elizabeth Parker?

6 A. Her name is Elizabeth -- Charis Barker.

7 Q. Charis Barker, I apologize.

8 A. And, actually, I was unwisely processing it  
9 at that time. And my part of the piece you cherry  
10 picked was me thinking that it didn't possibly fit  
11 that definition, but I was not a professional. And  
12 then when they asked me, well, how old were you about  
13 that incident, and I said I was 17, then that sparked  
14 my memory to see that this actually could be placed  
15 in that.

16 Q. Okay.

17 A. Because I was a minor at that time.

18 Q. When you say it sparked your memory, you  
19 never had repressed memory, did you?

20 A. I did, but I think that is another  
21 question.

22 Q. When?

23 A. Unless you want to go there, we can go  
24 there.

1 MR. SOTOMAYOR: Judge, I'm sorry, can you --  
2 maybe I deserve it, I don't know, I don't think so,  
3 but I think I get to ask the questions, not  
4 Ms. Frost.

5 THE COURT: You need to answer whether you ever  
6 suffered repressed memories or not. Did you or did  
7 you not?

8 THE WITNESS: Yes.

9 THE COURT: Thank you. Next question.

10 BY MR. SOTOMAYOR:

11 Q. When did you begin suffering from repressed  
12 memories?

13 A. That is a strange question because when do  
14 you start? I don't know, but I know when I --

15 Q. Well, ma'am, you just stated --

16 THE COURT: Let her finish, counsel. She is not  
17 done. Go ahead and finish your answer.

18 BY THE WITNESS:

19 A. Thank you. I know when the memories all  
20 made sense and came together and that was February  
21 of 2014.

22 BY MR. SOTOMAYOR:

23 Q. So February of 2014, you claim that that is  
24 the month that you began having suppressed memory?

1           A.     That is when repressed memories began to be  
2     unlocked for me.

3           Q.     And how -- was this a medical diagnosis  
4     that you are referring to in February of 2014?

5           MR. MINCIELI:  Objection, your Honor.

6           THE COURT:  As to the form of the question,  
7     sustained.

8     BY MR. SOTOMAYOR:

9           Q.     This statement you just made, was that a  
10    result of you interacting with a licensed  
11    psychiatrist, a licensed doctor, a licensed  
12    psychologist, or is that something that you just came  
13    up with by yourself?

14          A.     Which statement are you referring to?

15          Q.     The statement that you just said right now  
16    that in 2014 you were suffering, allegedly, from  
17    suppressed memory.  Is that statement based upon your  
18    independent evaluation?  Yes or no?

19          A.     I had a pastoral counselor tell me that  
20    that is --

21          Q.     Ma'am, I am asking you the question.  I  
22    don't want to know about anybody else.  I am asking  
23    how you, in 2014 of February, came up to the  
24    conclusion that you had repressed memory?



1 MR. MINCIELI: I am going to object, your Honor.  
2 Your Honor, the entire time we have been here, he has  
3 been asking different witnesses about repressed  
4 memories. And when they give the fact that they  
5 actually give a diagnosis from a licensed  
6 professional, he doesn't want to hear that because  
7 there is no foundation.

8 But here, now he is cross-examining her on  
9 the fact that she is not given a diagnosis. You  
10 can't have it both ways. Either all the witnesses  
11 should get on the stand and tell you my psychiatrist  
12 told me I had PTSD and that caused my repressed  
13 memories or not.

14 MR. SOTOMAYOR: Judge, no. If, in fact, she is  
15 going to say that she had a licensed doctor,  
16 psychiatrist or psychologist give her that  
17 information --

18 THE COURT: That would be hearsay.

19 MR. SOTOMAYOR: It would be hearsay.

20 THE COURT: So how did you -- in what manner did  
21 you come to a determination in February of 2014 that  
22 you had had repressed memory? Previous to that time,  
23 obviously.

24 THE WITNESS: Well, your Honor, I am not a

1 psychologist, so I couldn't --

2 THE COURT: But what were you feeling that made  
3 you feel that way?

4 THE WITNESS: I was feeling that for a very long  
5 time I had just a piece of the puzzle, just a very  
6 small bit of understanding and many things that were  
7 not understood and pushed back and not processed for  
8 decades.

9 And when I read Charlotte's story on RG, it  
10 was like a load of bricks hit me and it all made  
11 sense and I could confirm some of her allegations  
12 with my direct experience with her and what I  
13 remember about those details. And I instantly  
14 remembered things that I had long forgotten or had  
15 mislabeled and did not understand.

16 THE COURT: Okay. Thank you.

17 BY MR. SOTOMAYOR:

18 Q. So would it be fair to say, based upon what  
19 you just said right now, that it wasn't -- these  
20 weren't memories that had been suppressed, but, as  
21 you said, you had forgotten about these memories,  
22 correct?

23 A. They were both. And you keep using  
24 suppressed or repressed interchangeably, and I don't

1 know why -- what that term is.

2 Q. Ma'am, you said that it was in this month  
3 of 2014, specifically February, that you --

4 A. This is January, sir. This is January, so  
5 it wasn't this month of 2014.

6 Q. Ma'am, you just testified that it was in  
7 February of 2014 that you first realized you had  
8 suppressed memory, correct? Isn't that what you  
9 said?

10 A. I realized I had some suppressed memories,  
11 yes.

12 Q. But what you're saying is you read an  
13 article and then you remembered those things that you  
14 had previously forgotten?

15 A. Suppressed.

16 Q. No, you used the word forgotten, correct?

17 A. And you used the word suppressed and --

18 Q. Ma'am, I get to ask the questions. If your  
19 lawyer wants to --

20 THE COURT: Ask your question, counsel.

21 BY MR. SOTOMAYOR:

22 Q. Didn't you say that you had the memories,  
23 but you had simply forgot them, correct?

24 A. Some of them, and some of them were new.

1 Q. So the fact of the matter is, there was --  
2 prior to filing a lawsuit in this case or joining a  
3 lawsuit, you had not seen any doctor to confirm or  
4 dispel whether or not you had what you referred to as  
5 suppressed memory, correct?

6 A. Why would I see a doctor if I didn't even  
7 know that I had suppressed --

8 THE COURT: Yes or no, ma'am? Had you seen a  
9 doctor at that point or not?

10 THE WITNESS: Before the lawsuit?

11 THE COURT: Yes, before the lawsuit.

12 THE WITNESS: I did not see a doctor, no.

13 THE COURT: Thank you.

14 BY MR. SOTOMAYOR:

15 Q. So at the time of the filing of the  
16 lawsuit, there was no medical, clinical -- or there  
17 was no medical diagnosis, no clinical diagnosis that  
18 you, in fact, possessed repressed memory, correct?

19 A. Correct.

20 THE COURT: Okay. Thank you, counsel.

21 Your 15-minute response.

22 MR. MINCIELI: Thank you, your Honor.  
23  
24

## 1 CROSS EXAMINATION

2 BY MR. MINCIELI:

3 Q. There was a lot of time during the  
4 questioning taken up with you about the complaint and  
5 the -- your questioning of the sexual abuse claim?

6 A. Yes.

7 Q. You testified in response to the statement  
8 cited by counsel and cited in their motion, that was  
9 not the entirety of your conversation; is that true?

10 A. Yes.

11 Q. Let me show you what has been marked as  
12 Exhibit 6. Ask you to take a look at that. On the  
13 second page, which is Barker Bates 003213, the  
14 conversation that Mr. Sotomayor cited to is this  
15 second from the top, which starts Rachel Frost,  
16 Friday, January 1, 2016, at 3:02 P.M. EST, do you see  
17 that?

18 A. Yes.

19 Q. That is where it says, They had sexual  
20 abuse listed on mine as well, which I had questioned.

21 A. That is on the second page?

22 Q. Second page. Right here.

23 A. Yes, yes, okay.

24 Q. If you look at that, it is kind of odd

1 because going to the first page is where the  
2 conversation continues.

3 A. Right.

4 Q. 3:05, 3:09, 3:12.

5 A. Right.

6 Q. It culminates at the top, Rachel, Friday,  
7 January 1, 2016, at 3:19 P.M. EST, top of the front  
8 page.

9 A. Yes.

10 Q. So my math is terrible. 17 minutes later.  
11 And 17 minutes later --

12 A. Uh-huh.

13 Q. -- is this your statement, That is  
14 different, then I probably would let them leave it in  
15 there.

16 A. Yes, I believe so.

17 Q. Is that part of that process that you claim  
18 to where at some point in time you determined that  
19 the complaint as written was truthful and could  
20 remain as written, the process that you described to  
21 Mr. Sotomayor?

22 A. The process, yes.

23 Q. So this whole thing took about 17 minutes  
24 for you to come to that conclusion?

1 A. Yes.

2 Q. Rachel, you were asked whether or not you  
3 had a diagnosis --

4 A. Uh-huh.

5 Q. -- from a clinician, some certified doctor.  
6 You counseled with somebody, I think you referred to  
7 a pastoral counselor?

8 A. Yes.

9 Q. During your counseling -- strike that.  
10 As you sit here on the stand, is it  
11 truthful that you had repressed memories before  
12 filing the lawsuit?

13 MR. SOTOMAYOR: Objection.

14 THE COURT: Overruled. She can answer whether  
15 she feels she had that.

16 BY THE WITNESS:

17 A. Yes.

18 BY MR. MINCIELI:

19 Q. As you sit here now, do you still believe  
20 you have repressed memories?

21 A. Yes.

22 Q. And through your counseling starting  
23 sometime after that epiphany you had in February  
24 of 2014, new memories have come to you related to the

1 claims in this case?

2 A. Yes.

3 MR. MINCIELI: I don't have anything further.

4 THE COURT: Thank you.

5 Five minutes, counsel, for reply.

6 MR. SOTOMAYOR: Yes.

7 REDIRECT EXAMINATION

8 BY MR. MINCIELI:

9 Q. Well, Rachel -- I'm sorry. Ms. Frost, you  
10 just said a little while ago when I asked you whether  
11 or not you had repressed memories of whether you had  
12 a diagnosis of repressed memories before -- I'm  
13 sorry.

14 Are you saying that you had repressed  
15 memories before you filed the lawsuit?

16 A. Yes.

17 Q. Okay. And you had no diagnosis by anybody  
18 about that, correct?

19 A. Yes.

20 Q. Okay. So this is -- oh, you did? Prior to  
21 filing the lawsuit?

22 A. No, I am saying I did not --

23 Q. You did not?

24 A. -- before filing.



1 Q. Okay. And did your lawyers, once you filed  
2 that lawsuit, ask you to get a diagnosis to prove  
3 that you had repressed memory?

4 MR. MINCIELI: Objection.

5 THE COURT: Sustained. Attorney/client  
6 privilege.

7 BY MR. SOTOMAYOR:

8 Q. Okay. Did you ever go to a doctor, a  
9 licensed clinical psychologist, psychiatrist, or  
10 medical doctor, in order to establish a diagnosis for  
11 repressed memory?

12 MR. MINCIELI: Asked and answered.

13 BY MR. SOTOMAYOR:

14 Q. Yes or no?

15 MR. MINCIELI: Objection.

16 THE COURT: Overruled. You can answer.

17 BY THE WITNESS:

18 A. No.

19 BY MR. SOTOMAYOR:

20 Q. And that is even as of today's date,  
21 correct? Correct?

22 A. What is the question?

23 Q. Well, you answered this question that you  
24 have never gone to obtain a clinical diagnosis of

1 repressed memory prior to the filing of the lawsuit,  
2 correct?

3 A. Correct.

4 Q. And I said, and that also includes as of  
5 today's date, correct?

6 A. It's not a clinical diagnosis, though, it  
7 is a suggestion.

8 Q. Ma'am, do you understand my question? Do  
9 you understand my question?

10 A. I think so.

11 Q. Okay. Then answer my question. In  
12 addition to not having received or submitted to a  
13 clinical psychiatrist, psychologist or medical doctor  
14 for establishing whether or not you have suppressed  
15 memory, you have not done that even as of today's  
16 date, correct?

17 A. Correct, by a clinician.

18 Q. As a matter of fact, no lawyer has  
19 requested that you go someplace to obtain this  
20 diagnosis one way or the other?

21 MR. MINCIELI: Objection.

22 BY MR. SOTOMAYOR:

23 Q. Correct?

24 THE COURT: Sustained. Attorney/client

1 privilege.

2 BY MR. SOTOMAYOR:

3 Q. Well, did you ever make this comment, "I am  
4 plagued with a very good long-term memory," do you  
5 recall making that statement?

6 A. Yes.

7 Q. And that is true today, right?

8 A. Yes.

9 Q. And it was true on the date that you filed  
10 this lawsuit, correct?

11 A. Yes.

12 MR. SOTOMAYOR: I have no further questions of  
13 this witness, your Honor.

14 THE COURT: Thank you.

15 Anything further?

16 MR. SOTOMAYOR: I am just asking you once again  
17 to adopt the affidavit and the complaint that was  
18 signed by Attorney Glenn Gaffney with respect to his  
19 hours and attorneys' expenses, and I am asking you to  
20 adopt the arguments that I made with respect to 219  
21 motion and the nonproduction of those items.

22 THE COURT: That's contained within your  
23 pleadings and I have reviewed those and considered  
24 those. You may step down. Thank you. I apologize.

1 Rachel Lees.

2 MR. SOTOMAYOR: At this time, Judge, I know that  
3 there was a 237 request on Rachel Lees. I want the  
4 record to reflect that, obviously, she is not here.

5 THE COURT: We ruled on that.

6 MR. SOTOMAYOR: I understand.

7 THE COURT: So do you want to just argue your  
8 motion on this or do you have any testimony that you  
9 wish to call?

10 MR. SOTOMAYOR: I am going to call Mr. --

11 THE COURT: Mincieli? Okay. Again, stand up if  
12 you don't mind.

13 THE WITNESS: I'm sorry.

14 THE COURT: You understand you're under the same  
15 oath you were under on the previous occasion?

16 THE WITNESS: I do, yes.

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

20 DIRECT EXAMINATION

21 BY MR. SOTOMAYOR:

22 Q. Mr. Mincieli, one of the plaintiffs in this  
23 case, when I say "this case," the Third Amended  
24 Complaint that you took part in, was an individual by

1 the name name of Rachel Lees, correct?

2 A. Correct.

3 Q. And in connection with your representation  
4 of the plaintiffs, including Ms. Lees in this case,  
5 isn't it true that there was a conversation between  
6 you, your law firm, and Ms. Lees with respect to an  
7 objection that she had listing suppressed memory in  
8 the body of the complaint?

9 A. I do not recall that.

10 Q. When you say you do not recall, are you  
11 saying that it didn't happen, or at this point you  
12 have no independent recollection?

13 A. I can tell you that I don't believe I ever  
14 had such a conversation with her and I don't know  
15 about the content of another person's conversation  
16 with her about that.

17 Q. Well, in connection with the discovery  
18 request, isn't it true that you received a Bates --  
19 that you received numerous e-mails that were  
20 conducted or, rather, that involved Ms. Lees,  
21 Ms. Frost, and Ms. Barker; isn't that true?

22 A. Yeah, I received a lot of communications --

23 Q. Okay.

24 A. -- between them.

1 Q. And it included in those conversations,  
2 right?

3 A. Communications among those people?

4 Q. Yes.

5 A. Yes.

6 Q. And you have had occasion, have you not, to  
7 review the motion for sanctions under Rule 137 and  
8 219 that was filed specifically involving Rachel  
9 Lees, correct?

10 A. Yes.

11 Q. So you were made aware that this hearing  
12 was going to include evidence to present to determine  
13 whether or not you, in fact, had received this  
14 information and what, if anything, you did in  
15 response to that, correct?

16 A. Potentially. I don't know what you  
17 intended to do during the hearing, to be honest with  
18 you.

19 Q. Sir.

20 A. I read the motions.

21 Q. Sir, you read the motions?

22 A. Yes.

23 Q. You read the allegations contained within  
24 the motions, right?

1 A. I have, yes.

2 Q. And, specifically, the allegations  
3 contained within the motion of Ms. Lees indicate that  
4 she had contacted her lawyers to indicate that there  
5 was no -- that there was no repressed memory; isn't  
6 that true?

7 A. If that is in the motion, then I have no  
8 reason to deny it.

9 Q. Did you read the motion or not?

10 A. I did. I already said I read it.

11 Q. And you're telling me that you can't  
12 remember right now whether or not that was in the  
13 motion?

14 A. I don't have this in front of me. If you  
15 want to give me a copy, I could tell you whether it  
16 is or not.

17 Q. You prepared for this hearing on today's  
18 date, correct?

19 A. I did.

20 Q. And as a good attorney, you would look at  
21 all the allegations, right?

22 A. Yes.

23 Q. And did you see those allegations that were  
24 attributed -- those statements that were attributed

1 to Ms. Lees?

2 A. Yes.

3 Q. So you know what we're talking about,  
4 right?

5 A. I do.

6 Q. Okay. So based upon that, you knew it was  
7 important to make a determination whether or not  
8 anybody in your office had, in fact, made -- those  
9 statements had been made to her, right?

10 A. No, I did not know that. And I will tell  
11 you why I object to the question. The reason being,  
12 you're asking me what my thought process is in  
13 preparing for the motions that are going to be argued  
14 and preparing for my clients. That is my work  
15 product, so it doesn't matter.

16 Q. Sir, I am asking you, once you -- you had  
17 information by way of discovery that Ms. Lees was  
18 alleging that she never said that there was repressed  
19 memory, correct?

20 A. I don't think she is alleging that. I  
21 don't know what you mean by "alleging." If you're  
22 telling me that there are communications that you're  
23 relying upon that Rachel did not believe she had  
24 repressed memories, then show me those, instead of



1 asking me if I had conversations, but not including  
2 the conversations.

3 Q. You're not the judge here, counsel. You're  
4 not the judge.

5 I am asking you, once you had that  
6 information, what duty, if any, did you have to  
7 pursue and investigate -- well, no, I want to ask --

8 MR. BRYANT: Well, Judge, I am going to object  
9 to the form.

10 MR. SOTOMAYOR: I'm going to ask you this.

11 MR. BRYANT: I am objecting.

12 THE COURT: I am going to wait until the end of  
13 the question.

14 BY MR. SOTOMAYOR:

15 Q. I am going to ask you this question. Once  
16 you learned that there were statements in discovery  
17 attributable to Rachel Lees that she never -- that  
18 she never indicated she has repressed memories, what,  
19 if anything, did you do?

20 A. That is attorney/client privilege. That is  
21 work product.

22 Q. Sir, what did you -- sir, I am asking you,  
23 once you had evidence before you that your client,  
24 Rachel Lees, said she never said she had repressed

1 memory, did you conduct any investigation whatsoever  
2 to determine the veracity of that statement, yes or  
3 no?

4 A. That is attorney/client privileged work  
5 product.

6 THE COURT: Did you do any investigation?

7 THE WITNESS: I explored the concept of  
8 repressed memories with the clients --

9 THE COURT: With the client?

10 THE WITNESS: -- through the discovery.

11 THE COURT: Any investigation other than through  
12 your communication with the clients?

13 THE WITNESS: No.

14 THE COURT: Thank you.

15 BY MR. SOTOMAYOR:

16 Q. When you say "clients," are you saying  
17 Rachel Lees or are you saying other people?

18 A. All of them.

19 Q. Including Rachel Lees?

20 A. Including Rachel Lees.

21 Q. When did you contact Rachel Lees concerning  
22 the 137 -- the allegations of the 137 about her  
23 statements?

24 A. That is attorney/client privilege.

1 THE COURT: Sustained.

2 BY MR. SOTOMAYOR:

3 Q. Well, sir --

4 THE COURT: You asked him what information he  
5 utilized in making these determinations. He said  
6 he's consulted with all of the clients that were  
7 plaintiffs in this lawsuit. What is your next  
8 question?

9 BY MR. SOTOMAYOR:

10 Q. How long did you -- by which manner did  
11 you -- by which manner did you communicate with  
12 Ms. Lees? Where was she at, what date, when did this  
13 occur?

14 A. I have spoken to Rachel Lees dozens of  
15 times. She lives in --

16 Q. I am talking about --

17 A. I am answering the question, sir.

18 I have spoken to Rachel Lees dozens of  
19 times for hours on end. She lives in New Zealand.  
20 She was always in New Zealand every time we spoke,  
21 and I was always in my office. I don't recall the  
22 dates or the times of any of those conversations.

23 Q. Well, sir, you take notes in connection  
24 with your files, right?

1           A.     Sometimes, yes.   Sometimes, no.

2           Q.     And in connection with this case, did you  
3     make any notations with respect to talking to  
4     Ms. Lees specifically about her statement that she  
5     never told any lawyer that she had repressed memory,  
6     did you talk to her about that?

7           A.     I will answer that in two parts.

8                     Number one, I don't remember.

9                     Number two, you're making a conversation --  
10    you're basing a question on a statement that I don't  
11    know the day or time of that you're not showing me,  
12    so -- but with respect to that, I don't know.

13          Q.     So that in your review of the motion that  
14    was set for hearing on today's date, you're telling  
15    me that you have no independent recollection, did not  
16    pursue to determine whether or not you had a  
17    conversation with her on that date or can testify to  
18    it?

19          A.     I don't understand the question.   Say  
20    again.

21          Q.     I want to be very specific.   At some point  
22    you learned of the statement attributable to Ms. Lees  
23    about her not agreeing to having repressed memory?

24          A.     That is a different statement than you said

1 earlier. I'm not sure what you're saying.

2 Q. It is a statement that is contained in the  
3 discovery. Do you agree with that, it is a --

4 A. Show me the statement. I don't know what  
5 you're referring to. Show me the statement.

6 MR. SOTOMAYOR: Judge, if I can have a moment.

7 For the record, I am going to show you what  
8 I am going to mark as Gothard No. 1 for purposes of  
9 the 137 petition. May I approach?

10 THE COURT: You may.

11 BY MR. SOTOMAYOR:

12 Q. For the record, tell me what it is I have  
13 just handed you.

14 A. You have handed me a copy of the motion.

15 Q. Correct. And that is the motion that sets  
16 forth the assertion attributable or the statements  
17 attributable to Ms. Lees, correct? You have seen  
18 that before, correct, sir?

19 A. I have seen the motion, yeah, but we have  
20 already heard that from Rachel that you take  
21 piecemeal sentences and not entire statements. I am  
22 asking you to show me an entire statement. You're  
23 basing a motion against me for sanctions on an entire  
24 statement. I want the entire statement.

1 THE COURT: Mr. Mincieli, I know this is a  
2 problem when an attorney gets on the witness stand  
3 because we want to be an attorney and we don't want  
4 to be a witness.

5 THE WITNESS: I understand.

6 THE COURT: But the point is, in this particular  
7 stage, you are a witness and you need to conduct  
8 yourself in that manner. There are other competent  
9 people at the counsel table that can assist with the  
10 attorney aspect of things.

11 THE WITNESS: Thank you, your Honor.

12 THE COURT: You may reask your question,  
13 counsel.

14 MR. SOTOMAYOR: Thank you.

15 BY MR. SOTOMAYOR:

16 Q. With respect to Ms. Lees, isn't it true  
17 that you were aware through discovery that she had  
18 said on May 4th, 2016, "I may not be very bright or  
19 intelligent or understand legalese, but I do have a  
20 good memory I can rely on." Do you recall saying  
21 that?

22 A. I don't recall her saying that.

23 Q. Do you recall that being -- you reviewed  
24 all of the Facebook transmissions, correct?

1           A.     There is thousands and thousands of pages,  
2 I can't possibly recall every statement.

3           Q.     I am not asking you to recall it. You went  
4 through it all, didn't you?

5           A.     I went through -- I don't know if I went  
6 through all of them. We had, like, different people  
7 go through all of them.

8           Q.     Okay. And then you all got together to  
9 determine whether or not there was anything that  
10 would subject you to a duty to disclose that or to  
11 change pleadings in any way?

12          A.     I would say our actions in response to that  
13 are privileged.

14          Q.     So then she said, "Because my memory is so  
15 good, it is hard to sort it all out and leave out  
16 minor details that you probably don't want." Do you  
17 recall her saying that?

18          A.     I don't recall that, no.

19          Q.     "I don't know what it is like to have  
20 blocked memories, but I have the kind of memory that  
21 remembers everything and that is a torment in and of  
22 itself." Do you recall her making that statement?

23          A.     No, I don't recall that statement.

24          Q.     That --

1 A. Other than from the motion.

2 Q. Are you denying that that statement is  
3 contained within the discovery that was ordered in  
4 this case?

5 A. I don't know one way or another.

6 Q. So are you telling me that you, despite  
7 this being -- you don't dispute this is part of  
8 discovery, correct?

9 A. No, I said I don't know one way or the  
10 other.

11 Q. So what -- what, if anything, did you do  
12 once you -- well, you read this motion, correct?

13 A. Yes.

14 Q. Okay. And what, if anything, did you do in  
15 connection with reading this to take any action at  
16 all with respect to pursuing this litigation?

17 A. That is attorney/client privilege, my work  
18 product.

19 Q. Sir.

20 THE COURT: I am unclear about the form of the  
21 question. The litigation was no longer existing at  
22 the time this motion was filed. The litigation was  
23 nonsuited. So in regard to this motion, that is  
24 fine, and in regard to litigation about this motion,



1 that is fine, but the lawsuit was nonsuited, so that  
2 litigation was not pending anymore.

3 BY MR. SOTOMAYOR:

4 Q. Isn't it true that these were the same  
5 allegations that were made in a motion to dismiss  
6 based upon repressed memory?

7 A. I don't --

8 Q. Isn't that true?

9 A. I honestly don't recall.

10 Q. You don't recall or you don't know?

11 A. I don't recall. I said --

12 Q. So it is possible that you knew about it,  
13 correct?

14 A. No, I didn't know about those particular  
15 statements because those documents were disclosed  
16 after the motion to dismiss was already disposed of.

17 Q. How do you know that?

18 A. Because I was involved in the motion to  
19 dismiss.

20 Q. Oh, so you were involved in a motion to  
21 dismiss, you then reviewed all the pleadings in that  
22 case, right? You reviewed all the pleadings that  
23 existed at that time, correct?

24 A. I don't recall what I reviewed in the

1 motion to dismiss. It was over a year ago.

2 Q. Okay. You're a smart lawyer, right?

3 THE WITNESS: Your Honor, are we going to get  
4 argumentative?

5 THE COURT: That calls for --

6 THE WITNESS: And, yes, I am, by the way.

7 THE COURT: It is argumentative.

8 BY MR. MINCIELI:

9 Q. And as a smart lawyer, you know that a  
10 statute of limitation problem existed with respect to  
11 the timeframe of the allegations of all of these --  
12 of all these plaintiffs, right?

13 A. I would say a statute of limitation problem  
14 exists with every single claim that we file or case  
15 we file --

16 Q. But in this particular case --

17 A. -- just because there are statutes of  
18 limitation.

19 Q. But in this particular case, we were  
20 talking about actions that were sometimes in excess  
21 of 20 years, right?

22 A. No, I don't think there was anything in  
23 excess of 20 years.

24 Q. In excess of ten years?

1 A. Yeah, maybe.

2 Q. That would certainly fall outside the  
3 statute of limitations for these kinds of  
4 allegations, right?

5 A. Some, maybe. I don't recall.

6 Q. With respect to this particular lawsuit,  
7 the only way that you were able to prosecute this  
8 lawsuit, if there was an allegation that the  
9 plaintiff or plaintiffs were suffering from repressed  
10 memory, right?

11 A. I am --

12 Q. Remember, you're a smart lawyer.

13 A. I am going to object to the question on the  
14 grounds that it invades the attorney work product  
15 privilege.

16 THE COURT: Sustained.

17 BY MR. SOTOMAYOR:

18 Q. Sir, as a smart lawyer, can a person bring  
19 a lawsuit in connection with the allegations  
20 contained within this complaint unless there is an  
21 exception to the statute of limitations?

22 A. I don't know. In general? I mean, there  
23 are statutes of limitation that bar lawsuits unless  
24 there is an exception in general, yes.

1 Q. So in this case the exception was repressed  
2 memory, right?

3 A. Not only repressed memory.

4 Q. Not only repressed memory?

5 A. Right.

6 Q. What was the other -- what was the other  
7 exception?

8 A. It -- I -- I believe it reads that the  
9 plaintiff suffered from a condition that caused them  
10 to repress memories and/or fail to appreciate or  
11 understand that they were -- that they suffered  
12 damages. I am paraphrasing.

13 Q. Since you did an excellent job of  
14 paraphrasing --

15 A. Thank you.

16 Q. -- can you explain to us now what, if  
17 anything, you did to investigate that standard with  
18 respect to this individual, Rachel Lees?

19 A. Well, there is general information that was  
20 available to us, not only for Rachel Lees.

21 Q. I am talking about you, sir.

22 A. And I am getting to that. I am answering  
23 your question. And the way I am explaining it is  
24 that it does not just pertain to Rachel Lees.

1 Q. But I am asking it as to Rachel Lees.

2 A. And it applies to Rachel Lees.

3 Q. That's why. So just tell me what you did  
4 about Rachel Lees.

5 A. Because I didn't just do it with respect to  
6 Rachel Lees.

7 Q. I just want --

8 A. If you will just stop, I can get to it.

9 THE COURT: Let Mr. Mincieli answer the way he  
10 was going to answer.

11 THE WITNESS: Thank you, your Honor.

12 BY THE WITNESS:

13 A. In general, what we did was we  
14 discovered --

15 BY MR. SOTOMAYOR:

16 Q. I'm sorry, when you say "we" -- Judge, I'm  
17 sorry, but I don't know who "we" is.

18 A. Those attorneys prosecuting the case.

19 Q. Can you list them.

20 A. I can't list them all because, like I said,  
21 I came into the case after the complaint was filed.  
22 So I am only working from the information that I  
23 have. My office involved Frank Cesarone. I cannot  
24 speak beyond that.

1           We learned that because of the nature of  
2 the upbringing of the ladies in IBLP and the  
3 teachings of the IBLP, all right, they had a culture  
4 of and were raised and had beliefs and understandings  
5 that prevented them from understanding, to a certain  
6 extent, what sex even was. To another extent what  
7 sexual assault or sexual abuse even was. That  
8 touching can be wrong. What grooming is.

9           They were raised in a system that valued  
10 authority and only authority over all other things.  
11 And that authority rested entirely in Bill Gothard.  
12 So the idea that Bill Gothard could possibly do  
13 something immoral or wrong or sinful was a concept  
14 that they couldn't even form in their brains.

15           When some of them said I feel uncomfortable  
16 about the things that Bill Gothard does to me to  
17 their parents, they were told, that's impossible,  
18 maybe he even wants to marry you, things along those  
19 lines.

20           So we developed a lot of information about  
21 the lifestyle and the culture of people in IBLP. And  
22 based on that, that is how we formed a conclusion  
23 that we pled the exception the way we did.

24           Is that good enough?

1 BY MR. SOTOMAYOR:

2 Q. We formed the conclusion? Who is the "we"?

3 A. I've already answered that.

4 MR. SOTOMAYOR: Judge, I am asking who the "we"  
5 is. I don't think he has answered that.

6 BY THE WITNESS:

7 A. I understand. Initially -- I am answering  
8 the question.

9 I understand initially the Gibbs Law Firm  
10 was involved, I don't know the other gentleman that  
11 was over there, my office was involved, and the  
12 Bryant Law Firm is involved.

13 Q. You said "we." In connection with the  
14 Meyers & Flowers law firm, who is the we?

15 A. Myself and Frank Cesarone.

16 Q. So the two of you. So two of you decided  
17 to interpret whatever it is that the plaintiff was  
18 saying and then present that in the way of a  
19 pleading?

20 A. That's attorney work product.

21 Q. Well, sir, did you fashion the complaint  
22 and then give it to the defendants to sign, or did  
23 they represent the statements as you have set forth  
24 in the complaint?

1           A.     The complaint was never signed by any of  
2     them.  It is not a verified pleading.  I am assuming  
3     you read the complaint and saw there are no  
4     signatures on it from the plaintiffs.  So I did not  
5     give it to them to sign.

6           They have all seen the complaint.  They all  
7     know the allegations.  And I believe that the  
8     allegations with respect to repressed memories might  
9     have carried over from a prior complaint.

10          THE COURT:  Okay.  Thank you.  That is the  
11     20 minutes.  You may step down.

12          THE WITNESS:  Thank you, your Honor.

13          THE COURT:  Any evidence you wish to present in  
14     regard to the 15 minutes that you have for your  
15     response?

16          MR. MINCIELI:  Yes, your Honor.  No evidence, I  
17     would just like to make argument.

18          THE COURT:  Okay.

19          MR. MINCIELI:  Thank you.

20                 Your Honor, Rule 137 states that every  
21     pleading, motion and other document of a party  
22     represented by an attorney shall be signed by at  
23     least one attorney of record in his individual name,  
24     whose address shall be stated.



1           It goes on to say the signature of an  
2 attorney or party constitutes a certificate by him  
3 that he has read the pleading, motion or other  
4 document -- this is the important part -- and to the  
5 best of his knowledge, information and belief formed  
6 after reasonable inquiry, it is well grounded in fact  
7 and is warranted by existing law or a good faith  
8 argument for the extension, modification or reversal  
9 of existing law, and that it is not interposed for  
10 any purpose such as to harass or cause unnecessary  
11 delay.

12           What we have alleged in these claims with  
13 respect to what counsel has characterized as only  
14 repressed memories, and I am reading now from our  
15 Third Amended Complaint, Count 30, with respect to  
16 Charis Barker.

17           MR. SOTOMAYOR: Judge, I am going to object  
18 because I thought we were doing this complaint to  
19 complaint and this relates to Lees. I mean, I know  
20 we have an eventual opportunity to make closing  
21 arguments, but we're talking about Ms. Lees now and  
22 now he is talking about Barker.

23           THE COURT: Okay. Let's limit this to Ms. Lees.  
24 We're doing point by point.

1 MR. MINCIELI: That is the point. I did not  
2 intend to bring in a different plaintiff. My only  
3 point for reading that sentence is because it shows  
4 the language that we used throughout for all of the  
5 plaintiffs. But that is fine, I will find the  
6 section for Rachel Lees.

7 THE COURT: And I am curious about the comment  
8 that there is going to be some final argument. I  
9 never said there was going to be any final argument  
10 by anybody in regard to same.

11 There are nine motions. We had 40 minutes  
12 for each motion. And I said for each motion, you may  
13 put forth any testimony you wish, any arguments you  
14 wish, any pleading you wish, and any exhibits that  
15 you wish. You have 40 minutes to complete each  
16 motion. That is what is done. There isn't any big  
17 final argument at the end.

18 I have heard everything that I am going to  
19 hear in regard to everything up to Rachel Lees and  
20 Megan Lind and we have those two -- Rachel Lees to  
21 finish up and Megan Lind to start and finish, but I  
22 don't know what final arguments you're referencing.

23 There was no final argument laid out at the  
24 end of eight motions that I was going to allow some

1 final argument. That was never said and it was told  
2 specifically that all argument would take place  
3 within the 40-minute timeframe.

4 I could have stopped on each motion and  
5 ruled on each motion. I chose to continue to hear  
6 the proofs on all of them in regard to same. So go  
7 ahead with what you were going to do.

8 MR. MINCIELI: Thank you, your Honor.

9 Your Honor, what we have argued is, and I  
10 am reading from Count 47 of our Third Amended  
11 Complaint, which is related to Rachel Lees,  
12 Paragraph 595. At the time of the abuse, Rachel Lees  
13 did not appreciate that the act was abusive. 596,  
14 Rachel Lees was suffering from a condition that  
15 caused her to repress the memories of abuse and/or  
16 Rachel Lees did not know her injuries were caused by  
17 the abuse.

18 There is a discovery rule here in Illinois,  
19 your Honor, that requires there be both knowledge of  
20 an act, that it is harmful, and that it caused her  
21 damages before a statute of limitations starts to  
22 run. We can also have -- we also have the  
23 opportunity to plead in the alternative.

24 So what we have done in these cases is not

1 just plead that all the girls have had repressed  
2 memories. Now, you have heard on the stand that some  
3 of them have actually had repressed memories and some  
4 of them have diagnoses telling them why they have  
5 repressed memories.

6 But for others like Charis Barker and  
7 Rachel Lees, we have alleged the discovery rule  
8 and/or in the alternative, that they have suffered  
9 from a condition where they did not recognize that  
10 the -- that they suffered from abuse.

11 And pursuant to 137, that is an argument  
12 and a pleading that is well grounded in fact and  
13 warranted by existing law, or it is a good extension  
14 of existing law. Even to the extent of repressed  
15 memories.

16 Now, with respect to Rachel Lees, also, I  
17 will -- I have what I'd like to tender as Exhibit 7.  
18 It's our answers to interrogatories on behalf of  
19 Rachel Lees in which we explain when she is asked,  
20 did you have --

21 MR. SOTOMAYOR: Can I have a copy if you don't  
22 mind. Thank you.

23 MR. MINCIELI: Answer to Interrogatory No. 16,  
24 there's not a specific date on which I understood

1 that Bill Gothard's abusive behavior caused my  
2 injuries. It was a process through therapy that I  
3 became aware. And it explains that -- well, I don't  
4 want to belabor the Court and I don't want to read  
5 from --

6 Answer to No. 14, we were trained to  
7 believe that Bill Gothard could do nothing wrong or  
8 inappropriate and absolutely nothing illegal or  
9 sinful. I believe what I was taught that Bill  
10 Gothard could not do anything wrong.

11 I mean, the entirety of the pleading and  
12 the reasoning behind it and the claims are laid out  
13 in this signed verified answers to interrogatories  
14 and they complied with the law of Illinois and they  
15 complied with the Rule 137.

16 That being said, your Honor, I don't have  
17 anything else.

18 THE COURT: Thank you. Your final five minutes  
19 in regard to the Rachel Lees motion.

20 MR. SOTOMAYOR: Yes.

21 Judge, contrary to what counsel asserts,  
22 the evidence you have before you and, you know, it is  
23 a situation where you have an admission by the party,  
24 even though she is not here, contained within the

1 discovery that she has represented to these attorneys  
2 that I do not have repressed memory.

3 Counsel would have you believe the Code of  
4 Professional Responsibility does not require anything  
5 else, that simply because counsel says that he didn't  
6 conduct an investigation, that it alleviates him from  
7 any role with respect to the duties that 137  
8 mandates.

9 It mandates a reasonable inquiry, so simply  
10 because, and I know that he has made a statement  
11 about him deciding that he believes somebody, and,  
12 therefore, he didn't have to act, you know, sort of  
13 that defense, it is not my job, it is not my job.

14 Well, I like to watch TV late at night and  
15 watch Me TV. I think it is The Lucy Show. And Ricky  
16 Ricardo, when he encounters Lucy doing something  
17 wrong, he says, Hey, Lucy, you got a lot of  
18 explaining to do.

19 Well, that's the same approach, I think,  
20 the agency that regulates attorneys' conduct and  
21 tells them specifically by way of these rules is you  
22 cannot perpetrate a fraud on this Court. You cannot  
23 do something that is going to incur liability, either  
24 financially or by reputation, to somebody else.

1           What has happened here by not doing  
2 anything, not adhering to the statements, the bold  
3 statements by Rachel Lees as to that is not the case,  
4 I have a good memory.

5           They have destroyed the reputation of  
6 William Gothard because, you know, I was born at  
7 night, your Honor, but not last night. So when all  
8 of a sudden we have 17 people that come forth and try  
9 and maneuver around the legal loopholes to bring a  
10 case into this court, alleging that they have  
11 repressed memory, you know, that is like me saying  
12 oh, my God, your Honor, I was late because I have  
13 PS -- I have post-traumatic stress disorder.

14           MR. MINCIELI: I object, your Honor. Right now  
15 he is just making fun of people who have diagnoses.

16           THE COURT: Okay. First of all, he is arguing  
17 and I am going to let him argue and we'll take it for  
18 whatever we're going to take it for. It is argument.  
19 He is not putting in proofs. He is arguing. Go  
20 ahead.

21           MR. SOTOMAYOR: Judge, wouldn't that be  
22 ridiculous? You'd look at me and say, you really are  
23 crazy, Sotomayor. And you would have a right to .

24           But when somebody gets up here and they

1 tell you that before the filing of a lawsuit they  
2 make an independent determination that not because I  
3 don't have a recollection of anything, you know, that  
4 I can analyze or diagnose myself, you know? Really?

5 Well, then my son must have wasted four  
6 years of medical school to become a doctor because,  
7 by golly, he could just go out there and hang out a  
8 sign and say I am going to diagnose anybody.

9 Judge, this case speaks out to have the  
10 Court say, you know what, I can sympathize with maybe  
11 something that may have occurred, but I don't want to  
12 have to reach that issue. The issue is, do I believe  
13 that there was suppressed memory here, or was it just  
14 an avenue to falsely claim repressed memory in order  
15 to fit into a lawsuit that was brought before this  
16 Court and clearly, based upon some of the things that  
17 you have heard, to ruin Mr. Gothard's reputation.

18 I am asking for a finding in favor of  
19 Mr. Gothard.

20 THE COURT: Thank you.

21 In regard to the motion against Megan Lind.  
22 Your first witness, please.

23 MR. SOTOMAYOR: Ms. Lind.

24 THE COURT: Ms. Lind, if you would please come



1 forward. Stand and raise your right hand to be  
2 sworn.

3 (Witness sworn.)

4 THE COURT: Please have a chair. State your  
5 full name and spell your first and last name.

6 THE WITNESS: Megan Lind, L-i-n-d, M-e-g-a-n.

7 THE COURT: Thank you. You may inquire.

8 MEGAN LIND,

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

11 DIRECT EXAMINATION

12 BY MR. SOTOMAYOR:

13 Q. Ms. Lind, what do you do for business or  
14 occupation?

15 A. I work for a hospital.

16 Q. In what capacity?

17 A. I am a liaison secretary for a nursing  
18 station.

19 Q. Are you licensed?

20 A. No.

21 Q. What state do you work in?

22 A. California.

23 Q. How long have you been employed as a -- in  
24 the position you just described?

1 A. Since 2013.

2 Q. And prior to 2013, what did you do for  
3 business or occupation?

4 A. I was a stay-at-home mom before that.

5 Q. And for what period of time?

6 A. Two years.

7 Q. Now, before you were a stay-at-home mom,  
8 what did you do?

9 A. I worked for an oral surgeon before that.

10 Q. When you say oral surgeon, was that a  
11 dentist, doctor?

12 A. A dentist.

13 Q. For how long?

14 A. I don't remember. Five years maybe, four  
15 or five years.

16 Q. So from that period of time -- okay.

17 Can you tell me approximately what year  
18 that would have been?

19 A. Oh, gosh, 2000 -- I don't remember -- 2006.

20 Q. Were you having any problems in 2006 to the  
21 present date with respect to your memory?

22 A. No.

23 Q. Now, when was the last time you had contact  
24 with Mr. Gothard or the institute for life practices?

1 A. Practices?

2 Q. Well, I'm sorry. The Institute for Basic  
3 Life Principles.

4 A. The last contact I had with Mr. Gothard was  
5 in 1999.

6 Q. And from 1999 to the time that you began at  
7 the hospital, did you have any problems with your  
8 memory?

9 A. At the hospital, problems with my memory?

10 Q. From the moment in time that you left --  
11 the last time you saw a doctor to the time you began  
12 working in the hospital for the oral -- for the  
13 surgeon, did you have any problems with your memory?

14 A. I don't work for the surgeon in the  
15 hospital.

16 Q. Oh, I'm sorry. You had said you worked for  
17 an oral surgeon, was that correct?

18 A. Right, before --

19 Q. When was that, 2005?

20 A. 2005 to 2006.

21 Q. So between the time that you left Gothard's  
22 contact, which was 1999, you said --

23 A. Uh-huh.

24 Q. You have to answer yes or no.

1 A. Yes. Yes.

2 Q. -- to 2005, did you have any problems with  
3 your memory?

4 A. No.

5 Q. So you never had repressed memories; is  
6 that correct?

7 A. I didn't say I didn't have problems with  
8 repressed memory. I said I didn't have problems with  
9 my memory.

10 Q. Well, is there is a difference between  
11 repressed memory and memory?

12 A. I believe so.

13 Q. Well, let me ask you this. Prior to filing  
14 suit, had you sought treatment for repressed memory?

15 A. No.

16 Q. Okay. Have you ever sought treatment for  
17 repressed memory?

18 A. No.

19 Q. Okay. So would it be fair to say that you  
20 simply diagnosed yourself with repressed memory,  
21 would that be fair?

22 A. No.

23 Q. Why is that not fair?

24 A. I didn't diagnose myself, I just --

1 Q. You alleged that you had repressed memory,  
2 right?

3 A. Yes.

4 Q. Okay. And you alleged that in the  
5 complaint that you signed on as the Third Amended  
6 Complaint, correct?

7 A. I don't have that in front of me to see,  
8 but --

9 Q. You mean you're not forgetting whether or  
10 not you joined a lawsuit?

11 A. I did join the lawsuit.

12 Q. Okay. And when you joined the lawsuit, you  
13 said you had repressed memory, right?

14 A. Correct. Yes, correct.

15 Q. Okay. So that statement, did it come from  
16 you or from your lawyers?

17 MR. MINCIELI: Objection. Foundation.

18 THE COURT: Sustained.

19 MR. MINCIELI: Thank you.

20 BY MR. SOTOMAYOR:

21 Q. Okay. Where do you attribute that  
22 statement coming from?

23 A. Having repressed memory?

24 Q. That statement, did you have --

1           A.     By not remembering things until I read  
2 Rachel Frost's posting on RG. Not recalling my  
3 instances until I read that.

4           Q.     So would it be fair to say that you only  
5 joined this lawsuit after you read what somebody else  
6 had to say, right?

7           A.     After I was starting to remember things.

8           Q.     Well, were you having trouble remembering  
9 who Rachel was before you read her story?

10          A.     I knew who Rachel was before I read her  
11 story.

12          Q.     And you admit that at that point you  
13 weren't having any problems with your memory, isn't  
14 that what you said before?

15          A.     Right.

16          Q.     Okay. And you had never -- you had  
17 actually communicated with Mr. Gothard after you left  
18 the Institute, right?

19          A.     No.

20          Q.     Had you sent him any e-mails? Had you  
21 communicated with him?

22          A.     No.

23          Q.     There was a website for a Facebook or some  
24 sort of communication by way of the internet with

1 something called R2D2, do you remember that?

2 A. Uh-huh.

3 Q. You have to answer yes or no.

4 A. Yes.

5 Q. And R2D2 was a secret exchange of  
6 information, right?

7 A. Right.

8 Q. And the reason why it was listed as R2D2  
9 because all you women thought you were clever enough  
10 to come up with a password that nobody else would  
11 think about, right?

12 MR. MINCIELI: Objection to the form of the  
13 question.

14 THE COURT: Sustained as to the form of the  
15 question what, quote, "all you women," end of quote.

16 BY MR. SOTOMAYOR:

17 Q. Who was part of the R2D2?

18 A. I don't recall, sir. I am not part of that  
19 group.

20 Q. Well, you communicated with that group,  
21 right?

22 A. For a very short time.

23 Q. Okay. And when was that?

24 A. I don't recall. I don't remember.

1 Q. Was it before the lawsuit?

2 A. I think -- I don't recall.

3 Q. So you don't know whether it was before the  
4 lawsuit and the -- after the lawsuit was instituted,  
5 right?

6 A. I don't recall, sir.

7 Q. Is that because you have repressed memory?

8 A. Yes, sir.

9 Q. Oh, really? So your repressed memory --  
10 well, the communication between R2D2 was for the  
11 purposes of sharing stories to join in as many  
12 plaintiffs as you could to this lawsuit, right?

13 A. I suppose.

14 Q. You suppose.

15 And it was the -- it was the intent or the  
16 motivation of all these people sharing on R2D2 to  
17 provide each other with information to stick together  
18 as a group against Mr. Gothard, right?

19 MR. MINCIELI: Objection. Speculation.

20 THE COURT: Sustained as to all the other  
21 members of the group.

22 BY MR. SOTOMAYOR:

23 Q. It was your motivation to be part of a  
24 group so that you could go after William Gothard,



1 correct?

2 A. We were part of a support group.

3 Q. I am talking about you.

4 A. I was part of a support group.

5 Q. To go after Mr. Gothard, correct?

6 A. No.

7 Q. Well, the motivation was to terminate him  
8 from the Institute that he headed; is that correct?  
9 Is that correct?

10 A. That I was terminating him from the  
11 institute?

12 Q. No, that you were hoping to have him  
13 terminated, correct?

14 A. I was hoping, yes.

15 Q. Yes. So -- and that was the purpose in the  
16 R2D2, correct? Correct?

17 A. I don't know.

18 Q. Well, what was your purpose in subscribing  
19 to the R2D2 and responding?

20 A. Having an outlet to chat with other women  
21 who had the same experiences that I had had.

22 Q. Now, part of your complaint was that  
23 Mr. Gothard allegedly made an aggravated criminal  
24 sexual abuse upon you; is that correct?

1           A.     Correct.

2           Q.     And you eventually dropped that claim  
3 against Mr. Gothard, correct? Before the voluntary  
4 dismissal, did you drop that claim against him?

5           A.     I don't believe so.

6           Q.     Okay. Well, let me ask you this. Did you  
7 include in your communication that we can fight for  
8 her, and that was with respect to Jane Doe II?

9           A.     I believe I did say that.

10          Q.     Okay. And you believed that you -- and you  
11 indicated or you responded yes with respect to that  
12 Ms. Frost thought that it strengthened all your  
13 resolve to shut down this evil man and his  
14 organization; is that correct?

15          A.     Correct.

16          Q.     So the purpose of bringing the lawsuit was  
17 to shut down the Institute, correct?

18          A.     To expose Bill Gothard.

19          Q.     But to shut down -- that's the words you  
20 used, "shut down the Institute," right?

21          A.     I believe that is taken out of context.

22          Q.     Did you say to shut down the Institute?

23          A.     I did, but there is many other phrases  
24 after and before that that I believe are not in the

1 documentation.

2 Q. So do you still participate in this R2D2  
3 site?

4 A. No.

5 Q. When did you terminate that?

6 A. I don't remember the date.

7 Q. Was it this year? Was it before the  
8 lawsuit ended?

9 A. I don't remember.

10 Q. Do you have any records with respect to  
11 those communications?

12 A. No, I do not.

13 Q. Did you destroy them?

14 A. No.

15 MR. SOTOMAYOR: I have no further questions of  
16 this witness at this time.

17 THE COURT: Thank you.

18 Any inquiry?

19 MR. MINCIELI: Yes, just a little bit, your  
20 Honor.

21 CROSS EXAMINATION

22 BY MR. MINCIELI:

23 Q. We're getting to the end of the day. You  
24 were asked just now about a lot of postings on R2D2

1 and the motivations therefor and things you might  
2 have said. In joining this lawsuit, is it because,  
3 at least in part, you believed you were sexually  
4 abused by Bill and you suffered damages as a result?

5 A. Yes.

6 Q. You were asked about your repressed  
7 memories. How is it that you came to understand that  
8 you have repressed memories?

9 A. Because I was all of a sudden recalling  
10 many, many years previous to when I read Rachel  
11 Frost's posting on RG. It triggered a lot of  
12 memories that came back to me that I had not  
13 remembered until then.

14 Q. Rachel's story, and I think that was in  
15 roughly February of '14 --

16 A. Yes.

17 Q. -- was sort of a trigger for you?

18 A. Yes.

19 Q. And those memories then started coming  
20 back?

21 A. Yes.

22 Q. Those memories are what sort of what  
23 formulate the claims in this case for you?

24 A. Yes.

1 Q. As you sit here today, the allegations in  
2 the complaint with respect to you, you believe they  
3 are true and accurate?

4 A. Yes.

5 MR. MINCIELI: All right.

6 THE COURT: Anything further in your five  
7 minutes, Mr. Sotomayor?

8 MR. SOTOMAYOR: Just argument. I have nothing  
9 further for this witness.

10 THE COURT: You may step down then. Thank you  
11 very much.

12 You may proceed.

13 MR. SOTOMAYOR: Judge, I believe with respect to  
14 Ms. Lind, as I had argued with respect to some of the  
15 other plaintiffs in this case, it is interesting how  
16 at the late stage of February of 2018, that there was  
17 no attempt on the part of any lawyer in association  
18 with the prosecution of this case, to verify the  
19 self-diagnosis, if you want to call it, of Ms. Lind  
20 with respect to this condition of repressed memory.

21 It is interesting that she doesn't have any  
22 problems recalling the time period that she worked at  
23 the Institute, her contact with Mr. Gothard.

24 Apparently she is working without any problems, there

1 is no -- you know, there is no action on her part.  
2 You know, when you have a child who has been sexually  
3 abused, there are symptoms of bad grades in school,  
4 bed-wetting, nervousness, the communication between  
5 that child and an adult may be impinged.

6 You know, apparently Lind is living a  
7 normal life, interacting, getting jobs here, getting  
8 jobs there, yet she wants to tell you that, well, I  
9 read this story. My motivation is to help out these  
10 other people by attempting to shut down the  
11 Institute, including Mr. Gothard.

12 You have, once again, supported by the  
13 record here with respect to the 219 motion to compel,  
14 it was specifically for the R2D2. You have evidence  
15 before you that there is in existence this R2D2  
16 communication, records of that at least, just as we  
17 saw the records from the statements on this  
18 Recovering Grace.

19 Now, the law says you cannot avoid a  
20 discovery order simply by a motion to voluntarily  
21 dismiss. And why is that? Because I submit that  
22 that is evidence discoverable, just as the  
23 discoverable evidence in this case showed the  
24 statements from other plaintiffs that show the

1 falsehoods of the allegations set forth.

2 How can you say you have repressed memory  
3 by a self-diagnosis? And you know what, even if you  
4 do, even if that is enough to muster the filing of  
5 the complaint, when you have evidence, not just by  
6 this client, but by her participation in this  
7 communication on Facebook, that they are kind of like  
8 all helping each other out, you can't simply put on  
9 the blinders and not do anything about it.

10 The Code of Professional Responsibility,  
11 the law, and when I say "the law," this jurisdiction  
12 is replete with obligations set forth to attorneys to  
13 investigate. Once you know something, you have to  
14 investigate it.

15 What happened here is this firm, these  
16 plaintiffs were allowed to perpetrate a fraud upon  
17 the Court. To bring this case to a situation where I  
18 think even the Court was surprised when there was a  
19 voluntary dismissal. Hmm. I wonder why?

20 Well, the Court didn't have the benefit of  
21 having all the evidence before it with respect to  
22 these statements.

23 But, once again, you know, Mincieli says he  
24 is a smart attorney. I am sure you're a smart judge.

1 And somebody is not going to try to pull the wool  
2 over your eyes, not as long as you're sitting up  
3 there, good health, 68, and not a dummy.

4 You know exactly what happened here. This  
5 is a case that destroyed the reputation of a man  
6 based upon falsehoods. Somebody has to pay for this,  
7 Judge. I am asking you to make the people pay for  
8 this, the people who neglected their duty set forth  
9 in case law, set forth in the Code of Professional  
10 Responsibility, and send a message, you know what, I  
11 am not going to tolerate this.

12 You don't come into my courtroom, waste  
13 two, three years of my time on some BS that you know  
14 or you should have known to end a long time ago.

15 THE COURT: Thank you, counsel.

16 The Court is going to take a ten-minute  
17 recess, organize my thoughts. I will be back out  
18 here at or about 2:30. The Court is in recess.

19 (A recess was had.)

20 THE COURT: Okay. Back on the record.  
21 Wilkinson versus Institute of Basic Life Principles,  
22 et al., 15 L 980.

23 First off, I want to compliment the  
24 attorneys that were involved in this case in regard



1 to the pleadings that were presented to me for this  
2 hearing today. They were very comprehensive, they  
3 were well drafted, and they gave this Court a fair  
4 and accurate reading of each of their respective  
5 positions.

6 I know that we had 40 minutes afforded to  
7 each pleading that was taking place in regard to the  
8 137 and 219(e) sanctions, and that not everything  
9 that is in those pleadings would then be either  
10 argued and/or have testimony provided for this Court,  
11 but the Court did consider all of those pleadings in  
12 their entirety and is aware of all of the arguments,  
13 whether they were brought out in the actual  
14 40 minutes that was allotted or not.

15 Clearly, in regard to a 137 motion to  
16 dismiss, it is -- the law is basically if it is clear  
17 that the signer knew, or upon reasonable inquiry  
18 should have known that the material allegations --  
19 and I stress the word allegations in plural -- of  
20 fact the signer pled were false, the Court abuses its  
21 discretion by not sanctioning the signer under  
22 Rule 137 out of reluctance to punish conduct not  
23 intended to harass any other party.

24 The signer of the Third Amended Complaint

1 was Peter J. Flowers of the law firm of Meyers &  
2 Flowers, LLC. None of these individuals signed the  
3 Third Amended Complaint.

4 I have multiple copies of the Third Amended  
5 Complaint and I just checked the DUCS system to  
6 ensure the entirety of the Third Amended Complaint,  
7 and there is no place on that Third Amended Complaint  
8 where the individual plaintiffs that have had the  
9 motions brought against them today have signed.

10 The motions are not brought seeking  
11 sanctions against Mr. Flowers. And the motions are  
12 not sought seeking sanctions against Meyers &  
13 Flowers, LLC.

14 The motions are brought solely against the  
15 individuals that were represented by Mr. Flowers and  
16 the law firm of Meyers & Flowers.

17 Now, there is no question that if a  
18 pleading, as the statute reads, quote, If a pleading,  
19 motion or other document is signed in violation of  
20 this rule, the Court, upon motion or upon its own  
21 initiative, may impose upon the person who signed it,  
22 a represented party, or both, an appropriate sanction  
23 which may include an order to pay and et cetera.

24 So there is nothing wrong with bringing an

1 action solely against the individuals, the seven  
2 individuals, they are the, quote, represented  
3 parties, end of quote, but it just needs to be  
4 clearly stated that there are no sanctions that were  
5 sought for Mr. Flowers or his law firm or any other  
6 attorneys that might have been involved with his law  
7 firm or by any attorneys that might have been  
8 involved prior to Mr. Flowers and the law firm of  
9 Meyers & Flowers bringing the cause of action.

10 So, instead, we look at the individuals.  
11 And, again, continuing on with the general law of  
12 137, it goes on, and there is case law to support  
13 that says, quote, Even if the plaintiff honestly  
14 believed his or her case was well ground in fact or  
15 law, it is objectively reasonable -- and I stress the  
16 words objectively reasonable -- to file a pleading if  
17 a reasonable inquiry would have uncovered the  
18 falsity. That is a case of Sanchez versus City of  
19 Chicago, 352 Illinois App. 3d 115 at 1021.

20 Furthermore, an attorney can reasonably  
21 rely on information given by the client if  
22 circumstances are such that the client is the only  
23 possible source of information. That is from the  
24 case of Couri, C-o-u-r-i, versus Corn, 202 Illinois

1 App. 3d 848 at 856, a Third District case from 1990.

2 If the client is not the only possible  
3 source of information, however, the attorney cannot  
4 just take the client's word, end of quote. That is  
5 from the case of Anderson, 177 Illinois App. 3d at  
6 Page 624.

7 Furthermore, there are issues as to what  
8 reasonable inquiry may result or what is needed to do  
9 a reasonable reliance. You can have investigators  
10 involved, you can have documents that are involved,  
11 you can have any number of things that are involved.

12 Furthermore, there is no question that  
13 there was a continuing duty to always inquire and to  
14 correct. And in the case of Lake Environmental,  
15 Inc., 215 Illinois 118110 at Paragraph 13, it states  
16 quote, Implicit in Rule 137 is a requirement that an  
17 attorney promptly dismisses any lawsuit once it  
18 becomes evident that it is unfounded, end of quote.

19 Furthermore, in the case of Nelson versus  
20 Bradley, 316 Illinois App. 3d 1035 and 1040 to 1041,  
21 First District case from 2000, it states, quote, An  
22 attorney owes a continuing duty of inquiry throughout  
23 the litigation and must promptly notify the Court of  
24 a false pleading.

1           And then, finally, going back to our  
2 Sanchez case from 352 Illinois App. 3d 1015, this  
3 quote coming from 1022, The duty extends to a  
4 successor attorney who did not file the false  
5 pleading because a successor attorney cannot hide  
6 behind his predecessor.

7           And it is, quote, a successor attorney  
8 cannot hide behind his predecessor, is the direct  
9 quote from the Sanchez case.

10           Furthermore, the method of correction can  
11 be once it appears that a party's prior factual  
12 allegation is in error, the error must be brought  
13 forth rightly to the attention of the Court and  
14 opposing counsel, or at least at the next available  
15 court filing.

16           As we have done here, the Court must hold a  
17 hearing to determine when a signer made untrue  
18 assertions without reasonable cause. But the Court  
19 doesn't have to hold separate hearing when, for  
20 example, pleadings and evidence at trial show that  
21 those sanction requirements are met.

22           Obviously, this came about relatively early  
23 on in the discovery process. We were still involved  
24 in written discovery that was going through. But

1 still, the intent of the hearing is to determine  
2 whether the signer made untrue assertions without  
3 reasonable cause. And we know the signer to be Peter  
4 J. Flowers.

5 Now, since everybody alleged that everybody  
6 was cherry picking, I will cherry pick to some extent  
7 some of the orders that were involved in this case.

8 On August 18th, 2016, the Third Amended  
9 Complaint at Law was filed.

10 On January 9th of 2017, so about six  
11 months, five months later, there was an agreed  
12 dismissal order where Ruth Copley Burger and Kenneth  
13 Copley entered into an agreement where the causes of  
14 action against Kenneth Copley were dismissed with  
15 prejudice with each party to bear their own  
16 attorney's fees.

17 At that time, and within 30 days thereafter  
18 as required, there was no 137 filed in regard to  
19 Mr. Burger or Copley or anything else in regard to  
20 what allegations were or were not made against them,  
21 and, obviously, there was a concern that was brought  
22 to the Court.

23 Furthermore, on January 9th of 2017,  
24 Counts 1, 10, 19, 37, 64, 73, 110, 122 and 152 were

1 dismissed with prejudice per the agreement of the  
2 parties.

3 Following that January 9th date and within  
4 30 days thereafter, no 137 motion for sanctions was  
5 filed in regard to the pleading of Counts 1, 10, 19,  
6 37, 64, 73, 110, 122 or 152.

7 There were arguments from both defense  
8 counsel in regard to dismissals based on the statute  
9 of limitations. And that motion to dismiss was  
10 denied by the Court without prejudice, quote, as to  
11 the defendant's rights to assert the arguments and  
12 bases as affirmative defenses to plaintiffs'  
13 complaint, end of quote. And certain dates were laid  
14 out for those pleadings to take place and they were,  
15 in fact, done and responded to.

16 Furthermore, on April 18th of 2017, there  
17 still had not been an answer that had been filed and  
18 the protective order was being dealt with back and  
19 forth between the identities of certain parties.

20 The written discovery was still being  
21 outstanding and certain things were to be due by  
22 June 1st, and plaintiff was to issue interrogatories  
23 within so many days and we were still waiting for a  
24 formal answer to the complaint .

1           On June 2nd, Mr. Gothard did, in fact,  
2           answer plaintiffs' Third Amended Complaint and pled  
3           appropriate affirmative defenses.

4           November 6th of 2017, plaintiffs came in on  
5           a motion to voluntarily dismiss plaintiffs Gretchen  
6           Wilkinson, Melody Fedoriw, it looks like, Joy  
7           Simmons, Carmen Okhmatovski, O-k-h-m-a-t-o-v-s-k-i,  
8           and Darnel Dorsett pursuant to 735 ILCS 2-109 without  
9           prejudice and right to refile and maintain a second  
10          action against them within one year of the entry of  
11          the order. And if that was to be refiled, there  
12          would be -- be paid upon refiling.

13          Within 30 days of that date, defendant did  
14          not file any 137 motion for sanctions in regard to  
15          Wilkinson, Fedoriw, Simmons, Okhmatovski or Dorsett.

16          Furthermore, then, on November 16th of  
17          2017, we still had these various motions to compel  
18          outstanding and were briefing and setting a hearing  
19          date for certain ones.

20          On February -- on December 21st, 2017, my  
21          order of November 16th said plaintiffs' counsel to  
22          have produced medical records for each plaintiff  
23          and/or provide the Court with a date certain for  
24          production of medical records for any plaintiff for



1       which records have not been produced.

2               On November 21st -- sorry. On December  
3       21st, 2017, that was continued to January 10th.

4               On January 10th there was an order of the  
5       IBLP's motion to compel plaintiffs was granted. And  
6       plaintiffs, quote, will provide affidavits that no  
7       plaintiff has destroyed or deleted any documents  
8       related to social media, and that all such documents  
9       have been produced from each plaintiff. Plaintiff  
10      Lees shall produce her approximate 80,000 word or  
11      word -- I can't tell -- and Plaintiff Lees shall  
12      produce her journal.

13              Subsequent to that time on February 26th, I  
14      believe, of 2018, the case was nonsuited.

15              Working backwards in regard to the pleading  
16      from a 219 motion, when this case was voluntarily  
17      dismissed, all discovery ends upon the date of  
18      voluntary dismissal. I am not going to order the  
19      plaintiffs to respond to what had been outstanding  
20      discovery at the time of the voluntary dismissal  
21      because there is no case that is pending.

22              What it looked like we were waiting for is  
23      any medical records that the plaintiffs might have  
24      had, and any -- and Plaintiff Lees' production of her

1 80,000 word -- must be word -- book. And Plaintiff  
2 Lees' production of her journal.

3 There were going to be affidavits, ideally,  
4 that no plaintiff has destroyed or deleted any  
5 documents related to social media.

6 There was not an order to produce any  
7 documents related to social media. There was an  
8 order that they would provide affidavits for same.

9 Therefore, the Court is not going to enter  
10 an order requiring plaintiffs to preserve any  
11 evidence or documents that relate to social media  
12 because they were providing the affidavits that they  
13 had destroyed or deleted any documents relating to  
14 social media, and there was nothing in the order that  
15 said to produce same, just the affidavit.

16 It further stated that, quote, All such  
17 documents have been produced from each plaintiff, end  
18 of quote.

19 Now, in regard to Plaintiff Lees'  
20 production of her 80,000-word book and Plaintiff  
21 Lees' production of her journal, she was going to  
22 produce those and she had not. I am going to order  
23 that the plaintiff to preserve -- this goes to  
24 Plaintiff Lees as well as to the firm -- to preserve

1 Ms. Lees' approximately 80,000-word book and Ms. Lees  
2 to produce her journal. I strike that. It is not an  
3 order on the law firm, it is an order in regard to  
4 Ms. Lees. There was no relief sought from the law  
5 firm in regard to production requests.

6 So in regard to Gothard's 219 motion, that  
7 is the extent of what will be done in regard to the  
8 outstanding discovery.

9 Furthermore, as was referenced in regard to  
10 219, and as referenced in Page 8 of at least the  
11 first pleading of Jane Doe, and I think it was  
12 similar throughout, quote, The rule provides, quote,  
13 the Court may, in addition to the assessment of  
14 costs, require the party voluntarily dismissing a  
15 claim to pay an opposing attorney or parties  
16 reasonable attorney expenses incurred in defending  
17 the action including, but not limited to discovery  
18 expenses, expert witnesses, reproduction costs,  
19 travel costs, postage and phone charges, end of  
20 quote.

21 At the time this case was nonsuited, there  
22 was no motion by the defendant for the party  
23 voluntarily dismissing the claims to pay all of those  
24 expenses. It was not requested by Gothard's counsel

1 or by the church. I should say Institute of Basic  
2 Life Principles' counsel. There was no order in  
3 regard to same. Absent any order or specific finding  
4 in regard to same, there is no obligation to do so at  
5 some later date and the request pursuant to 219 for  
6 awarding of those expenses, costs and the like is  
7 clearly not timely as it was not done at the time of  
8 the nonsuit.

9 Now, getting into -- one second, I am  
10 sorry.

11 Yeah, just so it is clear, also, the  
12 November 16th order talked about plaintiffs' counsel  
13 to have produced medical records for each plaintiff  
14 and to provide Court with dates certain for  
15 production of medical records for any plaintiff for  
16 which records have not been produced.

17 There is no evidence in these orders or the  
18 like whether that was or wasn't done, but clearly in  
19 the interrogatories there is evidence of a listing by  
20 each of these plaintiffs as to what medical or  
21 psychological counseling they incurred, the names,  
22 addresses and the like, and those medical records are  
23 available should there be any refiling because they  
24 are at an independent source with a doctor who is

1 maintaining medical records.

2 So then we move in to the 137 aspect of  
3 things because the 219(e) I have ruled as it relates  
4 to each of these pleadings and each of these  
5 plaintiffs.

6 We already went through the details of 137,  
7 but I think what is especially important to note in  
8 137 that we haven't really talked a lot about, per  
9 se, is that it states in there, quote, The signature  
10 of an attorney or party constitutes a certificate by  
11 him that he has read the pleading, motion or other  
12 document that to the best of his knowledge,  
13 information and belief formed after reasonable  
14 inquiry, it is well grounded in fact and is warranted  
15 by existing law -- and then I stress -- or a good  
16 faith argument for the extension, modification or  
17 reversal of existing law, end of quote, and that it  
18 is not interposed for any improper purpose such as to  
19 harass or cause unnecessarily delay or needlessly  
20 increase the cost of litigation.

21 There has been a lot talked about in this  
22 general world about what is going on, whether it is a  
23 me-too environment, whether it is in a religious  
24 environment, whether it is in any number of

1 environments that exist.

2 The law is very fluid at the current time  
3 in regard to allegations such as those that were  
4 brought here. The law is very fluid in regard to  
5 dealing with statute of limitations in regard to  
6 same, and when people know or don't know what is  
7 going on, and what happens with memory or not memory,  
8 and when is the first time they could have brought it  
9 and not brought it and the like.

10 It is for that exact reason that I denied  
11 the motions to dismiss on the statute of limitations  
12 and allowed there to be affirmative defenses pled in  
13 regard to the statute of limitations, so that there  
14 could be a factual exploration of what was going on  
15 in each of these plaintiffs' circumstances as to  
16 whether they would or would not survive a subsequent  
17 pleading in regard to a statute of limitations.

18 What has been interesting about -- and in  
19 all the pleadings there are certainly references to  
20 things and I will get to them on a  
21 pleading-by-pleading basis, but the bulk of the  
22 arguments that have been made and the bulk of the  
23 cross-examination or examination that has been made  
24 of these plaintiffs by the movants in regard to same

1 is dealing with this whole aspect of whether their  
2 memory was repressed or not repressed, and when it  
3 was repressed, and how did they know when it was  
4 repressed, and did a doctor tell them it was  
5 repressed, and was there -- et cetera, et cetera, et  
6 cetera.

7 And very little, if any, but very little  
8 talked about the causes of action that were pled for  
9 emotional distress, intentional infliction of same,  
10 sexual abuse, sexual harassment. Very little was  
11 talked about the factual bases for the validity of  
12 the underlying causes of action.

13 What seems to have been stressed primarily  
14 by the movant is the fact as to whether someone did  
15 or didn't have repressed memory. And if they didn't  
16 have repressed memory and maybe said they didn't have  
17 repressed memory, well, then, maybe they could have  
18 brought these actions within a timely manner and  
19 maybe that would have resulted in a dismissal under  
20 the statute of limitations, et cetera, et cetera.

21 First of all, anybody can file a lawsuit  
22 after the statute of limitations run. When I was  
23 practicing law for 21 years, I would see it all the  
24 time. Maybe a defense attorney isn't going to pick

1 up on the fact and you dodged a bullet and they file  
2 an answer. All wonderful.

3 Here, this defense did pick up on that  
4 fact. I denied any dismissal at the time because I  
5 thought it was fact-based. I did not think as a  
6 matter of law that I could say that they had missed  
7 their statute of limitations and a factual basis was  
8 required for same, in my opinion.

9 So then we get to this whole repressed  
10 memory aspect. Well, repressed memory is not a cause  
11 of action. It is not, per se, a medical condition.  
12 It is a symptom. It is something that can happen as  
13 a result of certain things in this world that can  
14 cause us stress.

15 In 1979, I found my mother eight days after  
16 she died, after she had committed suicide. And I  
17 called my father who had recently divorced my mother  
18 and he said, it's your problem now, kid, not mine,  
19 and hung up the phone. I don't have any repressed  
20 memory about that, obviously, I am sitting here today  
21 dealing with it one way or the other.

22 But lots of things can happen and lots of  
23 things can trigger repressed memories. It is not a  
24 condition, a medical condition. It is something that



1       ostensibly might result or might be a symptom, or  
2       might come into play at some time in various people's  
3       lives as to what is going to happen or not happen or  
4       how they deal with things in the world one way or the  
5       other.

6                   And with it being a symptom, these  
7       individuals can testify as to whether they felt they  
8       had that symptom or didn't feel they had that  
9       symptom. And we know from a couple of people that  
10      they don't really think that they had the symptom of  
11      repressed memory one way or the other.

12                   That doesn't necessarily mean that their  
13      underlying cause of action wasn't validly pled and  
14      there wasn't a factual basis for it being validly  
15      pled, nor does it come into play that maybe because  
16      of that, this whole case would be dismissed because  
17      they can't show they have repressed memories.

18                   Well, there might be any number of things  
19      that are repressed and other things that aren't  
20      repressed. Someone can have a good memory. It  
21      doesn't mean they remember everything. And as I have  
22      heard from some of these women testifying today,  
23      things came up at certain times, things would be,  
24      quote, unlocked, end of quote. Things would be,

1 quote, triggered, end of quote.

2 There might have been any number of things  
3 that might have done those along the way and provided  
4 a factual basis for why a cause of action potentially  
5 accrued before -- or why a cause of action was still  
6 existing even though a statute of limitations time  
7 period might have passed because of a discovery rule  
8 that exists.

9 So when I look at the various pleadings,  
10 and I am going to go through each one, but there  
11 really isn't any allegation of any false pleadings  
12 being filed in regard to the underlying causes of  
13 action. Did they state a cause of action? Was there  
14 a factual basis for same?

15 It is really whether this repressed memory  
16 was coming into play or not and could assist or could  
17 knock the whole underlying claim out in regard to the  
18 discovery aspect and repressed memory.

19 Point by point, though, in regard to Jane  
20 Doe III -- and I do want to make note that every one  
21 of these pleadings that was filed by Mr. Gaffney are  
22 unverified. There is no verification on  
23 Mr. Gaffney's allegations either way. And that did  
24 not require Mr. Mincieli to then file a verified

1 pleading.

2 So I'm not taking these pleadings as,  
3 quote, unquote, verified, but it does draw upon  
4 certain things like interrogatories, answers like  
5 production requests, like other things that do have a  
6 basis of credibility in regard to them.

7 But in regard to Jane Doe III, you know,  
8 there is this whole concern about the father  
9 discovering what she had -- about her -- his sexual  
10 abuse of her and what personal danger might result to  
11 her or psychological danger might result for her.  
12 That was the main basis for keeping the identity as a  
13 Jane Doe and not her name.

14 But, clearly, there were other bases that  
15 were laid out in regard to this, not just a concern  
16 about her father, but her alleged concern about  
17 Mr. Gothard in regard to same.

18 And so I feel that when you say the  
19 motivation to use a fictitious name have nothing to  
20 do with her father, well, they did, in part, have  
21 something to do with her father. They did, in part,  
22 have something to do with Gothard and the like.

23 Those are questions of fact and I don't  
24 find there to be question by me in regard to this. I

1 have been able to observe all of these seven women  
2 who have testified. I have been able to observe  
3 their manner and demeanor while testifying.

4 I have now been on the bench for 21 years  
5 and I was an attorney for 21 years before that. I am  
6 a pretty good read, I think, as to how people are  
7 sitting, conducting themselves, acting or the like,  
8 as to whether, in my opinion, they are trustworthy  
9 and credible, or whether they are being impeached or  
10 are sitting there not necessarily being impeached,  
11 but aren't necessarily testifying to facts that they  
12 believed to be true.

13 I did not find that in any of the seven  
14 women that testified. I found their testimony to be  
15 credible. I saw the manner and demeanor that they  
16 utilized while testifying to be credible. I saw them  
17 answering questions forthright.

18 I saw them struggling with the legal system  
19 as to what happens in this courtroom, in a similar  
20 way that they struggled with the legal system in  
21 understanding what are proper causes of action and  
22 what aren't proper causes of action and what make  
23 them up and what don't make them up.

24 They are lay people, they are lay

1 individuals, and as such, an attorney can assist them  
2 in determining various things like that.

3 We go on to say that -- in the motion, it  
4 says that Jane Doe III used the term sexual  
5 harassment, sexual abuse, and it says, but, in fact,  
6 there was never any contact, quote, of a sexual  
7 nature, end of quote.

8 Well, what is contact of a sexual nature?  
9 There is obviously overt contact that we can all read  
10 as what is a sexual nature, but there is other things  
11 that are aren't necessarily that way. It could be a  
12 compilation of things. It could be a group of  
13 things. It could be a collection of things that just  
14 has that air about it and the like.

15 And I don't think that their allegations  
16 are, quote, clearly without merit and therefore  
17 frivolous from the beginning, end of quote. I think  
18 there are factual determinations that could support  
19 what in each of these girls' definition is -- strike  
20 that. What each of these women's definition is what  
21 is a, quote, sexual nature or not.

22 Various communications from Jane Doe III  
23 produced in discovery, quote, contradict her claims,  
24 end of quote, on Page 6. Well, whether they

1 contradict some aspects of things or not  
2 contradicting some aspects of things, the totality of  
3 the claims I found, one, they were originally pled on  
4 a 2-615 basis from the Third Amended Complaint to  
5 adequately state a cause of action. So elements were  
6 accurately pled to sustain a cause of action and to  
7 deny a motion to dismiss.

8 And so the facts that maybe some of them  
9 wouldn't all be proven, some of them might be proven,  
10 certain things aren't there that could be there, that  
11 is a totality of the circumstances. And the standard  
12 for 137 is an objective standard. Clearly an  
13 objective standard. Is it objectively unreasonable  
14 to file a pleading?

15 Even if some of the things in there falter  
16 along the way or if some things get a little fuzzy  
17 along the way, or three out of ten things aren't  
18 proven along the way, was it still objectively  
19 unreasonable to file that pleading? No, it wasn't.

20 Furthermore, in regard to the -- I don't  
21 think I will get any more into the repressed  
22 memories. I think I have done it sufficiently with  
23 regard to suppressed memories.

24 But at the end of Page 9, it says, in

1 short, Doe III's claim 54 for battery, claim 55 for  
2 IIED, and claim 56 for any ID in her Third Amended  
3 Complaint where she alleges she suffered repressed  
4 memories and/or was not aware of what was happening  
5 are not well grounded in fact and interposed for an  
6 improper purpose, end of quote.

7 One, it's a conclusion. Two, there is  
8 allegations of touching. And allegations of touching  
9 clearly can state a cause of action and can be  
10 appropriate proof for a battery.

11 So I find there to have been a sufficient  
12 basis for the pleadings in regard to the allegations  
13 of Jane Doe III.

14 And when I go in and look at specifically  
15 the testimony that was provided, there was testimony  
16 about a slow and gradual process, that she continued  
17 to realize the effect of certain things that had  
18 happened starting in spring of 2014, which was prior  
19 to the filing of the complaint.

20 She had counseling in 2015. She had  
21 medical diagnoses that took place in seeing doctors  
22 along the way. And I don't think that when you file  
23 an initial complaint and when you have a totality of  
24 plaintiffs who are discussing various issues that

1 they have, various issues that have come up prior to  
2 the filing of the complaint and the like, that they  
3 necessarily have to have a medical diagnosis prior to  
4 coming in to filing the complaint.

5 You don't need a medical diagnosis to say  
6 that you were sexually harassed or there was a  
7 battery or any number of the other causes of action  
8 that may exist one way or the other.

9 So the fact that medical treatment was not  
10 sought until some later date is not a death nail to  
11 this complaint based on 137 motion for sanctions.

12 When we get into -- I did want to say the  
13 general thing, also. All of these motions talk about  
14 how, quote, an extensive motion practice and  
15 discovery followed until all claims were eventually  
16 dismissed, end of quote.

17 I know we made it for the record before, so  
18 just so it is clear now, this is on Page 1 or 2 of  
19 every one of these motions. It implies that the  
20 motion practice and discovery led to a Court  
21 dismissing these actions, and it was not the Court.  
22 It was the plaintiff that voluntarily nonsuited the  
23 case. That is a voluntary dismissal, just so there  
24 is no implication of anything else one way or the



1 other.

2 So in regard to Jane Doe IV, it says  
3 that -- it speaks about a letter that she wrote and  
4 it says, quote, The letter -- and I stress the  
5 word -- hardly mentions, end of quote, any of  
6 Gothard's contact or conduct.

7 Well, whether it hardly mentions it or  
8 whether it is mentioned just a little bit or not, it  
9 is enough to provide a basis in regard to whether  
10 something is well grounded or not in regard to  
11 allegations that were pled one way or the other.

12 And so when it goes on to state, quote, It  
13 is clear that Doe IV's allegations are interposed for  
14 the improper purpose of seeking, destroying the  
15 reputation of Gothard, along with seeking  
16 reimbursement for medical and counseling services due  
17 to infertility and stress caused by the adoption  
18 process, end of quote.

19 No, it is not clear and nothing was made  
20 clear today in regard to that one way or the other.  
21 Did all of these women have a concern about  
22 Mr. Gothard and were they concerned about his  
23 reputation and maybe would they like to see him not  
24 continue on in the position that he is in? They may

1 well be.

2 Was that the only basis for them to bring  
3 this lawsuit? There is no proof that substantiates  
4 that in any manner, shape or form, and their  
5 allegations of emotional distress and sexual contact  
6 and the like are sufficient for them to have a reason  
7 as to why they might want Mr. Gothard not to stay in  
8 the position that he is in.

9 They remained unproven because we never got  
10 far enough in regard to that, but the fact that these  
11 allegations were done, and I think there is a  
12 sufficient basis for same, when I look at Jane Doe  
13 IV, in the pleading on Page 6, it says, quote, The  
14 statements by Doe IV show that she remembers her  
15 interactions with Gothard relevant to her allegations  
16 on the complaint.

17 And then goes on in a letter that she wrote  
18 that said, quote, Mr. Gothard gave me two unwanted  
19 full-on front hugs. He grabbed me tightly and pulled  
20 my whole body into his. These hugs felt very sexual  
21 and left me feeling confused. Mr. Gothard also  
22 played footsie with me and held my hand on several  
23 occasions, end of quote.

24 Now, is that improper sexual conduct or

1 not? That is a fact determination to be made at some  
2 point. But it was an improper sexual contact from  
3 this individual, Jane Doe, plaintiff's point of view.  
4 Is it proven sufficiently and was there a finding of  
5 same? No. We didn't get far enough to get into  
6 that.

7 But the point was, that is a sufficient  
8 basis to support a reasonable, an objectively  
9 reasonable basis to file a pleading in regard to  
10 same.

11 Further on it says on Page 7, Gothard did  
12 not engage in any sexual conduct. Well sexual  
13 conduct, as I've said, is fluid. Was it or was it  
14 not? Does it rise to the level of, quote, unwanted  
15 conduct of a sexual nature, end of quote? Maybe it  
16 did, maybe it didn't.

17 Holding hands, receiving hugs can be sexual  
18 conduct. When you say there is nothing that is  
19 mentioned of any, quote, sexual nature, end of quote,  
20 I disagree with reading the content of Doe IV's  
21 letter that I just did. But those are factual  
22 determinations. Did it rise to that level or not? I  
23 don't know. We didn't get there.

24 Was it enough to find an objectively -- an

1 objective basis to file a pleading? Yes, it was.

2 I also think when we're talking about the  
3 plaintiffs' attorney, even though there are no  
4 allegations against the plaintiffs' attorney or there  
5 is no request for relief from the plaintiffs'  
6 attorney and no pleadings against the plaintiffs'  
7 attorney, I think when the plaintiffs' attorney sits  
8 down and talks with 16, 17, 18 people and starts to  
9 hear a common thread and a common theme and the like,  
10 and that attorney has a reasonable basis to believe  
11 that they were not all in cahoots coming in before  
12 some of these people were there and left, some came  
13 in later, some joined later, I think that also  
14 provides further objective basis for the pleading to  
15 have a reasonableness to it.

16 When we get to Jane Doe V -- excuse me.

17 So then Page 2, alleged sexual abuse is a  
18 false pleading, and that further on that in Doe V's  
19 Count 132 against Gothard, that it fails to make,  
20 quote, sufficient factual allegations, end of quote,  
21 of sexual conduct.

22 Well, there were sufficient factual  
23 allegations because I denied a 2-615 motion to  
24 dismiss that there was sufficient factual allegations

1 to support a cause of action. So I disagree with  
2 that.

3 Then it further goes on to state that she  
4 alleged that Gothard, quote, would hold her hands,  
5 rub her thighs, rub her back, stroke her hair, et  
6 cetera, and that all, quote, all contact Jane --  
7 strike that. All contact Doe V alleges involves,  
8 quote, non-overtly sexual touching of non-intimate  
9 body parts, end of quote.

10 That is just a wild statement to me. You  
11 don't have to hit certain body parts for it to be  
12 sexual in nature one way or the other. And what is  
13 overt and what is not overt, clearly, clearly  
14 subjective determinations. What Mr. Gothard might  
15 think is not sexual touching, an individual might  
16 think is sexual touching.

17 And if that individual has a valid basis  
18 for thinking that it is sexual touching, that  
19 survives a 137 motion based on the objective  
20 reasonableness of the filing. A trier of fact would,  
21 if this case continued, make the ultimate  
22 determination of whether, quote, non-overtly sexual  
23 touching of non-intimate body parts, end of quote,  
24 was rising to the level to find liability for the

1 alleged sexual abuse.

2 We are not at the liability stage. We are  
3 seeing what is reasonably objective from a pleading  
4 point of view.

5 She also says -- movant also says that her  
6 claims were -- would be, quote, much stronger, end of  
7 quote, if other plaintiffs remain in the suit. Well,  
8 I suppose that is true in any certain situation that  
9 is involved. That doesn't mean that Doe V's  
10 pleadings are not objectively reasonable. But maybe  
11 they are a lot stronger and lot better and maybe she  
12 has a lot better chance of proving it up and winning  
13 if there are other circumstances involved in same,  
14 but it doesn't take away the objective reasonableness  
15 of Jane Doe V's pleadings in regard to same.

16 And what I thought was particularly  
17 interesting is that in this proof or hearing that  
18 took place, the movant did not call Jane Doe V to  
19 testify in any manner whatsoever, and did only do so  
20 upon a redirect at the end, after Jane Doe V was  
21 called by the plaintiff in response.

22 But, you know, there was talk about in  
23 regard to the direct arguments of movant's counsel in  
24 regard to Jane Doe V . Going to these -- that she

1 had names of treaters, did she have medical records,  
2 the basis for her having the opinions that she did,  
3 was there any doctors to substantiate things or the  
4 like.

5 Well, what she testified to, I feel, is  
6 enough to survive the objective standard of 137. The  
7 actual medical basis for same and the actual expert  
8 testimony or professional testimony that would be  
9 required to support that is not needed at the point a  
10 case is filed and it can be developed at a later  
11 time.

12 She believed certain things ascertained the  
13 veracity of the feelings that she was having. If  
14 anything, during the course of this lawsuit there  
15 could be a lot further development and proof in  
16 regard to things when it came to an (f)(2) discovery  
17 stage where after the disclosure of the doctors that  
18 did treat her, which were, in fact, done.

19 After that disclosure, there could be  
20 depositions of them that would have been involved,  
21 there could also be (f)(3) independent expert  
22 testimony in regard to the whole repressed memory  
23 thing, the whole nature of what is or isn't, quote,  
24 overtly sexual, end of quote, or the like. None of

1 that was ever developed far enough in this, and a  
2 case can continue to develop.

3 At the time of the pleading, was it  
4 objectively reasonable to file pleadings on behalf of  
5 Jane Doe V? I believe that it was.

6 In regard to Charis Barker, and I apologize  
7 if I did that first name improperly. Again, we have  
8 a lot about the repressed memory aspect here, and  
9 that there is no evidence of any repressed memories  
10 in regard to same.

11 But if you have a repressed memory, I don't  
12 know what evidence you have of the memory if maybe it  
13 is still repressed. I don't know. That is a big  
14 problem that comes up with repressed memories. When  
15 are they triggered? When are the floodgates opened?  
16 When is the scab picked? I don't know one way or the  
17 other.

18 And maybe somebody doesn't realize they  
19 have a repressed memory, but maybe there are still  
20 enough elements, factual elements of an underlying  
21 cause of action that can bring this within a  
22 reasonably objective basis for a pleading. And I  
23 think there was in regard to Ms. Barker.

24 And, again, not trying to beat a dead



1 horse, but repressed memory is not a medical  
2 condition, it is not a cause of action, per se. It  
3 is a symptom of things that have happened or not  
4 happened one way or the other. And it is clearly  
5 fact based and it is clearly something that can be  
6 developed and clearly there are things that can come  
7 out that people don't even know were available to  
8 come out at a certain stage of the proceedings.

9 Was it objectively reasonable for  
10 Ms. Barker's claim to proceed? I think that it was  
11 in regard to the proofs that I have heard in regard  
12 to today and the review of the pleadings.

13 When we go into this whole aspect of the  
14 letter that Ms. Barker wrote to attorneys and she  
15 stated how she didn't understand the legal aspects of  
16 things or how, quote, repressed memory, end of quote,  
17 might be used or not used, or what are the elements  
18 that might exist in regard to same.

19 After she talked to attorneys, she felt  
20 comfortable with the cause of action that was pled.  
21 And the whole aspect of this repressed memory, that  
22 might be one element of one issue that deals with one  
23 cause of action, two, or three causes of action.

24 But the complaint is replete with other

1 causes of action and other aspects of allegations  
2 that are made which I think, in their totality, lead  
3 to an objectively reasonable basis to file the  
4 pleadings on behalf of Ms. Barker.

5 In regard to Rachel Frost, again, the whole  
6 repressed memory coming about, but here in February  
7 of 2014 is when it was, quote, unlocked, end of  
8 quote. And everybody had lots of fun, and I use that  
9 word obviously in jest, I suppose, as to whether it  
10 was a repressed memory or a suppressed memory.

11 And repressed memories are different from  
12 suppressed memories, but the terms were being used  
13 interchangeably in the questions, the answers and the  
14 like.

15 The motion on Page 5 speaks of alleged,  
16 quote, repressed memories, end of quote. Well,  
17 memories can also be suppressed and they can be  
18 suppressed in the way that she and some others  
19 alluded to that they were felt to believe as part of  
20 this religious group that certain things weren't bad  
21 or that certain things weren't this, or that it is  
22 okay to do certain things or it's not okay to do  
23 certain things.

24 Well, all of that is a whole factual basis

1 that comes up and needs to be proven in order to win  
2 on the causes of action that are alleged. And a  
3 trier of fact is going to look at all of the facts  
4 presented to see if they feel that there is a basis  
5 for same, but is it objectively reasonable to file a  
6 pleading in regard to those things when in February  
7 of 2014, it was, for the first time according to  
8 Ms. Frost, quote, unlocked, end of quote, and things,  
9 quote, sparked her memory, end of quote.

10 And that was done in a reasonable timeframe  
11 within the conjunction of the filing of the  
12 complaint. So there is even a situation where maybe  
13 there is a reasonable implication that Ms. Frost  
14 might be able to survive the affirmative defense of a  
15 statute of limitations, but that is not the  
16 determination today. That is a trier of fact's  
17 determination at the time of trial, or a summary  
18 judgment determination later on.

19 Clearly, there was an objectively  
20 reasonable basis to file a pleading on behalf of  
21 Ms. Frost based on the discussion that she had alone.

22 Rachel Lees. Ms. Lees down in New Zealand.  
23 I am jealous. I would have liked to have gone down  
24 with both the attorneys and we could have taken her

1 deposition in New Zealand and I would be there to  
2 rule on it and everything else. But in all  
3 seriousness, again, the aspect of the repressed  
4 memory and whether she categorically says she doesn't  
5 have a repressed memory or suppressed memory or  
6 doesn't, it doesn't take away from the objectively  
7 reasonable basis to file a pleading on her behalf.

8 We didn't have the benefit of her  
9 testimony. Any party could have called her. We  
10 already made rulings in regard to the 237 motion and  
11 there has been a world of time since March 28th,  
12 2018, when this motion was filed against Rachel Lees  
13 to get a deposition by video or by any other means,  
14 given time frames and everything else that is  
15 involved.

16 But, you know, they talk about the  
17 repressed memories that are in here, but she also had  
18 a cause of action for alleged severe emotional  
19 distress that had a factual basis for same. She  
20 also -- there was also on Page 8, it said, quote,  
21 Gothard did make -- I assume didn't is what that  
22 should be. Gothard didn't make any sexual advances  
23 or contact is the title of this next section on  
24 Page 8 of the plaintiffs' motion.

1           And it says that she alleges that Gothard,  
2 quote, rubbed her legs with his feet, rubbed her  
3 shoulders, held her hands in his inner thigh, placed  
4 his head on her chest, rubbed his face and lips on  
5 her face all in a sexual manner.

6           It goes on to state under oath, Lees makes  
7 no mention of shoulder rubbing, of putting his head  
8 on her chest, of holding her hands on his inner  
9 thighs. And Lees said that his lips came close, but  
10 did not touch her face.

11           Well, whether his lips rubbed face or  
12 didn't rub the face or came close to rubbing the face  
13 or not, it still can be something that can be an  
14 objective concern in regard to same, one way or the  
15 other.

16           And there is a basis when you put the  
17 totality of the circumstances together as to what was  
18 going on at those times, which would be factual  
19 based. There is, again, an objectively reasonable  
20 basis for the causes of action to be brought.

21           There is also a general theme running, and  
22 I just note it in this, but it may be in one or two  
23 of the others that was raised, that the allegations  
24 refuted by the own words with cards, letters,

1 prayers, invites and everything else.

2 Well, you know, that is one of the things  
3 that is severely fact-based as to are those cards,  
4 letters, prayers and invites true expressions of what  
5 someone was feeling or not feeling? Are they  
6 expressions that are somewhat manufactured in an  
7 environment that they are in?

8 You know, like maybe if I go out to dinner  
9 with all the appellate judges, I am going to sit  
10 there and say, wow, you guys are all really good and  
11 I really like what you do all the time. And yet on  
12 my own I would say, God, I disagreed with half the  
13 things they reversed me on, I can't believe they did  
14 that. Who knows on that.

15 Again, is there an objective basis to file  
16 the pleading? Sure, there is an objective basis to  
17 file it. And the fact that someone maybe wrote some  
18 things or didn't write some things or the like, it  
19 could all be part of the totality of the  
20 circumstances in regard to same.

21 And I think that there was a basis, a  
22 reasonable basis for the pleadings on Rachel Lees.  
23 There were other things beyond just the repression  
24 alone that substantiated various allegations that had

1       been made, and I think made the complaint objectively  
2       reasonable to have been filed.

3               Finally, in regard to -- in regard to Megan  
4       Lind, it says here that the, quote, alleged sexual  
5       abuse allegations are knowingly false, end of quote.  
6       I don't think there was any proof to show that they  
7       were knowingly false.

8               She talks about how he, quote,  
9       inappropriately rubbed her legs, end of quote. Well,  
10       then it is stated later on on Page 5, quote, clearly  
11       inappropriate leg rubbing does not fall under the  
12       definition of sexual conduct as defined by 720 ILCS  
13       5/2-12(e). Later as an adult, Lind claims he also  
14       touched her hands, legs and feet in a vague and  
15       conclusory fashion, end of quote.

16               Well, the vague or conclusory fashion  
17       survived any 2-615 motion to dismiss one way or the  
18       other. And, again, what is or is not inappropriate  
19       sexual conduct, whether it is statutorily pointed out  
20       in clear black and white, or whether with the  
21       totality of the circumstances could a trier of fact  
22       find that there was a sexual conduct that was not  
23       acceptable from a tort point of view and I find there  
24       was a sufficient basis in regard to same as it

1 relates to Ms. Lind.

2 Also, it talks about how she visited  
3 doctors in 2006 for wisdom teeth extraction and 2012  
4 for eye injury. And she, quote, claims she cannot  
5 trust doctors or authority, yet she has visited  
6 doctors on two separate occasions and has even worked  
7 for one since 1998.

8 Well, that is all fine if you're going to  
9 open your mouth or if you're going to open your eye  
10 and maybe you have a concern about things. But when  
11 it comes time where you sit and you have to open your  
12 heart and open your soul, maybe there are some  
13 difficulties in regard to that that have difficulties  
14 with doctors.

15 It is a lot different going into  
16 psychological or psychiatric counseling and seeing  
17 those medical professionals, than it is going in for  
18 an operation or other things of that nature. So I  
19 don't find the fact that she went to an eye doctor  
20 and a tooth doctor to be contradictory to her  
21 allegation that she is not comfortable seeing  
22 doctors.

23 There could be a lot of uncomfortability  
24 dealing with facts that are alleged here one way or



1 the other. So I do find there to have been a  
2 reasonable basis for the pleadings in regard to Megan  
3 Lind.

4 So I need eight orders drafted. The first  
5 one being for that protective order, that it is  
6 denied. I think I did grant one part of it, one  
7 thing in there? I forget exactly --

8 MR. MINCIELI: In the protective order?

9 THE COURT: Yeah, I denied it, didn't I?

10 MR. MINCIELI: Denied it in its entirety.

11 MR. DAWIDIUK: I think it was denied outright,  
12 Judge.

13 THE COURT: So denied for the reasons stated on  
14 the record.

15 The 137 motion and the 219(e) motion, the  
16 137 is denied for the reasons stated on the record.

17 The 219(e) is denied in part and granted in  
18 part in regard to the protection for those particular  
19 documents that I specifically referenced on the  
20 record.

21 You can do one order. Go down and make  
22 seven Xerox copies of it and come back and fill in  
23 the names of each one if you want to save some time,  
24 but these orders are going to be done before you

1 leave the courtroom.

2 MR. MINCIELI: That's fine, your Honor. I have  
3 one point of clarification. The 137 motions were  
4 denied as to all the plaintiffs.

5 The 2-619 motions were denied as to all the  
6 plaintiffs except for Rachel Lees where there is a  
7 directive to preserve only that --

8 THE COURT: You said 2-619, you mean 219, right?

9 MR. DAWIDIUK: 219(e).

10 THE COURT: 219(e), yeah, that is what I was  
11 saying. I thought you said 619 or something  
12 different.

13 MR. MINCIELI: I'm sorry. Right. Let me  
14 restate it. The 137 motion is denied, that is to all  
15 plaintiffs. The 219 motion denied as to all except  
16 Rachel Lees, who is directed to preserve the book and  
17 the journal.

18 THE COURT: The book and the journal, that's  
19 correct.

20 MR. MINCIELI: Thank you, your Honor.

21 THE COURT: That's correct. Thank you very  
22 much. Court is adjourned.

23 (Which were all of the proceedings  
24 had in the above-entitled matter.)

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1           STATE OF ILLINOIS    )  
2                                    )    SS:  
3           COUNTY OF DU PAGE  )

4  
5                   I, ANGELA M. MONTINI, hereby certify that I  
6 am a Certified Shorthand Official Court Reporter  
7 assigned to transcribe the computer based digital  
8 recording of proceedings had of the above-entitled  
9 cause, Administrative Order No. 99-12, and Local Rule  
10 1.01(d). I further certify that the foregoing,  
11 consisting of Pages 1 to 116, inclusive, is a true and  
12 accurate transcript hereinabove set forth.

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19                                    *Angela M. Montini*

20                                   Official Court Reporter  
21                                   Certified Realtime Reporter  
22                                   Eighteenth Judicial Circuit of Illinois  
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