

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM AIKEN COUNTY
Court of Common Pleas
Martha M. Rivers, Circuit Court Judge

SC Court of Appeals

Appellate Case No. 2025-000150
Case No. 2022-CP-02-2323
Case No. 2022-CP-02-2324

Heather Crespo.....Respondent/Appellant,

v.

Rhett Riviere, Josee Riviere, Chase Enterprises, LLC
and R.C. Riviere Properties, LLC Defendants,

AND

Gabriel Crespo Respondent/Appellant,

v.

Rhett Riviere, Josee Riviere, Chase Enterprises, LLC
and R.C. Riviere Properties, LLC, ... Defendants,

Of which

Rhett Riviere, Chase Enterprises, LLC and
R.C. Riviere Properties, LLC, are the Appellants/Respondents,

and

Josee Riviere is the Respondent/Appellant.

**RECORD ON APPEAL
VOLUME THREE**

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1 STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT NO. 2
2 COUNTY OF AIKEN) DOCKET NOS: 2022-CP-02-2323
3 2022-CP-02-2324

4 -----
5 GABRIEL CRESPO and)
6 HEATHER CRESPO,)
7 Plaintiffs,)
8 versus)
9)
10 RHETT RIVIERE; JOSEE RIVIERE;)
11 CHASE ENTERPRISES, LLC; and)
12 RC PROPERTIES, LLC,)
13 Defendants.)
14 -----

14 J U R Y T R I A L
15 VOLUME NO. 2

16
17 DATE: September 17, 2024
18 TIME: 11:55 a.m. to 6:13 p.m.
19 LOCATION: South Carolina Circuit Court No. 2
20 JUDGE: Martha Rivers
21 TRANSCRIBED BY: Sandra J. Early

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2	<u>Plaintiffs'</u>	<u>Moved</u>	<u>Admitted</u>
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4	15 - Sea Horse Stables Cottage		
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5			
6	16 - Photos, electronic devices	240	240

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9 (Exhibits retained by counsel.)

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23 (THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL.

24 SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY

25 THE SPEAKER.)

JURY TRIAL, VOL. 2

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

2 THE COURT: Stand right there at the microphone,
3 sir. All right. And I'm sorry. I did not look up
4 your name. You're Juror No. 36?

5 JUROR: Yes, ma'am.

6 THE COURT: What's your name?

7 JUROR: Travis Cushman.

8 THE COURT: All right. Make sure you speak up
9 because we're sitting over here.

10 JUROR: Okay.

11 THE COURT: You had something you wanted to make
12 sure we knew, is what I heard.

13 JUROR: Yeah. I was thinking last night --
14 because yesterday was kind of a whirlwind -- and
15 after thinking about it, I realized that we had
16 probably painted and done some business for these
17 folks, and I just wanted everybody to be aware of
18 that.

19 THE COURT: All right. As I recall, you said
20 your daddy has a business that you --

21 JUROR: Me and him are partners in a fence
22 painting business.

23 THE COURT: -- you all are partners in a fence
24 painting business.

25 JUROR: Mm-hmm.

JURY TRIAL, VOL. 2

1 THE COURT: You don't always work in the fence
2 painting business --

3 JUROR: Right.

4 THE COURT: -- but that's kind of a sideline
5 jump for you?

6 JUROR: Normally on the weekend, yes, ma'am.

7 THE COURT: All right. And you're saying "these
8 folks." Who are you -- do you recall who you would
9 have done painting work for?

10 JUROR: Well, there's some different folks out
11 that way, and that's what threw me off, because
12 there's some Crispos and some Crespos. And I can't
13 think -- you know, I was sitting -- and last -- after
14 it was all said and done, I'm sitting there thinking
15 about it, and I'm pretty sure we painted their farm.

16 THE COURT: The Crespos, is what you're saying?

17 JUROR: Mm-hmm. And we may have -- if -- you
18 know, and they were -- my dad told me they were
19 selling it, so and then we painted it again. So I
20 don't know if we painted -- you know, if the -- I
21 don't know who the people that bought it again.

22 THE COURT: Okay.

23 JUROR: So I just -- I just thought I should
24 tell you that.

25 THE COURT: Okay. Have you discussed this case

JURY TRIAL, VOL. 2

1 after you left the courtroom?

2 JUROR: No, no. I was sitting their thinking.
3 Because, like I said, it was -- after it was said and
4 done. And I haven't seen or been out -- that was
5 probably 5, 6 years 7 years ago. U don't know how
6 long. It's been a long time.

7 THE COURT: All right. Now, what I recall -- I
8 don't know the verbatim, but what I recall you
9 telling us yesterday was that in that this fence
10 painting business, you all painted mainly equestrian.

11 JUROR: It's mainly all horse fences, mostly.
12 Yes, ma'am.

13 THE COURT: And that you were not certain if you
14 had or had not painted the fences of any of these
15 folks --

16 JUROR: We go --

17 THE COURT: -- but now, you're thinking more
18 than likely, you painted the Crespo's?

19 JUROR: Yes.

20 THE COURT: Okay. Would the fact that you and
21 your father in this business did work at the Crespo
22 farm, does that impact your ability to make a fair
23 and impartial judgment in this matter based upon the
24 evidence and testimony to be presented in this
25 courtroom?

JURY TRIAL, VOL. 2

1 JUROR: No, ma'am. I just thought I should say
2 that.

3 THE COURT: I appreciate that. Thank you so
4 much.

5 JUROR: Okay. Okay.

6 THE COURT: I'll send you back to the jury room.

7 JUROR: Yes, ma'am.

8 THE COURT: Thank you.

9 JUROR: Okay.

10 (Juror No. 36 exited the
11 courtroom.)

12 MR. MCCULLOCH: Your Honor, if you noticed,
13 about halfway through that, my client is not here,
14 but --

15 THE COURT: Oh.

16 MR. MCCULLOCH: -- we are happy to waive his
17 presence for this -- for that proceeding so it's not
18 a problem for the record. But we will inform him
19 when he gets here. He says -- he called and he said
20 he was stuck in traffic.

21 THE COURT: Oh, thank you so much. I apologize
22 for not noticing that.

23 MR. MCCULLOCH: That's quite all right. Your
24 Honor, I'm just wondering if we might not want to ask
25 him, his dawning of (unintelligible) last evening, I

JURY TRIAL, VOL. 2

1 guess I would perhaps suggest asking him if he spoke
2 to either of the Crespos, if he had any direct
3 interaction with them, that he now -- would then that
4 that he now remembers that may not ultimately -- your
5 next question would be, of course, would that have
6 any effect.

7 THE COURT: I don't think we need to ask if he
8 spoke to them because he said he doesn't really
9 remember it. He thinks that he did some work, if he
10 did any at all, he would have done it with the
11 Crespos. I think he would have acknowledge that. He
12 was coming forward to make sure we had no question as
13 to his participation in this equestrian fence
14 business and that I think he was being admirable that
15 he made sure we understand that position. But he
16 didn't change. And it's actually not very different
17 from what he told us yesterday when we picked the
18 jury, other than the fact he's more specific that
19 they could have been at the Crespo farm. If -- what
20 I heard him say was it could be Crespo, Crispo or
21 some other name. So I think he's being quite liberal
22 in that. Anything else?

23 MS. BARBIER: Nothing from the plaintiff, Your
24 Honor.

25 THE COURT: Mr. Harte?

JURY TRIAL, VOL. 2

1 MR. HARTE: No, thank you, Your Honor. And I
2 have no objection to that juror remaining.

3 THE COURT: Thank you. Okay. As to the other
4 matters. I have a nice little sheet of paper that,
5 of course, the minute I sit down, I don't know where
6 my nice little sheet of paper is. We heard pretrial
7 motions again last night, having heard them on Friday
8 as well. I sent an e-mail to all counsel just to
9 make sure there was some clarity so that we don't
10 have to go over these things again and again and
11 again. It's not an order to be ruled on, but it's
12 saying this is my recollection of what we are -- we
13 are -- have ruled on, on a pretrial basis. And that
14 goes to -- I've already ruled that on the videos --
15 and I understand that the defense being that both
16 defendants have objected to the videos, Mr. Harte has
17 made vehement objections to the videos being
18 introduced in a case in which his client is attached.
19 I have denied that continuously and continue to deny
20 that. I understand that the plaintiffs must present
21 a case that ties her into knowledge of or some other
22 facet to get to her liability, but we are going to
23 give them the opportunity to do that before making
24 any other rulings on that.

25 The videos are allowed. I have limited it to

JURY TRIAL, VOL. 2

1 ten videos in total. I think that is sufficient to
2 notify the jury of the repetition, as required in the
3 cause of actions that have been presented, as well as
4 being into the common scheme or plan, as well as
5 looking at the possibility of no defensive mistake and
6 intent as to the defendant in presenting these videos.

7 I think that the limitation of the ten, which
8 does include the four videos that potentially show
9 Mr. Riviere adjusting this camera to show knowledge of
10 the camera's existence in the various locations -- so
11 it's only six that go into other subject matters --
12 that that limits the prejudicial effect of the videos
13 as far as impassioning the jury. There are a number.
14 As you recall, plaintiffs provided 50 videos to start
15 with of various things, and that was a limitation from
16 the original number of videos that they purport to
17 have been discovered. So we're down to ten on the
18 liability phase. These are all rulings as to the
19 liability phase of this trial.

20 As to Jane Page Thompson's testimony, I e-mailed
21 you all yesterday that, in looking at that designation
22 of deposition, I do agree with the defendants that
23 that is hearsay, that it is involving the rumors or
24 reputation. I don't find that that's evidence of
25 habit under 406, but it is more in line with the

JURY TRIAL, VOL. 2

1 character evidence. And, on a pretrial ruling, I do
2 deny the -- the ability to introduce those in the
3 record. I believe -- and plaintiffs' counsel can
4 correct me -- the other anticipated testimony that was
5 objected to was Peggy Penland and Sue Hook. As to
6 potentially other acts that did not involve
7 videotaping at the rental property, but other acts of
8 the defendant that may or may not lead to a
9 peeping-Tom-type of acts as to Defendant Rhett
10 Riviere. At this time, I do think that those are
11 character evidence that go into his reputation in the
12 community and will limit the testimony in that regard.
13 That is not the same conduct as what happened to the
14 Crespos and is not intending to show the same
15 exceptions to the character evidence.

16 Now, anything else can happen in trial and we
17 can revisit that later. It also could come up in the
18 part -- if we get to a punitive damages phase -- I
19 think it could come up in that part potentially as
20 well. Yes, ma'am?

21 MS. BARBIER: Your Honor, Ms. Hook is scheduled
22 to testify today. There are a number of other
23 matters that she will testify about other than the
24 voyeuristic incident she had with Mr. Riviere. So we
25 still intend to put her on the stand. And I just

JURY TRIAL, VOL. 2

1 will just not ask her about him looking in the window
2 that long ago.

3 THE COURT: This is only -- and that's another
4 point -- thank you, Ms. Barbier -- that I did
5 consider the length of time involved in those
6 physical voyeuristic allegations and the video
7 evidence occurring in the rental properties.

8 MS. BARBIER: And, Your Honor, we will -- I
9 think without -- we've obviously reserved the right
10 to put this evidence in, in the punitive phase. I
11 believe in the punitive phase, his reputation is at
12 issue and the length of time in doing it to be
13 commensurate with the punishment.

14 THE COURT: None of these rulings are to
15 preclude any further argument for the punitive phase.

16 MS. BARBIER: Thank you.

17 MR. MCCULLOCH: Your Honor, may I present the
18 bases of your limitation of Page Thompson's
19 testimony, which you ruled out, based on the
20 designations? They were similarly submitted in the
21 designations. So I think I understand. So the
22 reputation evidence would not be admissible from Ms.
23 Hooks [sic] at this stage of the trial either.

24 MS. BARBIER: Your Honor, we're not seeking to
25 put in her deposition designations. That was only in

JURY TRIAL, VOL. 2

1 the event that she wasn't coming to trial.

2 MR. MCCULLOCH: Right. But --

3 MS. BARBIER: So it's -- the point that --

4 MR. MCCULLOCH: -- the testimony would be
5 equally objectionable, whether it's in the form of
6 the designations that we objected to or live
7 testimony. It's still objectionable.

8 THE COURT: I am limiting the testimony as to
9 the physical voyeuristic events that may have
10 happened prior to the year 2000 that are not
11 similarly -- similar conduct as to what is alleged
12 against the plaintiffs. I'm also limiting general
13 reputation evidence in pursuant to the rules --

14 MR. MCCULLOCH: That -- that was all I wanted to
15 know, Your Honor.

16 THE COURT: -- at this time. But as the
17 plaintiffs' counsel has pointed out, we will
18 re-address that at later time in the trial should we
19 get past the liability phase in this matter.

20 MR. MCCULLOCH: Thank you.

21 THE COURT: I just want to make sure there's no
22 other issues. The reputation evidence, or the
23 general hearsay evidence about reputation, and I
24 believe you all are -- those at least two to three
25 prior bad acts that could go to establishing

JURY TRIAL, VOL. 2

1 reputation as in the peeping Tom sense; is that
2 right?

3 MR. MCCULLOCH: That's correct, Your Honor.

4 THE COURT: Was the ladder at the oak tree and
5 being found under the house, is my recollection.

6 MS. BARBIER: Your Honor, I will not ask her
7 about out the ladder being up on the oak tree and
8 climbing out of the oak tree that looked out on over
9 her bedroom. But can I ask her if she ever saw him
10 on her property without her permission? Because what
11 she did after viewing that was hire a security
12 company to keep him off her property. And we don't
13 have to get go into why, but I think it's important
14 for the jury to understand that she was very
15 uncomfortable with this man, and he would constantly
16 would show up in her driveway.

17 THE COURT: I think it's a fine line. Let's see
18 how you ask the question and how it goes forward.

19 MR. MCCULLOCH: Your Honor, here's the problem.
20 That's 1989.

21 THE COURT: That's one of the issues.

22 MR. MCCULLOCH: There were -- no police were
23 called in that episode, no charges were brought.

24 MS. BARBIER: That's how she met him, Your
25 Honor.

JURY TRIAL, VOL. 2

1 MR. MCCULLOCH: Well, I hear your lips moving,
2 but, Your Honor, that's not admissible. It simply is
3 a rhubarb thrown out to the jury that leads to
4 confusion. It also compels us to open that situation
5 up and -- and have him explain that they were looking
6 for peacocks. As laughable as that is, I think that
7 was the situation (unintelligible) that explanation,
8 but I don't want to get into the peacocks today.
9 It's 1989, Your Honor. It has not one thing to do
10 with this case, the Crespos, and it's not admissible,
11 and it simply confuses the jury. It's just not
12 relevant.

13 THE COURT: Okay. All right. We'll see where
14 that goes. That's just on the pretrial. Let's see.

15 MR. HARTE: Your Honor.

16 THE COURT: Yes, sir?

17 MR. HARTE: Your Honor, the question of the
18 hearsay from Ms. Hook, I presume the -- I -- I guess
19 the general rule of hearsay would apply, but I want
20 to be clear that I am very concerned that that
21 witness, who has a vendetta in this case, and she's
22 admitted it, will use the opportunity to throw out
23 something to create the pink polar bear effect on the
24 jury, and I would ask the Court to disallow. And
25 particularly -- and I'm speak very specifically about

JURY TRIAL, VOL. 2

1 her testimony that Mr. Bruce Duchossois reported a
2 conversation to her. I just think that should be
3 disallowed.

4 THE COURT: I think I just made that ruling.

5 MR. HARTE: All right. Thank you.

6 THE COURT: Thank you. All right. Also, I will
7 note that the ten videos I have do not include Mr.
8 Riviere's sexual activities. Is that correct,
9 Ms. Barbier?

10 MS. BARBIER: They do not, Your Honor.

11 THE COURT: Yeah. And was an issue yesterday,
12 so we don't need to address that any further. I
13 think that's it. Are we ready?

14 MR. MCCULLOCH: Your Honor, we will stand on
15 our -- renew our objections to even these videos,
16 especially with respect to the unidentified people
17 within those videos -- some of those videos. Most of
18 them are unidentified. We don't believe that the --
19 that the rental nature of those videos to the
20 circumstances can be established by the plaintiffs.
21 But -- but just for the record, Your Honor, that
22 there is one other matter which is the -- and we
23 appreciate your information last night in the e-mail.
24 And I'm not trying to try your patience, but I just
25 want clarity, because the second witness will be

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1 someone in law enforcement from SLED. You indicated
2 from last Friday a motion to exclude testimony as to
3 why the criminal case was conflicted is excluded.
4 Counsel is allowed to note the background of the
5 investigation and procedure for purposes of
6 background information and foundation purposes. The
7 sentence goes on. But we obviously don't believe we
8 can object to some what would be called res gestae in
9 the context understanding. What I have concerns
10 about, Your Honor, is whether the defense -- the
11 plaintiffs will try to introduce search warrants
12 which have affidavits attached and go beyond and turn
13 this into trying a criminal case within a civil case.
14 And that's what we're trying to avoid, and we're --

15 THE COURT: I understand that, and we talked
16 about that yesterday, and we'll address that if
17 Ms. Barbier does. She indicated yesterday she may
18 want to introduce some search warrants, but at this
19 time, I don't have any copies of those are
20 designation of what those warrants are. So we'll all
21 take that up the time you make that objection. Yes,
22 sir, Mr. Harte?

23 MR. HARTE: And, Your Honor, it may be me, but I
24 wonder if I could ask your law clerk to check to be
25 sure you had me on that e-mail from last night. I

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1 don't -- I don't -- I'm not --

2 THE COURT: That was me, Mr. Harte. I let him
3 go for the night, so that --

4 MR. HARTE: All right. And --

5 THE COURT: -- I thought you got it, but we will
6 make sure.

7 MR. HARTE: -- that's okay. I mean, I'm not
8 saying -- Judge, I'm not the greatest with e-mails
9 and I just -- it's -- how -- how would that --

10 THE COURT: And there were three persons that it
11 came back immediately. I think that was Mr. Griffin,
12 Mr. Beasley, and one other, and I got them right back
13 on it as soon as they came back to me.

14 MR. HARTE: -- I'm sorry, Your Honor. I do -- I
15 see it now. I apologize.

16 THE COURT: Thank you, sir.

17 MR. HARTE: I do see it. Thank you. Yes.
18 Thank you very much.

19 THE COURT: All right. Are we ready to bring in
20 the jury? Yes, sir, Mr. Griffin?

21 MR. GRIFFIN: Your Honor, yesterday, with regard
22 to the videos, you instructed them to blur the faces.

23 THE COURT: They are to blur out the faces.
24 They indicated they would.

25 MR. GRIFFIN: No -- no faces have been blurred.

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1 MS. BARBIER: Well, Your Honor, we had to have a
2 ruling on which videos could come in.

3 THE COURT: Right. But they're addressing that,
4 Mr. Griffin, as I understand it.

5 MR. GRIFFIN: Okay.

6 THE COURT: Thank you. We're going to make sure
7 the videos are blurred. We're going to do opening
8 statements though right now. So there's no videos
9 coming in, in opening statements; is that correct?

10 MS. BARBIER: That's correct.

11 THE COURT: All right. We'll deal with that
12 later. Thank you. All right. We can bring the jury
13 in. Thank you.

14 MR. HARTE: Your Honor, may it please the Court,
15 my client has requested that she be referred to only
16 by her first name, Josee.

17 THE COURT: Well, which last name would she like
18 to be referred to, because I intend to refer to
19 everyone in their last name.

20 MR. HARTE: Your Honor, we would ask for the
21 Court not to use her last name.

22 THE COURT: Is that not her last name?

23 MR. HARTE: It is legally her last name, Your
24 Honor.

25 THE COURT: Okay. I'll use her legal name.

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1 Thank you.

2 (The jury entered the courtroom.)

3 THE COURT: Good afternoon. Again, thank you
4 for your patience. I understand we are ready to
5 proceed. All technical issues have been resolved. I
6 cannot guarantee that another one of some other
7 nature or the same thing won't pop up, but I'm sure
8 in this day and time, we can all understand that.
9 We're doing everything we can to move forward in this
10 case expeditiously that allow each party their full
11 right and interest. Okay? All right.

12 What I have now for you is just a general
13 charge. The case we're about to try is Heather Crespo
14 versus Rhett Riviere, Josee Riviere, Chase
15 Enterprises, LLC of South Carolina, and RC Riviere
16 Properties, LLC -- it's 2022-CP-02-02323 -- as well as
17 Gabriel Crespo versus Rhett Riviere, Josee Riviere,
18 Chase Enterprises, LLC of South Carolina, and RC
19 Riviere Properties, LLC of South Carolina, Case
20 No. 2022-CP-02-02324.

21 THE CLERK: Ladies and gentlemen of the jury,
22 please stand and raise your right hand.

23 (The jury was duly sworn to try
24 the cases.)

25 THE COURT: Mr. Harte, which seat is your

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1 foreperson's seat?

2 THE CLERK: The foreperson's seat is where the
3 gentleman in the blue shirt is.

4 THE COURT: All right. I would like -- you are
5 Juror No. 36 to switch with Juror No. 197, April
6 Windsor. You all need to switch seats. And I'll
7 explain that in a minute. And the two alternates?

8 THE CLERK: Those are the two on the left, Your
9 Honor.

10 THE COURT: All right. The two seats right
11 there where you two gentlemen are. And maybe -- I
12 don't think you are the two people that need to be in
13 there. No. 92 and No. 170, you'll have to switch
14 seats there.

15 Now, other than those three seats, the rest of
16 you can sit wherever you want in that box. I know
17 sometimes people get wedded to their seat. They like
18 that viewpoint or something. But you don't have to.
19 Okay? If you want to, you can, but you don't have to
20 as you come in and out. I can't guarantee how much
21 we'll come in and out. I don't know. I might come in
22 and out too. So we'll find out as we get along. But
23 you three need to sit in those seats at all times.
24 You two because you're alternates, and you may or may
25 not deliberate on this case. And you, because I have

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1 just appointed you as the foreperson, Ms. Windsor of
2 this -- of this case. And I will explain what that
3 means. There's not a lot extra duties. It will be
4 okay. All right?

5 And you've met Ms. Jenny right here, the
6 bailiff. You've seen the courtroom security. They
7 come in and out. Different people are going to be
8 seated in different areas. We have a -- in fact two
9 bailiffs are back there right now. Sometimes there's
10 just one, sometimes there might be courtroom security
11 there. Anytime you all have a question, these are the
12 folks to get, because they will -- they will come get
13 the appropriate person. No one else seated out here
14 can speak to you directly. I can, but I really don't.
15 None of these attorneys can talk to you. We have to
16 pretend like you're not around. So if you see us,
17 nobody is being rude to you not waving or whatever.
18 They're just doing what we've told them to do, which
19 is not talk to you, because you have a very important
20 job. You are going to render a verdict in this case,
21 in that you are the only people that can do that. All
22 right.

23 I want to tell you that this is going -- it
24 could be little different. When we had the jury
25 impaneled and we asked about true crime stories and

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1 documentaries, I think half of you all stood. I don't
2 know if you all stood up. But so many people watch TV
3 these days about what happens in court. This isn't
4 like that, you can tell. Never on television would
5 there have been a whole morning delay because of a
6 computer issue, right? You wouldn't have seen that in
7 your true crime story or your true crime documentary.
8 But this is very important to the people that are
9 sitting in this courtroom, and so we try to make sure
10 everything is working properly and that we're doing
11 things according to the rules of court, and that can
12 be very slow and very deliberative. That is what
13 everyone here is trying to accomplish. No one wants
14 to mess this up in any way.

15 So it's not going to be a wham-bam kind of thing
16 like you may have seen on television. What we're
17 trying to do is make sure that justice is done between
18 the parties before the Court, searching for a verdict,
19 letting you decide the facts of the case, and making
20 sure that everything is done by the book, not by
21 television or the books that you read. This is a
22 place of honor dedicated to the protection and
23 preservation of citizens' rights through what many
24 have called the greatest justice system ever created.
25 The attorneys appearing before you are advocates for

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1 the parties they represent. But first and foremost,
2 they are officers of the Court. sworn to uphold the
3 integrity and fairness of our judicial system. You
4 should expect them to be professional, competent, and
5 ethical in the representation of their clients'
6 interests. Remember that you have taken an oath to
7 try this case and reach a fair and just verdict. And
8 you are also expected to be professional, reasonable,
9 and ethical. Thank you for doing this very important
10 duty for us.

11 This is an introduction to the trial of this
12 case. This is not evidence in this case. I'm not
13 charging you on the law. The way this works is, I am
14 the judge of the law and you are and the judges of the
15 facts. But at this time, I'm not telling you anything
16 about the law. That will come at the end of this
17 process. I will instruct you on the law at the end of
18 the trial before you retire to decide the case.
19 Before the trial begins, I'm going to tell you a
20 little bit about the procedure. You have been
21 selected as fair and impartial jurors whose purpose to
22 to find and determine the facts. You are the sole
23 judge of the facts. If, at any time, I make any
24 comment, do not take it as a comment on any fact in
25 this case. I cannot render judgment on the facts of

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1 this case. Only you, as a jury, as a complete jury,
2 can do so. You are to determine facts from the
3 testimony here, and from any other evidence that is
4 presented. You should not be influenced by any
5 opinions or statements you may have heard outside of
6 this courtroom. We talked about that yesterday a
7 thousand times as well, correct? It is especially
8 important that you perform your duty of determining
9 the facts diligently and conscientiously. When you
10 comply with your oath to impartially determine the
11 facts of this case, you will have fulfilled your duty
12 as jurors, and no one can criticize your verdict.

13 On the other hand, and with equal emphasis, the
14 same law that makes you the judges of the facts makes
15 me the judge of the law. The law is given by the
16 Court -- as given by the Court is the only law you may
17 consider. You must accept and follow it, even though
18 you may disagree with it. I cannot tell you what the
19 facts are, and you cannot disagree with me about what
20 the law is. It's your job to take to facts and it's
21 your job to take the law as I give it to you and apply
22 it to the facts as you find them from the testimony
23 and witnesses and other evidence that will be
24 presented. After doing that, you will render your
25 judgment, a just verdict under the solemn oath that

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1 you just took as jurors.

2 Until I advise you to begin your deliberations,
3 you are not to discuss this case amongst yourselves or
4 with anyone else. You can't talk to friends, family,
5 fellow jurors, pastors, anyone. You're not to text
6 anyone, you're not to read any newspaper articles. If
7 you hear something on the radio, you have to turn it
8 off. I have no idea that any of that will be out
9 there. But just on the odd chance, we tell every
10 single jury this. You are to judge the facts and
11 apply them to the law based on what you hear in this
12 courtroom. That's one of the reasons your cell phones
13 are taken before you come in here. You cannot be
14 distracted, you can't check a text, you can't look up
15 the news, you can't do any of that, so that you
16 concentrate on what's going on in this room, and that
17 is where your attention is for the -- for these
18 parties. This includes information about a party, a
19 witness, an attorney or a court officer, news accounts
20 about the case. Don't do any research on anything you
21 heard today. After this trial is over, you all can
22 Google to your heart's delight. But until that time,
23 you have to stay listening only to what is here and
24 what is presented here. Okay?

25 During the trial, do not read, listen to, or

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1 watch any news reports about the case. After the case
2 is submitted to you, you must discuss it only in the
3 jury room with your fellow jurors. The attorneys and
4 parties in this case have been advised that they are
5 not to talk to you. It is important that you keep an
6 open mind and not decide any issue in the case until
7 all of the evidence has been presented. Just like we
8 keep talking about, there's a procedure, and there's a
9 procedure to how things get presented in court. That
10 doesn't lead any credence to one side or the other,
11 but somebody always has to go first. So we ask you to
12 keep in mind that there's more information to come.
13 Until you know the entire case is done and it's rested
14 and we send you into the jury room and ask you to
15 deliberate. Merely sending you into the jury room is
16 not the time to discuss the case. Until I tell you,
17 you can discuss the case, you cannot do so. Okay?
18 The parties will make their closing arguments. And
19 after I tell you about the law, that is when we will
20 tell you when to discuss the case.

21 Now, in just a moment, the attorney for the
22 plaintiff will make what is called an opening
23 statement. The attorney will explain to you the
24 issues in the case or how they view these issues, what
25 they are presenting to you to consider, then the

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1 defendants each will make an opening statement. We
2 have two defendants in this case. They have separate
3 tables here. And they will each make an argument. So
4 we do have a lot to get through this afternoon. What
5 an attorney tells you in their opening statement is
6 not evidence, it is their contention of what the
7 issues are. The evidence in the case will be
8 presented to you by the testimony of sworn witnesses
9 from the witness stand or, and possibly as well, by
10 exhibits that may be introduced into evidence. From
11 time to time during the trial, you may hear one of the
12 attorneys say something like I object, we have an
13 issue law, I need to talk to the Court. Because I am
14 the judge of the law and I have to give you the law,
15 there are times that I need to ask you to leave the
16 courtroom so that we can make an assessment as to what
17 the law should be in different issues that come up. I
18 may ask you to leave. We try to limit that as much as
19 possible because people get tired of getting up and
20 down up and down. Sometimes though, you may be going
21 a long time and you may be happy to get up and go to
22 the bathroom or do something else. We do try to take
23 bathroom breaks, but not everybody's body works the
24 same way. So when that happens, do not take anything
25 from it. That is part of this procedure we keep

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1 talking about. That's just how things get done. So
2 it's not we're trying to hide anything from you or
3 keep anything from you. We're trying to make sure you
4 have the correct evidence. No, not correct, but the
5 proper evidence before you, I should say -- because I
6 can't say whether it's correct or not -- but the
7 proper evidence in the case so that you can make a
8 just verdict. Okay? I am never intending to make a
9 comment on the fact that takes the judgment of the
10 facts out of your hands. Please don't take anything I
11 say in that regard.

12 In determining what the facts are in this case,
13 you must decide whether or not the testimony of the
14 witnesses is believable. It will be my responsibility
15 to rule as a matter of law as to whether certain
16 testimony is admissible at all or not. But once the
17 testimony is admitted, whether or not you believe it
18 is solely up to you. In deciding whether to believe a
19 witness, you have a right to consider whether the
20 witness has an interest in the result of the trial,
21 whether the witness is prejudiced to either plaintiff
22 or either defendant, the opportunity for the witness
23 to have seen the matters and things about which the
24 witness may testify, and the way the witness acts on
25 the witness stand. You have a right to consider

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1 anything that is in the record that will help you
2 evaluate the testimony of the witnesses. That means
3 that it is your duty to pay close attention to these
4 witnesses, to observe the witnesses, to listen to the
5 witnesses, and to pay close attention to the attorneys
6 and to the Court. Please try not to let your thoughts
7 wander. Please try to pay close attention at all
8 times. And that way, at the end of the trial, you
9 will be able to determine what the true facts are, to
10 apply the law to those facts and render a just
11 verdict.

12 It is your added duty, Madam Foreperson, to
13 preside in the jury room. That doesn't mean you take
14 over, you don't have an extra vote. But you are the
15 one to communicate with the Court if you need to. And
16 we'll discuss how you can do that at a later time.

17 In order to preserve everyone's rights, I will
18 give the parties to object -- an opportunity to object
19 to anything I have said and then we will begin the
20 trial. Okay?

21 Counsel, do we have any matters to take up?

22 MS. BARBIER: No, sir -- ma'am, Your Honor.

23 MR. GRIFFIN: No, Your Honor.

24 MS. BARBIER: No, Your Honor.

25 THE COURT: All right. Then, let's begin. Ms.

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1 Barbier?

2 MS. BARBIER: May it please the Court. Good
3 afternoon. Imagine, if you will, a beautiful spring
4 day in April of 2001 in Aiken, South Carolina,
5 probably the prettiest time of year to be in South
6 Carolina, kind of like the weather we've had
7 recently. And add to that scene a young couple,
8 newly married. They need to come to Aiken for a few
9 months for polo season, and so they rent a small
10 cottage. They even have dinner with the owners, or
11 the people managing this property, and some mutual
12 friends before they sign a lease agreement. The --
13 the couple that they meet, the man comes from a
14 wealthy and well-known family in town. The
15 properties come recommended. From everything that
16 they can see, these are fine folks.

17 But ladies and gentlemen, it's what they didn't
18 see -- what they didn't see -- what they couldn't see,
19 and what they weren't meant to see, that is at the
20 very heart of this case. There are so many things in
21 this life that we can't control. We have to go
22 through it. We can't control whether the technology
23 in the courtroom works. We can't control the weather.
24 We can't control death or illness. We can't control
25 the prices at the grocery store. We can't control

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1 whether the Gamecocks lose or the Tigers win. And we
2 can't control whether we get selected for jury duty.
3 But there are certain things in life that we demand
4 control over. We control who we let into our lives.
5 We control who we share our deepest emotions with.
6 And perhaps, most importantly, we control who sees us
7 in our most vulnerable and intimate moments, who sees
8 our bodies, who shares our most intimate experiences.
9 This is the one area that we expect -- no, we demand
10 -- complete control.

11 In April of 2001, our clients, Gabriel and
12 Heather Crespo, traveled to Aiken for their work.
13 Gabriel was a rising star in the world of polo.
14 Heather was an amateur horse trainer. They were there
15 for three months during polo season. And while they
16 were there living in this cottage, they were secretly
17 videotaped. That's right. Their most private moments
18 were filmed. They were videoed while they were naked
19 and engaged in intimacy in the privacy of their bed.
20 They were videoed while they were in the bathroom,
21 fully naked, on multiple occasions. And, ladies and
22 gentlemen, this is -- this case -- is the ultimate
23 invasion of privacy.

24 On July 18th, 2022, Heather and Gabriel learned
25 for the first time of the existence of this video, the

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1 video that you are going to learn was named Heather
2 and Gabriel. It was created in 2001 when they lived
3 there, and it still exists. You're going to hear
4 testimony about how this was revealed and the evidence
5 that -- that what happened to the Crespos was not an
6 accident. It was a calculated scheme that was
7 perpetrated on them. When Heather and Gabriel learned
8 of the existence of this video, their minds were
9 immediately -- they -- they went to those months that
10 they lived in that cottage. And what they believed
11 were private moments, they now agonized to recall.
12 They -- they couldn't even begin to comprehend the
13 extent of the harm, the invasion and the violations.

14 Can you imagine what went through their minds?
15 How many cameras were there? Where were the cameras?
16 What rooms were they in? What is on those recordings?
17 How many recordings are there? Who's been -- who's
18 seeing these recordings? Are these on the Internet?
19 Those are just the first few minutes of their new
20 reality, because with each hour and each day, they
21 would come to understand there's really no end to this
22 mental anguish. They would come to learn all of the
23 brutal and all of the agonizing details of the
24 investigation. And so it began. They're asking
25 themselves, who's seen me in the most intimate moments

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1 of my life? Who's seen me without my clothes on?
2 Have I sat across the room from somebody or been at a
3 party with people who've seen me naked? Have other
4 people like these defendants turned what I thought was
5 a special time in my life and intimate moments with my
6 husband into something sordid?

7 You aren't on just any case, ladies and
8 gentlemen. This isn't about whether the light was red
9 or green. As I told you yesterday, my name is Debbie
10 Barbier. And I, along with Wes Few and Ryan Beasley
11 proudly represent the Crespos. You will see Heather
12 and Gabriel sitting there. And I can promise you,
13 this is one of the hardest things they've ever had to
14 do. You will hear them talk and describe the
15 devastation of this violation, this intrusion. They
16 are embarrassed to have to sit here and talk about it.
17 But it is important for so many reasons that I think
18 you're going to understand. They care about this
19 community deeply.

20 And let me explain what telling their story
21 actually means. They have to willingly allow these
22 videos to be played in this courtroom, moments they
23 never meant for anyone to see. With the flip of a
24 button and then push of a button, total strangers will
25 see this. And they will likely leave the courtroom

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1 during the time period and they will -- we will likely
2 ask that these videos only be shown to the jury and
3 not the rest of the courtroom. But when they -- when
4 you finish watching this video, they will come back in
5 here and they will watch this story unfold, and they
6 want -- they will be here because they want to hold
7 these people accountable.

8 And what makes me most proud about the fact that
9 they are here and they are willing to do this is that
10 in doing this and in telling their story, they expose
11 these defendants. They can't hide behind their
12 wealth, they can't hide behind their status in this
13 community, they can't hide and they can't pretend to
14 be people that it's safe to do business with. We have
15 sued Rhett Riviere for invasion of privacy and
16 intentional infliction of emotional distress. We have
17 sued both Rhett Revere and Josee Riviere for
18 negligence, negligence per se, constructive fraud, and
19 a violation of the South Carolina Unfair Trade
20 Practices.

21 Now, the judge is going to be the one to tell
22 you what the law is. And she is -- as she said in her
23 instruction, she's the ultimate instructor of you on
24 the law. But as you listen to the evidence, I just
25 want you to keep some very basic concepts in mind.

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1 The law says that people who rent properties owe
2 duties of care to their tenants. They cannot conceal
3 information that might be important to their tenants,
4 they can't engage in conduct that is extreme and
5 outrageous and likely to cause distress. And they
6 can't intentionally intrude upon tenants' private
7 lives in a way that would be highly offensive to a
8 reasonable person.

9 Now, when I was a young lawyer, I worked for the
10 Department of Justice. I started out as a prosecutor.
11 And when they trained us to make an opening statement,
12 they told us to make sure that you leave the jury with
13 one thought -- one thought if you don't hear anything
14 else that I say -- about what this case is about.
15 What this one thought, that if you go back to at
16 anytime during the middle of this trial, no matter
17 what's going on, you go back to that thought and you
18 know this is what this case is about. One thought, no
19 matter how much ranting and raving and whatever
20 confusion the defense tries to create, you go back in
21 your minds and you understand what this case is about.
22 And the one thought in this case, ladies and
23 gentlemen, it's not fancy, it's not eloquent, it's
24 very simple; the bottom line. A person cannot
25 intentionally intrude upon somebody's private life in

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1 a way that would be highly offensive to a reasonable
2 person. I'm going to say that one more time. A
3 person cannot intentionally intrude upon a person's
4 private life in a way that would be highly offensive
5 to a reasonable person.

6 So with each witness and with each piece of
7 evidence that you hear about, I want you to ask
8 yourselves: Is this an intrusion, was it intentional,
9 were these private moments, and is this highly
10 offensive? Now, you might be asking yourself, what --
11 what's the defense here? Certainly, he will deny --
12 they will deny these horrible things. But, ladies and
13 gentlemen, you all have a front-row seat to hear his
14 opportunity to defend himself.

15 Josee Riviere has what we call the
16 I-don't-recall defense. She conveniently doesn't
17 recall renting to the Crespos. She doesn't recall
18 whether she helped them rent this property. She
19 doesn't recall giving them the lease agreement, she
20 doesn't recall taking a rent check, she doesn't recall
21 having dinner with them when they met, she doesn't
22 recall giving them the keys to the cottage, she
23 doesn't recall letting them in one day when they were
24 locked out. She just doesn't recall. But that's
25 okay, because the Crespos recall, and you're going to

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1 hear from them.

2 I think, unfortunately, as so often happens,
3 another defense you're going to hear is that, you
4 know, they're going to blame the victims. They're
5 going to blame the lawyers. They're going to blame
6 everybody except themselves. The most outrageous
7 defense that you're going to hear in this trial comes
8 down to two words, boils down to two words that
9 they're going to say to you. You know what they're
10 going to say? They're going to say so what. So what?
11 They don't understand what they took from our clients.
12 They don't understand the violation. They don't
13 understand the harm they inflicted upon them. They
14 don't understand the trauma. I guess these two think
15 this intrusion isn't so highly offensive. What's the
16 fuss? I don't think they think they did anything to
17 the Crespos. What's the big deal? They don't think
18 exposing them to hidden cameras, forever to be watched
19 by them or God knows who else at their pleasure, at
20 their whim, is any big deal. They don't think
21 stripping the Crespos of their privacy each time these
22 videos were watched over the last 20 years and forever
23 in the future is a big deal. But I think you all will
24 perfectly understand what the big deal is.

25 And so now, you know the story that we are here

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1 to tell. Rhett Riviere will no longer be able to hide
2 from what he has done. And we make no apologies for
3 stripping him right before your eyes. What he did
4 illegally and immorally, we will do legally and
5 proudly with every light turned on. And what Josee
6 Riviere enabled and negligently or purposefully
7 allowed, we will expose her for it, according to the
8 law. And at the end of this, ladies and gentlemen,
9 you're going to answer the defendant's question: So
10 what? With your verdict, you are going to be able to
11 tell them exactly what the big deal is. Thank you.

12 THE COURT: Thank you, ma'am. Counsel for Rhett
13 -- counsel for Rhett Riviere. Mr. Griffin?

14 MR. GRIFFIN: Yes, Your Honor. May it please
15 the Court, counsel, ladies and gentlemen of the jury.
16 Good afternoon. Welcome, and thank you. You are
17 doing your civic duty, you responded, and you're here
18 to participate, be active participants in the
19 administration of justice. Winston Churchill is
20 credited by saying service on a jury is the highest
21 calling a citizen can give to his government in a
22 time of peace. Jury duty is also hard work. You'll
23 be required to make hard decisions in this case. And
24 at the conclusion of the case, as Judge Rivers
25 pointed out, you will -- you will hear from lawyers

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1 again, you'll get the law by the judge given to you,
2 and then you'll go back in the jury room and you'll
3 deliberate, and you'll come to a verdict. And you
4 will have done your solemn duty if that verdict is
5 based solely on the facts provided in this courtroom
6 and the law as the judge gives you. And no one -- no
7 one -- can complain about your verdict because that
8 verdict measures up to the Latin phrase "veredicto,"
9 which is to speak the truth.

10 As jurors, your role is to find the facts. You
11 are the judge of the facts. No one can second-guess
12 your collective judgment on the facts. Judge Rivers,
13 as she explained, is the judge of the law, and you
14 must follow that law. You have no choice. I have no
15 choice. It is the rules of the road in this case, and
16 in every case. Lawyers, as Judge Rivers pointed out,
17 are advocates. And you are here for this trial this
18 week. And forgive my somewhat boasting, but you've
19 got the best of the best lawyers in this courtroom,
20 present company excluded. Debbie Barbier was a former
21 U.S. Attorney. I was a former U.S. Attorney. She's a
22 former federal judge's law clerk. So was I. It does
23 not get any better. Ryan Beasley was a law clerk with
24 a state court judge who is now on the Supreme Court
25 and Walter graduate. And Wes Few, he is from one of

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1 the -- a family with the best legal minds the state
2 has ever known, and he graduated top of his class, and
3 he has had success all throughout his career. Over
4 there representing Josee is John Harte. He's a
5 walking legal encyclopedia and an institution in this
6 community. And then, Joe McCulloch and Kathy Shillaci
7 over there. I mean, we're pulling up the rear, and we
8 are representing Brett Riviere.

9 But we all have job to do, and we're all going
10 to do it to our level best. And you have a job to do,
11 and that is to follow the law, follow the rules of the
12 road, and render a fair and impartial verdict, not
13 based upon passion, not based upon prejudice, but
14 based upon what you hear in the courtroom and what's
15 been proven to you, proven to you by the burden that
16 applies, whether it's the burden of the preponderance
17 of the evidence, which you'll hear Judge Rivers. And
18 sometimes, the burden will be on clear and convincing
19 evidence. But in any event, what -- what -- what is
20 this case about? You've heard it. It's about the
21 Crespos renting a cottage for a couple of months in
22 the spring of 2001 from a company that Mr. Riviere had
23 an interest in, and they were secretly videoed,
24 secretly videotaped. It's called voyeurism, I think
25 you've heard, during jury selection. And there's

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1 nothing right about that. It's absolutely wrong.
2 There's nothing right about that. And no one is going
3 to try to justify voyeurism in any form or fashion.
4 And I think Ms. Barbier says these were illegal acts.
5 That's what she told you. And I wouldn't disagree
6 with her.

7 But what's important for you to know, this is
8 not a criminal case. This is not a criminal trial.
9 This is what is technically called where we are today
10 is the Court of Common Pleas, and that means a civil
11 court. And in a criminal case, what you have is a
12 whodunit, who did it. If you did it in a criminal
13 case, if you're found guilty beyond a reasonable doubt
14 of doing it, then you get punished. In this, there
15 are elements of a whodunit to a civil case, but that
16 doesn't get you the money jackpot that those lawyers
17 are after. Because in a civil case, not only do you
18 have to prove whodunit, but there are other elements
19 that you have to prove. And -- and Ms. Barbier -- and
20 I'm not going to go through the elements of all the
21 causes of action that have been alleged in this case,
22 because that's the judge's responsibility. I don't
23 want to -- I don't want to misstate them.

24 But there are a number of legal claims that have
25 been brought here in this Court which go well beyond

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1 whodunit. There's a first cause of action. It's
2 called a negligence claim. The second cause of
3 action, invasion of privacy. The third cause of
4 action, intentional infliction of emotional distress.
5 The fourth cause of action, constructive fraud and
6 misrepresentation. The fifth cause of action,
7 negligence, per se. The sixth cause of action,
8 violation of the South Carolina Unfair Trade Practices
9 Act. So they pled more than a whodunit. And they
10 bear the burden of proving all the elements of all of
11 those offenses or causes of action. What one of the
12 common elements of -- of -- of these claims that
13 they've alleged is, particularly with intentional
14 infliction of emotional distress or invasion of
15 privacy, there's -- you have to prove that you
16 suffered severe or extreme emotional injury, emotional
17 harm.

18 And we will talk about that during the case. So
19 you're going to want to know how much was spent on
20 medical bills, how much was spent on therapy bills,
21 how often did they go to therapy, if at all, and how
22 long have they been going to therapy and for what, and
23 what other things have going on in their lives. But
24 -- and -- and in sort of the burden of proving
25 damages, how much they were damaged and what the

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1 amount of the damage is. But before we get to all of
2 that, there's another component of whodunit-plus that
3 they have to overcome, and it is the events that
4 they're complaining about occurred in 2001, 23 years
5 ago -- 23 years ago -- a generation ago. And under
6 the law, Judge Rivers will instruct you, people
7 generally have three years to sue someone for an
8 invasion of their rights. Now, it's three years from
9 when they knew or, in the exercise of reasonable care,
10 should have known. Have a duty -- if you're put on
11 notice, you have a duty to investigate. Judge Rivers
12 will charge you on our defense of the statute of
13 limitations at the end of the case.

14 But here's the evidence that you're going to
15 hear about that. And whether it was April, May toward
16 the end of June, it was about the time that Mr. and
17 Ms. Crespo were packing up to leave Aiken to go on the
18 polo circuit, horse show circuit up to Virginia and
19 then up to the Hamptons in New York. And Ms. Crespo
20 is in the cottage packing up. And you're going to see
21 some pictures. But this cottage is -- is a converted
22 building and -- and -- in -- in the bathroom area --
23 and if you can just envision that there is a toilet
24 right over by that door, and there's a door there by
25 that toilet. And Ms. Crespo -- and that door is

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1 cracked open. And Ms. Crespo sees some equipment,
2 hears some worrying sounds, and wonders what it is.
3 And she goes inside and looks at this equipment. And
4 she does more than that. She called a friend, you're
5 going to hear, a Gina Salatino, and invites her over
6 and says, I want you to look at something. And Ms.
7 Salatino is going to testify that she comes over and
8 they look at this equipment. And Ms. Salatino is
9 going to testify that she sees a hole in the wall, and
10 that she sees what looks like a camera lens in the
11 wall, and that she concludes that there's a hidden
12 camera in that wall. That's what Ms. Gina Salatino
13 will tell you that occurred in 2001, 23 years ago, and
14 she had a conversation with Ms. Crespo about it. And
15 Ms. Crespo admits to a conversation and showing her
16 and says that she told her husband about it. Now,
17 there's some dispute between Ms. Crespo and
18 Ms. Salatino that you, as jurors -- finders of the
19 fact, weighing the credibility of the witness -- is
20 going to have to -- have to decide.

21 But what we do know is there was an opportunity
22 in 2001 for Ms. Crespo and Mr. Crespo to speak up.
23 And you're going to see -- you're going to see the
24 videos, and you're going to see videos coming from --
25 there had to be a hole in the wall for the camera to

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1 show what you're going to see on these videos. In any
2 event, so that's -- if you find, which we believe the
3 evidence will show, that the Crespos were on notice in
4 2001 and didn't do anything about it -- for whatever
5 reason, they let the statute of limitations lapse and
6 then, 23 years later, they come forward and file a
7 claim that they should have filed back in before '04
8 -- then it's your solemn obligation at the end of this
9 case to render a verdict for the defense.

10 Now, a little bit more about, you know, the
11 concern that these videos were posted or disseminated,
12 you will not hear any evidence of that. And we were
13 -- we were heartened in this courtroom as people were
14 asked and when you all were questioned during the
15 stage that's called voir dire when the judge asked you
16 questions, had any of you all heard about any of this,
17 and no one stood up in the audience and said they had.
18 And there will be no evidence that these videos were
19 shown or disseminated to anybody. There will be none.

20 And -- and what we do know is that Mr. Crespo
21 was vocal, spoke to the media, and he made it known,
22 as much as he could, about what transpired. But what
23 he didn't do, what he didn't do in 2001, 2002, or 2003
24 he didn't make it known. He kept it quiet. And a lot
25 happened. And you're going to hear a lot about what

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1 happened in the lives of Mr. and Ms. Crespo from 2001
2 to 2023, and none of us relish going into that.

3 But at the end of this case, we believe the
4 evidence will show that all the claims are barred by
5 the statute of limitations. But if you disagree, and
6 you conclude that they have proven -- they have proven
7 -- their right to recovery, you know, that they've
8 proven all the elements of whodunit, plus all the
9 other elements that they've alleged, then it's your
10 solemn obligation to award damages. But it's only the
11 amount of actual damages they have proven, not
12 speculative damages, not damages based on passion or
13 prejudice. It's the actual damages that they have to
14 prove. And that's all we're asking you to do is
15 follow the law, listen to the evidence and
16 collectively determine the facts. And we appreciate
17 your service. Thank you.

18 THE COURT: Thank you, sir. Mr. Harte?

19 MR. HARTE: I don't walk as good as I used to.
20 It's one of those things that happens with age. And
21 I've been here in Aiken County for 74 years. I came
22 here when I was 4 years old, like a lot of people did
23 when the (unintelligible). I've grown up and I've
24 seen Aiken develop, and I've watched what people have
25 done to make Aiken better. I've had the good fortune

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1 of being in this courtroom, or the courtroom in the
2 courthouse before it was renovated with some very
3 fine, very fine lawyers. But I want to be very
4 honest when I tell you that I have never been in a
5 courtroom with as much legal power as I'm looking at
6 today. Ms. Barbier is probably one of the finest
7 Assistant U.S. Attorneys that I've ever encountered.
8 I have had some occasion to deal with her before, and
9 I know her to be a very, very honest, forthright and
10 diligent lawyer. Ryan Beasley, I have always
11 believed him to be a true Southern gentleman. And
12 Wes Few, who I've only recently come to know, seems
13 to be about as good as they get.

14 So this is not going to be a trial where you're
15 going to watch people fumble around, unless I do it.
16 So I want you to be comfortable about your task ahead
17 of you because, while it's very important, it's also
18 something that I'm confident that you can do. One of
19 two things I want you to know about how things operate
20 here, and what I will be doing and so forth. We are
21 on the far end down there, and I have little laptop
22 and I have a cell phone and I have people here with me
23 to help me. I may be on -- sometimes on the laptop,
24 but I'm not playing Candy Crush, or something like
25 that. I'll be communicating with our staff who is not

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1 here, because I need a book or because I need them to
2 look up something. Some of the people at my table
3 will come and go, but they're -- I will be here. When
4 you're here, I'll be here, so I'm the one responsible.

5 What is said by the lawyers is not evidence.
6 The evidence will come from the witnesses. You should
7 not allow the arguments of the lawyers to be treated
8 as proof. Lawyers are allowed to tell you what they
9 think the facts prove, but in the end, you must make
10 your decisions based on what you hear from the
11 witnesses. I'll begin with I want to mention
12 something that you have already heard and you will
13 hear again: The plaintiffs are required to prove
14 their case by the greater weight of the evidence.
15 Now, I'm confident in your ability to do what's
16 necessary, and I'm confident that you're going to base
17 your decision on the hard facts, and that you won't
18 allow unsubstantiated conjecture and speculation to
19 affect the result. I trust you to make your decision
20 on the basis of substantiated evidence. If you do
21 that, then I believe you will realize that the greater
22 weight of the evidence shows that Josee did nothing
23 wrong.

24 Now, Josie and I would not do anything to hurt
25 Gabriel or Heather. Josie and I both know that.

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1 Gabriel is a world-class polo player. I played with
2 him on the polo field. I know how good he is. I know
3 what his skills are. I know he is an excellent
4 father. I know Heather is an excellent nurse and a
5 good person and a good mother. If they were hurt,
6 then they -- I am sorry, and I'm saddened by it, and
7 Josee is saddened by it. But if that happened, and if
8 that occurred, while we feel extremely saddened that
9 it did, that is not a reason to punish Josee for
10 something she had nothing to do with.

11 Now, you're going to hear evidence about rental
12 properties that were owned by Rhett Riviere. Josee
13 has never owned any interest in those rental
14 properties. As for the cottage that Heather and
15 Gabriel rented for no more than three months, Josee
16 was not an agent. She did not own that cottage. She
17 did not negotiate the terms of the lease. Before
18 Gabriel and Heather were there and during the time
19 that they were there, she did not do anything to
20 convert that cottage from a cinderblock equipment shed
21 into what we are calling a cottage. Although frankly,
22 that stretches the word "cottage" pretty far.

23 At the time there were living there, there was
24 one big room that was the living room, dining room,
25 bedroom, kitchen, and then there was a bathroom. If

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1 you want to call it a cottage, fair enough. But it's
2 a one-room what I used to call an efficiency. When I
3 was in law school, I had a room, a place like that. I
4 had a one-room kitchen and bathroom, and I called it
5 an efficiency. But everybody decided they want to
6 call this a cottage, okay, fair enough, it's a
7 cottage. But Josee didn't do anything to convert it
8 from a simple equipment shed into whatever it is, an
9 efficiency or a cottage. She didn't decorate, she
10 didn't select the furniture for it, she didn't do
11 anything in that cottage before or while they were
12 there. This is important, very important. She never
13 entered that cottage while they were there. Never,
14 not once.

15 She kept her horses on the property. This is
16 the property over here on the corner of Grace Avenue
17 and Two Notch Road, and then you go down to what I
18 think is called Mead. It's a nice, large -- it's one
19 of those large pieces of property like you see over in
20 the horse district. So on that property is a brick
21 building that faces Grace Avenue, and then you come
22 back a ways -- a good ways -- and here's this concrete
23 cinderblock building where this place was where this
24 allegedly occurred. Then you come on forward and
25 there are barns, and then there's an open field, big

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1 enough for people to ride their horses in. Josee rode
2 her horses on that property, and she kept her horses
3 in the barn. But the barn has a fully functioning
4 bathroom. Josee had no reason to go to the cottage,
5 and never went to the cottage. The only reason that
6 Gabriel and Heather saw Josee at all there at the
7 property was because Josee kept her horses in the barn
8 and because both Josee and Heather rode horses in the
9 open field that was there.

10 On that beautiful day that this Ms. Barbier
11 mentioned, my client was a newlywed, married only
12 about 8 or 9 months before these events occurred. She
13 was there enjoying her horses and enjoying life with
14 her husband. Things like somebody handing you a check
15 to pay your husband for the rent 20 years later -- 24
16 years later, 23 years later -- are not things you're
17 going to remember, because at that moment in time, you
18 weren't focused on that. That wasn't why you were on
19 that property. You were there to ride your horse.
20 Maybe you were cleaning the stalls. Maybe you were
21 grooming your horse. Maybe you were washing your
22 horse. Maybe you were treating your horse for an
23 injury. You weren't there for a commercial business
24 because you weren't engaged in a commercial business.
25 So asking her in 2023, 2022, did you receive a check

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1 from Gabriel Crespo, Josee is honest enough to say I
2 don't remember that. Of course she doesn't. I don't
3 remember every teeny tiny little thing that happened
4 23 years ago. I don't know anybody who does.

5 Now, there's another matter that we need to talk
6 about: Guilt by association is not recognized in the
7 law. You may not find one person responsible for the
8 conduct of another merely because they are married to
9 them or close to them. And that's the insidious
10 thread. In fact, I'll say it another way. That is
11 the evil thread that is sliding through this case.
12 The theme they want you to remember, the thought they
13 want you to take from this case is she was married to
14 him so she must be punished for what he did. Now,
15 when you judge the plaintiffs' case and you want a
16 single thought, you listen to what they're saying and
17 then you see if you come away with the same opinion
18 that I believe the evidence shows. And that is, that
19 they're not trying to hold her responsible because
20 what she did. How about this for a thought: Let's
21 punish her because of what her husband did. That's
22 not the way we do things, thank God.

23 Thankfully, when you're seated as a jury, you're
24 not expected to give up your common sense and life
25 experiences. You don't leave that behind you. So if

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1 somebody says to you a wife should know everything her
2 husband is doing, you can draw from your own life
3 experiences and common sense. And when you do that,
4 you will realize just how inaccurate that thinking is.
5 Josee is not the first person who trusted their new
6 husband and then later discovered that that trust was
7 misplaced. You cannot judge by what was learned 20
8 years later and then carry that knowledge back 20 or
9 24 years. You have to determine Josee's culpability,
10 responsibility based on what she actually knew at the
11 time these events were occurring.

12 Josee found out about these videos when
13 everybody else did, in 2019, not in 1999, when she
14 first came to Aiken, not in 2001, when the videos were
15 allegedly made. You're going to find out and you're
16 going to hear what actually happened. Josee -- and
17 I'm going to tell you something, folks. I've been in
18 a lot of cases. I've probably done more divorce cases
19 than any other lawyer in South Carolina now. I had
20 the distinction in the courts to be appointed by Chief
21 Justice Woodrow Lewis as a circuit judge for a while,
22 and I served for 4-and-a-half years as family court
23 judge. And I gave that up because, quite honestly, I
24 could not go home without taking those children with
25 me.

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1 A lot of people think I'm the biggest son of a
2 bitch in Aiken. If I'm on the other side of a case,
3 you probably would think that too. But I take these
4 cases home, every one of them, and I took those home.
5 And I gave that up to go out and practice law again
6 and make a living. It's the only thing I know how to
7 do. For a little while, I had to go do something else
8 and I had to learn how to -- how to design fiberglass
9 tanks. I got pretty good at that too. So if you need
10 a big fiberglass tank, let me know and I'll design it
11 for you.

12 But what you're going to learn about this
13 beautiful young lady, beautiful in her heart, is that
14 Josee didn't come to Aiken until 1999 -- 1999. She
15 grew up in Canada. When she came to Aiken that fall
16 of 1999, she met a man she fell in love with. The man
17 she fell in love with had a very respected family in
18 Aiken. Perhaps some of you have heard of Marilyn
19 Riviere. Marilyn Riviere taught people how to fly
20 helicopters during World War II. She won an
21 international contest with helicopters after World War
22 II. She is the person who was responsible for the
23 redevelopment of the Alley.

24 So this was a fine family that she met the son
25 of. They started dating in early 2000. They got

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1 married in September of that year. That was only 8 or
2 9 months before the plaintiffs claimed to have been
3 injured. So when this allegedly happened, Josee was a
4 young bride, spoiled by her horses, in love with her
5 husband. She was not part of the social circles in
6 Aiken. She didn't like boats. Her husband had given
7 up horses for boats. And so, her husband did a lot of
8 things that she wasn't involved with. She was in love
9 with two things; her husband and her horses. When
10 this was happening in 2001, Josee didn't have the
11 time, she didn't have the opportunity, she didn't have
12 the context to hear bad things about the man she had
13 fallen in love with. I previously mentioned to you
14 that she didn't own the property where the events took
15 place. She never participated in finding tenants or
16 doing anything that even remotely suggests knowledge
17 about that building during 2001. They weren't even
18 living on that property. She was living on South
19 Boundary when this happened, blocks and blocks away.

20 Now, that was the state of things 23 years ago
21 when they say this happen. Ladies and gentlemen, I
22 say to you that I pray to God that he will help us.
23 If we are going to blame every spouse who was
24 bamboozled by their partner, then God help us. If
25 we're going to hold a divorced spouse -- these folks

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1 are divorced, and have been for more than a decade.
2 But if we're going to hold a divorced spouse like
3 Josee responsible for something her husband did in the
4 very early months of their marriage, then God help us
5 to preserve justice.

6 At the end of this case, I will ask you to find
7 Josee blameless for whatever you may have found had
8 happened to the plaintiffs. And I will do that
9 because the evidence, I believe by the greater weight,
10 will show that. I do appreciate your service. It's
11 inconvenient. I thank you for it, and I look forward
12 to trying the case with you.

13 THE COURT: Thank you, Mr. Harte. Ladies and
14 gentlemen of the jury, I just want to remind you
15 again, the presentation in the opening statements is
16 the attorneys' statements, it's not evidence. We're
17 going to move to the evidence in this case, but I
18 personally need about a bathroom break, and I didn't
19 get to take a bathroom break. So I'm going to ask
20 you all to leave the room. We'll take a short,
21 10-minute break because I think when we get started,
22 we're going to have some fairly lengthy testimony. I
23 don't want to get caught up at that time. Okay? Do
24 not discuss anything about the case while you're in
25 the jury room. Thank you.

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1 (The jury exited the courtroom.)

2 (Off the record.)

3 (On the record.)

4 THE COURT: We are dealing with a digital court
5 reporter. Do you all have everything premarked that
6 you believe you're going to introduce?

7 MS. BARBIER: Well, Your Honor, I have
8 everything premarked. I've given copies of it to the
9 defendant last week -- the defendants last week. I
10 have them electronically on my laptop. I've got hard
11 copies as well to hand to the clerk. In terms of do
12 you want an actual sticker on it, on the hard copy?

13 THE COURT: Yeah.

14 MS. BARBIER: Okay.

15 THE COURT: And I think that because we're
16 dealing -- this is -- Joe is a digital court
17 reporter, so he's messing with his computer, which we
18 know how finicky it's been. And we're going to all
19 try to keep our exhibit list clear.

20 MS. BARBIER: Your Honor, just have sticky notes
21 on them. Do you all have any court --

22 THE COURT: Yes, I think we do have some. We'll
23 take care of that. Sticky notes will help us to
24 begin with. Thank you, ma'am.

25 (Sidebar.)

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1 THE COURT: Ms. Barbier, could you confirm that
2 you blurred out identifying properties of the persons
3 unknown on those videos?

4 MS. BARBIER: Yes. Our forensics person is
5 doing that right now, and he doesn't think it will
6 take him that long.

7 THE COURT: Okay. Do we need to wait on that in
8 any way?

9 MS. BARBIER: No, because the -- the actual
10 introduction of those videos are coming through Britt
11 Dove.

12 THE COURT: Okay.

13 MS. BARBIER: He's two witnesses from now.

14 THE COURT: What we were talking about is does
15 he have the capability of doing one-way digital on
16 this and not two-way visual? Of course, it's easier
17 to have the two-way visual for opposing counsel to
18 sit here and look, but for some of those videos, we
19 may decide to only do one-way visual, which would be
20 the jury's side only, and you'd have to get up from
21 the table and go over.

22 MS. BARBIER: That would be our request, Your
23 Honor. And we also don't have any objection to the
24 jury just watching them in their jury room, because I
25 know they have a TV back there with the capability of

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1 watching them there.

2 THE COURT: I think we'd better have them out
3 here.

4 MS. BARBIER: Okay. Your Honor, the other --
5 the other issue with respect to the videos, you know,
6 the forensic images of Mr. Riviere's devices were
7 copied, mirrored by Britt Dove at SLED, and then the
8 review was done from there. We're not obviously
9 seeking to introduce the entire hard drive that was
10 copied. But if, at any other point, even the
11 punitive stage, we decide to introduce any other
12 videos, we would hate to have to bring Mr. Dove back
13 to redo the authentication process. And so, I would
14 ask that you make a ruling about the receipt of
15 electronic evidence after he testifies about whether
16 it was admissible, and then if you want to limit it
17 to a certain number for this stage, which you already
18 have, we understand.

19 THE COURT: I think that's going to depend on
20 exactly how he testifies on that evidence. If you're
21 going to have testimony that this is a hard drive and
22 this is where I got it these things and there are no
23 more videos than this -- which is what I indicated --
24 I'm allowing him to say more. But at this time, I'm
25 not allowing a number of videos since there's some

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1 dispute as to the numbers. But if you're getting
2 into I want him to authenticate all 29,000 videos,
3 that would be another issue, and I think the defense
4 counsel may require him come back at a future stage.

5 MS. BARBIER: We're not going to ask him to
6 authenticate 29 -- it's actually, by latest count, I
7 think 24,000 videos.

8 THE COURT: Okay.

9 MS. BARBIER: But we're not going to ask him
10 about that.

11 THE COURT: I'm not counting. Okay?

12 MS. BARBIER: We'd be here for a long time
13 watching those videos.

14 THE COURT: Yes, ma'am. Any other preliminary
15 matters we need to take up right now?

16 MR. MCCULLOCH: Well, Your Honor, I think we can
17 handily take up one preliminary matter, which are the
18 exhibits which -- which we've been advised are
19 divided, the 28 exhibits Saturday.

20 THE COURT: Last week.

21 MR. MCCULLOCH: Okay, last week, Your Honor. Of
22 course, we had no idea until this moment what
23 exhibits she proposes to introduce through this
24 witness. So I noticed that -- and I've not yet had
25 time to go through them in great detail -- but

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1 several of the first four of the exhibits are search
2 warrants. They are search warrants with affidavits,
3 affidavits which are speaking documents which we
4 object to under the case law as well as the rule,
5 because it's hearsay within hearsay offered.

6 THE COURT: Which is not hearsay at all times.

7 MR. MCCULLOCH: Sorry?

8 THE COURT: Which is not hearsay at all times.
9 But go ahead. Hearsay within hearsay.

10 MR. MCCULLOCH: Well, Your Honor, an affidavit
11 is a statement of -- as you know, an affidavit is
12 more than a search warrant. It's a sworn affidavit
13 of the officer who -- who will testify, I guess. I
14 haven't had time to see who is the affiant. But the
15 fact of the matter is that it's based upon
16 information he was told. It is wide-ranging. We
17 believe it exceeds the scope of the necessities of
18 proof here, and we object. And there's a simple
19 solution. This part of the march-up to the
20 introducerability or the admissibility of these
21 videos are the establishment of the foundation. Some
22 of these are appropriate foundational documents. The
23 search warrants, to the extent that a search warrant
24 is comprised of four pages -- the first page is the
25 cover page, the second page is what is being sought,

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1 and then you get to the affidavit which, typically,
2 in this case, is two pages -- it's the affidavit we
3 really object to. The fact that a search warrant was
4 issued in the conduct of an investigation is a fact
5 that I would have to concede is probably admissible,
6 but I would prefer it to be done by the verbal
7 testimony of the officer because he's filing as an
8 exhibit -- well, making an exhibit that goes back in
9 the jury room of even the search warrant is a trial
10 of the criminal case. It's just another way to -- to
11 gig [ph] the jury that this is a criminal process.

12 But even if I do not object to the search
13 warrant pages, which are page 1 and page 2, the
14 testimony of the officer, I object strenuously to the
15 inclusion of the affidavit, which is a document that
16 is absolutely inadmissible. So there are three --

17 THE COURT: Ms. Barbier --

18 MR. MCCULLOCH: -- or four affidavits in here,
19 Your Honor, and they are strewn in these exhibits.
20 But there are photographs which I don't believe that
21 -- there are photographs of multiple properties. I
22 suppose they could be offering them for some -- some
23 purpose. But again, the video -- the trial is about
24 one piece of property; the location at which the
25 Crespos video was taken. The other photographs are

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1 of properties that are separated in time, location,
2 party, and they have become purposeless, at least for
3 the purpose of this. But -- but one of those
4 properties -- I believe it's Clark Road -- is the
5 residence of Mr. Riviere at which the electronic
6 devices -- unless I'm mistaken -- the electronic
7 device on which the Crespo video was discovered.
8 That, Your Honor, I would concede the photographs are
9 appropriate. I would concede the search warrant of
10 that property that led to the discovery of the Crespo
11 video, that would be appropriate. That search
12 warrant, I object to the affidavit going to the jury.

13 THE COURT: That was the next question.

14 MR. MCCULLOCH: And -- and I object to the other
15 affidavit -- the other search warrant for properties
16 not directly connected to any of this, except --
17 except upon the assertion there a common scheme, I
18 suppose. But, Your Honor, I would give you Judy
19 versus Judy, which says the law in civil cases --
20 well, in criminal cases, permits proof of axis other
21 than the one charge which was so related in
22 character, time, and place of commission as to tend
23 to show the existence of a common scheme. Here,
24 we're talking about stuff that's separated by 20
25 years at different locations, different people, not

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1 all of which are rentals. And that's really the
2 shotgun problem here. And -- and I know that we're
3 in a rush to -- to get this case to the jury.

4 THE COURT: No, sir.

5 MR. MCCULLOCH: But -- but I'm -- I just have to
6 keep dragging the anchor of the objection on the
7 basis that we're well beyond the necessity that they
8 have to prove.

9 THE COURT: Well, I'm going to draw your
10 attention to the videos that they actually are
11 seeking to include. The ones that are dated appear
12 to be around the years 2000 and 2001, and they're
13 dated as to -- I think the plaintiffs will present
14 evidence, potentially, as to the dates of the others.
15 So although I've heard a lot of argument about 23
16 years in the span of time, I have not seen any
17 evidence that indicates there's actually a 23-year
18 span, and we'll let the plaintiffs get into that. As
19 to the affidavits attachment to the search warrant,
20 as well you know, Ms. Barbier, there's a lot of
21 things that go into search warrant affidavits, and
22 that affiant that signs may not be the one that was
23 originally seeking it. What do you say as to that?

24 MS. BARBIER: Well, but the affiant is
25 testifying, Your Honor, and these are going to be

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1 authenticated through the business records exception
2 that they are kept at SLED in the regular course of
3 business, and so they're not hearsay. And he's going
4 to testify to everything that's in the probable cause
5 that he established for the search warrants. So I
6 don't -- I don't know what really the prejudice would
7 be. I mean, they are -- they are records kept in the
8 investigative file in the regular course of business
9 at SLED.

10 THE COURT: Okay. Mr. McCulloch, we'll see how
11 she gets that in.

12 MR. MCCULLOCH: Well, Your Honor, again -- and I
13 don't need to argue with you, but I hesitate to have
14 to rise again and send the jury out when we are here.
15 I don't know if -- if her point is -- I don't think
16 she has to prove it's a valid search warrant because
17 nobody's challenging it. If she's suggesting that
18 the affiant -- that the affidavit has to come in to
19 prove the validity of the search warrant of a
20 probable cause nature --

21 THE COURT: Thank you. What I assume she's
22 saying -- and I'm going to point this out -- is that
23 she's going to have him testify as to those amounts
24 -- those -- those facts anyway as he is the affiant.
25 And at that point, the search warrant being

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1 introduced would be of no measure as to whether it's
2 coming in or not.

3 MR. MCCULLOCH: No. The damage would be done by
4 his inadmissible testimony, which we also object to,
5 Your Honor.

6 THE COURT: Well, he has to start testifying for
7 us to talk about what he can testify to.

8 MS. BARBIER: Your Honor, I mean, this goes back
9 to the whole argument about we have to you show this
10 was intentional, and these were -- this was the same
11 common scheme, and it shows absolutely the same *modus*
12 *operandi* of this defendant. So --

13 THE COURT: Basically to the counsel, I'm going
14 to let the plaintiffs attempt to present their case.
15 I understand you all want a lot of preliminary
16 limiting. I'm inclined not to do that at this stage.
17 I'm not sure. You also had a lot in opening
18 statements that I haven't heard from any of the
19 arguments up until this point, so I don't know what
20 those witnesses are going to say. And you will have
21 to stand up and object at the appropriate time. Yes,
22 sir, Mr. Harte?

23 MR. HARTE: Just very briefly, Your Honor.
24 Whether it's in the affidavit or whether it comes
25 from live testimony, the rule against hearsay should

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1 apply. So if the affidavit --

2 THE COURT: Yes, sir.

3 MR. HARTE: -- if the affidavit is coming in at
4 all, then it should be redacted to remove all the
5 hearsay.

6 THE COURT: We will take that up.

7 MR. HARTE: Thank you. Secondly, Your Honor,
8 may I inquire as to why the body parts on the videos
9 are not discreetly blurred? There's no necessity.
10 I'm not talking about blurring the whole body. But I
11 have seen evidence where the precise genitalia or the
12 breasts are blurred so that you can tell they that
13 they are nude because the only thing you're blurring
14 is just that little part where the -- where the
15 sexual organs are or where the breasts are. I don't
16 know why the -- why we are showing anybody -- us
17 included -- why we are seeing that part of the -- of
18 the video. If it's -- if it's -- if it's some form
19 of oral sex, I have seen exhibits in cases that I
20 have researched in regard to this matter where the --
21 where the penis is -- is -- is blocked out. It's --
22 it's -- computer technology today allows you to do
23 that. I don't know why we are -- except for the
24 prejudicial effect that it has, Your Honor. It's not
25 necessary.

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1 THE COURT: Yes, sir. On these -- what I
2 understand these videos are showing and what my notes
3 indicate is there were four camera adjustments by
4 Mr. Rhett Riviere, it appears to be: One of a woman
5 in the bed that shows little or no nudity; one of a
6 couple engaged in intimate activity that shows little
7 or no nudity, but is fairly clear as to what is
8 occurring; one is -- involves a camera and just
9 adjustment and then a young lady coming in and
10 changing clothes; one involving a sexual act in a-- a
11 bathroom. That would probably be the one that you
12 may object to the most. However, I don't know that
13 there is a ton of nudity in that one. And two more
14 in the bathroom, one of which is a rather grainy
15 video, and I don't know that it shows a lot of
16 specific things.

17 MR. HARTE: Your Honor, I represent to you that
18 I have seen the videos of the plaintiffs, at least
19 not the full video because I didn't need to see that.
20 But I have seen enough to know that that it is a full
21 frontal nudity, and I don't know of any reason why
22 that has to be introduced because there are ways to
23 blur the genitalia, which make it less offensive --
24 not -- it's not less offensive. It just is less of
25 an invasion. I suppose if I were -- I'm almost

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1 talking as if I represent the plaintiff.

2 THE COURT: Yes, sir. I understand.

3 MR. HARTE: But I'm saying -- I'm saying -- I'm
4 saying that I don't see the reason why that would be
5 introduced. It's not necessary and it's offensive,
6 and it is highly prejudicial to my client, to anybody
7 who's involved in this case. And it's not necessary.

8 THE COURT: All right. Mr. Harte, that is
9 noted. When we spoke about this last Friday and
10 yesterday, I did not hear any requests on the matter
11 of prejudice or compassion to the jury to block out
12 any body parts whatsoever. Ms. Barbier, what do you
13 have to say on that matter?

14 MS. BARBIER: Your Honor, that goes straight to
15 the heart of the damages of the -- of the plaintiff.

16 MR. HARTE: Excuse me, Your Honor, may I
17 please -- I am not making a motion. I'm not making
18 an objection. I'm simply inquiring as to why that
19 isn't being done that way. It's a matter of just
20 discretion and gentlemanly conduct. I am not making
21 a motion. I am not making a complaint. They can do
22 what they want to do, but I just feel like it's the
23 wrong thing to do, and I'm just saying it, not --
24 it's a motion, it's not an objection. They can do
25 what they want to do. I just know it can be done

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1 another way.

2 THE COURT: All right. Thank you, Mr. Harte.
3 Well, then, after the case is over with, we can have
4 a conversation about that. Ms. Barbier, anything
5 else?

6 MS. BARBIER: If he's not raising a motion or an
7 objection, I think we should move forward, Your
8 Honor.

9 THE COURT: Okay. Anything else?

10 MR. GRIFFIN: No, Your Honor.

11 THE COURT: Okay. Let's bring the jury in.

12 (The jury entered the courtroom.)

13 THE COURT: Guess what? I get to send all of
14 you back out again. I forgot about one thing. I'm
15 sorry, I'm sorry, I'm sorry. We're all hopeful to
16 get through the day. Two minutes, two minutes.

17 (The jury exited the courtroom.)

18 (Sidebar.)

19 THE COURT: Jenny, I need to ensure that you --
20 did you talk -- was it No. 86?

21 MR. GRIFFIN: 36.

22 THE COURT: 36? 36. No, no, that's not the
23 one. That's not the one. It's a -- Ms. Jenny asked
24 who we needed to talk to.

25 MR. COOPER: I thought that was 36 as well.

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1 THE COURT: It's 36.

2 MR. COOPER: That's what I thought too.

3 THE COURT: Okay. Counsel, I don't know if
4 you're aware, there's another juror who asked to --
5 after opening statements, stated that they may have
6 an issue in the case once you all explained
7 everything. And it was not one that we have talked
8 to previously.

9 (Juror No 86 entered the
10 courtroom.)

11 THE COURT: Yes, ma'am. Okay. If you'll come
12 stand at the microphone, please. Yes, sir. You
13 needed -- you thought -- you felt like there was
14 something you needed to discuss?

15 JUROR: Yeah. There's something I should
16 disclose. So Juror No. 86. So until I heard
17 Ms. Barbier's name multiple times in the opening
18 remarks, I realized I do have a working relationship
19 with her daughter.

20 THE COURT: Okay.

21 JUROR: I don't know.

22 MS. BARBIER: I'm sorry, Your Honor. I don't --
23 I don't --

24 JUROR: I have not met her.

25 MS. BARBIER: -- I don't know --

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1 THE COURT: You've never met her?

2 JUROR: Just her daughter.

3 THE COURT: You know her daughter?

4 MS. BARBIER: I have two daughters.

5 THE COURT: Have you ever had anything to do
6 with the law firm that she works for?

7 JUROR: No, I do not.

8 THE COURT: And is your relationship with her
9 daughter extremely close?

10 JUROR: I would not say so.

11 THE COURT: All right. And do you feel like the
12 relationship you have with her daughter would affect
13 your ability to look at the evidence and testimony in
14 this case and to be fair and impartial?

15 JUROR: No, it does not.

16 THE COURT: Okay. Is there anything else that
17 was stated in opening statements that gave you any
18 pause in serving as a juror or any other potential
19 conflicts?

20 JUROR: No. No, ma'am -- or no, Your Honor.

21 THE COURT: All right. Is there anything
22 counsel would like to know?

23 MR. GRIFFIN: Where does he work?

24 MS. BARBIER: So I have two daughters, Your
25 Honor. I have one who is 25 and works at the

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1 Department of Commerce. I have one that is 21 and is
2 a senior at the University of South Carolina. So I'm
3 assuming that he's talking about my 25-year-old
4 daughter.

5 JUROR: Yes.

6 MS. BARBIER: I -- I don't -- but I've never met
7 him and I didn't know where he worked, so.

8 MR. GRIFFIN: Your Honor, if we could find out
9 what his position is and how --

10 THE COURT: Yeah. What's the nature of your
11 relationship?

12 JUROR: So I do clean energy work. And so, even
13 in her previous role, the daughter's previous role
14 before the Department of Commerce, we were working on
15 clean energy collaborations, both in North Carolina
16 and South Carolina.

17 THE COURT: Okay. All right. Anything else?
18 Anything else you want to know?

19 MR. GRIFFIN: No, Your Honor.

20 THE COURT: All right. Thank you, sir.

21 JUROR: Thank you.

22 THE COURT: Thank you very much for coming
23 forward.

24 (Juror No. 86 exited the
25 courtroom.)

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1 (Sidebar.)

2 MS. BARBIER: Your Honor, I would like to place
3 on the record I've never seen the man before in my
4 life, except the jury selection yesterday. So I've
5 never -- I know a couple of people my daughter works
6 with and I've never seen this man before.

7 THE COURT: And you said she's 25 years old and
8 adult?

9 MS. BARBIER: She's 25. She lives in Columbia.
10 So I don't know who she works with.

11 MR. GRIFFIN: I'm just shocked that Debbie has a
12 25-year-old daughter.

13 MS. BARBIER: I'm glad there's a record of that
14 now.

15 THE COURT: Anything else, Mr. Harte?

16 MR. HARTE: I just -- just as Mr. Griffin, I
17 just literally fell back in my chair. I don't know
18 what to say. I'm stunned.

19 MR. GRIFFIN: Your Honor, we're fine with
20 keeping him on. We don't have an objection.

21 THE COURT: I don't think we need to take him
22 off at this stage. He hasn't said anything that
23 would indicate one way or the other that that would
24 sway his judgment as to the evidence and the
25 testimony that comes in. And that was evidence and

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1 testimony to be presented, just to make sure your
2 machine is working.

3 THE DIGITAL REPORTER: It's working.

4 THE COURT: So I also know that in our circles
5 this can get to be a very small state. And some of
6 the attorneys here before us today, and many of the
7 attorneys here before us today have had occasions to
8 be on television, in the newspaper, and in other
9 manners, and people will -- may associate a penchant
10 with them that is not exactly true to form, let's
11 say. So I don't think -- I think it's miraculous
12 that we got the jury selected who haven't even heard
13 about this case or having any other issue, and we'll
14 go forward with the panel as we have. I'll not
15 remove him at this time. Thank you. All right.
16 Now, let's get them back in.

17 (The jury entered the courtroom.)

18 THE COURT: Okay. Thank you very much. We will
19 now sit for, hopefully, for a longer period of time,
20 but we'll wait and see. Okay? All right. We'll
21 proceed with the first witness. Ms. Barbier?

22 MS. BARBIER: Thank you. May it please the
23 Court, the plaintiff calls Senior Special Agent Clint
24 Busbee.

25 THE CLERK: Come forward, place your left hand

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1 on the Bible and raise your right hand.

2 (The witness was sworn in.)

3 THE CLERK: He's been sworn, Your Honor. Have a
4 seat in the witness chair and watch your step.

5 CLINT BUSBEE

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

8 DIRECT EXAMINATION

9 BY MS. BARBIER:

10 Q Good afternoon.

11 A James Clinton Busbee.

12 Q Good afternoon, Agent Busbee. Can you tell the jury
13 where you currently reside?

14 A I reside in Saluda County.

15 Q Are you currently working, or are you retired?

16 A I'm retired.

17 Q Are you supposed to be on vacation this week?

18 A Yes.

19 Q Okay. When did you retire from law enforcement?

20 A September the 2nd of 2022.

21 Q Tell the jury, just briefly, about your career in law
22 enforcement.

23 A I started in 1997 here in Aiken Public Safety. I
24 worked for North Augusta Public Safety after graduating
25 college for about 4-and-a-half years, then I worked for

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1 the Georgetown County Sheriff's Office for 10 years. I
2 moved back to Aiken, and I went back to work at North
3 Augusta for a couple of years in investigations, and that
4 finished up my last 8 years of my 25 with SLED.

5 Q And while you were at SLED, what were your job
6 responsibilities?

7 A I worked in the Midlands -- excuse me -- in the
8 Midlands Region of investigative services. So I primarily
9 lived and worked here on the Aiken end, and so I
10 covered -- most of my cases were Aiken, Edgefield, Saluda,
11 McCormick and Lexington. Generally, in investigations, it
12 can be anything from an officer-involved shooting to a
13 sexual assault, a larceny, anything like that that -- that
14 we may assist, you know, a local agency with, or either
15 conducting an investigation ourselves.

16 Q Agent Busbee, does -- does SLED have a mission
17 statement?

18 A We do.

19 Q What is it?

20 A So basically, SLED provides quality manpower and
21 technical assistance to all law enforcement agencies in
22 the State of South Carolina. They can also conduct
23 independent investigations, as directed by the governor or
24 the attorney general.

25 Q Are you currently working anywhere else now, or are

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1 you just enjoying retirement?

2 A Enjoying retirement.

3 Q Okay. Now, before you retired from SLED, were you
4 involved in the investigation of Rhett Riviere?

5 A I was.

6 Q Okay. Do you recognize Mr. Riviere?

7 A I do.

8 Q Do you see him sitting in the courtroom today?

9 A I do.

10 Q Could you point him out to the jury, please?

11 A Right there.

12 Q Who -- what -- what -- if you can, tell us about how
13 the investigation was initiated against Mr. Riviere.

14 A So the Aiken Department of Public Safety received a
15 complaint from Mr. Riviere's, I guess, girlfriend at the
16 time, or ex-girlfriend. I think they were in the middle
17 of a split. But they were in a relationship.

18 MR. MCCULLOCH: Objection, Your Honor. A point
19 of law.

20 THE COURT: Thank you, sir. Don't answer.

21 Mr. McCullough has something he needs to discuss with
22 me. We're going to ask you to step out.

23 (The jury exited the courtroom.)

24 THE COURT: Yes, sir, Mr. McCullough?

25 MR. MCCULLOCH: Well, Your Honor, we find

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1 ourselves at the first instance of hearsay. And of
2 course, the motion in limine and the arguments we
3 made on Friday and --

4 THE COURT: What statements specifically that
5 he's made are you objecting to?

6 MR. MCCULLOCH: -- well, he is -- he was about
7 -- if I'm not mistaken -- about to testify what he
8 was told and the nature of the complaint made by
9 Catherine Thomas.

10 THE COURT: I understand he was about to. He
11 said they were in the middle of a split. And then
12 what -- what did you intend answer to that?

13 THE WITNESS: They were in a relationship. She
14 found some SD cards, turned them over to Aiken Public
15 Safety. They conflicted the case to us. And --

16 THE COURT: There's no hearsay in that.

17 THE WITNESS: -- yeah.

18 MR. MCCULLOCH: Your Honor, if that's what it is
19 -- well it is inherently hearsay, but it's not
20 hearsay I would object to at this time. But, Your
21 Honor, I have to object because of the position I
22 find myself in. Once that horse leaves the barn, you
23 can strike it, but you can't un-ring the bell.

24 THE COURT: Which horse is it specifically that
25 you're worried about?

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1 MR. MCCULLOCH: I'm worried about extensive
2 explanations about what he was told by Catherine
3 Thomas during his investigation, because I understand
4 your ruling embodied in your e-mail. You suggested
5 that this witness should testify to some degree about
6 the investigation. I don't have a problem with that.
7 I think that's reasonable.

8 THE COURT: Which is what he was just stating.

9 MS. BARBIER: Which is what he was doing, Your
10 Honor. It's from where -- where we go from here.
11 And of course, I'm not prescient, so I don't know
12 what he was going testify to. Foundation; yes, we
13 have a number of objections to the documents and the
14 exhibits, so I guess I'll be jumping up and down
15 about all that.

16 THE COURT: Yes, sir.

17 MR. MCCULLOCH: But I don't think I'm left with
18 a choice rather than the court of appeals. Thank
19 you.

20 MS. BARBIER: Judge, if he's going to make a
21 hearsay objection, made can he just say objection;
22 hearsay?

23 THE COURT: Yeah, I think he can. I asked for
24 your objection and the basis for the objection when
25 we talked in the preliminary, and then we would

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1 determine whether the jury went out. The point of
2 law, I understand that's sometimes an issue, but a
3 hearsay objection, I think you can say hearsay.
4 Thank you, sir. Bring them back in. Thank you.

5 (The jury entered the courtroom.)

6 MR. MCCULLOCH: Thank you, Your Honor.

7 THE COURT: Thank you. Ms. Barbier, please
8 proceed.

9 BY MS. BARBIER:

10 Q Agent Busbee, did Ms. Thomas -- was it your
11 understanding that she called the Aiken Police on August
12 22nd of 2019?

13 A That sounds correct.

14 Q Okay. And what did you understand the nature of the
15 allegations made against Mr. Riviere to be?

16 A That there were some videos that were in question.

17 Q And were these videos found on SD cards?

18 MR. MCCULLOCH: Objection to leading, Your
19 Honor.

20 THE COURT: It is leading, Ms. Barbier. Please
21 rephrase.

22 BY MS. BARBIER:

23 Q Where were these videos found, to your own knowledge?

24 A There was two separate SD cards.

25 Q Can you explain, just briefly, for the jury what an SD

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1 card is?

2 A Just a card you would stick in a laptop or something
3 that, you know, depending on how the storage capacity of
4 it, it could contain pictures, documents, or something
5 like that.

6 Q And what did you find that were on these SD cards?

7 A Videos of people in two separate locations.

8 Q Did they appear to know they were being videoed?

9 MR. MCCULLOCH: I'm sorry. I couldn't hear the
10 question.

11 BY MS. BARBIER:

12 Q Did they appear to know that they were being videoed?

13 MR. MCCULLOCH: And, Your Honor, that would call
14 for speculation.

15 THE COURT: That does call for speculation, Ms.
16 Barbier.

17 BY MS. BARBIER:

18 Q After she called in these allegations on the 22nd, did
19 you subsequently interview Ms. Thomas?

20 A I did.

21 Q Okay. What day did you interview her, do you recall?

22 A I would have to look at my report, but I think it was
23 August the 26th.

24 Q Okay. Of 2019?

25 A Of 2019, that is correct.

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1 Q And you said before we were interrupted that you
2 understood that Ms. Thomas and Mr. Riviere were in the
3 middle of a breakup?

4 A That's from my understanding, yes.

5 Q Okay. Do you recall whether they were operating a
6 property rental business in Aiken?

7 MR. MCCULLOCH: Objection; leading.

8 THE COURT: I'm going to allow some leading in
9 the setting up or the general -- the general --

10 MR. MCCULLOCH: Thank you, Your Honor.

11 THE COURT: -- nature of the questions, but I
12 would ask Ms. Barbier to be clear in that -- asking
13 her questions in an open-ended manner so that the
14 witness testifies rather than the attorney.

15 MS. BARBIER: Yes, Your Honor.

16 THE COURT: Thank you.

17 BY MS. BARBIER:

18 Q Do you know whether they were operating a rental
19 business in Aiken?

20 A I was told they had some rental properties. That's
21 correct.

22 Q Okay. Were you told anything about how they were --
23 what kind of form they were using for rentals? Did they
24 use anything online?

25 A She had an Airbnb account, and then she said that

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1 there were local realtors in Aiken that would sometimes
2 put them up, you know, last-minute.

3 Q Now, after your interview with Ms. Thomas on August
4 26th of 2019, did you assist in the execution of search
5 warrants on some of Mr. Riviere's properties?

6 A I did.

7 Q And for the members of the jury that may not be
8 familiar with that process, can you tell them how -- how
9 that process works? How do you obtain a search warrant?

10 A You have to go to a judge. You have to give them an
11 affidavit, and the judge will determine whether you have
12 probable cause. And if you do, then the judge will sign
13 it, then you can go execute it.

14 Q Okay. What was the probable cause to execute --

15 MR. MCCULLOCH: Your Honor, another point of
16 law. Thank you.

17 THE COURT: What's the basis of the objection.

18 MR. MCCULLOCH: Well, Your Honor, it's an
19 objection under Rule 803(6), subparts 6 and 8.

20 THE COURT: 803(6) what?

21 MR. MCCULLOCH: 803, the Rules of Evidence,
22 subparts 6 and 8. And this will require some
23 explanation, and I apologize for interrupting.

24 THE COURT: Certainly. We'll ask you to step
25 out one more time. Thank you.

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1 (The jury exited the courtroom.)

2 MR. MCCULLOCH: So, Your Honor, I understand the
3 question to be what was your probable cause. Now,
4 that is essentially what I'm objecting to, not only
5 embodied in his testimony, but also in the search
6 warrant component, that portion of the search warrant
7 that is an affidavit, because it is hearsay within
8 hearsay. It is hearsay under our case law. And
9 there's an unpublished opinion that is State versus
10 Jordan. I'm sorry. I don't have a copy of it. It's
11 a 2018 case. Even though it's an unpublished
12 opinion, it has -- it recites two cases explaining
13 hearsay within hearsay, which is essentially when an
14 official business record contains information
15 reported in the business record that is based upon
16 someone outside of the business. That's exactly
17 what's going to happen here. The information
18 Mr. Busbee, in his dutiful role (unintelligible) with
19 and sought a search warrant. Nobody is challenging
20 the search warrant.

21 This is not a criminal case. The necessity of
22 the plaintiffs to prove anything other than electronic
23 devices were secured through search warrants issued by
24 a court, none of which I objected to. I only objected
25 to the hearsay, which I continue to object to. And

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1 this affidavit problem is going to come up in about
2 five or six of these exhibits. There are other
3 objections, but at least in multiple exhibits: 6, 1
4 -- oh there are bunches of. The point, Your Honor, is
5 that there is no necessity. There is not one element
6 of these causes of action that require this -- the
7 admission of this evidence. But even if it did, it's
8 inadmissible.

9 THE COURT: All right. Mr. McCulloch, you keep
10 talking about hearsay within hearsay. And looking at
11 Rule 805, you're saying included within hearsay is
12 not excluded under the hearsay rule if each part of
13 the combined statements conforms with an exception to
14 the hearsay rule provided in these rules.

15 Ms. Barbier has stated that she is introducing these
16 subpoenas as part of her business records of, I
17 assume, with SLED or whatever agency issued these
18 subpoenas. I think that hearsay within those could
19 also be admitted as business records if it's proven
20 that they regularly are attached to those documents.
21 Is there another reason, Ms. Barbier, that you would
22 allow those documents?

23 MS. BARBIER: Well, Your Honor --

24 MR. MCCULLOCH: Your Honor, could I read it into
25 the record?

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1 THE COURT: Yes, sir. I'm going to let her
2 answer this first.

3 MS. BARBIER: -- from what I understand, Your
4 Honor, Mr. McCulloch not only objects to him
5 testifying as to what his probable cause was, but he
6 also --

7 THE COURT: Well, if his probable cause was
8 hearsay, I think that's his objection is that if his
9 probable cause was that somebody told him something.

10 MS. BARBIER: -- well, I'm assuming that his
11 probable cause is he reviewed the SD cards that she
12 provided and observed what he observed, and then, you
13 know, gathered the other information that he's listed
14 in his affidavit in support of the search warrant and
15 took that to the magistrate for the search warrant.
16 We have to be able to tell the story, Your Honor. I
17 mean, they are challenging the admissibility of this
18 evidence and the authentication of it, and we have to
19 show that it was gathered appropriately. If they
20 don't want to challenge the authentication of the
21 evidence, that's a different story.

22 MR. MCCULLOCH: Your Honor --

23 THE COURT: Mr. McCulloch, you were about to
24 read something into the record as part of your
25 argument, I believe.

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1 MR. MCCULLOCH: Yes.

2 THE COURT: And I'd like you to have the
3 opportunity to do so.

4 MR. MCCULLOCH: So, Your Honor, this is from
5 State versus Jordan, and I'll give you the cite in
6 just a moment.

7 THE COURT: This is that an unpublished opinion
8 that has no precedential value?

9 MR. MCCULLOCH: Well, this is the unpublished
10 opinion that cites the United States Supreme Court
11 opinion --

12 THE COURT: All right.

13 MR. MCCULLOCH: -- so it has precedential value,
14 I hope.

15 THE COURT: Thank you. So that's the opinion we
16 need to be looking at.

17 MR. MCCULLOCH: The United States Supreme Court
18 has explained that business records are created for
19 the administration of an entity's affairs. It goes
20 on then, this unpublished opinion, which cites
21 another case saying double hearsay in the context of
22 a business record exists when the record is prepared
23 by an employee with information supplied by another
24 person. If both the source and the recording of the
25 information as well as every other participant in the

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1 chain producing the record and acting in the regular
2 course of business, the multiple hearsay is excused
3 by any of the three. However, if the source of the
4 information is an outsider that does not, in and of
5 itself, permit the -- that becomes inadmissible
6 hearsay.

7 Now, I apologize to the Court I don't have a
8 copy of this opinion. I can give you the cite. But
9 ultimately, the point is, I'm not challenging the
10 validity of the search. I don't seek to impeach that.
11 I think it's necessary in the conduct of their effort
12 to establish a foundation to the introduction that
13 they show how they came into possession, ultimately,
14 of the Crespo video. I understand that. That's not
15 the point of this objection. And this objection not
16 to allow him to put in double hearsay is simply
17 because it's inadmissible and objectionable and
18 prejudicial because it's part of their effort to try a
19 criminal case. This is not that. It's not necessary
20 to make their foundation. My objection is ultimately
21 to the videos -- some of the videos, not all of the
22 videos -- will be based on other grounds.

23 THE COURT: Yes, sir. So, Ms. Barbier, what
24 he's saying is you can't back door this testimony if
25 you're not bringing it in by having him say he talked

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1 to all these people and, therefore, he went and
2 issued a search warrant. Is that pretty much
3 correct?

4 MR. MCCULLOCH: Well, it's not just --

5 MS. BARBIER: Your Honor, I'm not --

6 MR. MCCULLOCH: -- it's inadmissible and
7 confusing.

8 MS. BARBIER: -- I'm not asking him to tell me
9 who he's -- about what the people told him and to
10 bring in the out-of-court statements. I'm asking him
11 to talk about his -- the investigative steps he took
12 in order to gather this evidence.

13 THE COURT: All right. Ms. Barbier, he said
14 earlier that if the affidavits were not attached to
15 the search warrant, he had no objections to the
16 search warrants themselves. Is that correct, Mr.
17 McCulloch?

18 MR. MCCULLOCH: That's correct, Your Honor.

19 MS. BARBIER: Okay. Then we can take the
20 affidavit out. But I have to be able to have him
21 testify as to why he got a search warrant. I mean --

22 MR. MCCULLOCH: Why? Why is that necessary to
23 establish the foundation, Your Honor, for the
24 authenticity of a -- of -- of a video?

25 THE COURT: I'm asking if that's the only reason

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1 she wants to present that evidence. I understand
2 that.

3 MR. MCCULLOCH: Well, then the only statement --

4 THE COURT: I understand why you don't want it
5 in as well, Mr. McCulloch. But, Ms. Barbier, do you
6 want to address that?

7 MS. BARBIER: Your Honor, I have to -- the jury
8 has to understand this was legally gathered evidence.

9 MR. MCCULLOCH: And -- and we're not challenging
10 that, Your Honor.

11 THE COURT: I don't understand. I'm going to
12 let her go into some of it. And I will caution not
13 to go into very much of specifics of -- of this
14 matter in that. And, Agent Busbee, I don't know, you
15 said you're retired. Congratulations.

16 THE WITNESS: Thank you.

17 THE COURT: What we're saying is, do not give me
18 a soliloquy.

19 THE WITNESS: Absolutely.

20 THE COURT: I'm sorry for that. But do not give
21 a soliloquy as to what everyone you ever spoke to
22 said. I assume that you have testified in court
23 before and you have been instructed on some of this
24 in other cases. I will allow Ms. Barbier to lay a
25 foundation, as we said earlier, not just for

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1 particular evidence, but also in the presentation of
2 her case to be able to assert how these videos came
3 about, how the parties intend -- came to know of
4 these videos. You all have put forth a statute of
5 limitations defense. I think they need to be able to
6 say why they're saying it was not in 2001, but rather
7 in 2021; is that correct?

8 MS. BARBIER: 2019.

9 THE COURT: 2019.

10 MR. MCCULLOCH: It was in 2019, the -- the --

11 THE COURT: The discovery.

12 MR. MCCULLOCH: -- oh, the discovery. I don't
13 have a problem with that, Your Honor. But if it
14 would --

15 THE COURT: And the search warrants lead to the
16 discovery of -- according to their allegations, the
17 search warrants --

18 MR. MCCULLOCH: -- the problem is restraining
19 him, Your Honor.

20 THE COURT: -- submitted in discovery. Sorry?

21 MR. MCCULLOCH: The problem is restraining him.
22 This is not a criminal prosecution. There's not been
23 a ruling by this Court about common scheme and so
24 forth. And the -- the probable cause affidavit,
25 which is what she intends to try to introduce, I

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1 presume, the affidavit concludes in paragraph --

2 THE COURT: Mr. McCulloch, I think you're a
3 little bit confused. I think we did talk about
4 common scheme and so forth when we talked about the
5 introduction of the videos.

6 MR. MCCULLOCH: -- well, Your Honor, what we
7 haven't done is whittle that down to the
8 admissibility of things occurring 20 years after the
9 Crespo video situation. That's -- I don't know that
10 we've gotten there. Perhaps we did.

11 THE COURT: I think this point of his search
12 warrant directly -- directly goes to the discovery
13 issue which they have alleged and, therefore, it is
14 admissible and for that point, and in order for them
15 to talk about their claims of action as they are now.
16 And one of the big reasons of those because of the
17 defense that has been presented as to the statute of
18 limitations. As do the double hearsay, as you put
19 it, I'm going to allow them to go into the -- into
20 how he started his investigation, the witness. And
21 I'm sure Ms. Barbier will instruct other witnesses
22 not to go clearly into hearsay. I have not heard --
23 I've heard the defense say that these records are
24 objectionable. I have not heard why they're
25 objectionable under the business records rule. I

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1 understand this is not a criminal case, which is why
2 we're discussing this at all. So could you address
3 that point for me?

4 MR. MCCULLOCH: Your Honor, I thought what I
5 read --

6 THE COURT: Are you talking about the hearsay
7 within hearsay as to the business records?

8 MR. MCCULLOCH: -- the hearsay within hearsay,
9 because -- and I would underscore that -- that some
10 of these search warrants are based upon Jane Page
11 Thompson's information, which you have ruled
12 inadmissible. It's hard to parse this out, but --

13 MS. BARBIER: Your Honor, Jane Page Thompson has
14 nothing to do the search warrants.

15 MR. MCCULLOCH: Not this search warrant. There
16 are -- there are quotes from Catherine Thomas in the
17 affidavit. There is information --

18 THE COURT: I think Ms. Barbier has said she
19 would remove the affidavit from the search warrant.

20 MR. MCCULLOCH: Well, but now what she proposes
21 to do is -- is to present the affidavit to them just
22 in the form of -- in a question of asking him what
23 his probable cause was. That's what the affidavit
24 is, is probably cause. That's the purpose of it
25 being attached or presented to the judge. But, Your

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1 Honor, I guess we can proceed and I'll object to
2 that.

3 THE COURT: Mr. McCulloch, don't you think a
4 witness could say I spoke to several witnesses,
5 including these people and, therefore, I went to a
6 judge and got a search warrant?

7 MR. MCCULLOCH: I do. That's not what he's --
8 that's not where it's going to end, Your Honor.

9 THE COURT: I understand.

10 MR. MCCULLOCH: I didn't object to that. In
11 fact, I believe Mr. Busbee has already testified that
12 he went to a judge and, based upon a probable cause
13 showing, he -- he received a search warrant.

14 THE COURT: Do you have an objection to him
15 naming the witnesses that he spoke to?

16 MR. MCCULLOCH: I do not. What I have an
17 objection to is talking about what they said, because
18 under this double hearsay business, they -- that is
19 testimony that shouldn't come in. And -- and -- and
20 it also --

21 THE COURT: I don't know that him saying what
22 was said to him would be double hearsay. I think --
23 I think what you're saying about the affidavit being
24 double hearsay --

25 MR. MCCULLOCH: Well, that's just --

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1 MS. BARBIER: Your Honor, first of all --

2 THE COURT: -- is straight hearsay. Yes,
3 Mr. Griffin, that's what -- and I don't want to
4 confuse the record as to what you're arguing --

5 MR. MCCULLOCH: -- Your Honor --

6 THE COURT: -- so I'm trying to make certain
7 it's clear.

8 MR. MCCULLOCH: -- if he says what -- I mean,
9 he's already said what you just said. Her next
10 question was, what was your probable cause? What's
11 the purpose of -- how is that relevant to whether or
12 not he walked out of a judge's office with a valid
13 right to go and seize electronics, which leads us
14 directly to the foundational part of the Crespo
15 videos. I've got no problem if we do it that way.
16 And I don't know why we're having to ask you him in
17 detail to elicit hearsay and double hearsay. That's
18 my objection.

19 THE COURT: Ms. Barbier, have you got something
20 else to say?

21 MS. BARBIER: -- well, first of all, Your Honor,
22 the first search warrant was for the two SD cards
23 that Catherine Thomas had brought him. That's the
24 first search warrant. And the only thing that he --
25 he didn't interview any witnesses, other than

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1 Catherine Thomas in order to get that search warrant.
2 So his first search warrant only relates to his
3 ability to search the two SD cards. And I'm not
4 going to ask him what Catherine Thomas said to him.
5 I think Mr. McCulloch is making anticipatory
6 objections that have not been heard yet. And I
7 applaud him for his diligence, but it is -- it is
8 unnecessary.

9 THE COURT: We will keep doing it as long as he
10 desires. Agent Busbee, you are not to get into what
11 anybody told you directly unless I make a ruling that
12 it was outside of the hearsay rules. Is that
13 sufficient? I don't think anybody listened to what I
14 was saying.

15 MR. MCCULLOCH: No, I heard exactly what you
16 were saying, and then I was getting it in the other
17 ear. I appreciate that ruling, Your Honor. Thank
18 you.

19 THE COURT: Mr. McCulloch, do you have an idea
20 where the testimony is going from here and do we need
21 to address another objection?

22 MR. MCCULLOCH: Well, I assume from here we're
23 going to bounce to the next three search warrants,
24 and I'll have the same objection, Your Honor, as to
25 the affidavits and as to the expert --

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1 THE COURT: I think we're addressing --

2 MS. BARBIER: We're going to take the affidavits
3 out.

4 MR. MCCULLOCH: -- across the board. And if she
5 doesn't ask with the probable cause was because it's
6 not relevant, it's confusing, and it may be
7 absolutely irrelevant to the Crespo foundation.

8 THE COURT: I don't know that I can limit her
9 from saying why did you get a search warrant. He can
10 say things like I did this, I did that, and the
11 investigation led me to get a search warrant of
12 Mr. Riviere's property.

13 MR. MCCULLOCH: Your Honor, you have a job and
14 you're doing it well. I have a job and maybe I'm not
15 doing it so well.

16 THE COURT: I think I'll copy you and Mr. Harte
17 when this trial is over.

18 MR. MCCULLOCH: But I do have a job.

19 THE COURT: Yes, sir, I appreciate that. Thank
20 you. And, Mr. McCulloch, the -- the affidavits are
21 being removed across the board from the criminal
22 subpoenas, so you do not have to address that in each
23 subpoena.

24 MR. MCCULLOCH: I will not do that, Your Honor.
25 There are other objections to --

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1 THE COURT: I'm sure you have other objections.
2 Thank you. I appreciate you diligently doing your
3 job, and I'm not commenting on that at all.

4 MR. MCCULLOCH: Your Honor, I'm doing this all
5 through your clerk. I'm doing the business.

6 THE COURT: Thank you, sir.

7 MS. BARBIER: Your Honor, I'm not going to go be
8 able to publish those documents to the jury at this
9 time because they have the affidavits in them
10 electronically. So what I'm going to do is just have
11 them -- seek to have them admitted, and then we show
12 them to the jury at a later time.

13 THE COURT: I think that's quite sufficient. I
14 don't think you'll be injured in any way in your case
15 by doing that.

16 MS. BARBIER: Okay.

17 THE COURT: Mr. Harte, I hear you talking over
18 there. Is there anything you'd like to say?

19 MR. HARTE: I could solve the problem, Your
20 Honor, but I think I probably would just sit still
21 because it's probably better. But my paralegal was
22 tugging on me, so I will just sit still. Thank you.

23 THE COURT: Thank you, sir. Let's bring the
24 jury back in.

25 (The jury entered the courtroom.)

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1 THE COURT: Okay. We will continue.

2 MS. BARBIER: Thank you, Your Honor.

3 BY MS. BARBIER:

4 Q Agent Busbee, before we were interrupted, I was asking
5 you about what you did following the interview of
6 Ms. Thomas on August 26th of 2019. Do you recall that?

7 A Yes.

8 Q Okay. Did you obtain a search warrant for the SD
9 cards that were provided -- that were given to you by
10 Ms. Thomas?

11 A Yes.

12 Q Okay. And in order to obtain that search warrant, did
13 you draft an affidavit?

14 A Yes.

15 Q Did the affidavit establish probable cause?

16 A Yes.

17 Q And did you take that to a magistrate judge to review?

18 A Yes.

19 Q And did that magistrate judge issued a search warrant
20 for the SD cards?

21 A Yes.

22 Q Okay. I'm going to show you what I've marked as
23 Plaintiffs' Exhibit 1.

24 MR. MCCULLOCH: No objection, as we discussed.

25 THE COURT: Yes, sir. Mr. Harte?

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1 MR. HARTE: No, Your Honor.

2 MS. BARBIER: Your Honor, may I approach the
3 witness?

4 THE COURT: Yes, ma'am.

5 BY MS. BARBIER:

6 Q Agent Busbee, do you recognize Plaintiffs' Exhibit 1?

7 A Yes.

8 Q Is that a copy of the search warrant that you obtained
9 for the SD cards?

10 A Yes.

11 Q Okay. And did you obtain -- is -- is that a document
12 that is kept in the ordinary course of business at SLED?

13 A I'm sorry. Can you repeat that?

14 Q Is that document a document that's kept in the
15 ordinary course of business at SLED?

16 A Yes.

17 Q Okay. And was that kept as part of the investigative
18 file?

19 A Yes.

20 Q Does SLED keep and maintain these records in the
21 regular course of business?

22 A Yes.

23 Q Okay.

24 MS. BARBIER: Your Honor, I move Exhibit 1 into
25 evidence.

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1 (Plaintiffs' Exhibit 1 was moved
2 for admission into evidence.)

3 THE COURT: Mr. McCulloch?

4 MR. MCCULLOCH: I've already said, Your Honor,
5 no objection.

6 THE COURT: I'm just checking. Mr. Harte?

7 MR. HARTE: No objection, Your Honor.

8 THE COURT: All right. With no objection, so
9 moved.

10 (Plaintiffs' Exhibit 1 was
11 admitted into evidence.)

12 BY MS. BARBIER:

13 Q Now, did you review the contents of those SD cards,
14 Agent Busbee --

15 A Yes.

16 Q -- after receiving the search warrant?

17 A Yes.

18 Q What did you find on those SD cards?

19 A Videos of five different people. Two of them are
20 unclothed, and the other three were not.

21 Q The -- the three people that were clothed, were there
22 two young girls staying on the property?

23 A There appeared to be.

24 Q Okay. How old did they appear to be?

25 MR. MCCULLOCH: Your Honor, I'm going to have to

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1 object as to leading.

2 THE COURT: I'm -- I'm sorry. What is the
3 nature of your objection?

4 MR. MCCULLOCH: Well, she's telling him what is
5 depicted.

6 THE COURT: Oh, as to leading. I'm sorry. I
7 just --

8 MR. MCCULLOCH: Leading.

9 THE COURT: -- I really didn't hear the word.

10 MR. MCCULLOCH: I'm sorry, leading.

11 THE COURT: Yes. Ms. Barbier, I will ask you
12 again to make sure that you do not lead the witness
13 and that you elicit the testimony from him.

14 MS. BARBIER: Okay.

15 THE COURT: Thank you.

16 MS. BARBIER: Okay.

17 MR. HARTE: Your Honor, may it please the Court?

18 THE COURT: I'm sorry. Mr. Harte, you have an
19 objection?

20 MR. HARTE: Well, I just want to just request
21 the record to reflect that my previous objections to
22 all of these would carry through, or do I need to
23 express them each time?

24 THE COURT: Mr. Harte, your objection as to the
25 admissibility of these -- of the evidence that's on

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1 the SD cards as to your client; is that right?

2 MR. HARTE: Yes, ma'am, that is correct.

3 THE COURT: Yes, and we heard that prior to
4 trial, and I denied that, and I'll deny it again.
5 You do not have to stand up each time.

6 MR. HARTE: Thank you. My objection will run
7 throughout, then. Thank you.

8 THE COURT: Thank you, sir.

9 MR. MCCULLOCH: Your Honor, could I ask to hear
10 the question again?

11 THE COURT: I believe the question was if they
12 were young girls.

13 MS. BARBIER: I'll rephrase it.

14 BY MS. BARBIER:

15 Q Agent Busbee, you mentioned that there were three
16 people that were clothed in the SD card videos; correct?

17 A Correct.

18 Q Okay. Can you describe those three people for the
19 jury, please?

20 A That three people that were clothed were females. One
21 appeared to be a little bit older, but the other two were
22 younger. I'm 47, so younger for me is 15, 20-ish, 20 to
23 25.

24 Q Did you discover who those girls were?

25 A I did.

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1 Q Okay. And as a result of discovering who they were,
2 did you identify them and locate them?

3 A Yes.

4 Q Okay. Did you interview them?

5 A Yes.

6 Q How old were they?

7 MR. MCCULLOCH: Your Honor, that is hearsay. It
8 is also -- well, we can discuss it out of the
9 presence.

10 THE COURT: Mr. McCulloch, is it hearsay to --
11 to say the ages of someone?

12 MR. MCCULLOCH: No. I don't -- unless he cut
13 the finger off and counted the rings it is because he
14 derived it from a party who is not here to testify.
15 So it is classic hearsay in the nature. And also, I
16 would object on the grounds of relevance.

17 THE COURT: Yes, sir. I think it --

18 MS. BARBIER: Your Honor, someone's age is not
19 hearsay, it's a fact. He's an investigator. He
20 determined the age by interviewing these people. So
21 he understands and knows their age from that.

22 THE COURT: Yes, sir. I'm going to deny that as
23 to that issue of the age of the parties. Thank you,
24 sir.

25 MR. MCCULLOCH: Thank you, Your Honor.

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1 BY MS. BARBIER:

2 Q Let's talk about the two people on the SD cards who
3 were unclothed. Can you describe, generally, what those
4 individuals -- just their biographical data?

5 A One was a male and the other one was a female.

6 Q Okay. Do you know how old the female was,
7 approximately?

8 A At that time, I did not.

9 Q Okay. But did she appear -- I mean, can you just give
10 us a range of how old you think she was?

11 A Probably in her 40s. That's what she appeared to
12 be.

13 Q Did you identify her?

14 A Yes.

15 Q Okay. Did you interview her?

16 A Yes.

17 Q And with respect to the male, did you identify him?

18 A I never did.

19 Q Okay. After you reviewed the SD cards, did you obtain
20 search warrants at some point for properties associated
21 with Mr. Riviere?

22 A Yes.

23 Q Okay. Let me show you what we've marked as
24 Plaintiffs' Exhibit 2, 4, and 6.

25 MS. BARBIER: And, Your Honor, and I've removed

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1 the documents we discussed.

2 THE COURT: Thank you, ma'am.

3 MR. MCCULLOCH: And, Your Honor, we'd like to
4 take up a matter out of the presence.

5 THE COURT: And what -- what is this? I'm
6 sorry. I wasn't --

7 MR. MCCULLOCH: These are Exhibits 2, 4, and 6,
8 and they are inclusive of things that we have a point
9 of --

10 THE COURT: Mr. McCulloch, we discussed that in
11 pretrial motions. Are you merely raising a motion
12 that has already been ruled?

13 MR. MCCULLOCH: Well, Your Honor, I don't think
14 so. I think there's a different -- I indicated there
15 were several things that require discussion.

16 THE COURT: Okay. I understand. I just want to
17 make sure.

18 MR. MCCULLOCH: No. I think we resolved one of
19 those.

20 THE COURT: Yes, sir. Let's just give
21 Ms. Barbier a chance to go through --

22 MS. BARBIER: Do -- do you want me to go ahead
23 and show them?

24 THE COURT: I want you to go through. You said
25 you were taking some things out.

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1 MS. BARBIER: Well, to hand to the witness for
2 the rest of his questioning.

3 THE COURT: Okay. All right. Ladies and
4 gentlemen of the jury, the attorneys have asked that
5 we discuss one more thing. I'll ask you to step out.
6 Thank you for your patience.

7 (The jury exited the courtroom.)

8 THE COURT: Okay. All of the jurors are out.
9 Mr. McCulloch, please address all of these exhibits
10 right now.

11 MR. MCCULLOCH: Your Honor, I just wanted to --
12 in regards to the question, I want to make sure that
13 you have a clear understanding. The search warrant
14 affidavits are out. My concern is this is foundation
15 testimony to build to the introduction and the
16 authenticity of the Crespo videos, because the search
17 warrants are for a variety of different locations.
18 What I believe is improper, if we get there, again,
19 and because I anticipate a question about the
20 probable cause in each of these exhibits because each
21 one has photographs, each one has a search warrant,
22 and each one -- from each one -- I presume each one
23 -- electronic devices were secured. What I don't
24 believe to be proper is if Ms. Barbier is going to
25 try to introduce testimony that -- and we're going to

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1 going through videos that you have not clearly
2 determined are admissible, because occurrences may
3 have taken place in each of these places. So the
4 extent of her use of this witness becomes problematic
5 because it gets well beyond the bounds of relevance
6 and into prejudice very quickly.

7 THE COURT: Ms. Barbier, I believe what
8 Mr. McCulloch is getting into -- I want to make sure
9 -- is that my ruling on as to the videos original, is
10 that, definitely, you could talk about the videos for
11 the foundational basis of your client, and then as to
12 other rental locations and other people, you can
13 address as you -- after you did that. What are these
14 exhibits that you are purporting to pass up right
15 now?

16 MS. BARBIER: Your Honor, these are search
17 warrants. He's had these exhibits.

18 THE COURT: I understand that.

19 MS. BARBIER: These are -- these are search
20 warrants, and these are pictures of the property
21 searched, and these are pictures of the property that
22 was seized in the search.

23 THE COURT: And what's the objection to that?

24 MR. MCCULLOCH: Your Honor, I don't object, if
25 that's as far as we get. That's foundation. I'm not

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1 objecting to foundation.

2 THE COURT: All right. Mr. McCulloch, did you
3 have the chance to look at those before she started
4 on the questioning?

5 MR. MCCULLOCH: Your Honor, we got a number of
6 exhibits over the last year.

7 THE COURT: Ms. Barbier, let's -- let's do -- to
8 try to address this, let's take the exhibits as
9 you're introducing them, show them to Mr. McCulloch,
10 see if Mr. Harte wants to see them, and then
11 determine if you have an objection to as she goes
12 forth. And what are your next exhibits that you
13 purport to introduce?

14 MS. BARBIER: Your Honor, Exhibits 1 through 15
15 come in through this witness, and I've informed Mr.
16 McCulloch and that, and he's -- he's --

17 THE COURT: Mr. McCulloch, Exhibits 1 through
18 15, what are your objections?

19 MR. MCCULLOCH: Your Honor, my objection to
20 exhibit -- let's see...

21 THE COURT: Which ones are we talking about are
22 photographs of the property?

23 MR. MCCULLOCH: Well, that would be 3 is a
24 search warrant.

25 MS. BARBIER: 3, 5 and 7 are photographs of the

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1 property.

2 THE COURT: And so right now, we're at 3, 5 and
3 7, which Mr. McCulloch has indicated he does not have
4 a problem with showing the photos of the property
5 from which the SD cards were.

6 MR. MCCULLOCH: And the redacted search warrant.

7 THE COURT: And the redacted search warrant.
8 Yes, ma'am.

9 MR. MCCULLOCH: Your Honor, No. 8 is an evidence
10 receipt and the tax documents relative to what is
11 described as a peephole door.

12 THE COURT: Okay.

13 MR. MCCULLOCH: Now, Your Honor, I cannot fathom
14 what foundational relevance that has. It has only
15 prejudicial value because it relates -- it is an
16 address. It has nothing to do with the Crespo
17 incident. It is a thing that has nothing to do with
18 the Crespo incident. It is a good piece of criminal
19 prosecution evidence, and I object to it on that
20 ground.

21 THE COURT: Does that evidence receipt refer to
22 anything else other than the peephole door?

23 MR. MCCULLOCH: Not that I can see, Your Honor.

24 MS. BARBIER: Your Honor, it's not a peephole
25 door, it's a door of an armoire that SLED removed

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1 where they determined it looked as if a hidden camera
2 had been in it, and it is consistent with the videos
3 and where the people are standing when they're
4 videoed.

5 THE COURT: Is it at the residence of the
6 Crespo's?

7 MS. BARBIER: No. It's in a different house
8 that was searched.

9 THE COURT: Do we have a problem with
10 determining that these cards and videos -- basically,
11 Mr. McCulloch, are you having a chain-of-custody
12 issue that she could talk about that?

13 MR. MCCULLOCH: Well, I don't think this relates
14 to chain of custody, nor does it relate to
15 foundational information. It is part of the criminal
16 prosecution. And whoops, this is common pleas.

17 THE COURT: Yes. Mr. Harte, you stood.

18 MR. HARTE: Well, Your Honor, what is the
19 purpose of introducing exhibits which, by their own
20 testimony, relate to events that occurred years after
21 the Crespo incident? I don't see the -- I don't see
22 the relevance of it.

23 THE COURT: Yes, sir, but we've talked about
24 that a couple of times. So do you have another
25 objection?

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1 MR. HARTE: Well, it's not -- it's not so much
2 -- well, I guess not, Your Honor. But I mean, the
3 point is -- the point is that these things, the way
4 they're -- it is not relevant to this case.

5 THE COURT: Thank you, sir. All right.

6 MR. MCCULLOCH: Your Honor, may I say, while
7 we're talking about this door of -- peephole door.

8 THE COURT: Yes.

9 MR. MCCULLOCH: Associated with that, that would
10 be Exhibit 8. Exhibit 9 is -- are photos of the
11 door, which would equally again would be
12 inadmissible, irrelevant, and prejudicial. And 10 is
13 the SLED report of latent fingerprinting of
14 Exhibit 8, which is all wonderful evidence if you are
15 prosecuting a criminal case. But they are
16 inflammatory, irrelevant to the Crespo matter for the
17 purpose of this lawsuit.

18 THE COURT: Yes, sir.

19 MR. MCCULLOCH: That's the objection.

20 MS. BARBIER: Your Honor, I --

21 THE COURT: What about -- wait, wait, wait --
22 what about 1112, 13, 14, and 15?

23 MR. MCCULLOCH: Well, let's see. I've done 8,
24 9, and 10. 11 is -- I don't have an objection to 11.
25 That's an evidence receipt as to the SD cards, about

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1 which there has been testimony. 12, I don't believe
2 I have an objection to 12. Again, that's part of the
3 chain of custody. No objection there. 13 are the
4 Clark Street photographs, but I don't seem to have
5 them in here. 14 are photographs of Stirrup, which
6 is another piece of real estate owned by Mr. Riviere,
7 and I don't know why they're being offered but they
8 are. And 15 is -- are photographs -- let's see --
9 photographs of the interior of a piece of property.
10 And again, pieces of property that don't involve the
11 Crespo incident, but pieces of property that I don't,
12 at this time, have an objection to. So I think that
13 takes us from 1 through 15.

14 THE COURT: No, it doesn't. We haven't talked
15 about 1, 2 -- I don't know what 1 and 2 were -- 4 or
16 6.

17 MR. MCCULLOCH: Well, let's see, 1 --

18 THE COURT: Okay. The witness has No. 1, a
19 search warrant redacted without the affidavit.

20 MR. MCCULLOCH: -- 2 and 3 are photographs and a
21 search warrant 3rd Avenue, which is a piece of
22 property not directly relevant to the Crespo matter,
23 but I guess relevant in support of or relevant to the
24 search warrant that was introduced. So there's a
25 search warrant for the address, and there are

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1 photographs of --

2 THE COURT: Of the address. 4?

3 MR. MCCULLOCH: 4 is Two Notch Road, the same
4 situation; not relevant to do the Crespo incident,
5 but supportive of the search warrant.

6 THE COURT: And 6?

7 MR. MCCULLOCH: And 6. That is Clark Road, the
8 same situation, Your Honor. That -- that may be a
9 little bit more relevant because that is Ms. Josie
10 Riviere's residence where I think, ultimately, the
11 testimony will be that an electronic device was
12 seized on which the Crespo videos were found. That's
13 my expectation.

14 THE COURT: Okay.

15 MR. MCCULLOCH: So I think that takes us now
16 through all of them.

17 THE COURT: All right. So do you -- let's start
18 with the low hanging fruit, then. Is there any
19 objection to 6, the photo of his house?

20 MR. MCCULLOCH: No.

21 THE COURT: Thank you. Any -- all right. Now,
22 what I heard you talk about is Two Notch and
23 3rd Avenue and Clark Street as being other properties
24 that are not involved in the Crespo incident. So are
25 you objecting to 13, 2 and 4?

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1 MR. MCCULLOCH: Your Honor, 13. I apologize.

2 THE COURT: 13 you said --

3 MR. MCCULLOCH: 13 is Clark Street.

4 THE COURT: -- is the Clark Street photograph.

5 MR. MCCULLOCH: I do not have an objection to
6 the photographs, Your Honor.

7 THE COURT: Okay. No. 2 and No. 4 are
8 3rd Avenue and Two Notch. I don't even know what
9 these photographs are, if they're exteriors or
10 interiors.

11 MR. MCCULLOCH: I think, Your Honor, they're
12 photographs of properties that are supportive in a
13 sense of the search warrants that have been admitted
14 by the Court.

15 THE COURT: So do you object to No. 2 and No. 4?

16 MR. MCCULLOCH: Well, let me see.

17 MS. BARBIER: Your Honor, if I could. The SD
18 cards were found at 115 3rd Avenue. The Crespos were
19 renting 541 Two Notch Road. Mr. Riviere lives at
20 1032 Clark Road, where the computers that were seized
21 with all the videos on them. And 277 Old Wagener
22 Road is where Catherine Thomas gave the voluntary
23 consent to search.

24 THE COURT: And which one is Old Wagener Road?

25 MS. BARBIER: It's a property that is --

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1 THE COURT: No, which exhibit number.

2 MS. BARBIER: -- oh, that's -- I'm sorry,
3 Exhibit 8.

4 THE COURT: That's the evidence -- that includes
5 the evidence receipt, or is it the photographs of
6 that property or the evidence receipt?

7 MS. BARBIER: The evidence they seized was the
8 armoire door where they believe the hidden camera was
9 taken -- was from -- was.

10 MR. MCCULLOCH: But again, Your Honor, we
11 objected to the introduction of I think that was 8, 9
12 and 10. All are -- all are focused on this armoire
13 that we don't believe is relevant at all. It's not
14 -- it's not, you know, a common scheme as the Judy --
15 case Judy v. Judy. It's not related in character,
16 time and place, or commission.

17 THE COURT: Okay. As to this 3rd Avenue, the
18 Two Notch, you said you didn't have any problem with
19 the -- the Clark Street exhibits. 2 and 4 you
20 indicated you thought were probably relevant or -- I
21 won't say relevant -- but you thought were related to
22 this search warrant information.

23 MR. MCCULLOCH: Your Honor --

24 THE COURT: Do you have an objection to
25 3rd Avenue and Two Notch, Exhibits No. 2 and 4?

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1 MR. MCCULLOCH: I don't think I have an
2 objection to photographs that are introduced of the
3 places that were searched.

4 THE COURT: Okay. And they're --

5 MR. MCCULLOCH: I'm sorry. I --

6 THE COURT: -- we think it will be Exhibits
7 No. 2 and 4.

8 MR. MCCULLOCH: No. 2 is --

9 THE COURT: I just want to get through this, Mr.
10 McCulloch, right now. All right. And No. 1, we
11 already addressed. I assume that it's been -- what
12 about 11? I had no objection to 12. I had no
13 objection to 14 and 15. We haven't addressed the
14 Stirrup property and the interior of the property in
15 Exhibit 15.

16 MR. MCCULLOCH: Your Honor, I would say in any
17 exhibit that has a search warrant -- and my global --
18 my understanding of the global agreement after the
19 Court ruled is that the affidavits would be removed.

20 THE COURT: Yes, sir.

21 MS. BARBIER: I've done that, Your Honor.

22 MR. MCCULLOCH: I understand that, Your Honor.
23 But when you -- when you ask me if I'm agreeing to
24 Exhibit 2, it has --

25 THE COURT: Oh, yes.

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1 MR. MCCULLOCH: -- it has -- it has a search
2 warrant, it has photographs. So as long as --

3 THE COURT: Subject to redaction of the
4 affidavit attached to the search warrant.

5 MR. MCCULLOCH: -- all of this is subject to the
6 redactions that we discussed.

7 THE COURT: Yes, sir. That is noted. Now, what
8 about 14 and 15?

9 MR. MCCULLOCH: If you'll give me one second,
10 Your Honor. Let's see.

11 MS. BARBIER: Your Honor, those are pictures.
12 14 is photos taken by SLED at 115 3rd Avenue, and 15
13 is photos taken by SLED at 541 Two Notch Road.

14 THE COURT: So the Stirrup, the property Stirrup
15 is 115 3rd Avenue, and that is one of Mr. Riviere's
16 residences, as someone has asserted?

17 MS. BARBIER: And, Your Honor, when we get to
18 the photographs, I would like to show those to the
19 jury through this witness. And they don't have to be
20 redacted of anything. I mean, they don't have an
21 affidavit in them, so those will be -- I intend to do
22 that.

23 THE COURT: Yes, sir -- yes, ma'am.

24 MS. BARBIER: -- without any objection. I
25 mean...

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1 THE COURT: Well, we're going through it right
2 now.

3 MS. BARBIER: Right. And, Your Honor, I would
4 add to that that 115 3rd Avenue was purchased in the
5 name of Chase Enterprises, one of the defendants.

6 MR. MCCULLOCH: Your Honor, if these are offered
7 as photographs depicting a place searched, I have no
8 objection to that. What I do have is an objection to
9 -- well if we go beyond that, I guess, it's the use
10 to which these photographs may later be put to task
11 that may elicit an objection, because we're not
12 trying a criminal case. We're trying to establish a
13 foundation to authenticate the Crespo videos.

14 THE COURT: And as to 14 and 15, what is your
15 position? I understand that you keep saying that the
16 photographs, that they were from the search warrant,
17 and if they were photographs of the place that was
18 subject to the search warrant, you don't have an
19 objection. And I don't know, because I haven't heard
20 yet, what 14 and 15 being a place subject to the
21 search warrant to which you have no objection.

22 MR. MCCULLOCH: Well, there's only one person in
23 the courtroom -- or actually two, I guess, who could
24 tell us that. But if these aren't --

25 THE COURT: I think you have a copy of the

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1 search warrants, though, and you have a copy of the
2 photos.

3 MR. MCCULLOCH: Well, there's no -- no search
4 warrants attached to 14 and 15. That's why I'm --
5 I'm not sure.

6 THE COURT: Was the 3rd Avenue property -- you
7 already said you didn't have a problem with the No. 2
8 of the photos of the 3rd Avenue. So is there
9 something about No. 14 that is objectionable, other
10 than the fact that they are 3rd Avenue properties?

11 MR. MCCULLOCH: Well, one, Your Honor, I don't
12 know why we're piling on. And if they've got one
13 exhibit of photographs of the very same property, why
14 do they need a second exhibit of seven or eight more
15 photographs? That would be number one. Number two,
16 there is some device -- electronic devices in here,
17 and I have no idea what that is, but if it is in
18 pursuit of Mr. Riviere's prosecution, they're in the
19 wrong courtroom, because that would be --

20 THE COURT: Yes, sir. But I think a search
21 warrant was the subject for electronic devices at
22 Mr. Riviere's property; correct?

23 MR. MCCULLOCH: That's my understanding, Your
24 Honor.

25 THE COURT: And I thought you said that because

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1 as the search warrants are getting in, you didn't
2 have an objection to the photographs that were the
3 subject of the search warrants as well. Is that not
4 correct?

5 MR. MCCULLOCH: Well, I think I was talking
6 about the location of the -- of the search warrants.
7 But this is the only Exhibit 14, that is, that has
8 anything other than outside street photographs and
9 interior photographs in the exhibits that relate to
10 search warrants.

11 THE COURT: All right. Mr. McCulloch, please
12 don't sit down. We still have something else to
13 discuss. No. 14 and 15, I will allow. Nos. 8, 9,
14 and 10 are the basis of your major objection, it
15 seems. 9, these are photos of the armoire door that
16 was described in No. 8 as the peephole door seized by
17 SLED. And 10 being the SLED report of latent
18 fingerprinting. What did the report -- what's the
19 basis of having the latent fingerprinting come in?

20 MS. BARBIER: To show that that's what SLED does
21 as their job, and they didn't find any fingerprints,
22 and they looked. I mean, that -- juries always
23 wonder that. They always wonder if there was
24 somebody that was the forensic crime person on the
25 scene and what -- what they -- if they, you know,

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1 were doing what they were supposed to be doing.

2 THE COURT: All right. And what about the door
3 and the peephole door on the evidence receipt?

4 MS. BARBIER: The -- the peep -- the armoire
5 door that SLED took, they took because the location
6 of that armoire was consistent with videos that
7 showed people being videoed from that door. That's
8 my understanding.

9 THE COURT: Are there videos of the Crespos --

10 MS. BARBIER: No.

11 THE COURT: -- of the Crespos?

12 MS. BARBIER: No.

13 THE COURT: All right.

14 MS. BARBIER: No.

15 THE COURT: Ms. Barbier, I think I did say that
16 you need to establish the Crespos first and then
17 we'll get into the other locations. So at this time
18 -- and I know that you are supposed to be on
19 vacation, and we're trying to get you out of here.
20 However, I don't see -- I want you do concentrate on
21 the Crespos. We'll talk about the search warrants.

22 MS. BARBIER: Your Honor --

23 THE COURT: Yes, ma'am.

24 MS. BARBIER: -- with the Crespos -- I mean, he
25 interviewed the Crespos and he reviewed the videos of

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1 the Crespos, and so I can do that. But at the same
2 time, I also have to be able to show the common
3 scheme, the pattern, the intentionality of
4 Mr. Riviere's conduct.

5 THE COURT: That's fine. I think I'm going to
6 allow you the photos of the door. Mr. McCulloch, I
7 understand we are not in a criminal process here and
8 SLED -- let's take out 10 and 8 just for the -- you
9 don't have to establish that the door was received in
10 evidence and all of that. I don't think we have to
11 have a chain of custody as to the door in this case.
12 So for the moment, we'll exclude 8 and 10 and allow 9
13 for the photos of the door. He can discuss that SLED
14 seized that door and that there was a small hole in
15 that door. And I don't think that he has any
16 knowledge of that independent of or pursuant to his
17 investigatory capacity.

18 MS. BARBIER: Your Honor, Exhibit 8 has the
19 search warrant for 277 Old Wagener Road because it
20 was searched by consent. The -- the -- the document
21 that you referenced that describes the -- the door is
22 just a -- an attachment to it. We can take that out.

23 THE COURT: Let's take the attachment off. And
24 I think Mr. McCulloch will have no objection after
25 that; is that correct, Mr. McCulloch?

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1 MR. MCCULLOCH: I think that's correct, Your
2 Honor.

3 MS. BARBIER: But I can him ask him to describe
4 it?

5 MR. MCCULLOCH: Again, Your Honor, that's --
6 that's simply that door?

7 THE COURT: No, sir. I think she can ask him to
8 describe the door. It's the sense of the
9 characterization of the door may be something you all
10 wish to argue about. But I do think that the
11 allegation here is that your client had cameras in a
12 home in positions that people would not be aware of.
13 And in order to -- in his capacity as a business
14 landlord, so I will allow the door for those
15 purposes. Anything else from this witness that you
16 think she's going to try to get in?

17 MR. MCCULLOCH: I have no clue where she's
18 going.

19 THE COURT: Mr. McCulloch, I have more
20 confidence in you than that. Ms. Barbier --

21 MR. MCCULLOCH: Your Honor, I've been shocked at
22 where we are in terms of what she's trying to get in.

23 MS. BARBIER: But the Crespos are shocked at
24 where they are too.

25 THE COURT: Yes. Ms. Barbier --

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1 MS. BARBIER: We're all in agreement with that.

2 THE COURT: -- I think your cocounsel has
3 something he wants to share.

4 MR. FEW: Well, Your Honor, I'm -- well,
5 Ms. Barbier is talking and I'm taking notes, so I
6 thought maybe I would try to summarize where we are
7 with these 15 and see if I got it right, if Your
8 Honor wants me to, or maybe the court reporter --

9 THE COURT: I struck out 8 as to the peephole
10 door records. I struck out 9 as to the latent
11 fingerprinting. We allowed 9, which is a -- I mean
12 10 as to the latent fingerprinting. I'm allowing
13 No. 10, which is the photos of the door, and I'm
14 allowing testimony regarding that door, how it was
15 the subject of the search warrant and what the state
16 of the door is. 11 and 12 had no objection. And as
17 I understand it, plaintiffs' counsel indicated no
18 objection to 13, 14, 15, 1, 2, 4 and 6, provided that
19 affidavits were redacted to remove any potential
20 hearsay, but allowing that these were the subject
21 properties of the search warrants. Is that --

22 MS. BARBIER: It's my understanding, Your Honor,
23 that Exhibit 8 now is one page.

24 THE COURT: Okay.

25 MS. BARBIER: It's the voluntary consent to

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1 search. I took out all the documents that relate to
2 wooden door that Mr. Riviere used to record people.

3 MR. MCCULLOCH: Well, Your Honor, please. Now,
4 I do oppose that kind of extemporaneous stuff because
5 that is gratuitous posturing by Ms. Barbier, and this
6 fellow back here, who's a reporter who will -- that
7 will be in the paper tomorrow, I promise you.

8 THE COURT: The jury is not in front of you. I
9 would ask all counsel to refrain from commenting.
10 Mr. McCulloch --

11 MR. MCCULLOCH: Yes?

12 THE COURT: -- I do not want to limit you in any
13 way from doing your job. I ask you to stand up as
14 many times as you feel appropriate and in presenting
15 your client's case. I did -- would ask you if you
16 have anything else that we could take up now?

17 MR. MCCULLOCH: Well, again, Your Honor, the
18 appetite for Ms. Barbier to attempt to introduce
19 inadmissible evidence is unbounded, so I am --

20 THE COURT: Well, I will note --

21 MR. MCCULLOCH: -- I can't anticipate what I
22 will have to do or what I'll have to register an
23 objection to.

24 THE COURT: -- let me know. There are 15
25 exhibits. You've got part of one out and one -- and

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1 another one out. So we have addressed all of those.

2 MR. MCCULLOCH: Thank you.

3 THE COURT: Ms. Barbier, is there anything you
4 anticipate we need to discuss?

5 MS. BARBIER: Mr. Few would like to say
6 something.

7 MR. FEW: Well, Your Honor, 3, 5 and 7, I think
8 maybe I missed it, but I don't know if Your Honor
9 covered those just a minute ago. Just for clarity
10 for everyone, I think those were in as well.

11 THE COURT: Yes, they are. Thank you.

12 MR. MCCULLOCH: Thank you, Your Honor.

13 THE COURT: I think without -- without objection
14 once there was an explanation.

15 MS. BARBIER: Your Honor, are they willing to
16 just let us move those into evidence without the
17 rigmarole?

18 MR. MCCULLOCH: Without --

19 MS. BARBIER: I mean, since you stated your
20 objections.

21 MR. MCCULLOCH: -- likewise, I -- subject to our
22 objections but, you know, we don't have further
23 grounds for a position other than those --

24 THE COURT: I think what he's saying is
25 depending on your line of questioning. He's not

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1 going to guarantee he doesn't have another objection;
2 is that correct? Mr. Harte, you stood.

3 MR. HARTE: Just to alert the Court and counsel
4 that, due to the fact that we're now discussing Old
5 Wagener Road, and I will be introducing as exhibits
6 the chain of title for that property.

7 THE COURT: As long as you have appropriate
8 chain of title --

9 MR. HARTE: Thank you, Your Honor.

10 THE COURT: -- Mr. Harte. These are public
11 documents. Please present it in the proper way.
12 Okay. We can bring the jury in again?

13 MR. MCCULLOCH: Yes, Your Honor.

14 THE COURT: Thank you.

15 (Sidebar.)

16 (The jury entered the courtroom.)

17 THE COURT: All right. You may proceed,
18 Ms. Barbier.

19 MS. BARBIER: Thank you, Your Honor.

20 BY MS. BARBIER:

21 Q Agent Busbee, as part of the investigative steps that
22 you took in this case, did you obtain search warrants for
23 three houses that were owned by Mr. Riviere and his
24 corporate entities?

25 A Yes.

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1 Q I'm going to show you what has been marked Plaintiffs'
2 Exhibits 2, 4, 6 and 8.

3 MS. BARBIER: Your Honor, may I approach the
4 witness?

5 THE COURT: Yes.

6 BY MS. BARBIER:

7 MR. MCCULLOCH: I'm sorry, Your Honor. Those
8 exhibits were which?

9 MR. GRIFFIN: 2, 4, 6 and 8.

10 THE COURT: 2, 4, 6 and 8.

11 MS. BARBIER: And 8.

12 MR. MCCULLOCH: Your Honor, I thought we had a
13 discussion about 8.

14 THE COURT: We had a discussion about 8, and it
15 resulted in a slight one-page issue (unintelligible),
16 but --

17 MR. MCCULLOCH: Thank you.

18 THE COURT: -- it is admitted.

19 (Plaintiffs' Exhibit 8 was
20 admitted into evidence.)

21 MR. MCCULLOCH: That's right.

22 MS. BARBIER: I'm going to give Agent Busbee a
23 moment to review, Your Honor, if that's okay.

24 THE COURT: Certainly.

25 BY MS. BARBIER:

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1 Q Agent Busbee, are you -- have you had we had a chance
2 -- have you had a chance to look at Exhibit 2?

3 A 2? Yes.

4 Q Okay. Is Exhibit 2 a search warrant for 115
5 3rd Avenue?

6 A Yes.

7 Q Okay. Was that where the SD cards were originally
8 located?

9 A I would have to look back at my report, but I believe
10 the SD cards came from Two Notch --

11 Q Okay.

12 A -- or Grace.

13 Q Okay.

14 A But I would have to refer back to my report.

15 Q Okay. We'll come back to that. Is Exhibit 4 a search
16 warrant for 541 Two Notch Road?

17 A Yes.

18 Q Okay. And is Exhibit 6 a search warrant for 1032
19 Clark Road?

20 A Yes.

21 Q Do you know who lived at Clark Road?

22 A Mr. Riviere.

23 Q Is Exhibit 8 a search warrant for 277 Old Wagener
24 Road, a voluntary consent-to-search warrant?

25 A Correct. It's not a search warrant, but it's a

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1 consent-to-search warrant.

2 Q Okay. So with respect to Exhibits 2, 4 and 6, were
3 you the affiant on those search warrants?

4 A Yes.

5 Q And -- and you've identified those search warrants;
6 correct?

7 A Correct.

8 Q Okay. Were those documents prepared in the ordinary
9 course of business at SLED?

10 A Yes.

11 Q Are these documents kept at SLED as part of the
12 investigative file?

13 A Yes.

14 Q And does SLED keep and maintain these records in the
15 regular course of business?

16 A Yes.

17 MS. BARBIER: Your Honor, I would move Exhibits
18 2, 4 and 6 into evidence.

19 (Plaintiffs' Exhibits 2, 4 and 6
20 were moved for admission into
21 evidence.)

22 THE COURT: Mr. McCulloch?

23 MR. MCCULLOCH: All right. Subject to all our
24 discussions, no objection.

25 THE COURT: Yes, sir. And I believe in those

JURY TRIAL, VOL. 2

1 discussions you had no objection to 2, 4, and 6.

2 MR. MCCULLOCH: That would be correct.

3 THE COURT: Thank you. Mr. Harte?

4 MR. HARTE: Objection as to relevance as to
5 Josee Riviere.

6 THE COURT: Yes, sir, so noted. They're
7 admitted into evidence.

8 (Plaintiffs' Exhibits 2, 4 and 6
9 were admitted into evidence.)

10 MS. BARBIER: Thank you, Your Honor.

11 BY MS. BARBIER:

12 Q With respect to Exhibit 8, did you have an opportunity
13 to review that?

14 A Yes.

15 Q Is that a voluntary consent-to-search form?

16 A Yes.

17 Q And was that was provided to you by Catherine Thomas?

18 A Yes.

19 Q And did that enable you to go out and search that
20 residence?

21 A Correct.

22 Q Okay. I'm going to ask you also to look at Exhibits
23 3, 5, and 7. Is it -- is it common, Agent Busbee, when
24 you obtain a search warrant to provide pictures of the
25 exterior of the location of where you searched?

JURY TRIAL, VOL. 2

1 A Sometimes, yes.

2 Q Okay. Was that -- why is that done?

3 A When you get a search warrant?

4 Q Yeah.

5 A So it gives you another idea of the location of the

6 property that you're going to search.

7 Q Do you want to make sure you search the right

8 property?

9 A Correct.

10 Q Okay. Exhibits -- did I -- I handed you 3, 5, 7, but

11 I'm also handing you 9.

12 A Okay.

13 Q Okay. Are Exhibits 3, 5 and 7 pictures of the

14 exteriors of the properties that you obtained search

15 warrants for?

16 A Yes.

17 Q Okay. Is Exhibit 3 pictures of 115 3rd Avenue?

18 A 3? That is correct.

19 Q Is Exhibit 5 pictures for 541 Two Notch Road?

20 A Correct.

21 Q Is Exhibit 7 pictures for 1032 Clark Road?

22 A Correct.

23 Q Okay. In Exhibit 9, do you -- do you see that stacks

24 of pictures?

25 A Yes.

JURY TRIAL, VOL. 2

1 Q Okay. Were those taken at Old Wagener Road?

2 A Yes.

3 Q Okay. Now, were you -- these documents that you just
4 reviewed, 3, 5, 7, and 9, were those documents prepared in
5 the ordinary course of business at SLED?

6 A Yes.

7 Q And are they kept in the investigative file?

8 A Yes.

9 Q And does SLED keep and maintain them in the regular
10 course of business?

11 A Yes.

12 MS. BARBIER: I'm going to move, Your Honor,
13 Exhibits 3, 5, 7 and 9 into evidence.

14 (Plaintiffs' Exhibits 3, 5, 7 and
15 9 were moved for admission into
16 evidence.)

17 THE COURT: Mr. McCulloch?

18 MR. MCCULLOCH: No objections, as previously
19 discussed with the Court.

20 THE COURT: Yes, sir. Mr. Harte?

21 MR. HARTE: Object to relevance as to Josee
22 Riviere, Your Honor.

23 THE COURT: Yes, sir. I believe that they were
24 allowed in.

25 (Plaintiff's Exhibits 3, 5, 7 and

JURY TRIAL, VOL. 2

1 9 were admitted into evidence.)

2 BY MS. BARBIER:

3 Q Agent Busbee, during the execution of these search
4 warrants, does SLED have a crime scene investigator or a
5 forensic technician on-site?

6 A We had several investigative agents that worked for
7 me. We had a crime scene agent and we had computer crime
8 agents there.

9 Q What do they generally -- the -- the crime scene
10 technicians, what do they -- what do they do during a
11 search?

12 A Normally, they photograph. They will collect any
13 evidence and then submit it and process it, if it needs to
14 be.

15 Q Okay. Let me show you what we -- what we've what we
16 marked as Plaintiffs' Exhibit 11. Do you recognize that
17 document?

18 A Yes.

19 Q What is that?

20 A Is a property receipt.

21 Q What's it a property receipt for?

22 A A speaker.

23 A What kind of speaker?

24 A And it looks like two SD cards.

25 Q So it's a speaker that was -- had the capability of

JURY TRIAL, VOL. 2

1 having SD cards inserted into it?

2 MR. MCCULLOCH: Your Honor, object to leading.

3 THE COURT: Yes, sir. Ms. Barbier --

4 MS. BARBIER: Okay.

5 THE COURT: -- please hold on.

6 BY MS. BARBIER:

7 Q Can you please describe the speaker to the jury,
8 please?

9 A The speaker in question is -- was a Bluetooth speaker
10 that had a camera and SD card.

11 MS. BARBIER: I move --

12 BY MS. BARBIER:

13 Q -- well, is that a document that's kept in the regular
14 course of business at SLED, Agent Busbee?

15 A Yes.

16 Q And it was maintained in investigative file?

17 A Yes.

18 MS. BARBIER: I move that into evidence, Your
19 Honor, Exhibit 11.

20 (Plaintiffs' Exhibit 11 was moved
21 for admission into evidence.)

22 THE COURT: Mr. McCulloch?

23 MR. MCCULLOCH: Your Honor, subject to our
24 previous objections.

25 THE COURT: Yes, sir. Mr. Harte?

JURY TRIAL, VOL. 2

1 MR. HARTE: Subject to previous objections, Your
2 Honor.

3 THE COURT: Thank you. So moved in.

4 (Plaintiffs' Exhibit 11 was
5 admitted into evidence.)

6 BY MS. BARBIER:

7 Q Agent Busbee, then I'll direct your attention to
8 Exhibit 12. Do you have that up there with you?

9 A 11, 12, 7, 5, and 9. There should be four. I do not
10 have 12.

11 MS. BARBIER: I beg the Court's indulgence for
12 one moment. I put an evidence sticker on this.

13 BY MS. BARBIER:

14 Q Let me show you Plaintiffs Exhibit 12. Do you
15 recognize that document?

16 A Yes.

17 Q What is it?

18 A It's a property receipt that was received from Aiken
19 Public Safety.

20 Q What's it a property receipt for?

21 A It was two SD cards.

22 Q Is that a document kept in the regular course of
23 business at SLED?

24 A It would be if it was part of our SLED file, which it
25 was.

JURY TRIAL, VOL. 2

1 Q Okay.

2 MS. BARBIER: And, Your Honor, I move
3 government's exhibit -- I mean, I'm sorry --
4 Plaintiffs' Exhibit 12 into evidence.

5 (Plaintiffs' Exhibit 12 was moved
6 for admission into evidence.)

7 MR. MCCULLOCH: No objection.

8 THE COURT: Yes, sir. Mr. Harte?

9 MR. HARTE: No objection, Your Honor.

10 THE COURT: All right. So admitted.

11 (Plaintiffs' Exhibit 12 was
12 admitted into evidence.)

13 BY MS. BARBIER:

14 Q Agent Busbee, during the execution of these search
15 warrants, did SLED gather a number of different electronic
16 devices?

17 A Yes.

18 Q What types of devices were they?

19 A Computers, phones, and other numerous electronic
20 devices.

21 Q Do you recall approximately how many devices there
22 were?

23 A I would need to refer back to the return of the search
24 warrant, but I think it was almost 40, 38, 36, something
25 like that.

JURY TRIAL, VOL. 2

1 Q Okay. Is -- is it part of law enforcement protocol to
2 take an inventory of all the items seized in the search
3 warrants?

4 A Yes.

5 Q Okay. And as the -- the -- the documents that have
6 entered into evidence -- the search warrants of these
7 properties -- does it contain a list of the items seized
8 in the -- in the search warrants? Is that called a search
9 warrant return?

10 A Yes.

11 Q Okay. Can you turn to those documents, if you will.
12 And that's Exhibits 2, 4 and 6. So, Agent Busbee, on
13 Exhibit 2, do you see the return of this search warrant?
14 I believe it's the third or fourth page into the document.

15 A Yes.

16 Q Okay. Is that -- does that list the items that were
17 seized from 115 3rd Avenue?

18 A Yes.

19 Q And what does it list?

20 A There's a Creative D80, I believe is what it says, and
21 it has a serial number with card, and that's all it has on
22 that one.

23 Q Is that the Bluetooth speaker?

24 A Yes.

25 Q Okay. And that's what was seized from 115 3rd Avenue?

JURY TRIAL, VOL. 2

1 A Correct.

2 Q Okay. Now, let's turn to Exhibit 4, and let's look at
3 the return of this search warrant. I believe it is about
4 four pages in again. Is this the return from 541 Two
5 Notch Road?

6 A Yes.

7 Q Okay. And what does it indicate was taken from 541
8 Two Notch Road?

9 A Nothing was taken except photographs.

10 Q Okay. Now, let's look at Exhibit 6. Is that the
11 return from 1032 Clark Road?

12 A Yes.

13 Q And I think you testified that was the primary
14 residence of Mr. Riviere?

15 A Yes.

16 Q Okay. What does the return indicate that was seized
17 from 1032 Clark Road? And you don't have to read all
18 these items, but if you could just indicate how many items
19 are listed on this return.

20 A It looks like 38. Part of that very bottom corner is
21 cut off a little bit. But if I go in sequential order as
22 they're numbered, it should be 38.

23 Q Okay. And were there -- does this include some -- an
24 HP computer?

25 A Yes.

JURY TRIAL, VOL. 2

1 Q Okay. Does it also include an Apple computer?

2 A Yes.

3 Q Now, I believe you testified it's part of the protocol
4 is to inventory all the items seized; correct?

5 A Correct.

6 Q Okay. What do you do with these items when you --
7 when you take them from a search location? Who gathers
8 them? And explain to the jury that process, if you will.

9 A So -- and each judge may -- may do it a little bit
10 differently, but we ordinarily would photograph an item
11 before we collected it, or as we were collecting it. And
12 then you obviously have to inventory what they are, if
13 they have serial numbers and things like that.

14 Q Is the -- is the property generally photographed?

15 A Yes.

16 Q Okay. And is it -- does one person gather it, or do
17 multiple people gather it?

18 A In this particular case, one of the computer crime
19 agents that were there with us collected the items and
20 transported them back to SLED in Columbia.

21 Q Do you recall the name of the person that did that?

22 A Marcus Hayward.

23 Q Okay. And what did SLED do with the items seized
24 after they were gathered? I mean --

25 A These items, our computer crimes would do an analysis

JURY TRIAL, VOL. 2

1 on the data and information that were -- would be on the
2 items.

3 Q Are they transported to SLED?

4 A Yes.

5 Q Okay. And that's where they were reviewed; is that
6 right?

7 A Correct.

8 Q Okay. Did you request that a forensic review be done
9 by SLED?

10 A Yes.

11 Q Okay. Who was the SLED analyst who did that?

12 A Britt Dove.

13 Q Okay. And what division of SLED is he with?

14 A He's the lieutenant of computer crimes.

15 Q Okay. I'm going to show you what we've marked as
16 Exhibit 13. Do you recognize those documents?

17 A Yes.

18 Q Okay. Are those photographs?

19 A Yes.

20 Q What are -- what's depicted in the photographs?

21 A 1032 Clark Road.

22 Q Okay. And that's the -- the primary residence of --
23 of Mr. Riviere, to your understanding?

24 A Correct.

25 Q Okay. Do the photographs fairly and accurately depict

JURY TRIAL, VOL. 2

1 the contents of the home at 1032 Clark Road?

2 A Yes.

3 MS. BARBIER: Your Honor, I move to admit
4 Exhibit 13 into evidence.

5 (Plaintiffs' Exhibit 13 was moved
6 for admission into evidence.)

7 MR. MCCULLOCH: Your Honor, I'd like an
8 opportunity to review it.

9 THE COURT: Okay. Certainly. Ms. Barbier,
10 please make sure Mr. McCulloch has a look at it.

11 MS. BARBIER: He's had these copies, Your Honor.

12 THE COURT: Ms. Barbier, we can do without the
13 comment. Please make sure Mr. McCulloch has a chance
14 to review. We have a lot of paper in this case.

15 MS. BARBIER: I'll go ahead and provide him a
16 hard copy of Exhibit 14 as well, and 15.

17 THE COURT: Mr. Harte, do you need to review
18 No. 13?

19 MR. HARTE: No, ma'am, I do not. Thank you.

20 THE COURT: Thank you.

21 MR. MCCULLOCH: No objection, Your Honor. Thank
22 you.

23 THE COURT: Thank you, sir. Mr. Harte?

24 MR. HARTE: No objection, other than what was
25 already made, Your Honor.

JURY TRIAL, VOL. 2

1 THE COURT: Yes, sir.

2 MR. HARTE: Thank you.

3 THE COURT: And -- and I note your objection to
4 each of these now that we're -- I am allowing this to
5 come into evidence. Thank you.

6 (Plaintiff's Exhibit 13 was
7 admitted into evidence.)

8 MR. HARTE: Thank you.

9 MR. MCCULLOCH: And, Your Honor, I -- I don't
10 believe I have any objection. I think we've already
11 discussed this. No objection to 14, and I think I
12 actually have reviewed these, 14 and 15. The only
13 objections would be to subject to our earlier.

14 THE COURT: Thank you, sir. And Mr. Harte, is
15 that the same for you since Ms. Barbier is offering
16 that?

17 MR. HARTE: Yes, Your Honor, it is.

18 THE COURT: All right.

19 MR. HARTE: And if I could just allow my
20 objection to run to all of these, I won't have to
21 jump up and down anymore.

22 THE COURT: I would love that for you,
23 Mr. Harte.

24 MR. HARTE: Thank you.

25 THE COURT: Okay. We'll let Ms. Barbier

JURY TRIAL, VOL. 2

1 proceed. Thank you.

2 MS. BARBIER: Your Honor, so Exhibit 13 is in
3 evidence?

4 THE COURT: Yes, ma'am. I'll -- yes, it's
5 admitted into evidence.

6 MS. BARBIER: Thank you, Your Honor.

7 THE COURT: I think we've gone ahead and
8 preemptively said that 14 and 15 may be allowed into
9 evidence when you get to that point.

10 MS. BARBIER: Okay.

11 BY MS. BARBIER:

12 Q Have I handed you those, Agent Busbee, 14 and 15?

13 A No.

14 Q Okay. Let's go ahead and -- do you recognize those
15 photographs, Agent Busbee?

16 A Yes.

17 Q Are they -- what are they pictures of?

18 A 14 is pictures of 115 3rd Avenue, and 15 is pictures
19 of 541 Two Notch.

20 Q Okay. Do they accurately depict the contents of the
21 things that you photographed that day -- that SLED
22 photographed?

23 A Yes.

24 MS. BARBIER: Your Honor, I would move Exhibits
25 14 and 15 into evidence.

JURY TRIAL, VOL. 2

1 (Plaintiffs' Exhibits 14 and 15
2 were moved for admission into
3 evidence.)

4 THE COURT: So admitted, as noted previously.

5 (Plaintiffs' Exhibits 14 and 15
6 were admitted into evidence.)

7 MS. BARBIER: Your Honor, I'd like to publish
8 these photographs for the jury, the photographs of
9 13, 14 and 15. And I don't know if you want to take
10 a break while we get these set up.

11 THE COURT: Are you publishing them
12 electronically?

13 MS. BARBIER: Yes.

14 THE COURT: All right. All right. Ladies and
15 gentlemen of the jury, it's just for the need of
16 getting these onto the computer, and we will send you
17 to the jury room while that's happening. So if you
18 would go into the jury, we would appreciate it.

19 (The jury exited the courtroom.)

20 THE COURT: Ms. Barbier, does anyone need to
21 take a 5-minute break while you do that?

22 MS. BARBIER: Yeah. I thought that might be a
23 good opportunity, Your Honor.

24 THE COURT: You're free to move about and go to
25 the restroom. Let's try to keep it very quick,

JURY TRIAL, VOL. 2

1 though. We had a lot of discussion earlier, so if
2 you can get in and out of the bathroom as quick as
3 possible, I'd appreciate it.

4 (Off the record.)

5 (Recess.)

6 (On the record.)

7 (The jury entered the courtroom.)

8 THE COURT: Come to order, please. I would also
9 ask that everyone be -- we have a lot of people in
10 the room. This is not a bad room for acoustics, and
11 we do have microphones that work very well. I was in
12 a courthouse last week that the acoustics, as I sat
13 at the bench, a long, long aisle, a person walked all
14 the way down to the back door. I could hear the
15 footsteps clear as a bell in my ear, as if they were
16 right beside me and yet, not be able to hear the
17 people in front of me. This room is pretty good. So
18 please be cognizant of while witnesses are testifying
19 and while the attorneys are presenting that we keep
20 the noise in the background to a minimum. We
21 certainly want you to be able to discuss things, but
22 write as much as you can so that the jury can pay
23 attention to the witness that's on the stand and the
24 evidence being presented. Thank you.

25 MS. BARBIER: Your Honor, do you want me to

JURY TRIAL, VOL. 2

1 speak into the microphone, or can you hear me?

2 THE COURT: Is anyone having trouble hearing any
3 of the attorneys? Okay. Thank you very much.

4 BY MS. BARBIER:

5 Q Agent Busbee, before we get into looking at the
6 pictures of these properties, during your investigation,
7 did you learn -- I think you already said, you testified
8 that they were -- that Mr. Riviere was listing things on
9 Airbnb; is that right?

10 A Correct.

11 Q Okay. And were the properties that you searched
12 listed on Airbnb?

13 A Correct.

14 Q Okay. Now, one other thing I want to make sure we
15 shore up. The evidence -- the electronic evidence that
16 was gathered from these properties, you indicated it was
17 taken back to SLED; correct?

18 A Correct.

19 Q Does SLED have protocols in place to make sure that
20 evidence is secure?

21 A Yes.

22 Q Is it locked?

23 A Yes.

24 Q Can anybody just walk in there and -- and grab a piece
25 of evidence that they feel like grabbing?

JURY TRIAL, VOL. 2

1 A No.

2 Q Okay. Explain to the jury the process that that
3 entails if you want a piece of evidence out of the
4 evidence room.

5 A Yeah. So there's only a certain amount of people that
6 are in charge of access to where evidence will be stored.
7 So you would have to sign in, obviously, and you have to
8 have a valid reason. And there's usually a custodian that
9 is in charge of it.

10 Q And is protocol for SLED --

11 MR. MCCULLOCH: Object to leading, Your Honor.

12 THE COURT: Yes, sir. I'll allow her to have
13 some leading in the sense that she needs to be able
14 to say what she's asking about as to the policy of
15 SLED.

16 BY MS. BARBIER:

17 Q -- were these electronic devices copied?

18 A Copied as of --

19 Q Was there a mirror image made of the electronic
20 devices?

21 MR. MCCULLOCH: The easiest way to do it is
22 what's the protocol for an electronic device?

23 THE COURT: Well, the easiest way is to ask if
24 there's a policy of some type, but she has to be able
25 to identify what policy she's trying to ask about.

JURY TRIAL, VOL. 2

1 MS. BARBIER: I was going to ask the protocol
2 until Mr. McCulloch objected to that.

3 THE COURT: Okay.

4 MR. MCCULLOCH: Well, Your Honor --

5 THE COURT: Stop.

6 MR. MCCULLOCH: -- excuse me.

7 THE COURT: Counsel, please. Ms. Barbier, limit
8 your leading questions, please.

9 MS. BARBIER: Yes, Your Honor.

10 THE COURT: Thank you.

11 BY MS. BARBIER:

12 Q So, Agent Busbee, do you -- you delivered the items to
13 the evidence custodian; correct?

14 A The computer crimes agent at the scene collected the
15 items and took them back to Columbia.

16 Q Okay. And you observed that process?

17 A Correct.

18 Q Okay. And you requested a forensic review to be done?

19 A Correct.

20 Q Okay. Is it your understanding that a forensic review
21 was done?

22 A Correct.

23 Q Okay. And that was done by whom?

24 A SLED computer crimes.

25 Q Okay. Do you have any reason to believe that any of

JURY TRIAL, VOL. 2

1 the electronic evidence was tainted in any way?

2 MR. MCCULLOCH: Your Honor, that calls for
3 speculation.

4 THE COURT: I think her question was, does he
5 have any reason to believe. I don't think that's
6 speculative.

7 MR. MCCULLOCH: So I withdraw the objection.

8 THE COURT: Thank you.

9 BY MS. BARBIER:

10 Q Do you have any knowledge of that?

11 A No.

12 Q Okay. Looking at Plaintiff's Exhibit 13, if you will,
13 I want to take you through these photographs with the jury
14 and ask you to just -- when we start, I'm going to flip
15 through them because I think some of them are
16 self-explanatory. But I'm going to ask you to explain
17 certain ones. What -- what is this first photo a
18 photograph of?

19 A It's the numerics of -- of the residence.

20 Q 1032 Clark Road?

21 A Yes.

22 Q What is that?

23 A The front door. That's an interior door. An interior
24 bedroom. Same. I couldn't tell you whether that was a
25 bedroom or not. I don't remember, but it was an interior

JURY TRIAL, VOL. 2

1 room.

2 Q Okay.

3 A Same.

4 Q Is that a bedroom?

5 A Yeah, it looks like a bed.

6 Q The ones I just went through, are those pictures of an
7 interior bedroom?

8 A Correct.

9 Q Is that an Apple computer?

10 A It appears to be.

11 Q And is that one of the items seized?

12 A Yes.

13 Q Is that an --

14 A Bathroom.

15 Q -- is that an electronic item?

16 A Yes.

17 MR. MCCULLOCH: Your Honor, I would just -- it's
18 probably a limited scenario objection, but I don't --
19 I have to guard against leading, so I object to
20 leading.

21 THE COURT: Yes, Mr. McCulloch. Thank you.
22 We're going to give some leeway as these are -- we're
23 flipping through these photographs a little fast,
24 Ms. Barbier. Let's just ask the witness what he sees
25 in the photographs, please.

JURY TRIAL, VOL. 2

1 MS. BARBIER: Okay.

2 BY MS. BARBIER:

3 Q If you can, Agent Busbee, just briefly describe what
4 you see in these photographs.

5 A That's an electronic device. That's an interior room.
6 It looks somewhat like a sunroom. A second interior room.
7 Another interior room. Same. It looks like an electronic
8 devices, TVs. A license plate. That's an SD card and
9 maybe a -- that might be a thumb drive. That looks like
10 an old flip phone.

11 Q Does it say anything on this device?

12 A It looks like something --

13 Q Can you see it?

14 A -- in the middle. I'm kind of looking at it from a
15 different angle. Wireless something.

16 Q Agent Busbee, if you need to get down and look.

17 A That might be better.

18 THE COURT: You're certain allowed to, yes.

19 MS. BARBIER: If you'd like to step down from
20 the witness stand.

21 THE COURT: You can come around.

22 THE WITNESS: Yeah, okay.

23 THE COURT: Just make sure that the court
24 monitor can hear.

25 THE WITNESS: It says it's a 2.4 gigahertz

JURY TRIAL, VOL. 2

1 wireless receiver. That's some sort of electronic.
2 Let's see. Same. That was a Staples thumb drive on
3 that previous one. That looks like an instruction
4 guide. That's another license plate on the vehicle
5 that was there.

6 THE COURT: Can everyone hear the witness?
7 Thank you.

8 THE WITNESS: That would be the VIN from one of
9 the vehicles. That's a Microsoft Windows 7 Home. It
10 looks like a computer of some sort. Interior room.
11 Another interior room. Same. Same. That's another
12 interior room. It looks like a TV and maybe the
13 Apple Computer. Same. Another interior room. So
14 this that's a Sony Handycam or camcorder. Same.
15 That looks like a camcorder, but those are from the
16 last two. I believe that's a Sony -- no, an Apple
17 Computer. It looks like AT&T modem and router.
18 Same. Same. Same. Apple Computer. A TV. A
19 computer with some sort of USB device with an SD
20 card. Same. Interior room closet. Closet. Closet.
21 That looks like a drone. I'm not quite sure what
22 that -- it looks like some sort of electronic device,
23 though.

24 BY MS. BARBIER:

25 Q Are those drones?

JURY TRIAL, VOL. 2

1 A It looks like drones to me. Same.

2 Q Do you see in the background where it says Prowler?

3 A Yes, up top.

4 Q Do you know that is?

5 A I'm assuming -- well, I would think it would be to
6 that particular drone, but I don't know.

7 Q Okay.

8 A It looks like some kind of hard case, a Pelican case.
9 That looks like a drone controller, and a handwritten,
10 like somebody tried to do -- update the firmware. The
11 interior. Same. Same. Same. Same. Another interior
12 room. Same. Same. Same. Same.

13 Q What's that one?

14 A It looks like a Samsung phone.

15 Q How many phones do you recall seizing?

16 A There were several. I would have to look back to the
17 property receipt or return. Same. Same. Same. That's a
18 Samsung device that says Jerome (unintelligible).
19 Interior room. It says Weird Gear on it. I'm not sure
20 what that is. That looks like a laptop that says Riviere
21 on it and a phone number. That would be the same as the
22 one two pictures ago, it looks like. That's some sort of
23 Samsung device phone keyboard. That's a Microsoft device.
24 Kitchen. Some speakers of some sort. Same. Same. Same.
25 That's some sort of Bluetooth device. It looks like it

JURY TRIAL, VOL. 2

1 might be Google from the ending. That looks like another
2 speaker or speakers. Same. Same.

3 Q Just go back, Agent Busbee, this Bluetooth speaker
4 that you found with -- with the hidden camera, that was at
5 115 3rd Avenue?

6 A Correct. Wi-Fi booster box boxes. Same. Interior
7 room.

8 Q Is that -- do you know what kind of room that is?

9 A It's an interior room. I can't remember exactly.
10 Some sort of some sunroom, maybe. An office area of that
11 same room. It looks like some thumb drive, a mouse, a
12 computer, a keyboard. Same. Same. Same. Same. That's
13 a ThinkPad. SD card. Same. Same. Same. A USB device.
14 That's SD cards or card. Same. Another thumb drive.
15 Same. Same. Same. That's a Sony camcorder. A handycam
16 box. CDs, DVs.

17 Q Are those CDs?

18 A It looks like a laptop with an Amazon device. A USB
19 device. The same. Same. Camera and some other devices
20 sitting on a laptop. Some sort of device with a thumb
21 drive. Same. A camera. Same. Same. Same. Same. It
22 shows the SD card in the camera. Same. Apple device.
23 That's a Wi-Fi Smart camera.

24 Q Is that a lightbulb?

25 A It looks like it.

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1 Q But it's a camera?

2 A Yes. Same. Same. That's a little camera.

3 Q It says price [ph] (unintelligible).

4 A Yes, that's what it says on it. Cop Cam. It should
5 be the same thing you just showed. Some of the same stuff
6 you showed in that lightbulb camera and some other stuff,
7 some documents. Same. Same. That's some sort of phone
8 and a pad. Same. Samsung device. Another USB device.

9 Some sort of device that's in that bottom drawer. It
10 looks like a Samsung phone. There's five phones there, it
11 looks like. That's -- that's a document with the
12 Riviere's name on it. That looks like some sort of camera
13 as well. Same. Same, but it's showing the -- I guess the
14 internal parts of that -- that camera. Phone. Phone.
15 Cell phone. That's a case. Another Apple device. These
16 are the unintelligible) CD. Apple device. That's a CD.
17 That's a CD in the case.

18 Q I'd like to take you now to Exhibit 14, and that would
19 be the 115 3rd Avenue photos?

20 A Correct.

21 Q Does that -- what does that sign say at the top of the
22 house?

23 A Stirrup Cup. That was the name of the cottage.

24 Q Did your investigation reveal whether these cottages
25 were named?

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1 A That cottage was named. That's showing the mailbox at
2 115. That's an interior room. That's an interior room,
3 and you can see the Bluetooth speaker that we collected on
4 that dresser right there that had the camera in it. The
5 same room.

6 Q (Unintelligible.) Is this what the round corner is,
7 the --

8 A Correct, on the left-hand side of the picture.

9 Q Looks like it's a speaker.

10 A It's a Bluetooth speaker, yeah.

11 MR. MCCULLOCH: Your Honor, again, object to the
12 leading. Unless Ms. Barbier wants to testify, I'm
13 going to continue to object.

14 THE COURT: I think she's just clarifying as to
15 what he -- he said there was a Bluetooth speaker, and
16 she was asking him if that's the speaker, so I'm
17 going to allow that. But I understand your
18 objection, sir. All right. Go ahead.

19 BY MS. BARBIER:

20 Q What does this depict, Agent Busbee?

21 A A bed in that room. That's the same room. Same.
22 Same. Same. You can see the Bluetooth speaker on the
23 dresser from the vantage point from the other side of the
24 bed.

25 Q What direction is the speaker pointed towards?

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1 A The bed. It's pointed towards the person taking that
2 photograph. That's a speaker. Same.

3 Q Now, let's look at Exhibit 15.

4 A That's 541 Two Notch, and it was named Sea Horse
5 Stables cottage at Sea Horse Stables. That was a book
6 that was there at the bottom.

7 Q We're going to talk about the Crespos in a minute, but
8 I want to ask you, is this the property location that it
9 was -- I mean, do you know if -- whether they stayed
10 there?

11 A I believe they did. I would have to refer -- you
12 know, refer back to my report, but I believe so.

13 Q Do you know what this is?

14 A That was inside that binder.

15 Q Can you read what it says? Can you see that?

16 A Yeah. It says "Sea Horse Stables, welcome to the
17 cottage at Seahorse. We hope you have an enjoyable stay
18 at Seahorse Stables Guest Cottage. From this cottage, you
19 can walk or ride down Clay Road to Hitchcock Woods down to
20 Aiken, Whitney Polo Field, Aiken Downs, Hopelands Gardens,
21 Bruce's Field, and watch the racehorses train across the
22 street at the Aiken training track each morning, then walk
23 down to the track kitchen for a hearty breakfast. Many,
24 many trails are available for hiking or riding in
25 Hitchcock Woods. Dogs are permitted. We have left you a

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1 few maps with our favorite trails highlighted. Take the
2 map. It's easy to get lost." It says "Please let us know
3 if you have any problems, questions or concerns." It has
4 Rhett Riviere with a phone number and Catherine Thomas
5 with the phone number, and it says "Cheers," and it says
6 Rhett Riviere and Catherine Thomas again.

7 Q Now, Agent Busbee, just to refresh my memory, this
8 search warrant was executed in August of 2019?

9 A Correct.

10 Q What's this a picture of?

11 A An interior room at that location. Same. Same.
12 Same. Same.

13 Q And this where I'm pointing, what is this?

14 A A bathroom.

15 Q Is that a toilet?

16 A Yes. Same interior room.

17 Q I believe that's the end of that. Okay. Agent
18 Busbee, if you will, please retake the witness stand.

19 THE COURT: Ms. Barbier, are you going to
20 continue to use the screen?

21 MS. BARBIER: No.

22 THE COURT: Do you think I can close it?

23 MS. BARBIER: Yes.

24 THE COURT: Thank you.

25 MS. BARBIER: Sure.

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1 MR. HARTE: Your Honor, may it be lowered?

2 THE COURT: I have no knowledge of that piece of
3 equipment as to what that -- I think that may entail
4 unplugging it in some way.

5 MR. HARTE: That's fine. I was under the
6 impression -- I was under the impression it could be
7 lowered when not in use.

8 THE COURT: I think it can be, but I don't know
9 if we would have to take a break to do that or not.

10 THE CLERK: Two seconds.

11 THE COURT: Two seconds? Okay. Well, let's --
12 let's -- Ms. Barbier, do you need it for anything in
13 the near future?

14 MS. BARBIER: I don't. I don't think I need it
15 for the rest of the day.

16 THE COURT: Thank you. Then yes, please, let's
17 lower it. Oh, that's wonderful. Thank you. Thank
18 you, Mr. Harte.

19 THE CLERK: Thank you, Your Honor.

20 BY MS. BARBIER:

21 Q Agent Busbee, after these search warrants were
22 executed, did you proceed with the investigation?

23 A Yes.

24 Q Did you interview witnesses?

25 A Yes.

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1 Q Do you recall who you interviewed?

2 A I think it was 14 or 15 different people.

3 Q Were two of the people you interviewed Heather and
4 Gabriel Crespo?

5 A Yes.

6 Q Were they interviewed separately?

7 A Yes.

8 Q Okay. And can you describe how the demeanor, first
9 when you -- when you met Mr. Crespo, can you describe his
10 demeanor?

11 A He was -- he was pretty upset and -- and somewhat
12 angry about the whole situation.

13 Q Did he appear to be shocked?

14 A Yes.

15 MR. MCCULLOCH: Your Honor, again, good Lord. I
16 don't how to make this point more resoundingly then
17 if that's not testifying -- if that's not suggesting,
18 I object, I object, I object.

19 THE COURT: Yes, sir, so noted. Ms. Barbier --

20 MR. MCCULLOCH: This is a skilled prosecutor,
21 Your Honor. She knows what she's doing.

22 THE COURT: Yes, sir. I said in opening
23 statements I want -- Ms. Barbier, please let the
24 witness testify.

25 MS. BARBIER: Okay. Thank you, Your Honor.

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1 BY MS. BARBIER:

2 Q Agent Busbee, describe the demeanor, if you will, of
3 Heather Crespo.

4 A She was upset as well and shocked.

5 Q Did -- you said you interviewed 14 to 15 people. Did
6 you view some videos and some pictures that were recovered
7 from some of these electronic devices?

8 A Yes.

9 Q What did they -- what kind of evidence did you see?

10 MR. MCCULLOCH: And, Your Honor, can we now take
11 up a point of order and a point of law?

12 THE COURT: I'm sorry. What was -- what was the
13 last question?

14 MS. BARBIER: My question was, did you review
15 some images and some videos from the electronic
16 devices that were seized from these properties?

17 THE COURT: And that's your objection? That's
18 the point you want to take up?

19 MR. MCCULLOCH: My objection is to the answer to
20 that question. If we may?

21 THE COURT: And then, whether he reviewed images
22 or not?

23 MS. BARBIER: Well, I then asked him to describe
24 the images he reviewed.

25 THE COURT: Oh, okay. Okay. Okay. Yes, we can

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1 take up a point there.

2 MR. MCCULLOCH: And the jury probably needs a
3 break anyway.

4 THE COURT: I don't think so. But will let them
5 take a -- we're going to be as brief as possible.
6 Thank you very much. Mr. McCulloch, I will remind
7 you too that Ms. Barbier is a civil lawyer in this
8 case as well.

9 MR. MCCULLOCH: I am well aware of that, Your
10 Honor, as am I.

11 THE COURT: Yes, sir. Thank you very much. All
12 right. Would the jury step out for a few minutes?
13 My hope is we can be quick with this. We'll see.

14 (The jury exited the courtroom.)

15 THE COURT: Okay. Mr. McCulloch, what is your
16 objection to asking him to describe the images he
17 saw?

18 MR. MCCULLOCH: Well, Your Honor, that's exactly
19 what we've been leading up to, this -- the crescendo
20 for the derivative efforts to get in inadmissible
21 evidence. She's now -- you had ruled that only ten
22 videos come in. You ruled in that fashion, I think,
23 because all of those videos were pertinent to the
24 premises on which the Crespo incident occurred.

25 THE COURT: Why don't we do this, Mr. McCulloch?

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1 Without interjecting an objection as to leading, do
2 you mind if she asks him to identify whether the
3 Crespos were on those videos or if he learned that
4 the Crespos were there and describe the images that
5 relate to the Crespos?

6 MR. MCCULLOCH: Your Honor, I think that's only
7 thing she can do without an objection from me.

8 THE COURT: Ms. Barbier, did you intend to
9 elicit any evidence other than that at this point?

10 MS. BARBIER: Yes, Your Honor. And I understand
11 that Your Honor has ruled that we can have ten videos
12 admitted into evidence of -- of other -- other, you
13 know, videos --

14 THE COURT: And a reference to the fact that
15 there are videos --

16 MS. BARBIER: Right. But that doesn't mean that
17 the jury is not allowed to be told that there are
18 many, many, many other images and videos on these
19 computers and devices that were seized that are
20 consistent with what happened to the Crespos. I
21 mean, that is the heart of our case. We have to show
22 the intent that this was intentional, that this was a
23 common scheme of plan, that there was no mistake
24 here. And in order to do that, the -- the -- just
25 the general results, I mean, that's not --

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1 THE COURT: Ms. Barbier, would you like proffer
2 your testimony right now?

3 MS. BARBIER: Sure.

4 PROFFERED DIRECT TESTIMONY OF CLINT BUSBEE

5 BY MS. BARBIER:

6 Q Agent Busbee, as part of your investigation, did you
7 review pictures and videos that were found on the
8 electronic devices of Mr. Riviere?

9 A Yes.

10 Q Can you describe, generally, what types of images and
11 videos you saw?

12 A A lot of them were people that were unclothed.

13 Q Okay. Did you see any images or videos of people
14 engaged in sexual activities?

15 A Yes.

16 Q Okay. Did you see any videos of people undressing?

17 A Yes.

18 Q Did you see people going to the bathroom?

19 A Yes.

20 THE COURT: Ms. Barbier, at this point -- he's
21 not doing it right now -- but I imagine if we go into
22 the jury coming back in at this point, he's going to
23 -- we're going to elicit a leading argument. So I
24 ask that you -- you can ask him what's on the images
25 right now, but let's let him describe what's on the

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1 images and let's see what his testimony is going to
2 be.

3 MS. BARBIER: Okay.

4 BY MS. BARBIER:

5 Q Can you describe all the different types of images and
6 videos you saw, Mr. Busbee -- Agent Busbee?

7 A Some people were clothed, some people were not
8 clothed. Some people were performing sexual activities.
9 Some people were showering. Some people were using the
10 bathroom.

11 Q Would you -- did you review a video entitled "Heather
12 and Gabriel"?

13 A Yes.

14 Q And did you determine whether -- who was in that
15 video?

16 A Yes.

17 Q Who was in the video?

18 A Heather Crespo and Gabriel Crespo.

19 Q And what does the video show?

20 A Sexual activity and showering and using the bathroom.

21 Q Does it show them naked?

22 A Yes.

23 THE COURT: All right. Mr. McCulloch?

24 MR. MCCULLOCH: Well, Your Honor, I think that
25 this makes my point, and it makes the point of our

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1 motion in limine we have aggressively pursued. I
2 would remind the Court again of State versus Simmons,
3 which is a criminal case. It's a criminal case in
4 which evidence of videos contained on an external
5 hard drive that were not the subject of the
6 prosecution. And I would liken that same theory in a
7 civil case where the allegations are that the
8 Crespos' privacy was invaded.

9 The Court there suppressed the other videos and
10 found that they were unfairly prejudicial and went to
11 establish improper character evidence. The Court
12 agreed -- the trial Court agreed -- and suppressed the
13 other things that were not the subject of the criminal
14 prosecution, despite the arguments no doubt made that
15 Ms. Barbier could have been there making. What the
16 court -- the appellate court said, "We find evidence
17 that support's the Court's decision and affirm the
18 denial of Simmons' motion to suppress." And this was
19 in a case involving child pornography. So I don't
20 know that we can find a case that is more on point.

21 What Ms. Barbier now intends to do is go beyond
22 the Court's determination to allow videos that are,
23 one, relevant to the time period of 2000-2001, when
24 the Crespo video occurred -- incident occurred; two,
25 videos of the same place; three, videos that are

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1 relevant by content because they're within this short
2 period of time and circumstance. What he's talking
3 about, and when she's talking about, and what she
4 wants him to talk a lot more about is to describe
5 things that happened 20 years later in other
6 locations, and the only connective tissue is they were
7 unknown by Mr. Riviere, and there's no proof he did
8 the videoing. There's no proof that I know of, no
9 proof that he made the videos, other than the
10 inferences from ownership.

11 And -- and again, Your Honor, you can say all
12 day this is common scheme. That's not consistent with
13 our court's rulings about common scheme having to be
14 within a relevant time period. I think the Judy case
15 speaks directly to that. I'd be happy to hand it up.

16 THE COURT: I've read it. Thank you.

17 MR. MCCULLOCH: And it -- you know, she says we
18 have to be able to prove intent. Well, Your Honor,
19 the videos that you permitted I thought was a
20 judgment by you that they did satisfy her need to
21 prove intent because they show different people in
22 the same location at different times experiencing the
23 same invasion of privacy. If that doesn't prove --
24 if that doesn't get them across the finish line of
25 what they need to prove, the only reason they want to

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1 introduce this testimony is because they want to
2 introduce all these other tapes, a terabyte of what
3 they allege to be misconduct for which Mr. Revere is
4 responsible, they allege. And I think that is an
5 entirely prejudicial. It completely outweighs the
6 probative value. And all the other exceptions that
7 she has announced, like common scheme, well, they can
8 show a common scheme through what you've allowed to
9 be admitted.

10 (Unintelligible cross-talk.)

11 THE COURT: As to the notice of intent and the
12 unfair trade practices act as to your client.

13 MR. MCCULLOCH: Everything is --

14 THE COURT: Yes, sir. Mr. Harte?

15 MR. HARTE: Thank you, Your Honor. I would
16 specifically invite the Court's attention to the
17 language of Rule 403, which specifically provides
18 that evidence, even though admissible, should be --
19 should not be admitted if it contains the danger of
20 unfair prejudice, confusion, or is misleading to the
21 jury, or is a presentation of cumulative evidence.
22 And, Your Honor, I would respectfully suggest that my
23 client is entitled to have the objections which I may
24 consider on the basis of the claim against her as if
25 Mr. Riviere were not here. It is not a grounds for

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1 admission of evidence against my client to say that
2 it is admissible against Mr. Riviere.

3 It is incumbent, Your Honor, to specify the
4 evidence is clearly not relevant to my client. Then
5 the jury should be instructed it is a matter of law
6 pursuant to Rule 403 that they may not consider that
7 evidence as to Josee Riviere. So because the case is
8 not severed, Your Honor, that does not mean that my
9 client is somehow linked inextricably to Mr. Riviere.
10 Evidence which might or might not be admissible as to
11 Mr. Riviere is not admissible as to Josee Riviere, and
12 I respectfully suggest that the Court must instruct
13 the jury to disregard evidence which is clearly
14 unrelated to her. This particular group of exhibits
15 and evidence all relate to events and circumstances
16 long after --

17 THE COURT: No, sir. We've reviewed these
18 videos and we've talked about them. We've also
19 looked at the images. These group -- the totality,
20 the videos and the images do not all relate to
21 matters in 2019. It is true that, pursuant to the
22 search warrant, all of these photographs were taken
23 into 2019. There is no evidence at this point as to
24 whether any of those electronic devices involved
25 other items that could have been prior to 2019.

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1 She's allowed to testify as to the Crespos and
2 allowed to say that -- to lay the foundation of
3 having looked at those videos.

4 I also, in a preliminary ruling, stated that she
5 could make a reference to the fact there were other
6 videos. We're not showing the other videos at this
7 time. Do we have any other new arguments?

8 MR. HARTE: Yes, Your Honor.

9 THE COURT: Yes, sir.

10 MR. HARTE: This is a -- this is new argument.

11 THE COURT: Yes, sir.

12 MR. HARTE: It is not the same as previously.

13 THE COURT: Yes, sir.

14 MR. HARTE: We now have these exhibits being
15 offered as evidence. They are all -- and you now
16 have them -- here now in front of you. Every one of
17 the exhibits, excluding the Crespo exhibits that she
18 -- that he has testified to, are related to the
19 events that occurred when --

20 THE COURT: They're from the search warrant.

21 MR. HARTE: -- yes, ma'am. But the search
22 warrant was not for anything related to my client.

23 THE COURT: Yes, sir.

24 MR. HARTE: So -- so --

25 THE COURT: The plaintiff still bears the burden

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1 of tying your client into that. I'm going to find
2 the videos relevant, even as to your client at this
3 point. Your motion is denied. Anything else?

4 MR. HARTE: May it please the Court?

5 THE COURT: No, sir.

6 MR. HARTE: May it please the Court?

7 THE COURT: No, sir. I think you've made your
8 motion. Thank you. I appreciate that. Anything
9 else?

10 MS. BARBIER: I just want to go through this,
11 Your Honor, before the jury comes back.

12 THE COURT: Yes, ma'am.

13 MS. BARBIER: And I'm sure McCullough will stand
14 up again. I'm going to ask Agent Busbee whether he
15 obtained an arrest warrant for Mr. Riviere.

16 THE WITNESS: Yes.

17 MS. BARBIER: I'm going to ask him if he did so
18 in June of 2021, and than again in July of '22 for
19 the Crespos. I'm going to ask him whether or not
20 that he knew -- ask him when he reviewed these images
21 that timestamp that the images reportedly appear to
22 be from. And I just wanted to, you know, go through
23 that before we bring them back in.

24 THE COURT: All right. Let's make a ruling on
25 the proffered evidence that we have so far. It does

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1 meet the preliminary ruling and I'll allow the
2 attorney to -- to question the witness as stated
3 earlier and the witness to testify. Mr. McCulloch,
4 what do you have to say about that other evidence she
5 intends to -- as to the arrest of your client?

6 MR. MCCULLOCH: Well, Your Honor, I would hope I
7 would ask the Court so that I don't interrupt on
8 cross-examination, but I object to that ruling,
9 obviously, and would ask the Court to accept that I
10 will not be making -- well, I'll be asking questions
11 subject to that objection during cross-exam, maybe.

12 Now, as to this, we're back to trying the
13 criminal case. Of what relevance is his arrest?
14 None. In a -- in a car wreck case, you wouldn't get
15 to -- to have the police officer testify I gave him a
16 ticket for drunk driving because they had a wreck and
17 it injured (unintelligible). I -- I -- you know, you
18 wouldn't get to do that, Your Honor. You wouldn't get
19 to introduce the arrest warrant. You don't get to do
20 that in a civil case. And the reason is, it takes
21 away from the jury the facts that they are supposed to
22 be focused on, which is civil responsibility, and it
23 rubs in their noses that some police officer or a
24 judge found probable cause to arrest. That is
25 absolutely not probative to a thing, and is entirely

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1 prejudicial, and I object on those grounds.

2 THE COURT: Ms. Barbier?

3 MS. BARBIER: Your Honor, it's entirely relevant
4 because probable cause was found for his arrest for
5 three counts of voyeurism, and voyeurism is what
6 we're here about.

7 THE COURT: Yes, ma'am. But aren't you required
8 to prove voyeurism in a civil matter and we're not to
9 get into the civil -- the criminal aspects of that?

10 MS. BARBIER: Well, we're not --

11 THE COURT: Two different standards and two
12 different -- I mean, that's a separate --

13 (Unintelligible crosstalk.)

14 THE COURT: -- and not the civil liability
15 issue.

16 MS. BARBIER: I'm not -- I'm not going to ask
17 anything else about it. I was going to ask whether
18 or not he interviewed Mr. Riviere.

19 THE COURT: Yes, sir?

20 MR. MCCULLOCH: Your Honor, what in the world
21 else does she need to ask him other than were you --
22 did you arrest this pervert, is what she's going to
23 tell the jury. What could be more inadmissible?
24 What could be more prejudicial? What could be more
25 out of place in a civil trial about the

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1 responsibility and where it falls for the invasion of
2 privacy?

3 THE COURT: Okay. Ms. Barbier, I do find that
4 the fact of his arrest may be prejudicial to him in a
5 civil, and we will flip a little bit in this case, I
6 think, in the fact that his criminal case is not
7 going forward. I have no idea why that is. But you
8 would normally have a conviction that you could come
9 in and introduce, but we have an arrest warrant.

10 MS. BARBIER: I wasn't seeking to introduce the
11 arrest warrant. And if I were on the jury, I would
12 be wondering.

13 THE COURT: I would be wondering too. And I
14 understand the quandary you're in and that he's --
15 like he's in a quandary of having to assert his Fifth
16 Amendment right to remain silent because the criminal
17 trial has not been --

18 MR. MCCULLOCH: Your Honor, there's no quandary
19 here. She's not permitted to even introduce, I
20 believe -- and I object -- to any evidence that he's
21 been arrested. She's gotten it in, and I'll grant
22 you --

23 THE COURT: She has gotten in that he was the
24 subject of a criminal investigation through --

25 MR. MCCULLOCH: That's right, Your Honor.

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1 THE COURT: -- for which search warrants were
2 issued, and that's why here today. And the reason
3 you got that in was to establish the foundation for
4 how your clients came to realize these videos
5 existed, and I think that's the proper purpose of
6 that right there. So let's exclude the language
7 regarding the arrest and the arrest warrant. I'm
8 sorry that leaves a hole in the jurors' minds, but
9 you are all apt attorneys that can deal with that.
10 Yes, sir, what else? Did you have another issue?

11 MR. MCCULLOCH: Nope.

12 THE COURT: Okay.

13 MS. BARBIER: Well, Your Honor, I just want to
14 make sure that I'm clear. Can I ask him to explain
15 what voyeurism is?

16 MR. MCCULLOCH: No.

17 THE COURT: No. Now, that's a -- we've got to
18 do a charge on the law as to your --

19 MS. BARBIER: Okay. I'm not going to ask him
20 whether or not he interviewed Rhett Riviere.

21 THE COURT: I think that's -- again, you can --
22 I think whether he talked to Rhett Riviere? Do you
23 all have any objection? I mean, that's all that
24 she's saying is that he interviewed.

25 MR. MCCULLOCH: No.

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1 THE COURT: You can't say what he said.

2 MS. BARBIER: Well, if -- if he was interviewed
3 and he said anything against his interest, it would
4 be a statement against his interest and it would be
5 admissible under the exception to hearsay.

6 THE COURT: Do you want to proffer that kind of
7 testimony right here before we ask this jury to come
8 back?

9 MS. BARBIER: Well, he wasn't interviewed. I
10 just want to ask --

11 THE COURT: Did he interview.

12 MR. MCCULLOCH: Nobody asked to interview him, I
13 think, is the correct answer. I don't know what that
14 means.

15 BY MS. BARBIER:

16 Q Agent Busbee, did you interview Mr. Riviere?

17 A He was not going to make a statement. That was
18 according to Mr. Harte. As a matter of fact, I sat down
19 with Joe McCullouch and John Hare.

20 MR. MCCULLOCH: Your Honor, I don't believe we
21 want to implicate Mr. Harte as his mouthpiece. And I
22 don't know the point of that question, other than,
23 again, to try to bushwhack him. And he will, of
24 course, as the case unfolds, be bushwhacked with that
25 anyway.

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1 THE COURT: Agent Busbee --

2 THE WITNESS: Can I say that his attorney would
3 not allow him to make a statement to SLED?

4 THE COURT: -- no, sir.

5 MS. BARBIER: I was just looking for, no, he
6 declined to be interviewed.

7 MR. MCCULLOCH: We know what you're looking for,
8 and I object, Your Honor.

9 THE COURT: You object to the fact that he was
10 not interviewed?

11 MR. MCCULLOCH: I object to the fact that that
12 evidence is being attempted to be introduced, that he
13 declined to be interviewed through a lawyer.

14 THE COURT: Well, yes, I think we're not going
15 to get into whether his lawyer advised him to -- his
16 client -- his lawyer at the moment declined to allow
17 him to be interviewed or not. I don't --

18 MR. MCCULLOCH: Well, would it compel me to then
19 call Mr. Harte from his chair as defense counsel --

20 THE COURT: That would be up to you.

21 MR. MCCULLOCH: -- to the witness stand to
22 explain why he did that?

23 THE COURT: That's between you and Mr. Harte.
24 But he can say that he did not interview Mr. Riviere.
25 I think that's okay.

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1 MR. MCCULLOCH: I think that's fine, Your Honor.
2 I don't have an objection to the fact that
3 Mr. Riviere was not interviewed.

4 THE COURT: That was the question; did you have
5 an objection to that.

6 MR. MCCULLOCH: No.

7 THE COURT: Okay. Mr. Harte?

8 MR. MCCULLOCH: It's all in the asking.

9 MR. HARTE: I'm watching this one, Your Honor.

10 THE COURT: Sir?

11 MR. HARTE: I'm just watching this one. I don't
12 have anything to add to this -- this, Your Honor.
13 I'm -- I'm waiting to see how far the plaintiff will
14 go before we cross the mistrial threshold, so I'm
15 just waiting.

16 THE COURT: We're not there. We're not there.

17 MR. HARTE: No, Judge, I have not yet moved for
18 that. I said I am waiting to see if we cross that
19 threshold.

20 THE COURT: Yes, sir, Mr. Harte. And I
21 certainly hope no one is trying to lay that
22 foundation. Yes, sir?

23 MR. MCCULLOCH: Your Honor, not to try your
24 patience --

25 THE COURT: No.

JURY TRIAL, VOL. 2

1 MR. MCCULLOCH: -- but I have to say that I have
2 a certain lack of confidence. To be clear, I don't
3 object to this witness simply testifying that, in
4 response to a question was Mr. Riviere interviewed by
5 you, his answer would be no. I object to why that
6 occurred through Mr. Harte's explanation or
7 otherwise, because nothing beyond that is relevant.

8 THE COURT: And I happen to agree with you, Mr.
9 McCulloch.

10 MR. MCCULLOCH: Thank you.

11 MS. BARBIER: Okay. I'm ready to proceed now.

12 THE COURT: Wait. Anything else? You said
13 something about that, and what was the other point?
14 Did we argue that other point already?

15 MS. BARBIER: Yeah. I think we -- I think we
16 covered it. I was -- it was the arrest warrant and
17 whether he was interviewed. And I'm almost done with
18 him. I've just got a couple of --

19 THE COURT: I think the -- the defendant's -- I
20 know Mr. Harte has a real concern due to his client
21 being separate, and Mr. McCulloch has a good point
22 about trying to unmix the civil and the criminal,
23 which we cannot do because these were both civil
24 liability and criminal liability to the actions, if
25 they are proven. So we cannot completely divorce

JURY TRIAL, VOL. 2

1 them if we're going to try as much as we can. Okay?

2 MS. BARBIER: Thank you, Your Honor.

3 THE COURT: Thank you. Yes, sir? The court
4 reporter is asking for a bathroom break.

5 MR. FEW: Your Honor, before we do that --

6 THE COURT: No. I'm sorry. Do you have
7 something that needs to be on the record?

8 MR. FEW: I don't think so. No. No. He can
9 go.

10 (Off the record.)

11 (Recess.)

12 (The jury entered the courtroom.)

13 THE COURT: Ms. Barbier, you may proceed.

14 MS. BARBIER: Thank you.

15 BY MS. BARBIER:

16 Q Agent Busbee, before we broke, I asked you whether or
17 not you had had an opportunity to review some images and
18 videos that were taken from Mr. Riviere's electronic
19 devices.

20 A Yes.

21 Q Can you describe for the jury what types of images and
22 videos you saw?

23 A The images and videos that saw were people that were
24 clothed, people unclothed, sexual activity, people using
25 the restroom, a shower.

JURY TRIAL, VOL. 2

1 Q Did you determine from your investigation the
2 timestamp of these videos and images?

3 A All of them in general?

4 Q Just in general.

5 A I mean, it went back to the early 2000s.

6 Q And up to when?

7 A I mean, I would have to go back and look at any
8 timestamps that they had. So up until the point of when
9 we started the investigation.

10 Q Now, you retired?

11 A Yes.

12 Q And I know you want to go back to retirement, so I'll
13 just ask you one more question. Before you retired, did
14 you meet with an agent to transfer the responsibility of
15 this case?

16 A Yes.

17 Q Okay. Who -- who did you meet with?

18 A Rick Call [ph].

19 Q Okay. And did he take over responsibility from there?

20 A Yes.

21 Q What date did you retire?

22 A September the 2nd of 2022.

23 Q Agent Busbee, please answer any questions the defense
24 has. Thank you for being here. I'm sorry about the
25 vacation time.

JURY TRIAL, VOL. 2

1 THE COURT: Yes, sir, Mr. McCulloch?

2 MR. MCCULLOCH: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 Q Mr. Busbee, hows that retirement going?

5 A It was good.

6 Q Now, you were asked about Exhibit 8, or shown
7 Exhibit 8 which you identified. Do you have that there?

8 A I think that was the consent to search. Yes, I've got
9 it.

10 Q All right. What is the exhibit?

11 A The consent-to-search warrant.

12 Q The consent to search. Okay. And it says at the top
13 the -- who consented?

14 A Correct.

15 Q And who consented?

16 A Catherine Thomas.

17 Q So she consented to the search of her home?

18 A 277 Old Wagener Road.

19 Q And now, you -- generally, when it -- excuse me -- it
20 appears that there's a kind of a general practice by you
21 or SLED to take photographs at the places you search?

22 A Not all the time, but sometimes, yes.

23 Q All right. Well, Exhibits 2, 3, 6, 7, 13, 14, and 15
24 are all such photographs of different places that you
25 testified about, and in every one of those exhibits

JURY TRIAL, VOL. 2

1 there's a photograph of either a mailbox or the door that
2 shows the address?

3 A Correct.

4 Q All right. So you would agree that it's your general
5 practice to do that?

6 A In this case, yes it was.

7 Q Okay. Now, Exhibit 4, have you got that there?

8 A I'm sure I do. Yes.

9 Q All right. What's Exhibit 4?

10 A It's photographs of a search warrant.

11 Q Well, it's kind of a one-story --

12 A It's 541 Two Notch Road.

13 Q -- right. A one-story house, or something like that?

14 A Correct.

15 Q All right. Well, would it surprise you that -- and
16 your search warrant is for what address?

17 A 541 Two Notch Road. Yep.

18 Q Would it surprise you that the place in that picture
19 is actually 547, and that 541 is actually a converted
20 barn?

21 A That's -- I don't recall that.

22 Q Okay. That doesn't surprise you?

23 A Well, that was a property with several places on it,
24 and some of them had Grace Avenue addresses and then some
25 had Two Notch.

JURY TRIAL, VOL. 2

1 Q So it wouldn't surprise you that you searched a place
2 you didn't have a search warrant for?

3 A I searched the place that was in the photograph right
4 there.

5 Q Okay. All right. And you would agree that sometimes
6 people make mistakes, even SLED?

7 A Sure.

8 Q Okay. Thank you. That's all I have.

9 MS. BARBIER: One follow-up. I'm sorry. Mr.
10 Harte stood.

11 THE COURT: Mm-hmm. Mr. Harte, any questions
12 for this witness?

13 MR. HARTE: Just one moment, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. HARTE:

16 Q The individual that you were dealing with when these
17 search warrants were issued was a person by the name of
18 Catherine Thomas?

19 A Correct.

20 Q And that person was involved with Rhett Riviere, and
21 they were breaking up; is that correct?

22 A That was from my understanding, yes.

23 Q Did you determine how long those two people had been
24 together?

25 A I recall several years, I believe.

JURY TRIAL, VOL. 2

1 Q Several years?

2 A That's what I recall, yep.

3 Q You also obtained her consent to search property on
4 Wagener Road; is that correct?

5 A That's correct.

6 Q And you found some evidence there; is that correct?

7 A Correct.

8 Q Did you verify her ownership of half interest in that
9 property?

10 A No. She was residing there at the time.

11 Q So you -- all right. So do you know -- did you check
12 to see whether she had --

13 A She wrote co-owner on the consent-to-search form,
14 which is Exhibit 8.

15 Q So if I suggest to you that the date upon which the
16 two Rhett Riviere -- and Rhett was the other owner;
17 correct?

18 A Yes.

19 Q All right. So -- and if I suggest to you that that
20 property was acquired by them in 2016, would you have any
21 reason to dispute that?

22 A I would not. I have no knowledge of that.

23 Q But clearly, anything that was in that property was
24 there as far as -- you -- you first saw it in 2019; is
25 that is correct?

JURY TRIAL, VOL. 2

1 A The Wagener Road property?

2 Q Yes, sir.

3 A Yes, sir. I was there September of 2019.

4 Q And if I'm correct, the -- the -- Mr. Rhett Riviere
5 and Catherine Thomas acquired it in 2016, and then
6 whatever was in there would have been there beginning in
7 2016; correct?

8 A I don't know that. I don't know if it would be there
9 or not when they acquired the property.

10 Q All right. And then do you -- did you verify to see
11 that Josee and Rhett were divorced in 2012?

12 A I did not confirm that. I was told that, that they
13 were divorced.

14 Q But you didn't issue any search warrants for anything
15 belonging to Josee Revere, did you?

16 A No, sir.

17 Q Thank you.

18 MR. HARTE: That's all I have, Your Honor.

19 THE COURT: All right. Ms. Barbier?

20 MS. BARBIER: Just briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. BARBIER:

23 Q Agent Busbee, you were asked about old -- the search
24 of Old Wagener Road?

25 A Yes.

JURY TRIAL, VOL. 2

1 Q Okay. What did you seize from Old Wagener Road?

2 A That was the wardrobe door.

3 Q Okay. Can you describe for the jury what that was?

4 A It was a wardrobe door. The wardrobe had two doors
5 that opened. One had a mirror in it. On the inside, you
6 could see it was like a round, about the size of a nickel
7 or a dime, and from the inside, the glass had been cut.
8 And what we determined was that that was specifically made
9 to possibly house some sort of, you know, camera that was
10 flat that could be stuck behind the mirror.

11 Q And did it appear that -- well, did you see where any
12 wires --

13 MR. MCCULLOCH: Your Honor, I object to the
14 speculative nature of the answer. I couldn't
15 anticipate that answer under any constellation. I
16 would move to strike. I think that's clearly
17 speculation.

18 THE COURT: I'll strike the witness's
19 speculation as to what the hole would have been for,
20 but not as to the existence of the hole itself.
21 Ladies and gentlemen of the jury, what that means is
22 when a witness doesn't really know anything and
23 they're just giving you a guess, that's not their
24 place to do. You're to look at the facts as they are
25 presented and determine -- make your determination.

JURY TRIAL, VOL. 2

1 Okay? Anything further regarding that? Thank you.

2 Ms. Barbier, please continue.

3 MS. BARBIER: Thank you, Your Honor.

4 BY MS. BARBIER:

5 Q Agent Busbee, can you describe the bottom of the
6 armoire?

7 A Well, that floor had been replaced, and there was a
8 small section on one corner that was open and square, so
9 it wasn't completely covered with the -- the bottom piece.
10 It didn't have that little small section in the corner.
11 It was cut out.

12 Q And did you all actually take the door off the armoire
13 and --

14 A Yes.

15 Q -- into evidence?

16 A Yes.

17 Q Okay. No other questions.

18 MR. MCCULLOCH: Nothing, Your Honor. Thank you.
19 Thank you, Mr. Busbee. Back to retirement.

20 THE COURT: Ms. Barbier, are you excusing this
21 witness for the duration of the trial?

22 MS. BARBIER: Yes, Your Honor.

23 THE COURT: All right. You're so excused. The
24 next witness?

25 MS. BARBIER: Your Honor, the plaintiff calls

JURY TRIAL, VOL. 2

1 Susan Hook.

2 THE CLERK: Susan Hook, please.

3 THE CLERK: If you'll place your left hand on
4 the Bible and raise your right hand.

5 (The witness was sworn in.)

6 THE CLERK: Please take a seat in the witness
7 stand. State your full name for the Court and spell
8 your last name, please.

9 THE WITNESS: Susan Hook.

10 THE COURT: Could you spell your last name,
11 please?

12 THE WITNESS: H-O-O-K.

13 THE COURT: Thank you, ma'am. Ms. Barbier?

14 MS. BARBIER: Thank you, Your Honor.

15 SUSAN HOOK

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

18 DIRECT EXAMINATION

19 BY MS BARBIER:

20 Q Ms. Hook, good afternoon.

21 A Good afternoon.

22 Q Are you currently employed anywhere?

23 A Yes, I am.

24 Q Where are you employed?

25 A I'm a real estate broker.

JURY TRIAL, VOL. 2

1 Q Where?

2 A Self-employed.

3 Q Okay. Do you have a real estate license in South
4 Carolina?

5 A Yes, I do.

6 Q Do you know why realtors are required to have a real
7 estate license in South Carolina?

8 A There's license law. We have laws of the state we
9 have to follow.

10 Q Okay. And do know the purpose of the license law or
11 are you familiar with that?

12 A Under the realtor guidelines, it's the primary job is
13 to protect the public.

14 Q Where are you from originally, Ms. Hook?

15 A Pennsylvania, Erie Pennsylvania.

16 Q And when did you move -- do you live in Aiken?

17 A I do.

18 Q Okay. When did you move here?

19 A I bought a house with my husband at the time in 1989.

20 Q Where was the house located that you bought with your
21 husband?

22 A 516 Marion Street Southeast.

23 Q And what brought -- is the marriage what brought you
24 South Carolina?

25 A No. We came down together because of horses,

JURY TRIAL, VOL. 2

1 primarily.

2 Q Who did you buy 516 Marion Street from?

3 A The family's last name was Durriere[ph].

4 Q Okay.

5 A And I believed it was in an estate.

6 Q Did you -- or do you ride horses or did you ride
7 horses at any time?

8 A I did, yes.

9 Q Okay. How about your husband?

10 A He did not ride.

11 Q Did you come to know -- did you have any neighbors at
12 516 Marion?

13 A I did. The property right behind me was owned by
14 Marilyn Riviere.

15 Q And who was Marilyn Riviere?

16 A Marilyn was a very lively, prominent figure in Aiken
17 and was active in pretty much all aspects of the
18 community, the downtown community.

19 Q Did she own property in Aiken?

20 A Quite a bit of it, yes.

21 Q Are you familiar with the pink house?

22 A Yes.

23 Q What is that?

24 A It's a large, old winter colony mansion that's
25 situated on the edge of Hitchcock Woods on Easy Street.

JURY TRIAL, VOL. 2

1 Q And did Marilyn Riviere have any sons?

2 A Yes, two that I'm aware of.

3 Q What were their names?

4 A Rhett Riviere and Scott Riviere.

5 Q Did you have an occasion to meet them?

6 A Yes.

7 Q When -- when did you meet Rhett Riviere?

8 A Shortly after purchasing the home in '89.

9 Q Does he go by any other names that you're aware of?

10 A Yes, Tiger.

11 Q When you lived in Pennsylvania, were you in the real
12 estate business?

13 A Yes.

14 Q And so, after moving to South Carolina, did you get a
15 real estate license here?

16 A I did.

17 Q Did you become -- become familiar with the real estate
18 market in Aiken?

19 A Yes, I did.

20 Q Okay. Did you become familiar with the Aiken rental
21 market?

22 A Yes.

23 Q Okay. I'm going to ask you about the polo industry
24 and the effect that had on the real estate rental market.
25 When did polo start becoming very popular in Aiken?

JURY TRIAL, VOL. 2

1 A Well, it was always popular. We have the longest
2 played, continuously played polo field in downtown Aiken.
3 But we went through a huge boom because we had two of the
4 top players in the world purchase land here and their
5 operations, and that was somewhere that those two fellows
6 bought in the '90s, probably '92-'3, somewhere in there.

7 Q When that happened, did the rental market in Aiken
8 improve?

9 A The rental market in Aiken, there's probably.

10 MR. MCCULLOCH: Your Honor, as fascinating as
11 this may be, I object to the relevance.

12 THE COURT: Based upon the allegations and the
13 causes of actions set forth in the complaint, I'm
14 going to allow it.

15 MR. MCCULLOCH: All right. Thank you.

16 THE COURT: Thank you, sir.

17 THE WITNESS: The rental market was always
18 strong seasonally because we have a lot of winter
19 people coming in, but superstrong with the
20 equestrians coming in. As polo really started taking
21 off with a lot of people having their own private
22 fields, it did bring in a lot of polo players. They
23 would be here seasonally during a spring season and
24 then a fall season. So yes, the answer to your
25 question is we had a lot more polo players renting as

JURY TRIAL, VOL. 2

1 well.

2 BY MS. BARBIER:

3 Q Okay. Do you know whether a person is allowed to
4 manage rental properties that they don't own without a
5 license in this state?

6 MR. HARTE: Objection.

7 THE COURT: I think she asked, did she know.

8 THE WITNESS: No, they're not.

9 MR. HARTE: Objection.

10 THE COURT: Yes, sir. No, ma'am.

11 MR. HARTE: You see, Your Honor, she's -- she's
12 -- she's gone and she's answered a question she
13 wasn't asked.

14 THE COURT: Yes, sir. Let's ask [sic] the
15 question that was asked. Do you know about the
16 regulations regarding renters?

17 THE WITNESS: Yes.

18 THE COURT: I think you need to follow-up some
19 on that, Ms. Barbier.

20 MS. BARBIER: Yeah.

21 THE COURT: I don't know if you're intending to.

22 MR. HARTE: Your Honor, I --

23 THE COURT: -- to offer this witness as an
24 expert in any way, but we need some follow-up, and
25 then I'll listen your objection, Mr. Harte.

JURY TRIAL, VOL. 2

1 MR. HARTE: -- well, my objection is that unless
2 she's an attorney, this is outside of -- this is
3 outside of any expertise that she could possibly
4 have.

5 THE COURT: Yes, sir, not necessarily, though.
6 I don't think an attorney is the only one that can
7 answer that question. So, Ms. Barbier?

8 BY MS. BARBIER:

9 Q Have you ever had rental properties, Ms. Hook?

10 A Yes, I have.

11 Q Okay. And you work for a real estate company that
12 currently has rental properties?

13 A I no longer -- my company no longer handles rentals.

14 Q Okay. But you have experience in that background?

15 A Yes, I do.

16 Q Okay. And so, I will ask you, do you know whether
17 someone --

18 MR. HARTE: Objection. Your Honor, if she's
19 going to be offered as an expert, then I want to
20 cross-examine her on her qualifications.

21 MS. BARBIER: I'm not offering her as an expert.
22 I'm just offering that she's -- this is -- these are
23 basic things of her profession.

24 MR. HARTE: No, Your Honor, they are not, and I
25 object to it.

JURY TRIAL, VOL. 2

1 THE COURT: Yes, sir. I think for her to speak
2 about the rental industry, she does need to be
3 offered as an expert in some fashion. I know you're
4 saying -- I believe you're not asking her to give an
5 opinion, but I need to know some basis that she may
6 have to -- to say this information.

7 MS. BARBIER: I'll -- I'll move on to her
8 familiarity with --

9 THE COURT: Thank you.

10 MS. BARBIER: -- the defendant, how about that?

11 THE COURT: That would be perfect. Thank you.

12 MS. BARBIER: Okay.

13 BY MS. BARBIER:

14 Q Ms. Hook, do you have -- you said you had an occasion
15 to meet Rhett Riviere; is that right?

16 A Yes.

17 Q Okay. Has -- and that was -- when did you meet him,
18 approximately, do you know?

19 A I think shortly after purchasing the home in '89.

20 Q All right. So you've known him since 1989?

21 A Yes.

22 Q Okay. And to your knowledge, has he and -- managed
23 rental properties in Aiken?

24 A Yes, he has.

25 Q Okay. Do you know whether he, when he was married to

JURY TRIAL, VOL. 2

1 Josee Riviere, whether they were managing rental
2 properties in 2000?

3 THE COURT: And Ms. --

4 MR. HARTE: Objection.

5 THE COURT: -- the question is, do you know
6 anything about that?

7 THE WITNESS: Yes.

8 BY MS. BARBIER:

9 Q Okay. Are you familiar with 985 Grace Avenue?

10 A Yes.

11 Q Okay. Are you familiar with 521 Two Notch Road?

12 A Yes.

13 Q Okay. Are you familiar with 115 3rd Avenue?

14 A Yes.

15 Q Are you familiar with 227 Old Wagener?

16 A Yes.

17 Q Okay. Are you familiar with 1032 Clark Avenue?

18 A No. I mean, I know it's one of the rentals, but the
19 other ones, visually, I know.

20 Q Okay. You know Clark Avenue was at one time a rental?

21 A Yes.

22 Q Okay. And how about 1011 South Boundary?

23 A Yes.

24 Q Okay. Are these properties that the Rivières were
25 known to rent over the --

JURY TRIAL, VOL. 2

1 MR. HARTE: Objection, Your Honor. Objection,
2 Your Honor.

3 THE COURT: Sustained.

4 MR. HARTE: I object.

5 THE COURT: Rephrase your question.

6 MR. HARTE: It assumes facts not in evidence.

7 It is -- it's -- it's --

8 THE COURT: Mr. Harte, I sustained your
9 objection and asked her to rephrase her question.

10 MR. HARTE: -- thank you.

11 BY MS. BARBIER:

12 Q Are these rental properties that you were familiar
13 with?

14 A Yes. I knew that they were offered in the community
15 and to other people as short-term and long-term rentals.
16 Yes.

17 Q Okay. And was that common knowledge in the Aiken real
18 estate market?

19 A Yes.

20 MR. MCCULLOCH: Your Honor, I would object to
21 that. I don't know how she could possibly know about
22 the common knowledge of the community.

23 THE COURT: I think she was a member of the
24 community.

25 MR. MCCULLOCH: Well, she was a member of the

JURY TRIAL, VOL. 2

1 community. She can testify to what she knows about,
2 Your Honor. And if she talked with people about it
3 being common knowledge, I guess that would qualify.

4 MR. HARTE: But, Your Honor, it is hearsay that
5 is disguised. It is not admissible. For her to use
6 that it is common knowledge, she is -- that is not
7 evidence of a character, it is not admissible. I
8 object to it.

9 THE COURT: I don't think common knowledge of
10 rental is evidence of character.

11 MR. HARTE: Exactly, Your Honor.

12 THE COURT: I agree with you on that point.

13 Ms. Barbier, let's move on from that question.

14 BY MS. BARBIER:

15 Q Did the Rivières frequently, if you know --

16 MR. HARTE: Your Honor, I'm going object to
17 this. This -- this -- this utilization of the word
18 "the Rivières" when there's been no indication that
19 this witness has any knowledge about Josee Riviere
20 whatsoever is improper, and I object to it.

21 MS. BARBIER: I'll -- I'll lay a foundation,
22 Your Honor, how about that?

23 THE COURT: Thank you.

24 MS. BARBIER: Yes, ma'am.

25 BY MS. BARBIER:

JURY TRIAL, VOL. 2

1 Q Ms. Hook, do you know Josee Riviere? Do you know who
2 she is?

3 A I know of Josee.

4 Q Do you know whether she was married to Rhett Riviere?

5 A Yes, she was.

6 Q Okay. And during the time period of their marriage,
7 do you know whether these properties were being offered
8 for rent?

9 A Yes, they were.

10 MR. HARTE: Could I get -- Your Honor, I didn't
11 hear that question. What was the question?

12 THE COURT: Did she know that those properties
13 that were listed were available for rent during the
14 time of their marriage.

15 MR. HARTE: Those -- those properties. Thank
16 you, Your Honor. No objection.

17 THE COURT: And the time of the marriage between
18 Rhett Riviere and Josee Riviere.

19 MR. HARTE: Well, I -- you know, I don't know
20 that this witness has established that she even knows
21 when these people were married. I think that should
22 be a beginning point.

23 THE COURT: Well, I think that's up to her to
24 say whether she knew that. You can certainly
25 cross-examine her on that point. Thank you.

JURY TRIAL, VOL. 2

1 MR. HARTE: We might get there, yes.

2 BY MS. BARBIER:

3 Q Ms. Hook, do you know when Josee and Rhett Riviere
4 were married?

5 A I think it was in the early 2000 era.

6 Q Do you know when they got divorced?

7 A I believe it was 10 or 11 years later.

8 Q Did -- to your knowledge, did Mr. Riviere frequently
9 deal with any particular real estate company in town for
10 these rentals?

11 A I think he dealt with several different agents:
12 Meybohm, several agents at Meybohm. Jane Page Thompson
13 had handled a barn rental that was where Marilyn lived and
14 where that barn was located right behind my house. She's
15 with the Carolina Company.

16 Q Were there any real estate agents at Meybohm that he
17 dealt with on a regular basis?

18 A The two that come to my mind, Deirdre Stoker
19 Vaillancourt and Suzy Haslup.

20 Q Other than renting these properties, did you know
21 Rhett or Josee Riviere to have a job?

22 A No.

23 Q Do you know Scott Riviere?

24 A I do.

25 Q Did you know of him to have a job?

JURY TRIAL, VOL. 2

1 A No.

2 Q Does Mr. Riviere, to your knowledge, still own 985
3 Grace Avenue?

4 A I believe he sold that property.

5 Q Do you know what the sale price was?

6 A 2.5 million.

7 MR. MCCULLOCH: Your Honor, again, I object to
8 relevance.

9 THE COURT: Let's move on, Ms. Barbier.

10 BY MS. BARBIER:

11 Q Ms. Hook do you know Teresa King?

12 A I do.

13 Q Is she a friend of yours?

14 A She's an acquaintance.

15 Q Okay. In August of 2019, did you learn that --

16 MR. MCCULLOCH: Objection, Your Honor. It's
17 leading: "Did you learn." What could be more
18 leading?

19 THE COURT: I understand. I'm not sure what was
20 going on here, and especially in the years of 2019.
21 Ms. Barbier, if you could please rephrase.

22 BY MS. BARBIER:

23 Q -- did you ever gain any information about some SD
24 cards being found?

25 A Yes, I did.

JURY TRIAL, VOL. 2

1 Q When you learned of these SD cards, how did it make
2 you feel?

3 MR. MCCULLOCH: Your Honor, I object to that. I
4 don't think that's relevant under any scenario.

5 THE COURT: I might be inclined to agree with
6 you on that. Ms. Barbier, let's deal with your
7 clients at hand, please.

8 BY MS. BARBIER:

9 Q Did you have a -- strong -- did you have a -- a strong
10 feeling about whether these SD cards should be turned into
11 law enforcement?

12 MR. MCCULLOCH: The same objection, Your Honor.
13 The same objection.

14 THE COURT: Yes, sir. Ms. Barbier, let's move
15 on from that.

16 BY MS. BARBIER:

17 Q Were you interviewed by SLED?

18 A Yes, I was.

19 Q Is Aiken a small community?

20 A Yes, it is.

21 THE COURT: All right. The question was, is a
22 can a small community.

23 MR. MCCULLOCH: Sorry, Your Honor. It's late in
24 the day.

25 THE COURT: I understand. I just want to make

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1 sure everybody hears everything.

2 MR. MCCULLOCH: I did not hear.

3 THE COURT: She said yes.

4 BY MS. BARBIER:

5 Q Do you recall when -- let me ask you this. Do you
6 know Gabriel and Heather Crespo?

7 A I know of them.

8 Q Do you recall when they moved to the Aiken community?

9 A Mid-2010, '11, '12.

10 Q So I think I -- I don't think you understood my
11 question. When they -- when they --

12 MR. MCCULLOCH: Well, Your Honor, I don't think
13 she can rehabilitate a witness who has indicated she
14 doesn't recall, basically.

15 THE COURT: No, she said sometimes that she
16 thought maybe. I'll let her keep going on that
17 question, though. The question was, does she know
18 when they moved.

19 BY MS. BARBIER:

20 Q I don't need the date, Ms. Hook. Okay? What I'm
21 asking you about is, was it a big deal when they moved to
22 town?

23 A They were definitely noticed when they came to town.

24 Q Why is that?

25 A Gabriel -- well, they're a very attractive couple.

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1 Gabriel was a highly respected polo player, and his wife
2 was very attractive. So yes, they were quite noticed.

3 Q And since -- have you had occasion to -- to learn
4 about any personality changes in Gabriel since this
5 investigation?

6 A Yes. It's -- he's had a --

7 MR. MCCULLOCH: Your Honor, I think that this
8 would require -- well, I object to any hearsay
9 testimony from this witness, unless she knows from
10 her own personal knowledge.

11 THE COURT: I think that's what she asked, did
12 she have occasion to know.

13 MR. MCCULLOCH: No. She indicated to the --
14 she -- my understanding was, are you -- do you have
15 -- are you aware of --

16 THE COURT: All right.

17 MR. MCCULLOCH: -- and she said that she was
18 aware of. We don't know have a basis of that
19 awareness.

20 THE COURT: That's correct. Ms. Barbier, please
21 follow up on this so we can know how to identify the
22 nature of the information.

23 MS. BARBIER: Okay. No, Your Honor, I'll move
24 on to a different topic.

25 THE COURT: Okay.

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1 BY MS. BARBIER:

2 Q Ms. Hook, do you have -- do you believe that, as a
3 realtor, do you have certain duties to your clients?

4 A Absolutely.

5 Q Okay. And do you believe you have any duty to
6 disclose material information to them?

7 A Always.

8 MR. HARTE: Objection. Her belief is not
9 relevant, Your Honor. The law establishes what the
10 duty is, not her belief, and I object to it.

11 THE COURT: I think Mr. Harte has a point as to
12 that. I think as a realtor she may state that there
13 is a duty to her knowledge as a realtor. I think we
14 can go on with that.

15 BY MS. BARBIER:

16 Q As a realtor, do you believe your tenants have a right
17 to privacy?

18 A As a realtor and under state law, they have a right to
19 privacy.

20 MR. HARTE: Objection.

21 THE COURT: Yes, sir.

22 MR. HARTE: Objection, Your Honor.

23 THE COURT: Yes, Your Honor -- I mean, yes,
24 Mr. Harte. It's sustained.

25 MR. HARTE: That's all right. I understand.

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1 THE COURT: We all keep saying the same things.
2 I'll sustain your objection as to that. I'll
3 instruct the witness that she's not to give
4 statements as to the law. The law is my job.
5 Unfortunately, you weren't here in the courtroom to
6 hear that earlier.

7 MR. HARTE: And please, Your Honor, may I have
8 an instruction to the jury to disregard that
9 testimony?

10 THE COURT: Yes, sir. And so -- and I think
11 that's pretty much what I was doing. Ladies and
12 gentlemen of the jury, you understand that I am going
13 to instruct you on the law. No witness from the
14 stand can instruct you on the law. Thank you.

15 BY MS. BARBIER:

16 Q Ms. Hook, as a realtor, do you believe it's
17 appropriate for a landlord to have a hidden camera in a
18 bathroom?

19 A Absolutely not.

20 Q And as a realtor, do you believe it's appropriate for
21 a landlord to have a hidden camera pointed at the bed?

22 A Absolutely not.

23 MS. BARBIER: Your Honor, subject to your
24 previous rulings, I don't have any further questions
25 for this witness.

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1 THE COURT: Thank you, ma'am.

2 MR. MCCULLOCH: Nothing, Your Honor.

3 THE COURT: Mr. McCullough?

4 MR. MCCULLOCH: Nothing.

5 THE COURT: Mr. Harte?

6 MR. HARTE: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. HARTE:

9 Q Good afternoon, Ms. Hook.

10 A Good afternoon, Mr. Harte.

11 Q If you could perhaps tell me when Josee Riviere first
12 came to Aiken, South Carolina.

13 A I don't know, exactly when.

14 Q Well, give me a rough idea.

15 A I can't answer that.

16 Q Was it in the 1980s?

17 A No.

18 Q Was it in the 1970s?

19 A No. Tiger was married to Chris Riviere. I don't know
20 when she first came to Aiken to visit and look at Aiken.

21 I don't know.

22 Q Do you know when she moved to Aiken?

23 A No.

24 Q Do you know where she lived when she first moved to
25 Aiken?

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1 A No. I don't no anything about Josee's traveling to
2 and from Aiken or when she started coming to Aiken and
3 visiting Aiken.

4 Q Well, you must know how much property she owned in
5 Aiken?

6 A I can't say specifically what she owns personally, no.

7 Q Well, tell us how many pieces of property she owned
8 jointly with Rhett Riviere?

9 A I've never explored that, what she has owned with
10 Mr. Riviere.

11 Q Would it surprise you to know that there are zero
12 pieces of property that she has ever owned with Mr.
13 Riviere? Would that surprise you?

14 A Yes.

15 Q So if that is true, then that's -- that -- that would
16 demonstrate you really don't know a lot about Josee
17 Riviere, do you?

18 A No.

19 Q As a matter fact, when I asked you in your deposition,
20 you indicated you just barely knew her, didn't you?

21 A That's correct.

22 Q And that's still true today, isn't it?

23 A Yes, it is.

24 Q I mean, you haven't been to her house for dinner, have
25 you?

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1 A No.

2 Q You haven't been out to dinner with her, have you?

3 A No.

4 Q You don't socialize with her, do you?

5 A No.

6 Q Now, just so we're clear on where everybody stands,
7 you are actually represented in some matters by the
8 attorney who just questioned you; isn't that true?

9 A After this case --

10 Q Excuse me, ma'am, if I ask you a question that's a yes
11 or no, you may answer the question only with the word yes"
12 or "no," and then you can explain.

13 THE COURT: Mr. --

14 BY MR. HARTE:

15 Q Yes or no -- excuse me?

16 THE COURT: -- Mr. Harte, excuse me. He's
17 correct. First answer yes or know. You'll be given
18 a time to explain how you might know. We'll caution
19 you we have some objections as to your explanations,
20 because there are rules and procedures to the
21 testimony. I think you've caught up to that by now.
22 Please just answer yes or no first and then we'll
23 give you time to allow. Correct, Mr. Harte?

24 MR. HARTE: That is correct.

25 BY MR. HARTE:

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1 Q Yes or no?

2 A What was the question again?

3 Q Are you -- have you been recently represented by
4 Debbie Barbier?

5 A Yes.

6 Q Just so we're clear, you're not particularly fond of
7 Rhett Riviere, are you?

8 A No.

9 Q Have you ever actually had a one-on-one conversation
10 with Josee Riviere?

11 A Not that I can recall.

12 MR. HARTE: I apologize, Your Honor. It just
13 takes me a few minutes.

14 THE COURT: No problem, sir. As we noted
15 earlier, there's a lot of paper.

16 BY MR. HARTE:

17 Q Have you ever had a conversation with any living
18 person -- strike that, Your Honor.

19 THE COURT: Thank you.

20 BY MR. HARTE:

21 Q So -- so I'm clear, you didn't know that Josee had no
22 interest in any properties owned by Rhett Riviere? You
23 didn't know that until today; is that correct?

24 A If that's what you're telling me, no, I did not know
25 that.

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1 Q All right. You don't know when she came to Aiken?

2 A No.

3 Q So if it wasn't until 1999, you wouldn't have known
4 that, would you?

5 A I remember when Josee was with Tiger and after his
6 divorce with Chris, seeing her about Aiken. But I don't
7 know when she moved here or when they got together.

8 Q Fair enough. You don't know when they divorced?

9 A Not exactly, no.

10 Q Do you know where she came from?

11 A I believed that she came from Florida, 'til the
12 deposition. I was told she lived in Florida when she came
13 here.

14 Q But you learned that in the deposition?

15 A No. That's what I said in the deposition, someone had
16 said she came from Canada.

17 Q Somebody said it?

18 A I believe you did.

19 Q Where did she grow up?

20 A Just her -- Diedre outside saying Montréal area.

21 Q Yeah. You didn't know that before today, did you?

22 A I think you brought that up somewhere in -- someone
23 brought it up in the deposition that she's
24 French-Canadian.

25 Q I mean, the simple fact of the matter is, Ms. Hook,

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1 that you really don't know anything about Josee Riviere,
2 do you?

3 A Pretty much just what I've been told or what Tiger had
4 said to me directly.

5 MR. HARTE: No further questions, Your Honor.

6 THE COURT: Thank you, sir. Any follow-up?

7 MS. BARBIER: Just briefly, Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. BARBIER:

10 Q Ms. Hook, Mr. Harte asked you whether or not you were
11 fond of Rhett Riviere. Do you recall that?

12 A I certainly do, yes.

13 Q And you said you were not fond of him; is that right?

14 MR. MCCULLOCH: And, Your Honor, I'm going to
15 object to any line of inquiry beyond that point.

16 MS. BARBIER: Your Honor, the door has been
17 opened.

18 MR. MCCULLOCH: Well, Your Honor, let's
19 approach.

20 (Bench conference.)

21 THE COURT: Ms. Barbier, please proceed.

22 MS. BARBIER: Thank, Your Honor.

23 BY MS. BARBIER:

24 Q Ms. Hook, you were asked whether or not you were fond
25 of Mr. Riviere. Do you recall that?

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1 A I do recall that.

2 Q And you said you were not fond of him. Do you recall
3 that?

4 A I do recall that.

5 Q Tell this jury why you're not fond of Rhett Riviere.

6 A Rhett lived -- his mother owned the property right
7 behind me. Rhett lived in one of the homes, and he would
8 frequently visit my property uninvited. I would find him
9 -- my ex-husband and I -- on our property. He showed up
10 one evening. He was coming out of a tree. And when we
11 pulled in, it was dusk, about dusk, and we asked him what
12 was going on, and he said he was getting his mother's
13 peacocks moving towards her house. But there were no sign
14 of peacocks whatsoever. He's an extremely unusual man.

15 MR. MCCULLOCH: Your Honor, I'm going to object
16 to this.

17 THE COURT: I'll sustain that portion of it.

18 MS. BARBIER: I'll move on, Your Honor.

19 BY MS. BARBIER:

20 Q You were also asked -- you were also cross-examined by
21 Mr. Harte on whether he -- he made a statement that you
22 don't really know anything about Josee Riviere. Do you
23 recall that?

24 A Yes, I do.

25 Q Okay. Do you have an understanding of Josee Riviere's

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1 knowledge --

2 MR. HARTE: Objection.

3 THE COURT: Yes, sir. I'm going to ask the jury
4 to leave on this point.

5 (The jury exited the courtroom.)

6 THE COURT: Okay. Before Mr. Harte begins, for
7 the record, Mr. Harte had asked if the witness was
8 fond of Mr. Riviere, to which she replied, no. We
9 then held a sidebar because upon the client
10 testimony, in which case defendant -- I think it's
11 picked up on the mic, but just in case it's not --
12 the counsel for Rhett Riviere and the counsel for
13 Josee Riviere argued that that was not opening the
14 door into other testimony as to the relationship and
15 what Mr. Riviere did. I had ruled that it was and
16 that she could ask her why she was not fond of Mr.
17 Riviere, which has occurred. I think that was within
18 -- that -- those statements right now are within the
19 ruling, and including the witness's testimony as to
20 what Mr. Riviere said he was doing that night.

21 Now, I think the line of questioning we're
22 talking about now is that, Mr. Harte said you don't
23 really know Josee Riviere. And to put on the record
24 too, Mr. McCulloch objected to -- to my ruling as to
25 opening the door as to his client when it was

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1 questioning by Mr. Harte for his client. And I have
2 allowed the testimony go forward. Mr. Harte has now
3 objected as to the reply questions to say why or how
4 Ms. Hook knows or what she knows of Josee Riviere.
5 Mr. Harte?

6 MR. HARTE: Yes, Your Honor, because it invites
7 hearsay. She can ask her what she directly -- I
8 won't object if she says what did you of your own
9 knowledge know about Josee Riviere. I will not
10 object to that because I can't object to that. But
11 when she starts into what is your understanding and
12 that sort of thing, she is inviting the conclusion.
13 It is based on hearsay, and it's an improper
14 foundation, and it's inadmissible.

15 THE COURT: I'm not sure of that. Ms. Barbier,
16 what I'd like you to do is proffer that testimony now
17 so I can know exactly what her answer would be.

18 MS. BARBIER: Okay.

19 PROFFERED TESTIMONY OF SUSAN HOOK

20 BY MS. BARBIER:

21 Q Ms. Hook, do you have an understanding of Josee
22 Riviere's knowledge of hidden cameras in her own
23 properties that were managed by Mr. Riviere -- Mr.
24 Riviere?

25 A I believe Josee Riviere was aware that there were

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1 recording devices in the rental properties.

2 MS. BARBIER: That's the proffer, Your Honor.

3 MR. HARTE: She's not qualified make any sort of
4 a statement like that, Your Honor. That's utterly
5 absurd. There's been no testimony at all from her
6 own that she would have the kind of knowledge.

7 THE COURT: Mr. McCullough?

8 MR. MCCULLOCH: Well, Your Honor, in as much as
9 -- as another door opening by a different defendant
10 who asked the question that I don't think goes opens
11 the door, but the effect, if you allow the testimony,
12 Your Honor, is directly prejudicial to my client. I
13 think I'm entitled to say that this is wholly without
14 foundation, unless Josee Riviere has told her that.
15 That's about the only way it's not opinion,
16 speculation, sheer satisfaction for Ms. Barbier.

17 MS. BARBIER: Your Honor, there's few follow-up
18 questions I could ask her.

19 MR. MCCULLOCH: It's extraneous.

20 THE COURT: Okay. That's all you've proffered
21 so far.

22 BY MS. BARBIER:

23 Q Ms. Hook, do you know whether -- did you ever learn
24 that Ms. Riviere was requiring Mr. Riviere to sell certain
25 rental properties?

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1 THE COURT: All right. Ms. Barbier, I want you
2 to ask the questions as you -- as if the jury were in
3 here, because I want to make sure that you are asking
4 appropriate questions. And I want -- I just -- that
5 may be what you're getting into, and I know you're
6 on-they-fly, but I just want to make sure that they
7 witness is testifying, not you.

8 MS. BARBIER: All right.

9 BY MS. BARBIER:

10 Q Then, first of all, Ms. Hook, do you -- do you have a
11 belief of whether Josee Riviere had knowledge of cameras
12 in the rental properties managed by her and Mr. Riviere?
13 Let me say that again. I'm sorry. Do you have a belief
14 or an understanding of whether Josee Riviere knew or had
15 knowledge of hidden cameras in the rental properties?

16 A I believe she did.

17 Q And did you have an occasion to see Mr. Riviere -- did
18 he pull up in your driveway?

19 A Yes, he did. I have a side driveway that he pulled up
20 to one day with this girlfriend at the time, Catherine
21 Thomas.

22 Q Okay. And do you know what he was doing?

23 A Mr. Riviere told me that he was touring Catherine
24 Thomas around, showing her the rental properties that
25 Josee Riviere forced him to sell.

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1 Q The oak tree that you saw Mr. Riviere climbing out --

2 MR. HARTE: Excuse me, Your Honor, can we deal
3 with that first? I have -- that is -- that is
4 absolutely inadmissible. First of all, that
5 conversation had to have occurred at least 10 years
6 after my client had anything to do with Mr. Rhett
7 Riviere. Secondly, Your Honor, the fact that she may
8 or may not have assisted on him selling the
9 properties is totally relevant to this case. There's
10 no -- there's no nexus to what they're alleging here
11 in this case. All it does is prejudice the jury.
12 It's not relevant.

13 THE COURT: Mr. McCulloch, do you have anything
14 to add?

15 MR. MCCULLOCH: Well, Your Honor, it is
16 irrelevant unless there is relevance. I haven't
17 heard anything that makes it relevant.

18 THE COURT: Is that hearsay within hearsay?

19 MR. MCCULLOCH: Well, no. It's a matter of
20 relevance. It is irrelevant and, therefore, it is
21 inadmissible. Nothing about that conversation with
22 Rhett Riviere, which is going to be vaguely described
23 as a conversation had years ago, presumably, is not
24 -- it's not probative, it's not relevant, unless they
25 can make it relevant. I haven't heard another

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1 question to make it relevant. If I may go back to --
2 for some reason, we tactfully avoid asking her when
3 she says I believe he did, why would she believe
4 that? I haven't heard an answer to that. I haven't
5 heard the question asked. But I don't think she
6 should be entitled to answer. It's -- it's her
7 opinion, it's speculation, it's her belief.
8 Inadmissible, prejudicial, and I object to that.

9 MR. HARTE: And, Your Honor, let me be clear. I
10 have in my hand her sworn testimony: "Do you know,
11 can you cite me any person who you say has had a
12 conversation with Josee Riviere in which Josee
13 Riviere -- any living person -- let me back up. Can
14 you cite me any living person who has had a
15 conversation with Josee Riviere in which Josee
16 Riviere acknowledged or said or intimated that she
17 knew Rhett Riviere was a peeping Tom before this
18 event came up with Catherine Thomas?" And her answer
19 was "No," under oath, Your Honor. And she testified
20 that she had never had -- that Josee Riviere had
21 never said to her anything like that. She is basing
22 her statement of belief on thin air and some weird
23 hearsay concept that is not permitted in South
24 Carolina.

25 THE COURT: Ms. Barbier, do you have anything

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1 else to ask Ms. Hook about her knowledge of Josee
2 Riviere, because the -- the thing that was opened was
3 you don't know Ms. Riviere. I think what you can go
4 into is her knowledge of Josee Riviere. Is there
5 anything other than the statement made against
6 interest of Josee Riviere by Rhett Riviere, a
7 codefendant, in this matter?

8 MS. BARBIER: Well, Your Honor, I can ask her
9 about the time period that she lived in the house
10 that he drove up in the driveway. And that -- that
11 coincides with --

12 THE COURT: I'm asking you to ask what is --
13 what is the testimony you're trying to elicit about
14 her knowledge of Josee Riviere, because that is the
15 door that was opened.

16 MS. BARBIER: This -- this witness's
17 understanding, based on much discussion within the
18 real estate community in Aiken that Mr. Riviere had
19 been caught with hidden cameras in rental properties
20 by other equestrian girls that had rented and gotten
21 in trouble for that. And that -- and -- and Ms. Hook
22 learned that because of those incidents, she was
23 forcing him to sell rental properties.

24 MR. HARTE: No, Your Honor. That is not what's
25 -- that is not what the witness testified to.

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1 THE COURT: That's not what the witness
2 testified to. I agree, Mr. Harte, but we're going to
3 let her finish her argument. Okay?

4 MS. BARBIER: This is the basis of her
5 knowledge, Your Honor. And so when the night that
6 Mr. Riviere pulled in with Catherine Thomas to her
7 driveway and she asked what he's doing, he made a
8 statement against his interest which was, Josee is
9 forcing me to sell these rental properties.

10 MR. HARTE: Your Honor, now, I can see this --
11 Josee could not possibly be forcing him in the year
12 2000 or something or other to sell those properties.
13 Ms. Barbier knows the difference between the word
14 "is" and "did." She is trying to take a statement
15 that was made decades afterward.

16 THE COURT: Calm down. Everyone calm down. I'm
17 listening to the arguments made. I understand what
18 you're saying.

19 MR. HARTE: And the statement he made was that
20 she was forcing, not -- she was forced, not forcing.

21 THE COURT: Well, I don't know. What did --

22 MR. HARTE: And she wants to say -- this witness
23 lawyer wants to say --

24 THE COURT: Mr. Harte, we'll see. What was the
25 statement made by Ms. Hook that you said -- he said

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1 Josee Riviere did what.

2 THE WITNESS: Forced him to sell rental
3 properties, his rental properties. He was touring
4 his girlfriend at the time, Catherine Thomas. He
5 pulled up at my house, and that's what came out of
6 his mouth, that he was showing Catherine Thomas the
7 rental properties Josee Riviere forced him to sell.
8 He was forced.

9 THE COURT: Ms. Barbier, I don't think that goes
10 to knowledge of Ms. Riviere herself. I think the
11 only thing you could possibly argue to get that in is
12 that it's some sort of statement against interest
13 with these codefendants. Now, in criminal court, I
14 know that wouldn't be allowed for the codefendants,
15 but I don't think we're going into that part. As to
16 the other, that he frequently showed up and visited
17 (unintelligible) I think we've already gotten that
18 testimony in, and I think that's proper in your
19 reply. Is there anything else?

20 MS. BARBIER: I just would like to ask her one
21 more question --

22 THE COURT: Yes, ma'am.

23 MS. BARBIER: -- and then the reply, Your Honor,
24 and that is the location of the tree that she saw him
25 climbing out in -- in comparison to her house.

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1 THE COURT: Okay. I think that's okay. Go
2 ahead and proffer that so we can hear the arguments
3 now, please.

4 MR. MCCULLOCH: Your Honor -- go ahead.

5 BY MS. BARBIER:

6 Q Ms. Hook, did you -- do you recall where the tree that
7 you saw Mr. Riviere climbing out of was located on your
8 property?

9 A Yes. It was located right next to my bathroom window,
10 which went on into a dressing room. And I suppose if
11 someone --

12 THE COURT: No, ma'am. That -- that you have
13 answered the question. Her question was, what's the
14 location of the tree, and you answered as to the
15 location of the tree in relation to your house.
16 We're not going to do any speculation or statements
17 of what anyone else has told you.

18 MR. MCCULLOCH: And -- and, Your Honor, I would
19 say that since neither Mr. Harte or I asked about
20 that, that this is improper reply.

21 THE COURT: No, sir. I'm going to allow that
22 because the statement was that she was not fond of
23 Mr. Riviere. She stated she's not fond of him
24 because he frequently visited uninvited and one
25 night, she found him climbing out of her tree at

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1 around dusk, and he purported to be getting his
2 mother's peacocks.

3 MR. MCCULLOCH: Peacocks.

4 THE COURT: And that statement was allowed in
5 without objection, as to his statement as to why he
6 was there. So the jury has heard that, and I think
7 Ms. Barbier can follow up with an idea of where the
8 tree was located. And then that's it, Ms. Hook.

9 MR. HARTE: Your Honor, and it has to be tied to
10 the year which was now 40 or 50 years ago. Yeah, 40,
11 I believe it was.

12 THE COURT: Mr. Harte, I don't -- and you're
13 growing older by the minute.

14 MR. HARTE: Well, I am, Judge, and it's getting
15 horrible, it's getting bad, I promise you.

16 MS. BARBIER: Your Honor, and I could ask her
17 about --

18 THE COURT: Mr. McCulloch hasn't sat down yet.

19 MS. BARBIER: -- oh, I'm sorry.

20 MR. MCCULLOCH: Your Honor, I want to go back to
21 the -- her belief that Josee knew Rhett had hidden
22 cameras. I object to that. I don't think that any
23 foundation has been established for that. She
24 believes -- I don't care what she believes. I care
25 about what she knows of her own personal knowledge.

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1 THE COURT: If I wasn't clear, I'm not allowing
2 that testimony.

3 MS. BARBIER: All right. Thank you. That was
4 not clear, and that may be my fault.

5 THE COURT: It was probably mine.

6 MS. BARBIER: After I ask her about the location
7 of the tree, I'm going to ask her, with the Court's
8 permission, what her and her husband did. They hired
9 a security company, and someone could come check on
10 and protect their property.

11 MR. MCCULLOCH: That has nothing to do with
12 allowing her to even ask this question, Your Honor.
13 It's not in pursuit of why she doesn't like him.

14 THE COURT: I'm going to agree with Mr.
15 McCulloch on that. Let's -- let's stick to why she's
16 not fond of Mr. Riviere. I think we have jurors
17 that, in my estimation, are pretty smart on these
18 things, so I don't think we need to hit them over the
19 head with it.

20 MS. BARBIER: I'll just ask her about the
21 location of the tree, and we'll be done.

22 THE COURT: Let's bring the jury in.

23 (The jury entered the courtroom.)

24 THE COURT: I have not reminded you all, but
25 I'll remind you all again that every time you go out

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1 of here, you're not to discuss the case and the
2 evidence that's been presented up until that point.

3 Okay? Thank you. You may proceed.

4 MS. BARBIER: Thank you, Your Honor.

5 BY MS. BARBIER:

6 Q Ms. Hook, you indicated that you and your husband came
7 home at dusk one night and saw Mr. Riviere climbing out of
8 a tree on your property?

9 A That's correct.

10 Q Can you please tell the jury where the tree is located
11 on your property?

12 A It was located directly out of my bathroom and
13 dressing room-bedroom area.

14 MS. BARBIER: I don't have any other questions.

15 Thank you, Your Honor.

16

17 MR. MCCULLOCH: Nothing.

18 THE COURT: Mr. Harte?

19 MR. HARTE: Nothing further, Your Honor.

20 THE COURT: All right. Ms. Barbier, is this --
21 would you like this witness excused for the duration
22 of the trial?

23 MS. BARBIER: Yes, Your Honor.

24 THE COURT: Then you're so excused. Thank you,
25 Ms. Hook, for being here. Do you have another

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1 witness?

2 MS. BARBIER: We have another witness that I
3 think is short, Your Honor.

4 THE COURT: Okay. We have time. We've said
5 we'll work 'til 6:00, at least. It's almost 5:24.

6 MS. BARBIER: Your Honor, the plaintiffs' next
7 witness is Agent Britt Dove.

8 THE CLERK: Place your left hand on the Bible
9 and raise your right hand.

10 (the witness was sworn in.)

11 THE CLERK: Please take a seat in the witness
12 stand. State your full name for the Court, and spell
13 your last name.

14 THE COURT: Okay. Please be quiet.

15 MR. HARTE: May it please the Court, my client
16 is going to leave for the restroom, and she will
17 return momentarily.

18 THE COURT: Okay. And I will let the jurors
19 know, while you all are back, we continue to work.
20 Most times, we don't always get our bathroom breaks
21 while you're getting your bathroom breaks. So if
22 someone -- we have several members of the teams
23 involved in this case and at counsel table, and
24 you've seen my clerk walk in and out as well.
25 Sometimes that's what's happening, we're trying to

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1 get through everything in this matter as
2 expeditiously as we can. Okay? Thank you. You may
3 proceed.

4 MS. BARBIER: Thank you, Your Honor.

5 BRITT DOVE

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

8 DIRECT EXAMINATION

9 BY MS. BARBIER:

10 Q Did you state your name on the record?

11 A No, ma'am. I didn't get a chance.

12 Q Please do so.

13 A Yes, ma'am. Is David Britton Dove, D-O-V-E, and I go
14 by Britt Dove.

15 THE DIGITAL REPORTER: Can you state your last
16 name again?

17 THE WITNESS: Dove, D-O-V-E.

18 BY MS. BARBIER:

19 Q Like the bird?

20 A The bird.

21 MS. BARBIER: Your Honor, I beg the Court's
22 indulgence one moment.

23 THE COURT: Yes, ma'am.

24 BY MS. BARBIER:

25 Q Lieutenant Dove, good afternoon.

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1 A Good afternoon.

2 Q Thank you for your patience this afternoon. Where are
3 you currently employed?

4 A I'm employed with the South Carolina Law Enforcement
5 Division in the computer crimes center.

6 Q Can you please tell the jury what computer crimes
7 center does at SLED?

8 A The computer crimes center at SLED has several
9 different functions. One of the main functions we do is
10 digital forensics on items that are submitted from either
11 our agents or outside agencies. Once an item is
12 submitted, we will go through and do the forensics on it,
13 extract information, and produce reports. We also assist
14 in investigations into ransomware. This is e-mail
15 compromises, it's Internet against children
16 investigations.

17 Q Lieutenant Dove, how long have you worked in law
18 enforcement?

19 A I've worked in law enforcement for 24 years.

20 Q Do you have any certifications?

21 A Yes, ma'am. I'm currently certified with Cellebrite
22 as a certified operator. Also, with Cellebrite is a
23 physical analyst. Also, I have certification for advanced
24 cell phone forensics with Cellebrite. I also have a
25 Magnet Axion computer forensics certification, along with

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1 several others.

2 Q Did you have an occasion -- or were you asked to
3 perform a review of electronic devices in this
4 investigation of Rhett Riviere?

5 A Yes, ma'am, I was.

6 Q Okay. How many devices did you examine?

7 A I would have to see the notes. I believe it was over
8 40 items, about 41 items, is what I recall.

9 Q And as part of your examination, were these devices
10 mirror-imaged?

11 A What we did is any device that was not a mobile
12 device, such as a cell phone or a tablet, we created a
13 forensic image of that device at bar drop [ph], which
14 would be a forensic copy -- a bit-by-bit copy of the
15 addressable area in that bar drop[ph]. If it was a mobile
16 device, such as a cell phone or a tablet, we then would
17 extract any information referencing from it.

18 Q Do you all take photographs of the devices before you
19 perform a review?

20 A Yes, ma'am. Part of our procedure when items are
21 logged into our lab is we will do what's called intake
22 photos. We'll take photographs to document the condition
23 it came in. Also too, to be able to have a picture of the
24 device and look back at it. The person doing the intake
25 is not the examiner. We'll also do examination photos as

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1 part of our practice when we're doing the extractions.
2 Once those are done, we'll take photos. If it's a mobile
3 device, maybe the call logs or text messages or photos or
4 other things on the device.

5 Q Did you do that in this case?

6 A Those photos were taken. I was present when they were
7 taken. I believe one of them actually shows me in the
8 background of it.

9 Q I'm going to show you what I've marked as Plaintiff's
10 Exhibit 16.

11 THE COURT: Does opposing counsel -- do you all
12 have this exhibit?

13 MR. GRIFFIN: Yes, Your Honor.

14 THE COURT: Mr. Harte?

15 MR. HARTE: Yes, I do, Your Honor.

16 THE COURT: Thank you.

17 BY MS. BARBIER:

18 Q Lieutenant Dove, do you recognize those documents?

19 THE COURT: And this is all marked as
20 Plaintiffs' 16?

21 MS. BARBIER: Yes. And, Your Honor, I know we
22 -- we put the screen down. I don't -- I don't need
23 to publish those today, but I would ask permission to
24 publish them tomorrow or the next day.

25 THE COURT: Well, we can't always publish the

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1 whole batch at once. Well --

2 MS. BARBIER: Excuse me?

3 THE COURT: I said, you can't always publish the
4 whole batch unless (unintelligible).

5 MS. BARBIER: That's true too.

6 THE COURT: Ms. Barbier, just for my knowledge,
7 how many pages is in Exhibit, 16 do you have any
8 idea?

9 MS. BARBIER: I would have to count, Your Honor.

10 THE COURT: I just want to make sure we keep up
11 with everything.

12 MR. GRIFFIN: 41.

13 MR. MCCULLOCH: Around 41, Your Honor, we think.

14 MR. FEW: It's more than that. I think it's 73,
15 but hang on a second. It is 73, I believe.

16 THE COURT: You might want to make sure you have
17 everything.

18 BY MS. BARBIER:

19 Q Lieutenant Dove, do the -- do the photographs
20 accurately depict the electronic devices that you
21 reviewed?

22 A Yes, ma'am, they do so far.

23 Q And are these photographs and documents that you use
24 in the regular course of business at SLED?

25 A Yes, ma'am, we did.

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1 Q Were they part of the investigative file?

2 A Yes, ma'am.

3 MS. BARBIER: Your Honor, I move Exhibit 16 into
4 evidence.

5 (Plaintiff's Exhibit 16 was moved
6 for admission into evidence.)

7 MR. GRIFFIN: No objection.

8 THE COURT: Mr. Harte?

9 MR. HARTE: No objection.

10 THE COURT: So admitted.

11 (Plaintiff's Exhibit 16 was
12 admitted into evidence.)

13 THE COURT: And this is plaintiff's -- is this
14 Plaintiff's 16 for this purpose, or is this
15 Plaintiff's 15?

16 MS. BARBIER: It's Plaintiff's 16.

17 THE COURT: Okay.

18 BY MS. BARBIER:

19 Q Lieutenant Dove, do you recall at some point SLED
20 receiving a subpoena for records and an order of
21 inspection from the Court for some lawyers in this case to
22 receive the evidence that you all seized?

23 A Yes, ma'am, I do.

24 Q And did you provide those -- us with copies?

25 A Yes, ma'am, I did.

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1 Q And did you make exact copies of the things that were
2 seized for the lawyers that requested it?

3 A Yes, ma'am, I did.

4 Q Okay. There were no changes or anything that was
5 materially altered from the copies you made?

6 A No, ma'am.

7 Q So how much data was contained in these collective
8 devices that you reviewed?

9 A Almost 4 terabytes of data.

10 Q Did you review all 4 terabytes of data?

11 A I went through the examples of the ones I was able to
12 look at. It -- we look for certain things based off of
13 what the investigators ask us to once they submit the
14 items.

15 Q Did you do a preliminary review of the devices?

16 A Yes, ma'am.

17 Q Okay. And then, after your preliminary review, did
18 you do a more in-depth review?

19 A Yes, ma'am. After the investigator and I spoke, I
20 went through and did additional looking for information in
21 the case.

22 Q Did you find any videos or images that were of
23 evidentiary interest?

24 A Yes, ma'am.

25 Q Can you describe for the jury what types of videos you

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1 found?

2 A Many of the videos I found in their were of some of
3 just generic stuff, I would call it, maybe somebody riding
4 a horse. And then there would be other things of people
5 clothed in a bedroom or unclothed in a bathroom.

6 Sometimes people unclothed in the bedrooms are in the
7 process of getting undressed, as far as with the videos.

8 I found that. Some of the devices we had were like a --
9 as far as nautical where was used for nautical items, too.

10 Q Did you find any images that were sexually graphic?

11 A Yes, ma'am, I did.

12 Q And do you have them -- I mean, did any of them appear
13 to come -- to come from hidden cameras?

14 A They all came from a camera. Some, it's hard to tell.
15 It looked like there were some where it was male that was
16 adjusting it in a bedroom, standing in front of it and
17 adjusting it. So it's hard to tell if that was a
18 stationary camera or if that was a hidden camera. I know
19 some of the devices that were recovered that were
20 submitted for me to examine were ones that could have a
21 hidden camera in their and then have, like, a microSD card
22 placed inside and recording.

23 Q As -- as part of your review, did you bookmark
24 hundreds of videos of interest?

25 A Yes, ma'am. It was -- I don't remember the exact

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1 count. I would probably say it was over thousands of
2 images and videos.

3 Q And we're not going to review thousands of videos
4 here. Did you receive, pursuant to the Court's ruling, a
5 -- ten videos?

6 A Yes, ma'am.

7 Q Okay. And did you cross-reference those videos with
8 videos that you found in your review of these devices?

9 A Yes, ma'am, I did.

10 Q Okay. Was one of those videos a video of Heather and
11 Gabriel Crespo?

12 A That was the name on the video that it was named.

13 Q It was -- what was it named?

14 A It was named Heather and Gabriel.

15 Q And the -- the ten videos that you were provided, did
16 those come from the devices of Mr. Riviere?

17 A Yes. They were a part of the devices that were
18 submitted to us for examination from a search warrant.

19 Q Now, do you have the thumb drive that contains those
20 ten images?

21 A No, ma'am, I do not.

22 Q Is it -- did you -- did you not bring it in the
23 courtroom?

24 MR. HARTE: Your Honor, may it please the Court?

25 THE COURT: Yes, sir.

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1 MR. HARTE: May we approach?

2 THE COURT: Yes, sir. Ladies and gentlemen of
3 the jury, we've done this once, and to keep you all
4 from going in and out, sometimes we just try to talk
5 over here real quick. Okay?

6 (Bench conference.)

7 THE COURT: Ladies and gentlemen of the jury,
8 there's a scheduling issue that has come up. I'm
9 going to ask you to step out. We're going to take a
10 quick bathroom break to deal, we're going to deal
11 with the scheduling issue, and then we're going to
12 call you back to hear the rest of the testimony. We
13 may go a little beyond 6:00. Okay? If you need to
14 make arrangements for that, please do so.

15 (The jury exited the courtroom.)

16 THE COURT: Shut the door for a second. Okay.
17 For the record, we had a sidebar related to two
18 matters. One is Lieutenant Dove stated that he did
19 not have the thumb drive, in which case plaintiffs'
20 counsel testified that she had identified the videos
21 to him by -- by the file number that was on the
22 document. We have another matter to take up as well.
23 Mr. Dove is still on the stand. If we have that
24 thumb drive and he can look at that right here, we
25 will allow him to do so in order to authenticate that

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1 thumb drive for presentation. Separately, Mr. Dove,
2 what that means is you're still under oath. I'll let
3 you go in the corner pr something like that. You
4 can't discuss your testimony with anyone, and you
5 can't discuss the evidence. You can review that
6 thumb drive merely for the purposes of seeing if
7 that's what you understanding you're talking about
8 they are on the same videos.

9 Secondly, we did rule in pretrial matters on
10 Friday that all witnesses would be sequestered. It
11 was not brought up again this morning, although all
12 the attorneys had acknowledged that in the sidebar
13 that they understood the sequestration. I'm not
14 saying that correctly, but you understand that all the
15 witnesses will be separate. They have been out. I
16 have noted today, and I meant to bring this up
17 earlier, that the witnesses have all been coming in
18 and out of the back door of the courtroom. They have
19 been in separate areas of the courthouse. I was
20 notified that the bailiffs have been instructing all
21 witnesses that they cannot come forward and have them
22 identifying witnesses as they come into the courtroom.
23 We've also made note, I don't think everybody has any
24 knowledge any witnesses that have been in the
25 courtroom, but we have had an issue with another

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1 witness come forward as to whether they are
2 sequestered in that they are not discussing this case
3 with each other, not only not -- not present in the
4 courtroom to hear other testimony. And I'd like to
5 deal with that issue while Lieutenant Dove reviews
6 this thumb drive. Is there any objection to that
7 procedure?

8 MR. GRIFFIN: No -- no, Your Honor. I just want
9 to put something on the record. I will tell you that
10 we have a continuing objection to his testimony about
11 there were other videos that we've seen and then he
12 said a thousand, and I just want to be sure we're
13 protected on the record that we, ad nauseam, Mr.
14 McCulloch has been objecting to that.

15 THE COURT: Yes, sir. And he did mention
16 4 terabytes, but there's been no testimony that those
17 terabytes were all videos or all videos of your
18 client or the alleged misconduct that's at litigation
19 here. It's just that a bunch of stuff was taken from
20 his house, and that was 4 terabytes. So I don't
21 think that is extremely prejudicial at this point to
22 you. I do understand that the witness listed a
23 thousand files, and we were limiting the number of
24 files, so we will not go any further into the number
25 of files that were involved.

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1 MR. MCCULLOCH: Your Honor, may I ask?

2 THE COURT: I'll instruct the witness too that
3 we're only talking about ten videos for any other
4 questions that you --

5 THE WITNESS: Yes, ma'am.

6 MR. MCCULLOCH: May I look over his shoulder,
7 because I haven't had a chance to access those ten?

8 THE COURT: Certainly.

9 MR. MCCULLOCH: If that doesn't make Mr. Dove
10 nervous.

11 THE WITNESS: No, sir. That's fine.

12 MR. MCCULLOCH: I promise not to -- to do
13 anything that was --

14 MS. BARBIER: Your Honor --

15 THE COURT: As long as you don't discuss the
16 testimony, I think you go into a --

17 MR. MCCULLOCH: -- I'm just going to sit there
18 and look over his shoulder.

19 MS. BARBIER: -- I just -- I have a question.
20 Do you want me -- do you want the videos blurred, and
21 do you want him to look at the thumb drive with the
22 blurred video, or a thumb drive with un-blurred
23 videos?

24 THE COURT: Do you have both on the thumb drive?

25 MS. BARBIER: Our --

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1 MR. FEW: He's got, like, seven out of ten, and
2 he can do the short ones, but the long ones I'm not
3 sure about.

4 THE COURT: I would --

5 MR. FEW: We could give him some, it just
6 wouldn't be all of it.

7 MS. BARBIER: I would ask, Your Honor, that he
8 be allowed to just look at the -- the -- the ten
9 videos, and then we can substitute the blurred --

10 MR. MCCULLOCH: Well, I think to authenticate,
11 he should be watching the original.

12 THE COURT: Yes, I think so too.

13 MR. GRIFFIN: And we don't disagree with that,
14 Your Honor. If he'll authenticate the ten, and then
15 they can substitute the blurred and we get both
16 copies, which I believe we do have.

17 THE COURT: Yeah, you do need to provide those
18 copies to all the counsel.

19 MR. MCCULLOCH: Your Honor, I'm going to
20 substitute Mrs. Schillaci, because he can't figure
21 out how to pronounce her name, but I'm going to let
22 Ms. Schillaci with Mr. Dove.

23 THE COURT: Well, I think I've had about ten
24 different renditions of parties' counsels' names, so
25 I understand that.

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1 MS. BARBIER: I don't care about anybody else as
2 far as --

3 MR. GRIFFIN: I mispronounced -- what is it?

4 MS. SCHILLACI: Schillaci.

5 MR. FEW: Your Honor --

6 MR. MCCULLOCH: Boy, I'll try.

7 MR. FEW: -- back on my schedule in the morning,
8 with 10 minutes, about 15 minutes left.

9 THE COURT: We're going to try to do something
10 else with Mr. Dove, just to (unintelligible).

11 MS. BARBIER: Your Honor, after the presentation
12 of these videos, there's not a lot more for Mr. Dove.

13 THE COURT: Okay. Let's bring in Ms. Hook,
14 please.

15 THE CLERK: Hook?

16 THE COURT: Yes, Ms. Hook, Ms. Susan Hook. All
17 right. I'm going to ask Mr. Dove to step down from
18 the witness stand at this point. You can sit in the
19 back of the courtroom while they can get that
20 together. Thank you, Lieutenant.

21 THE WITNESS: Yes, ma'am.

22 (Sidebar.)

23 (Ms. Hook entered the courtroom.)

24 THE COURT: Ms. Susan Hook, could you please
25 come -- yes, please, come up to the witness stand.

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1 Disregard the other paperwork that's on the stand.
2 Ms. Susan Hook, you were previously placed under
3 oath, and you still remain under oath right now; is
4 that correct?

5 THE WITNESS: Yes, ma'am.

6 THE COURT: All right. And you were informed
7 that you were outside of the courtroom prior to
8 coming in and giving your testimony, and other
9 witnesses were out there as well.

10 THE WITNESS: Yes.

11 THE COURT: And some of those people, I
12 understand, you may know. Can you tell me any
13 discussions that you had with other people that you
14 may know to be witnesses, including -- what were the
15 two names, Deirdre Vaillancourt?

16 MR. HARTE: Yes. Deirdre Vaillancourt, Peggy
17 Penland, and Suzy Haslup. And, Your Honor, I am
18 concerned about the testimony -- about the
19 conversation was had after she left the witness
20 stand.

21 THE COURT: Thank you.

22 THE WITNESS: Yes.

23 THE COURT: Yes, ma'am. Would you relay what
24 was your conversation was, if any, with any of those
25 individuals, and be specific as to who you discussed

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1 what with.

2 THE WITNESS: Deirdre Vaillancourt was sitting
3 there, Susie Haslup and Peggy Penland. I -- they
4 asked how it went, and I said it was just a lot of
5 objections and probably could have taken a lot
6 shorter time to actually get the testimony out. And
7 because they're cooling their heels waiting to get in
8 here.

9 THE COURT: Did you all have any other
10 discussions?

11 THE WITNESS: No.

12 THE COURT: Did you relay at all what your
13 testimony was in this matter?

14 THE WITNESS: No.

15 THE COURT: Did you relay any of the questions
16 that other counsel asked of you?

17 THE WITNESS: No.

18 THE COURT: Does counsel have any questions for
19 Ms. Hook? Mr. Harte, do you have any objections?

20 MR. HARTE: Did you -- did you convey to her any
21 indication of which lawyers lwe're making the
22 objections?

23 THE WITNESS: I said John was making quite a few
24 objections.

25 MR. HARTE: And did you make any further

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1 comments?

2 THE WITNESS: I don't believe so.

3 MR. HARTE: Understanding that those witnesses
4 will be called in to confirm your testimony, I'll ask
5 again, did you tell them anything else about this
6 case or about your testimony.

7 THE WITNESS: No. You can ask them.

8 MR. HARTE: What was your purpose in making the
9 statements to them?

10 THE WITNESS: They're sitting out there. It's
11 almost 6:00, and they've been there since the
12 morning, in and out, and they're dying to get out of
13 here.

14 MR. HARTE: And by what authority do you think
15 you are responding to that need?

16 THE WITNESS: Just by telling them it could take
17 10 minutes.

18 MR. HARTE: Ms. Hook, you intended to convey to
19 them the fact that the objections being made were not
20 proper, weren't you?

21 THE COURT: Mr. Harte, I don't think you can --
22 we're not --

23 THE WITNESS: No, I didn't.

24 THE COURT: -- going to ask you to cross-examine
25 this witness. We're asking --

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1 (Unintelligible cross-talk.)

2 MR. HARTE: Thank you, Your Honor. No further
3 questions.

4 THE COURT: -- relay as to what she discussed in
5 order to make sure that the witnesses remain
6 sequestered. I think that has been appropriately --
7 thank you, Ms. Hook.

8 MR. HARTE: Excuse me, Your Honor. May we have
9 it clearly -- just so this witness understands, she's
10 not supposed to talk about anything that happens in
11 here while she's here; not objections, not comments,
12 not the temperature, not what portraits are on the
13 wall. Sequestration means sequestration.

14 THE COURT: Yes, sir. I don't think I can say
15 it any better. Thank you, Ms. Hook.

16 THE WITNESS: Thank you.

17 MR. HARTE: Your Honor -- Your Honor, I move --
18 I move that the witness be sanctioned for violating
19 the rule of sequestration.

20 THE COURT: No, sir.

21 MR. HARTE: Her lawyer was here when that order
22 of sequestration was entered. The plaintiffs'
23 lawyers were here when that order of sequestration
24 was entered. It is the plaintiffs' attorneys'
25 responsibility to convey the information to her, and

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1 she was well able to do that. And conveying to a
2 witness that a lawyer is objecting obsessively is a
3 violation of the rule.

4 THE COURT: Mr. Harte, we have a difference of
5 opinion as to what Ms. Hook's testimony under oath
6 was at this moment. I'm denying your motion for
7 sanctions of this witness. I believe Ms. Hook can be
8 excused from testifying. Please not make any
9 comments to the other witnesses at all. Thank you
10 very much. Mr. Harte has given a very nice,
11 deliberative statement of what it means to be
12 sequestered.

13 MR. HARTE: And, Your Honor, I would the
14 witnesses who were involved in that conversation be
15 brought in and question as to what Ms. Hook actually
16 said before she is released from this courthouse.

17 MS. BARBIER: Your Honor, I'm going to object to
18 him badgering and harassing Ms. Hook just because he
19 doesn't like her. This is ridiculous. She testified
20 she had no substantive conversations with them. It's
21 purely about scheduling. And any witness sitting out
22 there for about 10 hours would be asking the same
23 thing.

24 THE COURT: Mr. Harte, I'm going to allow Ms.
25 Hook to leave at this time. I'm not going to call

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1 the witnesses in to ask them. I would ask all
2 counsel to remind them that during Friday's
3 pretrials, we did say we would sequester the
4 witnesses for protection of the testimony and
5 evidence to be presented to the jury, as this is a
6 somewhat salacious topic in this matter. It appears
7 the topic of the litigation was not discussed. It
8 was merely about the timing. And I disagree with you
9 that she said that you were obsessively objecting. I
10 do think you probably the most objections of any
11 attorney during her testimony.

12 MR. HARTE: Yes, Your Honor. But I want to make
13 one thing clear. I don't hate this witness. That's
14 -- that's an absurd thing to say. I am litigating on
15 behalf of my client. And I am sorry, I am an
16 old-school litigator in the -- in the -- in the -- in
17 the -- taught by Leonard Williamson, Ed Cushman, and
18 people like that, Your Honor. And I get it. I get
19 into the matter.

20 THE COURT: Yes, sir. Yes, sir.

21 MR. HARTE: I don't hate -- I don't hate Ms.
22 Hook. I don't hate anybody very much --

23 THE COURT: And -- and we all know --

24 MR. HARTE: -- but particularly not Ms. Hook.
25 But I am -- I am -- going to defend my client.

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1 THE COURT: -- yes, sir. Yes, sir. we all know
2 that what we do is not always interpreted correctly
3 by laypeople. Thank you. Ms. Hook, I will let you
4 leave the courtroom. Please do not discuss anything
5 that was said in the court. At the end of the trial,
6 you all can talk about it all you want, but not until
7 then. Thank you.

8 THE WITNESS: Thank you.

9 THE COURT: All right. We're going to take a
10 quick bathroom break for all of us. We'll come back
11 and finish with the Lieutenant once he's reviewed
12 that thumb drive. And we hope to be able to get out
13 of here by 6:30, gentlemen and ladies. Thank you.

14 (Off the record.)

15 (Recess.)

16 (On the record.)

17 THE COURT: Mr. Griffin is not coming -- I mean,
18 Mr. Griffin, he's gone for the day; is that right?

19 MR. GRIFFIN: Well, he's been checked out for a
20 while now, and I've got --

21 THE COURT: Yeah, I think you do. Thank you.

22 MR. GRIFFIN: -- even though he's physically
23 present.

24 THE COURT: Okay.

25 MR. GRIFFIN: -- been checked out.

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1 THE COURT: Okay. Thank you. All right. So
2 what we just had, basically, a sidebar with the
3 counsel that it's going to take more time than they
4 anticipated, so we're going to release the jury
5 (unintelligible) this witness. However, we need to
6 instruct him not to discuss his testimony. Let's
7 call him back in and put him on the stand for this
8 purpose.

9 MS. BARBIER: He's in the conference room.

10 THE COURT: If you could send someone to go try
11 to find him. I don't know if you want to go try to
12 get him, Ms. Barbier. That would be helpful. I
13 appreciate you all letting me just hang on here so I
14 can know rather than having a bailiff come get me.
15 My office is all the way over there, so when I walk
16 out this door, Mr. Harte, when I got this job,
17 decided to put me on far (unintelligible) in his
18 wisdom. But I have a very lonely office. But it
19 just makes -- to come to this courtroom is a long
20 walk, so -- and again, I haven't fully felt the
21 weight of the robe at this point, so it doesn't
22 bother me to kind of hang out, as long as you all
23 don't mind and you don't get too wild on me.

24 (Mr. Dove entered the courtroom.)

25 THE COURT: Thank you, sir. If you would come

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1 back up to the witness stand again. And you can
2 leave the computer there. I don't think you had that
3 earlier. Do you want to bring the jury in? Ms.
4 Barbier, can you close that? 9:30, 9:15, can you all
5 get here by 9:15? I mean, can we get started at
6 9:15, is my question. We need to get all the jurors
7 in.

8 MR. GRIFFIN: We're staying the night.

9 (The jury entered the courtroom.)

10 THE COURT: Ladies and gentlemen of the jury,
11 there's some issues that have come up in scheduling,
12 so we're going to let you all go home for the night.
13 I'm sorry that you sat back there just to come back
14 in to hear that, but that's sometimes how it works.
15 I'm going to ask you, report to the courthouse at
16 9:00. We're going to hope that you're in the jury
17 room by 9:15. That way, we can get going a little
18 quicker. We've had a lot go on here today. It's
19 really a lot that's outside of our control. You
20 know, I'm already just pretty much lost with the
21 issues with the recording devices. I think we can
22 get going pretty well in the morning, unless we have
23 another Monday on another day.

24 So if you'll leave your notepads. We'll get
25 your phones out. Again, please do not discuss this

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1 case with each other or with anyone else. Do not look
2 up anything, don't go look at Google or anything like
3 that. Okay? You are going to have all the evidence
4 you need in this case to bring you your decision, and
5 that is the procedure you will follow. I appreciate
6 it, and hope you have a good night.

7 MR. GRIFFIN: Your Honor, may we ask that they
8 not speak with anyone or read anything about it? I
9 think there may -- I know you said don't look up
10 anything, but I'm just -- you know.

11 THE COURT: Yes, yes. And by look up, I mean
12 read anything that is online or in a newspaper. If
13 you hear something on the radio, turn it off. If
14 your friend starts to say I heard you're in court,
15 say I can't discuss it. Stop them. You've watched
16 these attorney stop everybody. Well, stop them,
17 okay? Everybody knows how to do that, and I trust
18 you all to do that. Thank you.

19 MR. GRIFFIN: Thank you.

20 (The jury exited the courtroom.)

21 THE COURT: Okay. Lieutenant, I will remind you
22 that you are under oath. Counsel, I know you were
23 reviewing with the Lieutenant as to these videos, or
24 someone from your office was. He will need to exit
25 the courthouse property now as we have kept everybody

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1 late and it's beyond the time. So you need to find a
2 location to do that and only that this evening. And
3 come back in the morning prepared with the thumb
4 drive adequately reviewed and so that we move
5 forward. Okay?

6 THE WITNESS: Yes, ma'am.

7 THE COURT: And do not discuss anything else.
8 He can watch you, but you all aren't to talk about
9 this case.

10 THE WITNESS: Yes, ma'am.

11 MR. GRIFFIN: And, Your Honor, we don't have to
12 be present. I mean, he can take it back to Columbia
13 and do it tonight and bring it back with him in the
14 morning.

15 THE COURT: Well, I understood your cocounsel
16 wanted one of you all to watch him.

17 MS. SCHILLACI: He did.

18 THE COURT: Here is. Mr. McCulloch, what we're
19 discussing is your interest in making sure that you
20 watch alongside the Lieutenant as he looks at the
21 videos and -- and the thumb drive. And you will have
22 to exit the courthouse property in order to do that.
23 I don't how far he's gotten in that process.

24 MR. MCCULLOCH: We're breaking for the night?

25 THE COURT: We're breaking for the morning, yes.

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1 MR. MCCULLOCH: For the day --

2 THE COURT: For the day. I'm sorry.

3 MR. MCCULLOCH: -- or the night?

4 THE COURT: Until the morning. Thank you.

5 MR. MCCULLOCH: Okay.

6 THE COURT: I'll let you all discuss that.

7 Other than making sure that they're adequately
8 reviewed, you can't discuss the case or the testimony
9 with anyone, including any counsel.

10 MR. MCCULLOCH: Thank you, Your Honor.

11 THE COURT: Yeah. I'll trust you all to handle
12 that. But you'll be back -- we're coming back to be
13 ready at 9:15 in the morning, ready to go.

14 MR. MCCULLOCH: Sure.

15 MR. GRIFFIN: Thank you.

16 MS. BARBIER: Your Honor, they don't have an
17 objection to Lieutenant Dove taking the thumb drive
18 back to Columbia and watching it and then bring it
19 back tomorrow.

20 THE COURT: Okay.

21 MR. GRIFFIN: None whatsoever.

22 MS. BARBIER: And since I can't talk to
23 Lieutenant Dove, that's my way of communicating to
24 him that he's allowed to do that.

25 THE COURT: Thank you. Does everyone understand

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1 that? Thank you. All right. We are adjourned.

2 (The proceedings were adjourned

3 until 9:00 a.m. September 18,

4 2024.)

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CERTIFICATE OF TRANSCRIBER

I, Sandra J. Early, a court-approved transcriber, do hereby certify that I transcribed the electronic recording of the foregoing proceedings in Docket Nos. 2022-CP-02-2323 and 2022-CP-02-2324 held on September 17, 2024, before the Honorable Marth Rivers, and that said transcript is true and correct, all to the best of my knowledge and ability.

I further certify that I am not related to nor the employee of any of the parties hereto, nor related to or employed by any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

January 10, 2025



Sandra J. Early

Transcriber

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1 STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT NO. 2
2 COUNTY OF AIKEN) DOCKET NOS: 2022-CP-02-2323
3 2022-CP-02-2324

4 -----
5 GABRIEL CRESPO and)
6 HEATHER CRESPO,)
7 Plaintiffs,)
8 versus)
9)
10 RHETT RIVIERE; JOSEE RIVIERE;)
11 CHASE ENTERPRISES, LLC; and)
12 RC PROPERTIES, LLC,)
13 Defendants.)
14 -----

14 J U R Y T R I A L
15 VOLUME NO. 3

16
17 DATE: September 18, 2024
18 TIME: 9:07 a.m. to 6:20 p.m.
19 LOCATION: South Carolina Circuit Court No. 2
20 JUDGE: Martha Rivers
21 TRANSCRIBED BY: Sandra J. Early

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I N D E X

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<u>WITNESSES:</u>	<u>DX</u>	<u>CX</u>	<u>RDX</u>	<u>RCX</u>
Britt Dove	25	28	35	
Edgar Fritz	38	47		
Diedre Vaillancourt	79	126	136	
Suzy Haslup	140	145/146	147	
Thomas Courtney	149	158		
Carrie Emerson	167			
Christina Neuhaus	190	206/207	209	
Laura Phillips	212	217		
Rhett Riviere	231			

E X H I B I T S

<u>Plaintiffs'</u>	<u>Moved</u>	<u>Admitted</u>
18 - Thumb drive with videos (*SEALED*)	26	
19 - Thumb drive with videos (blurred) (*SEALED*)	43	44
20 - Aiken County GIS (.net link)	89	89

(Exhibits retained by counsel.)

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THE SPEAKER.)

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1 P R O C E E D I N G

2 THE COURT: How is everyone doing today?

3 MR. MCCULLOCH: Good, doing well.

4 MS. BARBIER: Good morning, Your Honor.

5 THE COURT: Good morning. Do we have any
6 matters to take up before we bring in the jury?

7 MR. MCCULLOCH: No, Your Honor. We'd just like
8 to --

9 THE WITNESS: Your client needs to come back?

10 MR. MCCULLOCH: I hate to be the one to tell you
11 that, but we're checking on him right now.

12 THE COURT: Yes, sir. Has he been here this
13 morning?

14 MR. MCCULLOCH: I just got here, so I did not
15 see him. Has anyone seen him in the courtroom?

16 MR. HARTE: I just walked in a few minutes ago.

17 MR. MCCULLOCH: Well, Jim and Kathy are both out
18 looking for him, if you'll indulge us for a couple of
19 minutes.

20 THE COURT: We told the jury we'd start about
21 9:15. The clock says 9:07, so we have at least that
22 amount of time, and we'll try to -- hopefully,
23 you'll find him by then. If not, I'll deal with
24 that.

25 MR. MCCULLOCH: Your Honor, I just have three

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1 motions, but I'm reluctant to do them without him
2 present.

3 THE COURT: That's fine. We'll wait on that.
4 Did we get the thumb drive --

5 MS. BARBIER: The -- the thumb drive is --

6 THE COURT: -- the process, not any motions
7 regarding thumb drive, but --

8 MS. BARBIER: Not at this time. My motions are
9 not relevant to that.

10 THE COURT: Did that get resolved, though, what
11 we -- we burnt yesterday for the gentleman to go
12 examine those. Was he able to do that?

13 MS. BARBIER: Right. Lieutenant Dove took the
14 thumb drive home to review. Obviously, he can
15 authenticate it. I haven't spoken to him this
16 morning, so --

17 THE COURT: Of course.

18 MS. BARBIER: -- yeah. We have, Your Honor,
19 another thumb drive from Edgar Fritz, who will
20 testify. He's from Reliance Forensics, a company
21 that we hired. He performed the blurring, and he
22 also performed on Heather and Gabriel's videos, he
23 lightened it to make it easier to view. And so,
24 there's a separate thumb drive of those images, the
25 blurring and the lightning.

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1 MR. MCCULLOCH: I'm sorry, Debbie. I couldn't
2 hear you. He did what to make it --

3 MS. BARBIER: He blurred the faces.

4 MR. MCCULLOCH: -- blurred.

5 MS. BARBIER: And then, with Heather and
6 Gabriel, he did not burglar the face of the video of
7 Mr. Riviere. He -- I mean, there's nobody else in
8 it, just Mr. Riviere. He did not blur the faces of
9 Heather and Gabriel. He did lighten them. And not
10 changing the substance, just -- just lightened the
11 video. And then, the other eight videos, the -- the
12 people in those videos, their faces are blurred.

13 THE COURT: Have you shared the -- the lightened
14 video and --

15 MS. BARBIER: Yes.

16 THE COURT: -- and the blurred video with --

17 MS. BARBIER: Yes.

18 THE COURT: -- other counsel?

19 MS. BARBIER: The lightened video, I shared last
20 week. It was an exhibit. It was listed as Exhibit,
21 I believe, 19. And, Your Honor, the blurred videos,
22 I shared last night via Dropbox, and I haven't heard
23 anything.

24 THE COURT: Okay. Well, no talking about that,
25 and we'll start again. So I'll let -- and we can

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1 take that up in more precise terms of that.

2 MR. HARTE: Your Honor, if I may. Just so
3 everybody will know, if the blurring expert is called
4 to the stand to testify, then I will want to inquire
5 of him as to whether or not the technology exists to
6 blur the genitalia and other body parts without
7 destroying the intent of the video.

8 THE COURT: Mr. Harte, I took your comments to
9 heart and I -- you know, I'm terrible with the names
10 of cases. I kinda went back and reviewed again what
11 I felt was an abundance of caution. I'm sure all
12 counsel is aware of the case involving the child or
13 children with the dog that addressed -- because this
14 often comes up in the criminal context of autopsy
15 photos -- addressed the -- the photos, pre-autopsy,
16 of that child and read the court's, you know,
17 admonitions about prejudice or -- or inflammatory
18 photos to the jury. And I do think this is a case
19 where this is what is alleged to have occurred and,
20 therefore, there is probative value to showing
21 exactly what happened. And in fact, I don't think
22 the genitalia, truthfully, is the most disturbing
23 thing about the videos.

24 MR. HARTE: May it please -- I'm sorry.

25 THE COURT: And -- and I -- you know, that's all

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1 I can say. So that's why I'm not requiring that.

2 MR. HARTE: I don't know if the Court -- I
3 apologize if I suggested that, Your Honor. I'm
4 simply saying that I believe it's important -- well,
5 I think it's -- I think it's a factor to consider
6 that the plaintiff, in presenting their case -- their
7 case to the jury, has decided not to use the
8 technology that exists to blur the genitalia. And I
9 -- my -- my purpose in alerting the Court to this is
10 to avoid having to do something in front of the jury
11 that makes the jury have to come in and out again.
12 So I want to advise the Court and counsel that my
13 intent is if they put the blurring -- if they put the
14 blurring expert on the stand, I simply want to
15 inquire of him, does the technology exist to blur the
16 genitalia without changing the nature and character
17 of what's being seen.

18 THE COURT: Thank you, sir, for the
19 (unintelligible.)

20 MS. BARBIER: Your Honor, we understand he can
21 cross-examine him on that.

22 MR. HARTE: Thank you, Your Honor.

23 THE COURT: And I do appreciate you bringing
24 that up now. I think the jury was growing weary.
25 But we must take up the point from that. I -- I do

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1 not admonish anybody for -- and I do prefer to take
2 them up as they come.

3 MR. MCCULLOCH: Your Honor, I think Mr. Griffin
4 has been in touch with Mr. Riviere, and I think he's
5 trying to get an estimated time of arrival, which I
6 hope will be momentarily. But if need be, we'll
7 proceed with the motions I have without him.
8 Mr. Griffin and I'll make -- make the decision.

9 THE COURT: Thank you.

10 MR. GRIFFIN: Yeah, he's fine with us starting.

11 MR. MCCULLOCH: Okay. So we've confirmed with
12 Mr. Riviere that we can go forward with these.

13 THE COURT: Do we have an estimation of when
14 he's going to arrive?

15 MR. GRIFFIN: He's walking out the door of his
16 home right now. He -- I don't know what happened.

17 MR. MCCULLOCH: I think he thought 9:30, or he
18 heard 9:30 and that's his fault, not the Court's.

19 THE COURT: That's fine.

20 MR. MCCULLOCH: It was pretty clear to the rest
21 of us.

22 THE COURT: I think I heard your cocounsel say
23 he's okay with you proceeding on the motions without
24 his presence.

25 MR. GRIFFIN: That's correct.

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1 MR. MCCULLOCH: That is correct, Your Honor.

2 THE COURT: All right. Then let's go through
3 that.

4 MR. MCCULLOCH: Your Honor, the first motion is
5 one, I guess, in the nature of a motion to
6 reconsider. But also, I make this motion -- to give
7 you a slight degree of detail -- for -- for that
8 record we always talk about. We would renew the
9 objection to the information from Ms. Hook at the
10 tail end of her testimony, which came by way of the
11 Court's ruling that the door had been opened. And we
12 would ask for a reconsideration. We'd ask that her
13 testimony be struck, and that the jury receive an
14 instruction. And, Your Honor, that's based on -- on
15 basically two positions: First, the question that
16 was asked by Mr. Harte was something to the effect --
17 and I didn't write it down exactly, but I think the
18 Court's notes may reflect, or we could have the
19 reporter read it -- Mr. Harte asked Ms. Hook -- well,
20 it wasn't Ms. Hook -- you don't -- you're not really
21 found of Mr. Riviere.

22 Now, in and of itself, that's not an
23 objectionable question, and it didn't occur to me at
24 that instant that that would, in any way, open a
25 door. On redirect, Ms. Barbier presented to the

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1 Court the concept that that opened the door and that
2 she should be entitled to ask why. Her only position
3 in support of that request was, the jury will want to
4 know. Well, Your Honor, the jury may want to know
5 why we keep sending them out, but they're not
6 entitled to know. Juries always have questions.
7 They're not entitled to know. And so, I would
8 suggest, one, there's -- that's not a door opener to
9 prejudicial evidence against our client that you had
10 ruled was not admissible previously. The jury's
11 desire to know things that they're not necessarily
12 entitled to know, just as they weren't entitled to
13 hear that story based upon your earlier ruling.

14 And two, Mr. Harte, I scoured the case law. I
15 cannot find the case that says that a codefendant can
16 open the door. And I would posit to you, in my
17 experience, a codefendant can't open the door to
18 character evidence and otherwise in admissible
19 evidence because they do something stupid that isn't
20 on its face objectionable by the other defendant any
21 more than the plaintiff, Ms. Barbier, could open the
22 door to that kind of evidence. And that's a ruling
23 we're much more familiar with because prosecutors
24 argue that all the time in criminal cases. So I
25 would ask the Court to reconsider.

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1 The second motion, Your Honor, is in light of
2 those developments yesterday, and though Mr. Harte is
3 a fine attorney, he has a different agenda. I don't
4 know that I would have asked that question simply
5 because I didn't see the utility of it for his client
6 or for my client, but he is a lawyer and he is
7 defending his client to the best of his efforts. He
8 made a motion in which we joined at the beginning of
9 this trial to sever, so I would now move to sever
10 these cases. That is an extraordinary remedy, but in
11 light of yesterday's developments, I don't think I
12 have any choice but to move to sever. So I would ask
13 you to reconsider that.

14 And lastly, Your Honor, with some reluctance, I
15 would -- I have a problem with Ms. Barbier's direct
16 questioning of these witnesses. I did not --
17 sometimes I have done hash mark records of how many
18 objections I have to make and how many are sustained
19 and how many are denied. But one thing is clear.
20 Ms. Barbier knows better than to ask leading
21 questions, or she doesn't know. Either way, it's
22 wrong. If it is being done to force me to object,
23 then the ultimate argument -- because God knows I've
24 made it in closings -- the ultimate argument will be,
25 you heard a lot of objections, why do you suppose

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1 they would object? They're trying to keep
2 information from you. So I'm being forced to make
3 objections about things that either you've ruled on
4 or, you know, Ms. Barbier knew or should know are
5 improper questions and improper leading.

6 The worst, the most egregious example was when
7 Mr -- the police officer yesterday, his name is
8 Busby, was asked could you describe the demeanor of
9 Mr. and Mrs. Crespo when they heard the news, or
10 something to that effect. He gave his answer. That
11 wasn't enough. Ms. Barbier then said, was he
12 shocked? I objected to leading. I mean, what would
13 be the purpose of that except to fulfill the
14 instruction on the elements of intentional infliction
15 and some of the other causes of action? I mean,
16 there's no way under the sun that is a proper
17 question. It's a leading question, and it was a
18 wholly calculated question, and I have no choice but
19 to stand up, but to object, giving them the very
20 argument that I anticipate will be made. I'm tired
21 of it. I had to stand up I don't how many times.

22 And I will concede, Your Honor, sometimes I
23 stood up too early in anticipation. But after what
24 we saw in the courtroom yesterday, why would I
25 anticipate a question that was intended to elicit

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1 inadmissible evidence and prejudicial evidence?
2 There were a number of gratuitous remarks by
3 Ms. Barbier, including each time we came back after
4 an objection. Ms. Barbier was quick to say "before
5 we were interrupted." I would be the interrupter, of
6 necessity, to do my job and to protect this record.
7 I firmly expect to hear that what they're keeping
8 from you -- they objected 40 times. I suspect the
9 three lawyers on my right, they're keeping track of
10 how many objections the defense makes. It puts us in
11 a position that the plaintiffs know better than to
12 put us in. I don't think there's a remedy except for
13 this Court to admonish them again, as you have done
14 several times, don't ask leading questions. What
15 about leading questions do the plaintiffs not
16 understand? And unfortunately, I feel they do
17 understand and that it's a calculated thrust and
18 parry intended not only to try and intrude if I don't
19 or if Mr. Griffin does -- isn't quick enough to
20 object to get into the territory you've ruled out of
21 bounds, as basically occurred yesterday.

22 Your Honor, I don't -- I do this with all due
23 respect to their trial skills, but I don't have
24 anything any recourse but to put that on the record.
25 And if it continues, we will be moving for a

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1 mistrial.

2 THE COURT: Thank you, sir. Anything else?

3 MR. MCCULLOCH: Your Honor, I don't think from
4 me.

5 THE COURT: Mr. Harte?

6 MR. HARTE: I have not -- I think I have argued
7 this severance motion several times. I'm not going
8 to do that again except to join --

9 THE COURT: Renew it? So noted.

10 MR. HARTE: -- you're aware that -- I think that
11 -- I think every day that goes by, every minute that
12 clicks by, the prejudice builds and builds and
13 builds; multiple, multiple, multiple pieces of
14 evidence that have absolutely nothing to with Josee
15 Riviere. I do want to make -- make one aside --
16 one -- I want to join Mr. McCulloch in his comments
17 and position with respect to this issue of the -- the
18 way in which the trial is proceeding and the extent
19 of which the plaintiff is forcing counsel to object.
20 And I noticed that it is having it's desired effect,
21 Your Honor, because on yesterday, when Ms. Hook was
22 called back in and she was asked what she had to say,
23 and she had told the people outside that John Harte
24 made a lot of objections. And Your Honor responded,
25 well, Mr. Harte, you did make most of the objections.

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1 THE COURT: Of her testimony.

2 MR. HARTE: That's correct. But if you
3 perceived that sufficiently important to comment on
4 it on the record from the bench, then I'm confident
5 that the jury is getting the same message.

6 THE COURT: No, sir. You misunderstand that.
7 No, sir. That is a factual basis that you did make
8 those most of the objections in that the other
9 lawyers do not.

10 MR. HARTE: Well, Your Honor --

11 THE COURT: And I think the fact of recognizing
12 that a witness not -- is not a reason to go into
13 sanctioning her or the other admonitions you
14 requested yesterday. That was the purpose of that.

15 MR. HARTE: Let me -- if I may, Your Honor, if
16 I'm -- if I'm confusing, let me just back up. I am
17 talking now about the effect of the intentional
18 presentation of objectionable evidence to create an
19 appearance that defense counsel -- and let me just be
20 clear on this, Your Honor. I'm not talking about
21 sanctioning. I'm not talking about the action you
22 took yesterday. What I am conveying to you, Your
23 Honor, is the fact that when a lawyer objects -- and
24 as I recall, and we can go back and count, but I
25 think the majority of the objections I made were

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1 sustained, but I could be in error on that. But
2 lawyers have to object to preserve a record. When a
3 -- when a -- when a judges is -- is -- is -- is -- is
4 led by the events to say that Mr. Harte, you were the
5 one that made the most objections, that -- that --
6 that thought process has to be going on with the
7 jury. The jury has to to be thinking the same thing.
8 And that is what -- that is what creates the problem
9 that Mr. McCulloch is talking about. If you, Your
10 Honor -- so we're led to, for lack of a better word,
11 Your Honor, we're led to condone what the witness
12 Hook told other people, then that means that -- that
13 there was something about what happened that led you
14 to think that.

15 The jury is going to take that and carry it one
16 step further. And you didn't do this, Your Honor,
17 and I understand that. But they are going to carry
18 it one step further, just as Mr. McCulloch said,
19 particularly when the counsel says "before we were
20 interrupted." That is laying the foundation to lead
21 that jury to believe that we're trying to hide
22 something when, in fact, all I was trying to do was
23 to get the evidence to conform to the rules. Thank
24 you, Your Honor.

25 THE COURT: All right. Let me be very clear,

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1 gentlemen. I do not have any perception that the
2 plaintiff is trying to set up something that would
3 lead to a mistrial in this case. The perception I
4 have is that they're trying to try their case. The
5 number of objections is up to you in many regards. A
6 party often leads in the initial introduction of
7 testimony and is often allowed by the Court to do so
8 on matters that are not significant issues in the
9 questioning. Yes, sir, I'm speaking. Please sit
10 down.

11 MR. HARTE: I'm waiting.

12 THE COURT: Please sit down.

13 MR. HARTE: Thank you.

14 THE COURT: Thank you. I'll let you get your
15 notes on the record in a minute. Ms. Barbier, I will
16 say I would like you to go back to your Advocacy 101
17 and let's keep the questions open-ended from your
18 presentation of the evidence in your initial
19 questioning. I do believe the jury was weary of
20 going in and out. Part of that is because I asked
21 that we have objections contemporaneous with the
22 statements. I find that -- I did note that there
23 were other questions that were not objected to. And
24 I think that the number of objections you all enter
25 is also part of your strategy as well, and it is

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1 completely up to you to determine some of that. And
2 this will all be reviewed at another date, but at
3 this time, I do not find that there is -- the defense
4 has not made this motion, and I'm a little disturbed
5 that we're setting it up in this way, but I do not
6 find that the -- the objectionable questions on the
7 leading, the jury did not go in and out during that
8 time. It was not -- on the leading objections, we
9 just dealt with them as they were coming in the
10 trial. That was not a matter to say "before you were
11 interrupted". Before we were interrupted" is a
12 stylistic manner, it is not a dig at anyone. We have
13 all explained to the jury -- I have explained to the
14 jury many times that we continue to work, that there
15 are matters of law. I do not believe that's an
16 issue. And I have instructed Ms. Barbier and I will
17 instruct the defense too, be mindful of these things.

18 The motion to sever the cases is denied again,
19 as previously stated. And as to the door being
20 opened, Mr. Harte opened the door as to why she
21 didn't like Rhett Riviere. Her answers in my
22 notations are he frequently visited not invited, he
23 showed up one night out of the tree, and there were
24 peacocks. And then there was testimony about the
25 location of the tree, and that is it. I'm not -- I'm

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1 denying your motion on that regard as well.

2 Are we ready on anything else? Anything else?

3 All right. And do you know where your client is?

4 MS. BARBIER: Your Honor, I -- I want to make
5 sure that I don't offend Mr. McCulloch or any of the
6 lawyers on that side of the courtroom. So when you
7 instruct the jury to leave the courtroom and the jury
8 comes back, how would you like me to tell the -- to
9 discuss the fact that we are picking up where we left
10 off?

11 THE COURT: I'll leave that to you, counsel.

12 MR. MCCULLOCH: How about -- now, the question I
13 opposed was -- is the editorial. And Your Honor
14 doesn't see it as a dig, but I see it as a part of a
15 strategy. That's a difference of opinion. I yield
16 to your opinion. There was a way not to take
17 advantage of it, and that's all I'm asking.

18 THE COURT: Thank you, sir.

19 MR. MCCULLOCH: Thank you.

20 MR. GRIFFIN: Your Honor, he's coming through
21 security right now.

22 THE COURT: Thank you. All right. Ladies --
23 ladies and gentlemen, the monitor has asked that you
24 make sure you cancel your mic when you're not
25 speaking from the table. He's picking up some

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1 statements.

2 MR. HARTE: Is this one here supposed to be on,
3 because I can't reach it to cancel it. I don't know
4 what --

5 MR. GRIFFIN: This one won't turn off.

6 MR. HARTE: I don't think they'll turn off, Your
7 Honor, I really don't.

8 UNIDENTIFIED FEMALE SPEAKER: Yeah, those don't
9 turn off. The ones at this won't turn off.

10 THE COURT: The ones downstairs will. They'll
11 turn it off.

12 UNIDENTIFIED FEMALE SPEAKER: You have to hold
13 it down for it to not record.

14 THE COURT: Right. That's on the -- it's a --
15 it's the light thing.

16 UNIDENTIFIED FEMALE SPEAKER: Mm-hmm.

17 THE COURT: But you can hold it down.

18 UNIDENTIFIED FEMALE SPEAKER: You can hold it
19 down, but you can't --

20 THE COURT: It is a pain. We have those --

21 MR. GRIFFIN: Oh, you do hold it down?

22 THE COURT: -- you hold it down --

23 UNIDENTIFIED FEMALE SPEAKER: You hold it down.

24 THE COURT: -- and it will stop.

25 MR. GRIFFIN: I see.

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1 MR. MCCULLOCH: Can you hear me grinding my
2 teeth?

3 THE COURT: When I was at your table, I often
4 held it down when I was speaking and had it up,
5 because I would rather do the reverse, that you tell
6 it when to listen to you rather than telling you when
7 not to listen to you. And so, you just have to be
8 aware that you could be picked up on that mic. And
9 that's the courtroom we have.

10 MR. GRIFFIN: When we were in -- and this is off
11 the record.

12 (Off the record.)

13 (On the record.)

14 MS. BARBIER: Yes, Your Honor?

15 THE COURT: Well, wait a minute.

16 MS. BARBIER: Would you like me to get
17 Lieutenant Dove?

18 THE COURT: Yeah, let's go ahead and get the
19 lieutenant and put him back on the witness stand.
20 Just hold off one second, Mr. Harte. I'm sorry.
21 Lieutenant Dove -- was it Lieutenant Dove, Lieutenant
22 Busby?

23 MR. GRIFFIN: Dove.

24 THE COURT: Who was it?

25 MS. BARBIER: Lieutenant Dove.

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1 THE COURT: Lieutenant Dove. Thank you.

2 MR. MCCULLOCH: Your Honor, while we wait, I
3 tell you -- if I can talk briefly. During the
4 Murdaugh trial, I went to the hearing. And I was not
5 a participant, but I was involved in the case
6 collaterally. I went down to The Well during a break
7 in Edgefield County. Unbeknownst to me, they had
8 every microphone in the place, and I was talking to
9 some lawyer about another different case, and let's
10 just say I was explicit. And I got a text message
11 from somebody who was watching it on Court TV who
12 said we can hear every word, we can't see whose
13 saying it. So there are dangers everywhere.

14 THE COURT: Good morning. How are you doing?

15 THE WITNESS: Good.

16 THE COURT: Do you realize that you're still
17 under oath?

18 THE WITNESS: Yes, ma'am.

19 THE COURT: Thank you, sir. All right. Let's
20 bring the jury in now. Thank you.

21 (The jury entered the courtroom.)

22 THE COURT: Good morning. Good morning, ladies
23 and gentlemen. We're going to pick up right where we
24 left off yesterday. Okay? Now, the lieutenant is
25 back in the witness stand and he's still under oath.

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1 MS. BARBIER: May I proceed, Your Honor?

2 THE COURT: Yes, ma'am.

3 MS. BARBIER: Thank you. May it please the
4 Court.

5 DIRECT EXAMINATION (Cont'd.)

6 BY MS. BARBIER:

7 Q Lieutenant Dove, good morning.

8 A Good morning.

9 Q Do you have a thumb drive that we have marked as
10 Plaintiffs' Exhibit 18?

11 A Yes, ma'am. I have a thumb drive that's red and gray
12 in color.

13 Q Okay. Have you reviewed the contents of that thumb
14 drive?

15 A Yes, ma'am, I have.

16 Q What does it contain?

17 A It contains videos on it. There's different labels
18 for the names, but different videos, approximately ten.

19 Q Okay. What does -- do you know where these images are
20 -- are taken from?

21 A These are some of the same videos that I found during
22 my report. Also, the items were submitted to us for
23 examination.

24 Q Is -- are those videos evidence that were kept at SLED
25 as part of the investigative file?

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1 A Yes, ma'am.

2 Q Are they kept at SLED in the ordinary course of
3 business?

4 A Yes, ma'am.

5 Q And did SLED keep and maintain this evidence in the
6 regular course of business?

7 A Yes, ma'am, we did.

8 Q Were those videos in any way altered from the copies
9 of the videos that you provided to plaintiffs' counsel?

10 A No, ma'am.

11 MS. BARBIER: Your Honor, I'd move Plaintiff's
12 Exhibit 18 into evidence.

13 (Plaintiffs' Exhibit 18 was moved
14 for admission into evidence.)

15 MR. GRIFFIN: Your Honor, we renew all of our
16 previous objections set forth in our motions in
17 limine, and so we do object.

18 THE COURT: So noted. And, Mr. Harte, I assume
19 the same for you?

20 MR. HARTE: I preserve my objections, Your
21 Honor. I believe my objections are running
22 throughout, as I understand.

23 THE COURT: Yes, sir, they are --

24 MR. HARTE: Thank you.

25 THE COURT: -- as we took that up outside of the

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1 presence of the jury and prior to the trial, and
2 we'll move forward with that.

3 MR. HARTE: Thank you, Your Honor.

4 THE COURT: And so -- so noted.

5 BY MS. BARBIER:

6 Q Lieutenant Dove, do you know whether law enforcement
7 has been able to identify the individuals on any of those
8 videos?

9 A To my understanding, there's been a few that they've
10 been able to do, but that investigator handled that. I
11 did not take part in that.

12 Q In your experience, is it a possible to know where, if
13 anywhere, these images or videos reside besides these
14 devices?

15 A The only thing I can tell is that these videos were on
16 these individual devices that were submitted to me. Where
17 they are other than that, I would have no knowledge of.

18 Q The video depicting -- that was titled Heather and
19 Gabriel, was that found on more than one of Mr. Riviere's
20 devices?

21 A Yes, ma'am. I found it on two devices.

22 Q I don't have any other questions. Please answer any
23 questions the defense has. Thank you.

24 THE COURT: Oh, yes, Mr. Griffin. I'm sorry. I
25 didn't mean to hold you up.

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1 MR. GRIFFIN: Thank you.

2 CROSS-EXAMINATION

3 BY MR. GRIFFIN:

4 Q Good morning, Lieutenant Dove.

5 A Good morning.

6 Q I understand that you examined 41 separate devices; is
7 that correct?

8 A Yes, that is correct.

9 Q And these devices included cell phones and computers?

10 A Yes, sir.

11 Q And the -- the cell phones, you -- you had to extract
12 the data from the phones --

13 A Yes, sir.

14 Q -- using Cellebrite software, I take it?

15 A Yes, sir.

16 Q And then, the computers, you made of -- of the hard
17 drives on the computers?

18 A I made a forensic copy of them, yes, sir.

19 Q A forensic copy. What does that mean?

20 A Yes, sir.

21 Q What's the difference between what I said?

22 A The difference between mirroring a hard drive and a
23 forensic copy of a hard drive, if you think about it --
24 and take your hand, for example. If you hold your hand up
25 to a mirror, that's what you would be doing to the hard

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1 drive. All you're going to get is what you see in the
2 mirror there. A forensic copy is a bit-by-bit copy of the
3 addressable space which would get you what you see here,
4 plus what you would see on the back side too.

5 Q And is that back side sometimes called the metadata?

6 A It's a lot of things. It's unallocated space, space
7 that if something is deleted that it moves to where it's
8 not being used at that time. And the file system knows
9 that if I need to create a new file, I have space here.

10 Q Oh, I see. And -- and you can see where things have
11 been deleted, I take it?

12 A Yes, sir.

13 Q And you mentioned just now that you found the Heather
14 and Gabriel folder on two devices?

15 A I found those movie titles on two devices. Yes, sir.

16 Q Do you know if they were -- had been deleted from one
17 device or even both devices?

18 A They were still in the allocated area, which is the
19 area that you can see. It wasn't in the deleted section,
20 the two I found.

21 Q Do you know what devices you found that file folder
22 on?

23 A Yes, sir. One of them was Island 20, which was a
24 LaCie external hard drive, and the other --

25 Q What?

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1 A -- LaCie is the name of on it, L-A-C-I-E. It's an
2 external hard drive which you would plug into a computer
3 to either back stuff up, save files to -- and the other
4 was Item 37 that was submitted to us, which was an HP
5 desktop computer.

6 Q Do you know how old that HP desktop computer was?

7 A Some of the dates on there were from 2012. Some were,
8 I believe, 2000 -- some of the dates and some of the files
9 were 2007. Some of the dates were 2012. There might have
10 been 2019 also. I'm not 100 percent on the last ones.

11 Q Okay. And you're just talking about all the images
12 and videos, not just the Crespo one?

13 A Yes, sir. That's everything that was on there when I
14 looked at it.

15 Q And you -- and you mentioned there are innocuous
16 images and video tapes on those devices. You mentioned
17 equestrian events; correct?

18 A Yes, sir.

19 Q And sailing albums, I take it?

20 A Yes, sir.

21 Q And other party photos?

22 A Yes, sir.

23 Q And -- and you said when you originally got the
24 devices in and you did your forensic analysis, you
25 initially did a sample; correct?

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1 A Yes, sir.

2 Q Okay. And just to go back to be clear, the Heather
3 and Gabriel Crespo file, that was not found on any SDS
4 card, was it?

5 A No, sir. It was an external hard drive on a desktop
6 computer.

7 Q And the -- and then there was some testimony about
8 SLED had gotten a subpoena from some lawyers and you had
9 to produce a -- or did SLED produce, I guess, a copy of
10 what you had done, correct?

11 A Yes, sir. Everything that we had done extraction-wise
12 and image-wise was produced.

13 Q And you know what lawyer sent you such a subpoena or
14 sent SLED such a subpoena?

15 A I believe it was Ms. Barbier.

16 Q Okay. And then, subsequently, it was reported back to
17 you that you were asked to look at other places on other
18 devices; right?

19 A Yes, sir. I was asked to go back and review it for
20 additional stuff.

21 Q Okay. And in that second review, that's when you
22 located this file with Heather and Gabriel Crespo; is that
23 right?

24 A Yes, sir.

25 Q On that -- on that file, do you know -- and so -- just

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1 so that we understand, it's -- it's a file folder --

2 A No.

3 Q -- on the computer?

4 A No, sir. It's actually a file on the computer. It's
5 named Heather and Gabriel, and then it has the video
6 extension.

7 Q And then, if you open up the file, are there two
8 separate video clips or one clip?

9 A The clip on that, it appears to be on those four
10 videos combined into one based off of location and other
11 elements in the videos.

12 Q And were the four videos combined into one on the
13 forensic version that you maintained with SLED?

14 A Yes, sir.

15 Q And was there any way to tell when the four videos
16 combined into one were created?

17 A I can tell that it was created on the device in 2007.
18 As far as when the original videos were created, I'm not
19 able to tell.

20 Q Okay. And the device in '07, was that the HP computer
21 or was that the external hard drive that you could tell
22 from?

23 A I believe it was the HP computer.

24 Q Can you tell who created the folder?

25 A No, sir. I can just tell that it's on the device.

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1 Q Can you tell from the folder if -- or -- or anything
2 from that HP computer whether that folder or the videos
3 had been transmitted, sent somewhere?

4 A No, sir, I was not able to determine that.

5 Q And -- and -- in the Exhibit 18 that you identified
6 that -- I guess the same question: Do you know when,
7 generally, those were created or saved on the computer?

8 A From these videos that are on here?

9 Q Yes, sir.

10 A The videos on there, some of them -- one of them was a
11 Heather and Gabriel video, which was created in '07 on the
12 HP. What I did to verify this information on the thumb
13 drive, I ran a hash value for each video on here and
14 compared it to my reports so that I know that it came from
15 the same items that were recovered from my reports for the
16 same dates.

17 Q Okay. So you did a hash value and they matched up.
18 But -- but beyond that, you can't tell the jury that one
19 video was created or saved in '07 or '05?

20 A No, sir, not when it was actually created. I can just
21 tell you when it was placed on the device or it was
22 altered or accessed on that device.

23 Q Okay. Well, were any placed on the device after '07
24 or any devices after '07, to your knowledge?

25 A I believe that they were moved in 2012. They were

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1 moved from the HP to the LaCie external hard drive.

2 Q So you believe that they resided on the HP hard drive
3 and were moved to the external hard drive sometime around
4 '07?

5 A No, sir. They were moved in 2012.

6 Q I see. And they were saved on the -- well, were they
7 erased from the HP hard drive?

8 A No, sir. I located them on the HP and on the LaCie
9 both.

10 Q So they were -- they were duplicated? One was on --
11 some were on the external hard drive and some were on the
12 computer?

13 A Yes, sir.

14 Q Okay. And could you tell which -- how many of the ten
15 were from the same location, the cottage that the Crespos
16 were renting?

17 A That, I'm not sure of. There were some of the videos
18 that I'm not sure, but they were inside of a bathroom.
19 I'm not sure if that was the bathroom at the cottage.

20 When the -- the investigators, when they took the photos,
21 (unintelligible) the crime scene photos, so I don't know.
22 I don't know also too when we went to 2019, if it had
23 changed from 2007 when it showed a creation date.

24 Q And -- and could you tell whether some were -- were
25 taken on a boat?

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1 A Of the ten that I -- of all the videos that were on
2 there?

3 Q No, of the ten.

4 Q The ten? The ones I reviewed, most of them that were
5 taken, it appeared to be in the bathroom or a bedroom that
6 they were of.

7 Q Okay.

8 MR. GRIFFIN: One second, Your Honor.

9 THE COURT: Certainly.

10 MR. GRIFFIN: No further questions.

11 THE COURT: Thank you, Mr. Griffin. Mr. Harte?

12 MR. HARTE: No questions, Your Honor.

13 THE COURT: Thank you, Mr. Harte.

14 MS. BARBIER: Just one briefly in reply, Your
15 Honor.

16 REDIRECT EXAMINATION

17 BY MS. BARBIER:

18 Q Lieutenant Dove, Mr. Griffin asked you about whether
19 you could tell whether any of these videos had been
20 transmitted. Do you remember that?

21 A Yes, ma'am.

22 Q Okay. Did you see any folders on Mr. Riviere's
23 devices with Dropbox -- the name Dropbox?

24 A Yes, and that program was on the HP, and then I also
25 saw it on the external.

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1 Q To your knowledge, were any investigative steps taken
2 by SLED after that with respect to Dropbox?

3 A Yes, ma'am. To my knowledge, they followed up. The
4 investigator followed up with Dropbox.

5 Q I don't have any other questions. Thank you,
6 Lieutenant Dove.

7 THE COURT: Thank you.

8 THE WITNESS: Thank you.

9 THE COURT: May we release this witness for the
10 duration of the trial?

11 MS. BARBIER: Your Honor, if there's a phase two
12 that --

13 THE COURT: For what we're doing right now.

14 MS. BARBIER: -- but yes.

15 THE COURT: Lieutenant, thank you being here.
16 Someone will come and get you if we need you further,
17 though. Thank you.

18 THE WITNESS: Thank you.

19 THE COURT: Ms. Barbier, next witness.

20 MS. BARBIER: Your Honor, the plaintiff calls
21 Edgar Fritz. Edgar Fritz.

22 THE COURT: Edgar Fritz.

23 THE CLERK: Edgar who?

24 MS. BARBIER: Fritz.

25 THE CLERK: Grits?

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1 THE COURT: Fritz.

2 MS. BARBIER: Grits?

3 THE COURT: Grits?

4 THE CLERK: I apologize.

5 MS. BARBIER: Your Honor, can we take something
6 up as a sidebar quickly?

7 THE COURT: Yes, certainly. All right. I'll
8 have the witness can come to the witness box. You
9 can sit there. We have a matter to take up.

10 THE CLERK: We've got to swear him first.

11 THE COURT: Listen to Mr. Harte before you
12 listen to me.

13 (Sidebar.)

14 THE COURT: Ladies and gentlemen, I want you to
15 know that the end of this witness, we intend to take
16 a break. Now, whether you have to take a break
17 before that, I don't know yet. But -- but at some
18 point, we will take a break after this witness.
19 Okay?

20 THE CLERK: Come on forward, Mr. Fritz. Place
21 your left hand on the Bible and raise your right
22 hand.

23 (The witness was sworn in.)

24 THE CLERK: Please have a seat on the witness
25 stand.

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1 MS. BARBIER: Your Honor, can you instruct him
2 not to discuss the matters we discussed?

3 THE COURT: Certainly.

4 THE CLERK: Watch your step as you're going up
5 to the witness box.

6 THE WITNESS: Edgar Fritz, F-R-I-T-Z.

7 EDGAR FRITZ

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

10 DIRECT EXAMINATION

11 BY MS. BARBIER:

12 Q Mr. Fritz, where are you currently employed?

13 A I work at Reliance Forensics, which is a forensics
14 firm in Charlotte, North Carolina.

15 Q Prior to joining Reliance Forensics, where did you
16 work?

17 A I worked for the Federal Bureau of Investigation for
18 almost 20 years.

19 Q Just briefly, tell the jury, if you will, about your
20 career at the FBI?

21 A Sure. I had several different job roles. I started
22 in surveillance where we were doing counterintelligence,
23 counterespionage. And then, I worked for the violent
24 crimes unit, working crimes against children and violent
25 crimes. And then, I became the field photographer for the

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1 division handling photography and media, and things of
2 that nature. I also worked as a temporary duty assignment
3 to our headquarters unit helping with our media relations,
4 internal media relations.

5 Q What's your educational background?

6 A I got a bachelors degree from the University of
7 California in San Diego in applied mathematics, and I got
8 a masters degree from the University of Colorado in Denver
9 with a degree in media, digital media forensics.

10 Q What was your last duty station or assignment with the
11 FBI?

12 A I was at the Charlotte field office for about a year.

13 Q And I think you said now you work at Reliance
14 Forensics?

15 A I do.

16 Q Okay. What types of services does Reliance Forensics
17 perform?

18 A So it's a range of different forensic services on
19 digital media. That would be cell phone, computer, a
20 Cloud account, things of that nature, servers. Anything
21 that has a component of digital media. That's something
22 that we can (unintelligible).

23 Q Do you have any special certifications?

24 A I have a few certifications from Cellebrite, which is
25 a industry-standard on cell phone forensics. I have a few

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1 internal FBI certifications where I was member of the
2 field audio-video program, which was a collateral duty
3 where I was able to help out on national cases doing
4 different things with media, enhancing videos or securing
5 videos, things of that nature.

6 Q Were you hired in case by the lawyers for Mr. and
7 Mrs. Crespo to perform a review of some of the data that
8 you were provided?

9 A I was.

10 Q Okay. And did you perform a review?

11 A I did.

12 Q The data that you received, what format did it come to
13 you in?

14 A So most of the things that I received were in E01,
15 which is a forensic format. It's a way to take a piece of
16 digital media and take a bit-by-bit copy of it, so making
17 a mirror image into this forensic format.

18 Q Did you process that data?

19 A I did. So an E01 format is not something that you can
20 just open up. It's not like a file folder. You have to
21 view it in a forensic tool. What I did in this case, I
22 took this -- these pieces of evidence and I used a
23 software that parses through all that data, which means
24 that it will go in and it will segregate everything into
25 it's own component. So it will find all the videos, it

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1 will find all the text files, it will find all artifacts
2 of web browsing, and it puts it into its own little
3 buckets to make it easier to review and to do the forensic
4 analysis.

5 Q Were you disturbed by any of the images that you found
6 on these computers?

7 MR. GRIFFIN: Objection, Your Honor, relevance
8 and 403, his dealings and whether he's disturbed.

9 THE COURT: I'm going to sustain that objection.

10 BY MS. BARBIER:

11 Q Were the videos that you reviewed -- well, first of
12 all, let me ask you this. Did you calculate a total
13 number of videos found on these devices?

14 A Yeah, roughly --

15 MR. GRIFFIN: Objection, Your Honor, as to total
16 number of videos. I think we've addressed that in
17 pretrial and during this trial.

18 THE COURT: We did, Mr. Griffin. And I'm going
19 to think about that. I'm going to ask Ms. Barbier to
20 rephrase that question in light of the rulings made
21 by the Court earlier.

22 BY MS. BARBIER:

23 Q Were the videos that you reviewed all taken from the
24 same location?

25 A They were.

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1 Q Were there particular rooms they were generally taken
2 in?

3 A Typically, I would see videos of a bedroom or a
4 bathroom, maybe a yacht of some sort.

5 Q Did you review a video entitled "Heather and Gabriel"?

6 A I did.

7 Q Can you describe that video for the jury, please?

8 A Sure. It appears -- not in graphic detail -- but it
9 appears to be --

10 Q Correct.

11 A -- a video of -- it's a spliced video, so several
12 different videos together. It appears to be from a
13 camcorder or some sort of recording from a tape, so an
14 old-school recording, and they are spliced together.
15 There is a couple intimate and then in a bedroom, and then
16 there are some scenes in a shower, so they'd be going in
17 and out of the shower.

18 Q Was the video of Heather and Gabriel found on more
19 than one device?

20 A It was.

21 Q You indicated it was spliced. How do you know that?

22 A Just from the contents of the video. I mean, it goes
23 from one scene being in a bedroom to another one being in
24 a bathroom. You can also see that there is -- so if you
25 guys back remember back to when we used to play videos on

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1 cassette, you would have to press play, and on the screen
2 there's like a little play icon that shows up when you
3 press that play button. That showed up a couple of times
4 you transitioned from one scene to another. So to me,
5 that makes sense that there was two different videos that
6 would have been spliced.

7 Q I'm going to show you what we've marked as Plaintiffs'
8 Exhibit 19. Do you recognize that?

9 A I do.

10 Q Okay. What does that thumb drive contain?

11 A These are a few videos that are representative of what
12 was found on these pieces of evidence. I took these
13 videos and, in order to obscure the identity of the
14 victims in these videos, I blurred the faces.

15 Q And did blurring the faces of the individuals depicted
16 on these videos in any way change the substance or the
17 contents of the video?

18 A No, it does not.

19 Q And were they made from true and correct copies of
20 images from the data you were asked to review?

21 A Of videos, yes.

22 Q Yes.

23 MS. BARBIER: I would move Plaintiffs'

24 Exhibit 19 into evidence, Your Honor.

25 (Plaintiffs' Exhibit 19 was moved

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1 for admission into evidence.)

2 THE COURT: I understand that both defendants
3 each have objections to these videos. We've noted
4 those several times. And I understand you -- you
5 objected to the blurred image video for Mr. Riviere.
6 And Mr. Harte has objected to the blurred images for
7 Ms. Riviere as well. And I will note those
8 objections and allow the videos into evidence.
9 Anything further counsel would like to say on that
10 point?

11 (Plaintiffs' Exhibit 19 was
12 admitted into evidence.)

13 MR. GRIFFIN: No, Your Honor.

14 THE COURT: Thank you.

15 BY MS. BARBIER:

16 Q I think you noted earlier that at least some of these
17 videos appear to be taken by an old-school camcorder?

18 A Yes.

19 Q Okay. To your knowledge, has the technology changed
20 from 2000 to now with respect to hidden cameras?

21 A Absolutely, it has.

22 Q Could you explain that, please?

23 A So we used to need to have a camcorder, a larger
24 device. Nowadays, you can hide a camera in a wall. It
25 doesn't need to be very big. It can be integrated into

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1 any number of things that conceals or makes it easy to
2 place where you don't want people to notice it.

3 Q Did you find any indications in your review of videos
4 from other devices not on the devices that you reviewed?

5 A I did. I did.

6 Q Can you explain that?

7 A Yeah. So while reviewing all the items of evidence, I
8 located a small jpeg image, which is called a thumbnail.
9 So when you copy a video onto a device, the computer
10 itself or whatever the device it may be will generate a
11 small image that represents that video. So when you're
12 looking at a file folder and you have a lot of different
13 videos, you'll have a little icon, and that icon will have
14 a picture that's a small image from that video. Those are
15 generated automatically. A user is not selecting which
16 thumbnail to create from that. But it's for -- it's a way
17 that the manufacturers of the computer systems make it
18 easier for the user to browse through all the different
19 videos that they have. You see a little thumbnail and
20 then you can, you know, click and open that video. So I
21 did locate thumbnail image of a woman getting undressed
22 that did not -- I was not able to locate in any of the
23 other items of evidence.

24 Q Did you find any files or any images or videos located
25 in Dropbox folders?

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1 A I did, yes. In one of the items of evidence, there
2 was a folder titled "Dropbox".

3 Q In -- in your -- in your experience, is it -- is it
4 possible to know where the videos that you reviewed where
5 else they reside on the Internet or elsewhere?

6 A No. I mean, there are some indicators when you're
7 reviewing -- forensically reviewing a piece of evidence if
8 you're looking at laptop. There are some indicators, some
9 things like the item, the web history, which Cloud
10 accounts were utilized. But after -- I mean, you can't
11 really say where it's going or where anything is going
12 once it's uploaded to the Internet. And these little
13 breadcrumbs that are left behind are not a totality of
14 anything that's happened on that device, so doesn't go
15 back forever. It's just a small subset of what's happened
16 on -- on that device.

17 Q Were you able to see browsing history on these devices
18 going back to the year 2000?

19 A No. No. It does not go back that far.

20 Q I don't have any other questions, Mr. Fritz. Please
21 answer any the defense may have.

22 A Sure.

23 THE COURT: Mr. Griffin?

24 //

25 //

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1 CROSS-EXAMINATION

2 BY MR. GRIFFIN:

3 Q Good morning, Mr. Fritz.

4 A Good morning.

5 Q Let's just start there. The -- I take it you didn't
6 find any evidence that the Heather and Gabriel folder was
7 disseminated anywhere, did you?

8 A The file itself? No, I did not.

9 Q Okay. Now, you -- you mentioned that it appeared that
10 the video, the original video, was taken with one of the
11 old-school devices, a camcorder-type thing?

12 A Yes.

13 Q And -- and what about the quality or the
14 characteristics of the video you saw leads you to that
15 conclusion?

16 A Just the way that when you're watching the video it
17 has those characteristics of tape where it's kind of
18 shaking on the top. Also, like I said, you can see that
19 little icon, that little play icon. And this I didn't
20 mention, but there -- it appears that it was recorded over
21 a previous recording of, like, a TV show of some sort.
22 There's a few scenes in between that you can see that are
23 from a previous recording.

24 Q And -- and I think you did explain this, that
25 technology today, I mean, I'm sure a lot of people in this

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1 courtroom have Ring cameras. I've got a Bling, but you
2 know, it looks like a doorbell and there's little camera
3 in there; correct?

4 A Correct.

5 Q But that's how a camcorder or the old-school devices
6 that you're talking about here look. I mean, they were
7 never designed to be that tiny; correct?

8 A Correct.

9 Q And so -- and the equipment is pretty big; correct?

10 A Yeah. I mean, it did progress, but yeah, they didn't
11 get to the size that we have now.

12 Q Okay. And -- and they made noise when they were
13 activated, didn't they?

14 A I suppose, yeah.

15 Q And if one was behind that door and you opened it,
16 you'd pretty much be able to see it, wouldn't you?

17 A Sure.

18 Q Okay. That's all the questions I have.

19 THE COURT: Thank you, Mr. Griffin. Mr. Harte?

20 MR. HARTE: No questions, Your Honor.

21 THE COURT: Thank you, sir. Ms. Barbier?

22 MS. BARBIER: We have no further questions, Your
23 Honor.

24 THE COURT: Thank you. The witness may step
25 down. All right. Let's take a 10-minute break at

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1 this time.

2 (The jury exited the courtroom.)

3 (Sidebar.)

4 (Off the record.)

5 (Recess.)

6 (On the record.)

7 THE COURT: Yes, sir?

8 MR. MCCULLOCH: Your Honor, I was just going
9 to -- we did it at sidebar, but I wanted you to put
10 on the record --

11 THE COURT: Oh, yes. Yes.

12 MR. MCCULLOCH: -- your motion to seal. It
13 would be as to 18 and 19 under Rule 41.1. You can
14 find that you are sealing for the purposes -- for the
15 protection of known and unknown persons depicted in
16 the video in private moments and that.

17 THE COURT: Yes. Based upon the contents of
18 videos, which I have reviewed, we will seal 18 and 19
19 which are the videos unaltered. As I understand it
20 from the testimony from counsel is 18 and blurred
21 facial images in 19, there are ten of these. Also
22 the videos are only to be shown to the jurors.
23 Counsel is welcome to move about the room if they
24 would like to watch the videos at the same time with
25 the jurors, but they will not be shown on the public

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1 side of the videos at all. I'll note that it doesn't
2 appear that we have any members of the general public
3 who are not otherwise associated. We have some folks
4 behind the plaintiffs' counsel that I believe are
5 here in support of the plaintiff. But there is no
6 media currently in the courtroom, and there is no
7 other guests of the general public in the courtroom
8 at this time.

9 MS. BARBIER: Your Honor, I just want to make
10 sure the record is clear. Exhibit 19 has nine
11 videos. We took out the one that was lightened
12 pursuant to the Court's ruling, so there are nine
13 videos on there. The one of Mr. Riviere, again, as I
14 said, is not blurred. The other videos with the --
15 with the other --

16 THE COURT: Unknown persons.

17 MS. BARBIER: -- unknown people in there are
18 blurred.

19 THE COURT: And, counsel, are you going to play
20 the tenth video that I believe was the video of your
21 clients? It had been lightened by your forensic
22 person, and defendants objected to a showing of the
23 altered video in that context, and I ruled in favor
24 of each defendant in that regard.

25 MS. BARBIER: Yes, Your Honor.

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1 THE COURT: You have the unaltered video?

2 MS. BARBIER: We've got the darker one that's on
3 Exhibit 18.

4 MR. GRIFFIN: Yeah. That was going to be my --
5 I assume you're going to play it for the jury, so
6 that there's no Heather and Gabriel folder of any
7 sort on 19.

8 MS. BARBIER: There's no video about Heather and
9 Gabriel on 19.

10 MR. GRIFFIN: But on 18 there --

11 THE COURT: You're only playing the Heather and
12 Gabriel video.

13 MR. GRIFFIN: But -- but on 18, there's Heather
14 and Gabriel and all the other people who are not --

15 THE COURT: Right.

16 MR. GRIFFIN: -- who are not -- not fuzzed up,
17 so I --

18 THE COURT: Right.

19 MR. GRIFFIN: -- wouldn't want to --

20 MS. BARBIER: So there will only being one video
21 from 18 played to the jury. That's Heather and
22 Gabriel. And then Exhibit 19 will be played with the
23 blurred images.

24 THE COURT: And are you about to do that? When
25 are we doing that?

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1 MS. BARBIER: We're doing that --

2 THE COURT: When do you anticipate?

3 MS. BARBIER: -- through a different witness,
4 probably later this afternoon.

5 THE COURT: Okay. Please, please, please make
6 certain the correct thumb drive gets in there. Alert
7 me, and we will take a break. We will let the jurors
8 out to make sure this is set up properly before we
9 hit play.

10 MS. BARBIER: Yes, Your Honor. I share your
11 concern for the privacy of those individuals.

12 THE COURT: I don't want any confusion as to the
13 playing of that video whatsoever.

14 MS. BARBIER: And the -- and the thumb drives
15 are right here if he does want to put it in your
16 computer and make -- make sure -- double-check --

17 MR. MCCULLOCH: Well, we have one or two other
18 things to do.

19 MS. BARBIER: -- okay.

20 THE COURT: I'm just going to keep standing
21 because I have to sit down, and my...

22 MR. GRIFFIN: You can leave them up there,
23 Debbie. I think -- I don't want to play them on the
24 computer with people back there. If you're doing it
25 after lunch, we'll take a look.

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1 MS. BARBIER: Yeah.

2 THE COURT: What else do we need to take up? Do
3 you have something else right now, Mr. McCulloch --

4 MR. MCCULLOCH: No, no, no.

5 THE COURT: -- in the presentation of the
6 videos?

7 MR. MCCULLOCH: So we're checking the content?

8 THE COURT: Well, no. You commented you had
9 something. I thought you commented you had something
10 else, but that may have been about the timing and the
11 presentation of the videos.

12 MR. MCCULLOCH: No. I think it was just -- I
13 think it was the sealing, Your Honor. I don't know
14 what else.

15 THE COURT: Okay.

16 MR. MCCULLOCH: I don't remember when I said
17 that, or what in the heck I was talking about.

18 THE COURT: I understand that feeling. Mr.
19 Harte, do you have anything to take up at this time?

20 MR. HARTE: No, Your Honor, I do not. Thank you
21 very much.

22 THE COURT: All right. I'm going to remind all
23 counsel, please, please, please, ask on your direct
24 open-ended questions, except for the introductory
25 matters with him being gone over. Yes?

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1 MR. HARTE: Could I just inquire? This --
2 this -- this -- box that holds the television, I
3 noticed it's on wheels. Is it possible to move it so
4 that it can point -- is that how we're going to do
5 it? Are you just going to turn off one side?

6 THE COURT: We're going to turn off this side.

7 MR. HARTE: Okay. So if I want to --

8 THE COURT: If you want to watch with the jury,
9 you will have to stand up and go over there and to
10 that door or another location to watch with them.

11 MR. HARTE: Well, one thing I do want to say is
12 I don't want any inference drawn if I -- if I decide
13 I don't want to walk over there and watch it,
14 because --

15 THE COURT: That's perfectly up to you.

16 MR. HARTE: Yeah.

17 THE COURT: I think --

18 MR. HARTE: I'm just saying. I don't -- I'll
19 have to figure that one out myself. I don't think
20 you can help me with that.

21 THE COURT: -- I don't think so.

22 MR. HARTE: Thank you, Your Honor. That's your
23 decision. Thank you, Your Honor.

24 MR. MCCULLOCH: We -- we would not request and
25 would oppose that instruction about who watches and

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1 who doesn't watch. I don't know whether that's what
2 he was suggesting.

3 THE COURT: I don't -- I don't think we need to
4 instruct the jury on that. I will -- I'm just not
5 going to comment on who's able to watch the video at
6 all. If you all want to get up and go over there,
7 you can. You don't -- you're not required. But I
8 just wanted you to realize that although there's two
9 sides to this machine, and in another circumstance
10 you could just sit at your table and watch and we can
11 say that, I'm not going to say anything about it
12 whatsoever. Yes, sir?

13 MR. FEW: I was just overthinking the matter and
14 thinking maybe if something needing to be said, it
15 could be said that the lawyers may be watching it to
16 make sure that it's the right thing being presented.

17 THE COURT: I think it's better if we don't
18 comment on this.

19 MR. MCCULLOCH: And, Your Honor, I will only
20 give a forecast that if the witness is Ms.
21 Vaillancourt, Ms. Thompson, who you've earlier ruled
22 about Ms. Thompson from designations that if we get
23 into dangerous waters, we may expect the bow will be
24 rising.

25 THE COURT: Ms. Barbier, is the next witness

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1 Ms. Vaillancourt?

2 MR. FEW: It is, Your Honor.

3 THE COURT: I would like to speak to
4 Ms. Vaillancourt as to the Susan Hook issues before
5 we start her testimony.

6 MR. MCCULLOCH: Thank you, Your Honor.

7 MR. FEW: Do you want --

8 THE COURT: So if we could bring in Ms. Deirdre
9 Vaillancourt.

10 (Ms. Vaillancourt entered the
11 courtroom.)

12 (Sidebar.)

13 THE CLERK: Place your left hand on the Bible
14 and raise your right hand.

15 (The witness was sworn in.)

16 THE COURT: Ms. Vaillancourt, we have a
17 preliminary matter to take up, so I just want you to
18 stand right there. You can take your hand off the
19 Bible.

20 THE WITNESS: Thank you.

21 THE COURT: If you want to keep it on the Bible,
22 that's totally up to you. Okay. Yesterday, you
23 know, you all were back there and not in the
24 courtroom to hear witnesses so that we have a
25 presentation that's fresh from each witness that

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1 comes forward. I understand that Ms. Hook may have
2 spoken to you after she testified. Did she speak
3 with you?

4 THE WITNESS: She -- we three asked -- we asked
5 her -- I was there with Suzy Haslup -- how quickly it
6 was likely to happen, and she said there was a lot of
7 argument. That's all we talked about.

8 THE COURT: So she did speak to you?

9 THE WITNESS: She did.

10 THE COURT: Okay. And do you recall what she
11 said --

12 THE WITNESS: No.

13 THE COURT: -- or what happened?

14 THE WITNESS: We asked if -- I already answered
15 that question to the young woman that came in and
16 asked me yesterday.

17 THE COURT: Okay.

18 THE WITNESS: She said it was just a lot of
19 arguing. She would answer, and there were arguments.

20 THE COURT: Okay.

21 THE WITNESS: She didn't say any of the
22 discussion, no words were --

23 THE COURT: Did you or Ms. Haslup have any
24 questions of her?

25 THE WITNESS: How long was it going to take.

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1 THE COURT: And what was the response?

2 THE WITNESS: I don't -- I can't tell you,
3 because there were a lot of arguments and
4 interruptions to my testimony.

5 THE COURT: Did she indicate at all who was
6 interrupting or who was arguing?

7 THE WITNESS: No.

8 THE COURT: Okay. It's not your recollection?

9 THE WITNESS: I have no more recollection than
10 that.

11 THE COURT: Okay. Would counsel like us to ask
12 any more questions of Ms. Vaillancourt before she
13 testifies otherwise? No? Hearing none --

14 MR. FEW: Nothing from the plaintiff, Your
15 Honor.

16 THE COURT: -- all right. Ms. Vaillancourt, I'm
17 going to ask that you just go sit down there. We're
18 going to have you re-sworn --

19 THE WITNESS: Yes.

20 THE COURT: -- in front of the jury, just
21 because that's the normal procedure and we don't want
22 any kind of issue in there. So just sit somewhere in
23 the courtroom. It does not matter where. Mr.
24 McCulloch?

25 MR. MCCULLOCH: Is that the witness? Can we --

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1 THE COURT: That is the witness. Do you have a
2 matter --

3 MR. MCCULLOCH: -- can we excuse her for just a
4 moment?

5 THE COURT: -- you might be taking -- okay. Ms.
6 Vaillancourt, I was wrong. You can't sit right
7 there.

8 MR. MCCULLOCH: I'm sorry.

9 THE COURT: It's just procedural, that's all it
10 is.

11 THE WITNESS: Step outside?

12 THE COURT: Yes, if you would go step -- no, no.
13 Ma'am, just go step right outside.

14 THE BAILIFF: You want her to step back outside?

15 THE COURT: Yeah. I'm sorry. You've got too
16 many people telling you what to do. I understand.
17 We just have one matter of procedure. I'm sorry.

18 (Ms. Vaillancourt exited the
19 courtroom.)

20 THE COURT: Yes, sir?

21 MR. MCCULLOCH: Your Honor, my apologies. The
22 difficulty with this witness is that she gave a
23 deposition of a 164 pages, which I have been through
24 multiple times. I would object to a question being
25 asked of this lady about any conversation she had

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1 with Mr. Harte at some point when he evidently was
2 representing Mr. Riviere, our client now, but at the
3 time, his client in a separate legal matter, not this
4 matter. She was deposed in a different case. I
5 anticipate that the plaintiffs may ask her about that
6 conversation. Now -- and they will characterize it
7 as some kind of admission by Mr. Riviere, except
8 that's hearsay. It's not a statement made by Mr.
9 Riviere, it's a statement that even Mr. Harte
10 disputes he made, as she indicated in the deposition
11 I don't believe that's appropriate and we object to
12 it. It is not a part of our case. I don't know of
13 any rule that would allow that to be presented.
14 Again, it is -- I won't go into the reason or the
15 rationale for the plaintiffs requesting it because
16 it's not really important.

17 THE COURT: Mr. McCulloch, you took her
18 deposition, so you have the statement. What is the
19 statement?

20 MR. MCCULLOCH: I didn't take her deposition.

21 THE COURT: Okay.

22 MR. MCCULLOCH: The deposition was --

23 THE COURT: Well, you were present at the
24 deposition or one of your opposing counsel was?

25 MR. MCCULLOCH: No, no, no. This is before our

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1 involvement. We were not --

2 THE COURT: This is a deposition in another
3 case?

4 MR. MCCULLOCH: -- it is a deposition in the
5 case of Julie Ann Foster versus Riviere.

6 THE COURT: Thank you, sir. Mr. Harte, just for
7 clarity, can you tell me, you represented -- it's
8 come up before, but I didn't you ask anything about
9 it. You represented Mr. Riviere in another matter?

10 MR. HARTE: There was a case involving Julie Ann
11 Foster, and along with Julie and Luz [ph] out of
12 Columbia, I was counsel to Mr. Riviere in that case,
13 and I was present for this deposition at that time.

14 THE COURT: Yes, ma'am?

15 MS. BARBIER: Your Honor, I would like to make
16 the record clear. Mr. Harte is Mr. Riviere's counsel
17 of record in the criminal cases that are pending in
18 Aiken County right now, along with Mr. McCulloch and
19 Mr. Griffin. He's also counsel of record in a case
20 that's currently pending in the court of appeals, as
21 the record will -- I mean, as attorney for Mr.
22 Riviere. As I've said in the previous pretrial
23 hearing, if he's made a motion to withdraw from those
24 cases, I haven't seen it.

25 THE COURT: Thank you. Is that correct, that

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1 you have more representation or a fuller
2 representation of Mr. Riviere thank the --

3 MR. HARTE: No.

4 THE COURT: -- in the case of Julie Ann Foster?

5 MR. HARTE: Your Honor, well, I was also counsel
6 when the -- there was a case involving the -- two --
7 two younger ladies. I represented him then. Your
8 Honor, I may -- it's entirely possible that I may
9 still appear by name on these other cases. We've
10 contacted the court of appeals about getting my name
11 off of that. Frankly, I've been rather busy getting
12 ready for this, so we haven't filed what we may need
13 to file. But I am not actively involved in
14 representing him on any other cases going forward at
15 this time.

16 THE COURT: Are you still counsel of record on
17 the criminal matters?

18 MR. HARTE: I appear by name, but I am not
19 participating as counsel, and I will -- I will move
20 to be removed by name off of that case.

21 THE COURT: Okay. You haven't made a motion to
22 withdraw from the case at this time?

23 MR. HARTE: I have not done that, no.

24 THE COURT: All right. Thank you, sir. What
25 the statements in a deposition, what was the

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1 statement?

2 MR. HARTE: Let me see.

3 MR. GRIFFIN: Your Honor?

4 THE COURT: If I'm going to make a ruling on the
5 statement, I'd like to know what it is.

6 MR. GRIFFIN: Yeah, Your Honor, I can read it.
7 It's on page 106 of her deposition. And she had
8 received a subpoena. She called Mr. Harte's office
9 and says, "May I speak with John? He came on the
10 phone and he told me, he said, Deirdre, this is so
11 crazy. I'm so sorry that you received the subpoena.
12 How ridiculous that Tiger put his security cameras in
13 inappropriate places. I'm going to do my best to
14 have your testimony or your participation quashed.
15 I'll speak with you next week." "What did you say?
16 "Thank you, and I hung up." And then -- and then
17 "Did you hear back?" "Mr. Harte called and left me a
18 message or text -- I don't recall which -- saying
19 I'll no longer be speaking with you, you need to seek
20 an attorney. That's what he said."

21 MR. MCCULLOCH: Your Honor, there are actually
22 two other instances. And I don't mean to --

23 THE COURT: No, no --

24 MR. MCCULLOCH: -- double theme you, but I
25 wanted -- I think it's important that you have a full

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1 understanding. There is also elsewhere in this
2 deposition, if I'm not mistaken -- and I haven't
3 found the page yet -- that -- and -- and I would ask
4 Mr. Harte, who actually was taking this deposition or
5 involved in this deposition, I would ask him to
6 provide you and proffer what Ms. Vaillancourt
7 testified to and what -- if you can find that, John
8 -- but there was a reference to the fact that he had
9 placed a camera, a surveillance camera, accidentally
10 or had secured video accidentally. That is not a
11 statement, not an admission against interest made by
12 the defendant. It is not a statement in any court
13 document, and it is also a statement disputed by Mr.
14 Harte, and I don't want to convert him into a witness
15 to dispute that, if it were allowed.

16 MR. HARTE: Your Honor, if I may say, let me be
17 very clear on this point. The case in which
18 Ms. Vaillancourt was deposed, the facts in that case,
19 in particular at the time of this a deposition, which
20 was taken on -- what was the date -- hold on just a
21 moment, I'll find the date -- it was taken on.

22 MR. FEW: August 9th, 2022.

23 MR. HARTE: -- August the 9th, 2022. That
24 particular case had a set of facts that are totally
25 different from this set of facts. And without

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1 getting into the specifics of all that, the -- the
2 conditions of the -- the -- that -- that case is just
3 not the same.

4 THE COURT: Yes, sir.

5 MR. MCCULLOCH: And, Your Honor, one last thing.
6 On page 93 of the deposition, there is a colloquy.
7 The witness, Ms. Vaillancourt, "I heard that she' --
8 making a reference to Catherine Thomas -- 'was caught
9 on a video in one the properties that she managed. I
10 think it was Lamplight." That would not be a Crespo
11 rental location. And the question by Ms. Barbier,
12 "And did Mr. Riviere confront her of this?" There
13 was an objection. The witness, "I believe Catherine
14 confronted Mr. Riviere." Well, the -- that is -- she
15 says "I believe." There's no foundational basis.
16 It's abject hearsay, and it should not be asked, and
17 I should not be put to the test of objecting.

18 THE COURT: And that was on page 93 as well?

19 MR. MCCULLOCH: That's page 93, Your Honor.

20 THE COURT: Okay. So we have the statements of
21 Mr. Harte. This is Ms. Vaillancourt's testimony in a
22 prior -- a deposition dealing with prior litigation
23 against the defendant, Rhett Riviere only, I assume.
24 Is that right, Mr. Harte?

25 MR. HARTE: That is correct, Your Honor.

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1 (Unintelligible cross-talk by
2 several counsel.)

3 MR. FEW: That case has got Rhett Riviere,
4 Catherine Thomas, his company, Chase Enterprises, and
5 Airbnb.

6 THE COURT: Well, I mean, is Ms. Josee Riviere
7 is not involved?

8 MR. HARTE: That is correct --

9 (Unintelligible cross-talk by
10 several counsel.)

11 MR. HARTE: -- and she was not -- she was not a
12 litigant in that.

13 THE COURT: That -- that was my question. I
14 should have been more specific about that. A
15 statement that she heard that Ms. Catherine Thomas
16 was caught on a video at another property owned by
17 one of those companies or the defendant, Rhett
18 Riviere, and a statement on the same page about what
19 she believes happened --

20 MR. MCCULLOCH: Well, I would say, Your Honor --

21 THE COURT: -- in regard to those videos.

22 MR. MCCULLOCH: -- as to the page 93, caught on
23 video, there's a reference to -- to that place on
24 Highway 302. I have no idea whether that -- there's
25 no record that it's related at all to any of the

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1 other corporate defendants or LLC defendants in this
2 case, nor to Ms. Riviere, and -- and it's hearsay.

3 MR. HARTE: And, Your Honor, if you might, on
4 page 92, Ms. Barbier asked -- at page -- at line 15,
5 "Okay. Well, can you be more specific, please?" And
6 she says "I can't be more specific because I don't
7 have details. It was rumor."

8 THE COURT: Yes, sir. All right. Mr. Few,
9 you're going to argue this one?

10 MR. FEW: I am, Your Honor.

11 THE COURT: I started to ask you a question, but
12 I think I'll just hear what you have to say.

13 MR. FEW: Well, you know, I'll -- that case
14 involves 3rd Avenue, which is where this case
15 involved, so it absolutely is substantially identical
16 to this one, except there's no -- excuse me?

17 MR. MCCULLOCH: It's not 3rd Avenue this case
18 involved. This case involves 541 or 547 -- 541 or
19 547. One is a barn and one is the house. That's
20 where the Crespo rental property is, not 3rd Avenue.

21 THE COURT: All right. Mr. Few, this is what I
22 want. Well, I did have my question. Now, it's gone
23 out of my head. Oh, here it is. The statements that
24 they've identified in the deposition, do you
25 anticipate trying to get those statements into

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1 evidence through this witness?

2 MR. FEW: Your Honor, I can't help what Mr.
3 Harte told that witness when he --

4 THE COURT: Is that a yes?

5 MR. FEW: -- well, I'm not going to go into that
6 same question, but -- but we are absolutely entitled
7 to ask this witness what she knows, what she's heard,
8 and has she ever heard any explanations for why this
9 was done.

10 THE COURT: I'm not sure I agree with you on
11 that one. I don't think that's --

12 MR. MCCULLOCH: That's hearsay. That's -- he's
13 defined hearsay --

14 MR. FEW: No, no, no, not -- not --

15 MR. MCCULLOCH: -- "what have you heard."

16 MR. FEW: -- I misspoke. What is her
17 understanding of what was done --

18 MR. MCCULLOCH: Same objection.

19 MR. FEW: -- Your Honor --

20 MR. HARTE: Your Honor, if I might just say one
21 thing.

22 THE COURT: No, no. Wait we're not going to --
23 I'm not going to do --

24 (Unintelligible cross-talk by
25 judge and counsel.)

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1 MR. HARTE: But I think this is rather
2 important.

3 THE COURT: -- argument.

4 MR. HARTE: I think it's really important. I'm
5 sorry.

6 MR. FEW: -- Your Honor --

7 MR. HARTE: Your Honor -- Your Honor, the --
8 the -- if I -- if I had said to her, Mr. Riviere told
9 me, then that would be different. That's not what I
10 said.

11 THE COURT: I don't know that it would be very
12 different. Mr. Harte, please, I'm going to give the
13 plaintiff's --

14 MR. HARTE: Thank you, Your Honor.

15 THE COURT: -- a chance. I've heard -- I'm
16 trying to be very liberal in making sure everyone
17 gets their full arguments on the record on each
18 thing, but please don't misinterpret that that
19 everybody can talk as long as they want. Okay? We
20 need to make sure it's done. All right. Why would
21 the statement by an attorney who is representing the
22 codefendant at the time as to just to a witness, why
23 would that be relevant at all to this proceeding?

24 MR. FEW: Well, the attorney is the person who
25 speaks for them. It's an admission. They have

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1 basically made the argument for me. And, Your Honor,
2 here's another reason why this is important. She's a
3 real estate agent. Real estate agents have a duty to
4 disclose. And the jury is entitled to know what
5 would you do differently if you knew someone had
6 hidden cameras in their properties. And so, you
7 know, she's friend of Josee Riviere's. She -- we
8 plan to ask her what kind of conversations she's had
9 with her, has she ever given you -- explained to you
10 what her understanding is or what happened. She's a
11 party. I mean, frankly, Your Honor, the statement by
12 Mr. Harte is an -- it's just a straight-up admission
13 of what he said, "He put security cameras in
14 inappropriate places." Those are his words. And
15 they can cross-examine her on that.

16 MR. MCCULLOCH: And, Your Honor --

17 THE COURT: Mr. McCulloch?

18 MR. MCCULLOCH: -- I would only say, Your Honor,
19 it's not an admission against interest because of
20 the -- number one, the lack of clarity since Mr.
21 Harte disagrees with Ms. Vaillancourt on what was
22 said. I don't think she gets -- it's hearsay,
23 number one. It's not a clear-cut concurrence or
24 agreement about what was said. And -- and you've
25 defined the circumstance, it is not during the

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1 deposition. She's testifying about some conversation
2 she had with him at some point. It's not relevant to
3 this case. It is just another effort to bootstrap an
4 admission, which they are not going to have in this
5 case, Your Honor, because Mr. Riviere, if called to
6 the stand, will do the same thing he did in his
7 answer, which was assert the Fifth Amendment. They
8 may or may not, at your judicial decision, to benefit
9 from that in some type of interest. But they should
10 not be able to pile on, and that's what they're
11 trying to do.

12 The other testimony is clearly hearsay, and it's
13 inadmissible because Mr. Few said that -- that this
14 was a reference to the place that the Crespos were
15 videoed. It's not at all. This is a reference in a
16 different case to a different address 20 years later.
17 So it's separated by time, location, circumstance,
18 and in every other respect is inadmissible.

19 THE COURT: All right. What else do you want to
20 argue, Mr. Few?

21 MR. FEW: Well, Your Honor. I'll just clarify
22 for the record, that 115 3rd Avenue is in this case.
23 We have a bunch of things that have been moved into
24 evidence. It's one of the four places where the
25 search warrant was served. It's -- and -- and so,

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1 it's a substantially identical case. He was
2 Mr. Riviere's attorney. Apparently, he was trying to
3 tell this witness that he was going to ensure that
4 she didn't have to take -- that he wasn't going to --
5 he was going to see to -- try to get her deposition
6 quashed, which is what he told us, and he was
7 unsuccessful at that. And he said what he said. He
8 could have said I'm going to try get your deposition
9 quashed and just left it at that, but he didn't. And
10 she said it. We didn't elicit the question. She
11 just -- she volunteered it, and it's sworn testimony
12 in her deposition in a substantially related case.

13 THE COURT: I'm going to -- I'm going to exclude
14 the statements of John Harte in the deposition. The
15 statements of John Harte and Ms. Vaillancourt heard
16 in that conversation and the deposition and in the
17 prior case, I do not think that that's appropriate.
18 I think it is hearsay. And it's as to John Harte.
19 I'm not going to find that his statement while he was
20 representing her is a clear admission by the
21 codefendant that can get in.

22 Also, I don't think -- we're going to exclude
23 the statements that she heard that Catherine Thomas
24 was caught on video. We have argued ad nauseam as to
25 which part of bad acts could get in. We've let in

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1 one that was initially excluded. I'm not going to --
2 I'll allow the Catherine Thomas issue to come in
3 about the videos. I find with the fact that this
4 occurred at a location that otherwise happened --
5 that is otherwise in this case, that's not an issue
6 for me. I would ask that you all have referred to
7 this witness as a realtor as well. We had that with
8 the prior witnesses as a realtor. The prior witness
9 was not -- not brought in as an expert. That's fine.
10 That's up to you all how you -- how you handle that.
11 But therefore, she can't give a belief or an opinion
12 testimony if she's not an expert, is my reading of
13 the rules. So please tailor your questioning
14 appropriately for that.

15 MR. FEW: Your Honor, may I question about that,
16 because they -- I believe Ms. Barbier, when she asked
17 questions, under Rule 701, this witness is certainly
18 entitled to speak to her knowledge of her profession
19 and the way she goes about her profession and her
20 understanding of what the rules are. That's not
21 asking her an opinion, it's just asking her what she
22 would do in certain situations.

23 THE COURT: Yes, sir. Mr. Harte?

24 MR. HARTE: She's not designated as an expert.
25 The evidence should not be admitted, Your Honor.

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1 MR. MCCULLOCH: As long as she's not giving
2 legal opinions and expert opinions.

3 THE COURT: The problem with the question is
4 going to be when you ask her what her duties are, and
5 a duty implies a legal analysis. So I would ask you
6 to keep that in mind. I think she can testify to
7 what realtors normally do, what the scope of their
8 employment is and what the type of activities they do
9 as a realtor. That's just a professional question,
10 not a legal duty.

11 MR. FEW: Well, Your Honor, part of our
12 negligence per se claim is the fact that these
13 properties were rented by a non-licensed person, and
14 this prior witness testified that the purpose of the
15 realtors' statute was to protect the public.

16 THE COURT: So you have that in. Yes, sir, Mr.
17 Harte?

18 MR. HARTE: Well, Your Honor, just to be clear,
19 there is no evidence that Josee Riviere had anything
20 to do with any of the properties. In fact, for
21 example, the Wagener Road property wasn't acquired by
22 Mr. Riviere until 2016, well after the divorce had
23 occurred. So -- so to try to -- try -- and also,
24 Your Honor, the law is that a realtor is not required
25 to investigate or inspect properties for latent

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1 defects or dangers. Now, that is the law in South
2 Carolina. So when we start letting these realtors
3 start to say this, that, and the other thing about
4 what they would do, it's not relevant to the question
5 of whether there is a duty on the part of my client
6 to do anything.

7 THE COURT: I think anyone here can testify.
8 Anyone can get in this box and say what their
9 profession is and the understanding of their
10 profession. They cannot testify as to what the legal
11 duty is or what their opinion is as to what someone
12 else did, unless they're qualified as an expert in
13 that field. And that's across the board. That has
14 nothing to do with realtors specifically.

15 MR. MCCULLOCH: And, Your Honor, I'm not sure I
16 understood you correctly, but I don't think that this
17 lady can make their negligence per se case. I don't
18 think she can testify that there was a duty, as
19 you've already announced. And I don't think that she
20 can testify there was a violation of the duties that
21 would constitute the violation of a rule, a reg, or a
22 statute. And I haven't heard that established in
23 this case thus far, and I don't believe this witness
24 should be able to do that, or any other witness
25 because they haven't designated and expert for that

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1 purpose. They've given no notice in their
2 interrogatories. So that may be a problem, but it's
3 not a problem the Court should help them solve by
4 allowing testimony that is inadmissible.

5 THE COURT: I just stated what -- what I will
6 allow --

7 MR. MCCULLOCH: Thank you.

8 THE COURT: -- as testimony.

9 MR. FEW: So am I allowed to ask her does she
10 think that having hidden cameras in a property is a
11 material condition that ought to be disclosed to a
12 client?

13 THE COURT: I think Mr. Harte is going to stand
14 up and object to that.

15 MR. HARTE: Well, of course I am because it --
16 first of all, I think -- and all of that other sort
17 of stuff, it's a way to backdoor and -- and create --

18 THE COURT: A legal opinion.

19 MR. HARTE: -- create -- yes. And also, it --
20 it creates the appearance that she's here as an
21 expert, and she can't be because they didn't disclose
22 her.

23 THE COURT: Mr. Few, I think you can solicit
24 some of this information with properly worded
25 questions.

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1 MR. FEW: I'm going to try to tiptoe around it,
2 Your Honor.

3 THE COURT: Thank you.

4 MR. FEW: I'll tiptoe from a distance.

5 THE COURT: All right. Let's bring Ms.
6 Vaillancourt into the courtroom.

7 MR. MCCULLOCH: Your Honor, I'm not certain the
8 defendant -- the prosecutor -- the plaintiff
9 shouldn't be given a couple of minutes to explain to
10 her the limitations.

11 THE COURT: All right. Ms. Vaillancourt, just
12 sit down right there.

13 THE WITNESS: Which side?

14 THE COURT: Either side. Either side, wherever
15 you want to sit. I'm going to let your counsel speak
16 to you.

17 MR. MCCULLOCH: Thank you. What I was concerned
18 about is --

19 THE COURT: Yes, sir.

20 MR. MCCULLOCH: -- pre-programming.

21 THE COURT: Ms. -- Ms. Vaillancourt, we
22 discussed some aspects of what could be your
23 testimony prior while you were out of the room. I'm
24 going to let the attorney that has called you as a
25 witness to instruct you as to that, and he can speak

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1 to her privately or however he wishes before the jury
2 comes into the room.

3 MR. MCCULLOCH: And thank you, Your Honor, for
4 that.

5 THE COURT: No problem.

6 (Sidebar.)

7 THE COURT: Counsel, we're going to probably
8 break. The lunch for the jury is coming in today,
9 given the weather, so we're going to try to break
10 ground 12:30 to 1:00. Let's try to break between
11 12:00 and 12:30.

12 MR. FEW: Your Honor, we've gone over the three
13 things that I had that we're not to discuss, and so
14 she's -- and I think you wanted her to go ahead and
15 be seated.

16 THE COURT: No, no. I want her to go back and
17 sit there. She's going to present like all other
18 witnesses.

19 MR. FEW: All right.

20 (Sidebar.)

21 THE COURT: All right. Ms. Jenny, please.

22 (The jury entered the courtroom.)

23 THE COURT: Okay. Next witness, please.

24 MR. FEW: Your Honor, may it please the Court,
25 the plaintiff calls Deirdre Stoker Vaillancourt.

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1 THE COURT: Ms. Vaillancourt, if you'll come
2 forward and be sworn.

3 THE CLERK: Place your left hand on the Bible
4 and raise your right hand.

5 (The witness was sworn in.)

6 THE CLERK: She's been sworn, Your Honor. Have
7 a seat in the witness stand. Watch your step. State
8 your full name when you're seated.

9 THE WITNESS: Deirdre Stoker Vaillancourt.

10 THE COURT: Can you spell your last name?

11 THE CLERK: Can you state your name into the
12 mic?

13 THE WITNESS: Deirdre Stoker Vaillancourt,
14 V-A-I-L-L-A-N-C-O-U-R-T.

15 THE COURT: Thank you, sir.

16 MR. FEW: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 DIEDRE STOKER VAILLANCOURT

19 was called as a witness, and having been first duly sworn,
20 testified as follows:

21 BY MR. FEW:

22 Q Ms. Vaillancourt, I'm Wes Few, and I believe we've met
23 a couple of times before, but we don't know each other, do
24 we?

25 A No.

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1 Q And I understand you're a real estate agent here in
2 Aiken.

3 A Yes.

4 Q And how long have you been a licensed realtor?

5 A Since 2003, 21 years.

6 Q Okay. And how long have you lived in Aiken?

7 A Year-round since 1992.

8 Q And do you know Rhett Riviere?

9 A I met Rhett in the first of 1977 when my family came
10 here as winter visitors. I met his family.

11 Q And what's your relationship been with Mr. Riviere
12 since 1977?

13 A Casual Aiken relationships.

14 Q And you --

15 A Our families were friends, as most winter colony
16 visitors have become.

17 Q Did you ever go to dinner -- families go to dinner
18 with each other when you all were growing up?

19 A Yes.

20 Q And you have a business relationship, or have had a
21 business relationship with him; right?

22 A I had a business relationship.

23 Q Okay. Tell the jury when the -- the nature of the
24 business relationship that you had with Mr. Riviere.

25 A As A realtor, I represented him on the purchase and

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1 sale of several real estate properties here in Aiken. The
2 last one was a 10-year listing that we had of his farm on
3 Grace Avenue, which ran from 2010 until 2020.

4 Q And you had that -- that property sold; right?

5 A I had it co-listed with a realtor in my office, Suzy
6 Haslup, and it did not sell. We -- Meybohm Real Estate
7 released him from that listing because he chose to take it
8 back. So I had no further relationship with sales after
9 that.

10 Q Are you aware of whether or not it eventually sold?

11 A It did sell, quite recently.

12 Q Okay. And do you know who the agent was on the sale?

13 A It was Suzy Haslup who was the listing agent. She --
14 he gave it her back to her, and she listed and sold it. I
15 don't know the name of the agent that was the buyer's
16 agent.

17 Q And where do you keep your real estate license?

18 A With Meybohm Real Estate in Aiken.

19 Q And where does Suzy Haslup --

20 A The same. We are associates in the same company.

21 Q -- okay. You all frequently work together on -- on
22 listings?

23 A That was the only co-listing, I believe, that we ever
24 had.

25 Q All right. You said that you saw the other properties

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1 for Mr. Rhett Riviere. I'm going to ask you more about
2 that. But did you ever handle any real estate sales for
3 Josee Riviere?

4 A I handled a house that was in her name on Boardman
5 Road. The address is, I believe, 839 Boardman.

6 Q Do you know -- and is it your understanding that some
7 of these homes are owned -- obviously, they live in --
8 probably one house would be their legal residence; right?

9 A Yes.

10 MR. HARTE: Object to the -- object to the form
11 of the questions, Your Honor. The phrase "some of
12 these properties" misleads the jury and the witness.

13 THE COURT: Mr. McCulloch, do you have something
14 else?

15 MR. MCCULLOCH: I was only going to object to
16 the "your understanding that." That, of course, may
17 require hearsay.

18 THE COURT: I'll just remind Mr. Few, open-ended
19 questions, please.

20 MR. FEW: Thank you, Your Honor.

21 BY MR. FEW:

22 Q Tell the jury about any real estate licensing work
23 that you've done that involved Josee Riviere or any
24 properties that she had an interest in.

25 A I believe Boardman Road was the only one that she had

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1 an interest in. The rest were owned outright by Tiger
2 or -- yes, I believe that's the case.

3 Q And approximately what year did you -- did you handle
4 the sale transaction of Boardman?

5 A I don't recall, but early 2000s.

6 Q Was she residing at that property at the time?

7 A No. It was an investment property.

8 Q It was an investment property that she owned?

9 A The records of all of that has already been provided,
10 I believe, by Meybohm.

11 Q That's fine. I'm just trying to find out what your
12 understanding of the nature of that property was.

13 THE COURT: Ms. Vaillancourt, make sure he
14 finishes the question before you answer. We try to
15 take down everything that's being said, and it can
16 get muddled in that way. So if you would just pause
17 before you answer. That way, we have a clear record.
18 Thank you.

19 BY MR. FEW:

20 Q And have you ever -- well, let me back up for a
21 second. Do you know Josee Riviere?

22 A I do.

23 Q And how long have you known her?

24 A I have known Josee since I lived in Canada. Prior to
25 my move here, our families were friends in Montréal,

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1 Québec, where we grew up, and our fathers did business
2 together in the racehorse industry.

3 Q So you've known her since sometime before 1992?

4 A Absolutely.

5 Q Did you all grow up together and go to school
6 together, and that kind of thing?

7 A We lived in the same area. We did not attend the same
8 schools. We lived in the same area outside of Montréal.
9 Our family had a weekend home in Hudson, Quebec, and Josee
10 lived there year-round.

11 Q Are you still friends with Josee Riviere?

12 A Yes.

13 Q Have you spoken to her about the facts of this case?

14 A I have not.

15 Q There's a gentleman named Dacre Stoker. Is that any
16 relation?

17 A Dacre. He's my brother.

18 Q And you had the listing for the 785 Grace property for
19 approximately 10 years; is that a fair statement?

20 A Yes.

21 Q I'm going to show you -- are you familiar with the GIS
22 system here in Aiken County?

23 A Yes.

24 Q Do you use it sometimes in your real estate profession
25 to get information on a property?

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1 A Yes.

2 Q And do you know if it is a system that's put together
3 by Aiken County?

4 A I believe so.

5 MR. MCCULLOCH: Your Honor, I'm going to object
6 to this on relevance and the fact that this is not a
7 transaction based on our earlier testimony that she
8 was in any way involved in because her relationship
9 to the property sale lapsed. It got turned over to
10 someone else.

11 MR. FEW: Your Honor, this document has pictures
12 in it, and it shows the property, and it's very
13 helpful to anybody that's interested in knowing about
14 the property where our clients were recorded.

15 THE COURT: Mr. Few, would you ask her to
16 explain what the GIS system is? Mr. McCulloch, I --
17 she did have the listing for 10 years. She may have
18 looked at that system in having the listing, even
19 though she didn't consummate the sale, but I don't
20 know.

21 MR. MCCULLOCH: Well, I don't know either, Your
22 Honor. But the listing -- as you can take judicial
23 notice, property values have markedly changed,
24 especially in the COVID era and -- and everything
25 else.

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1 THE COURT: And everyone is aware of that. Yes,
2 sir.

3 MR. MCCULLOCH: Well, my point is, if she had an
4 involvement in the transaction and the sale, then she
5 has knowledge.

6 THE COURT: At this point, we're talking about
7 the GIS system, and that's not about the sale of the
8 property.

9 MR. MCCULLOCH: Well, that's where we're headed,
10 Your Honor. She could have read about the sale in
11 the newspaper and wouldn't be entitled to --

12 THE COURT: She may have. When we get there --

13 MR. MCCULLOCH: Thank you.

14 THE COURT: -- you can make your appropriate
15 objection. Thank you, sir.

16 BY MR. FEW:

17 Q So tell the jury about the property. What -- what --
18 the -- the 10-acre property, I believe it is, on Grace
19 borders Two Notch; right?

20 A Yes.

21 Q And Two Notch is a dirt road; right?

22 A Correct.

23 Q And there is lots of horse stuff around?

24 A Yes.

25 THE COURT: All right. Mr. Few, let the witness

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1 testify.

2 MR. FEW: Okay, Your Honor.

3 THE COURT: Thank you.

4 BY MR. FEW:

5 Q So tell the jury -- just explained to them as best you
6 can the 785 Grace property as if you had a client on the
7 phone and you were telling them about it without them
8 having the ability of looking at pictures.

9 A 785 Grace Avenue is a 10-acre parcel that's comprised
10 of two 5-acre parcels. It makes a large rectangle. So
11 Mead Avenue, Two Notch, Grace Avenue are a three-sided
12 road. There is a brick ranch house on a property. There
13 is a small guest house on the property that was a
14 one-bedroom. I believe it had been a garage and then had
15 converted to a one-bedroom apartment. There is a
16 six-stall stable for horses. There was an additional on
17 the -- that was the main 5-acre parcel. Behind it was an
18 additional 5-acre parcel which was included in the listing
19 which had another barn on it. At the time, it was
20 probably a 10-stall barn. And there was another older
21 barn at the back perimeter which had been part of a racing
22 stable in the years before, which was another 8 to 10
23 stalls with a tack room. There was a number of paddocks,
24 which are pastures to turn horses out in. It was listed
25 for 3.5 --

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1 MR. MCCULLOCH: Your Honor, we do object to that
2 because what it's listed for, what is proposed for
3 sale value is absolutely irrelevant at any point in
4 this.

5 THE COURT: I think she's just defining the word
6 "paddocks," Mr. McCulloch.

7 MR. MCCULLOCH: I don't think so, Your Honor.
8 She was about to say of what the value of its listing
9 was. That's what we object to. Now, we had -- I
10 anticipate them offering up an exhibit from GIS. I
11 think we've reached an accommodation on that with
12 Mr. Few about that.

13 MR. FEW: Do we have some scissors?

14 MR. MCCULLOCH: But this -- this speculative
15 price is not relevant.

16 MR. GRIFFIN: That's fine.

17 MR. MCCULLOCH: So we've solved the problem in
18 the exhibit. What I'm trying to do now is limit the
19 testimony to something that's wholly not relevant.
20 What you ask for ain't what you get.

21 THE COURT: Yes, sir, Mr. McCulloch. Thank you.

22 MR. FEW: Do you guys have any objection to this
23 going into evidence?

24 THE COURT: Let's deal with the GIS right now.

25 MR. FEW: Mr. Harte?

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1 MR. HARTE: No objection.

2 MR. MCCULLOCH: The exhibit is the GIS with the
3 limitation that we've agreed to.

4 THE COURT: Yes, sir. Okay. Mr. Few, go into
5 that right now.

6 MR. FEW: Well, Your Honor, if I could, I'll
7 just -- since they consent to it going into evidence,
8 I'd like to just go ahead and move it in.

9 (Plaintiff's Exhibit 20 was moved
10 for admission into evidence.)

11 THE COURT: Without objection, so moved.

12 (Plaintiff's Exhibit 20 was
13 admitted into evidence.)

14 MR. FEW: So that would be 20.

15 THE COURT: As to the other objection of
16 Defendant Rhett Riviere, I'll find that the
17 definition of "paddock" was fine for the witness to
18 testify to.

19 MR. MCCULLOCH: That wasn't my objection, Your
20 Honor.

21 THE COURT: I understand. That's when you stood
22 up. That's why I wanted to make that clear. Having
23 heard as to the value, we'll have an argument on that
24 in a minute. Okay? All right. Ladies and gentlemen
25 of the jury, I'm going to ask you to step out for one

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1 second. I want to get an issue cleared up for my
2 head, and then I'll ask you to come up. Thank you.

3 (The jury exited the courtroom.)

4 MR. MCCULLOCH: Well, Your Honor, I stood up
5 because we had moved beyond her description of the
6 paddock and she was about to say what the proposed
7 sale price was. My objection is twofold. First,
8 this is wholly irrelevant to the stage of the trial
9 we are in, which is the liability and actual damages.
10 So this proposed value -- I don't know about you and
11 what your experience in real estate is, I don't know
12 that I've ever gotten what I asked for in -- in
13 offerings of real estate. So it's irrelevant, and it
14 confuses the jury. Now, they have the ability,
15 presumably, in the second phase, as a part of their
16 damages, this goes to net worth, which Phase 2. So I
17 object to it on those grounds. She's given a rather
18 detailed account of the property itself which will,
19 no doubt, have sugarplums dancing, but that's fine,
20 Your Honor. I didn't object to that. I objected to
21 this part of it for those two reasons.

22 THE COURT: Okay. Mr. Few, what --

23 MR. FEW: Your Honor, I have --

24 THE COURT: -- I just want to go ahead and deal
25 with this. I did -- all I heard her say was this is

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1 part of a listing. I may have missed something else
2 she said, so that's why I wanted to make sure we
3 clarified this. As to the -- the value evidence at
4 this stage of the trial in that it's allowed, I
5 understand that it's Mr. McCulloch's objection that
6 he owned this property, which would have been at the
7 time earlier, and that he has a worth of a certain
8 value for your compensatory stage. What's your
9 argument there?

10 MR. FEW: Well, Your Honor, I wasn't trying to
11 get the witness to say anything about the value of
12 the property at the time, but I think she said what
13 it was listed for. And my understanding of the
14 listing agreement and in the MLSs, it was listed for
15 3.1, and I think that's a fair thing to go into
16 evidence. That's on MLS. It's what all the realtors
17 are able to look at. So if we can just agree to
18 something like that, then we won't even need to -- to
19 hem and haw over it or have any further argument
20 about it. But the listing price, I think, is
21 something that is -- you know, the jury already knows
22 what it sold for because that was testified to
23 earlier. And so -- but my main purpose with this
24 document was to -- because it shows the cottage where
25 my clients were recorded, and it just -- it's a very

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1 good way of letting the jury see what this property
2 is really about.

3 THE COURT: Mr. McCulloch, she did list the
4 property. She listed it for 3.1 million. I think
5 she can testify to that. I think you can
6 cross-examine her on the fact that she didn't sell it
7 for 3.1 million at that time.

8 MR. MCCULLOCH: Well, she didn't sell it at all,
9 Your Honor. That's my point.

10 THE COURT: Exactly. I think you can --

11 MR. MCCULLOCH: And --

12 THE COURT: -- and I'm sure you'll hammer that
13 home.

14 MR. MCCULLOCH: -- all right, Your Honor.

15 THE COURT: Thank you, sir. Does anyone need a
16 break while we're -- we've got the jury out?

17 MR. FEW: Yes, a bathroom break.

18 THE COURT: Thank you. Thank you. All right.
19 Ms. Vaillancourt, you are to remain on the stand, but
20 you can't talk to anybody and you can't discuss your
21 testimony with anyone at this time.

22 THE WITNESS: That's fine.

23 (Off the record.)

24 (Recess.)

25 (On the record.)

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1 THE COURT: Okay. Just for clarification and to
2 put everybody back where we are, Ms. Vaillancourt is
3 allowed to testify as to the listing price, but no
4 further information regarding valuations on this
5 property or any other properties. Thank you.

6 MR. MCCULLOCH: Your Honor, I do have one
7 further objection which is the discovered through the
8 term of the -- this property, when it was sold, was
9 not owned by Mr. Riviere. It was owned by an LLC,
10 which is not a party to this case and, therefore, it
11 has no relevance on any level to this trial.

12 THE COURT: At the time of the MLS listing?

13 MR. MCCULLOCH: Her -- her -- well, at the time
14 that she listed it, I believe she will agree it was
15 owned by Mr. Riviere. At the time it was sold, the
16 transaction she did not participate, it was not owned
17 by Mr. Riviere.

18 THE COURT: And I don't think she's testifying
19 as to the sale of the property, and I'm not -- you're
20 not offering her to testify as to the sale the
21 property, who owned the property at the time of sales
22 price, are you?

23 MR. FEW: No. I don't have any more questions
24 for her about that. But to be clear, Your Honor, he
25 was still in control of it. We filed a fraudulent

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1 conveyance action against the transfer that was made
2 in 2021 to a company that's owned by his children.
3 So it has everything to do with this case. And these
4 same attorneys negotiated the sale on the escrowing
5 of the money from -- from that transaction.

6 THE COURT: But as to this witness, we're not
7 talking about that?

8 MR. FEW: I'm not asking her about that.

9 MR. MCCULLOCH: Thank you.

10 THE COURT: Yes. That's -- and so, when -- when
11 we believe -- the witness, do we need to argue about
12 that for, please let us -- alert us maybe before
13 lunch.

14 MR. FEW: The next witness is Suzy Haslup that
15 she works with, and she is the one who, she's already
16 testified, that handled that sale.

17 THE COURT: Okay. Let's finish
18 Ms. Vaillancourt.

19 MR. FEW: Thank you, Your Honor.

20 THE COURT: Bring the jury back in, please.

21 (The jury entered the courtroom.)

22 THE COURT: Mr. Few, please continue.

23 MR. FEW: Thank you, your Honor.

24 BY MR. FEW:

25 Q Ms. Vaillancourt, speaking of the 785 Grace property,

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1 do you recall the listing price of that property when you
2 were the agent?

3 A I do.

4 Q And what was that?

5 A 3.1 million.

6 Q And do you know if there was any -- how many of the
7 buildings on that property were set up for someone to live
8 in? In other words, they weren't barns or paddocks or
9 something.

10 A The main house, the one-story ranch house, and the
11 converted garage-cottage on the original 5 acres, and it
12 was behind the ranch house.

13 Q And if you'd go through the exhibit to where we have
14 the page that's cut off at the bottom, would that be --

15 A Yes.

16 Q Tell the jury what -- what that is.

17 A That is the building in question.

18 Q Okay. The -- that's the cottage?

19 A That was converted from a garage. It was a
20 cinderblock building that was converted into a one-bedroom
21 combined living room, dining room, kitchen.

22 Q Do you remember when that conversion was done?

23 A I don't. Date-wise I don't recall. It will say here,
24 presumably, on the exhibit. Usually, the GIS has that
25 date of when it first came up on their system, so...

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1 Q It's all right. You don't need to do that. I just
2 wanted to know your recollection. Do you have any
3 knowledge of what that converted garage-cottage was used
4 for?

5 A It was definitely to live in. Josee and Rhett Riviere
6 lived there for a little while.

7 Q Do you remember when they lived there?

8 A Prior to renovating the brick house on Grace Avenue.

9 Q And when you said the brick house, you're talking
10 about --

11 A The main ranch house facing Grace Avenue.

12 Q -- that's a three-to-four bedroom, or something like
13 that?

14 A Correct.

15 Q That's the only multi-bedroom house on that property;
16 is that right?

17 THE COURT: Please let the witness testify.

18 THE WITNESS: That was the only multi-bedroom
19 house on the property at the time.

20 BY MR. FEW:

21 Q Okay. And so, at the time you had the listing --

22 A Correct.

23 Q -- that was the multi-bedroom house on the front --

24 MR. MCCULLOCH: Object to leading, Your Honor.

25 MR. FEW: It's about the property, Your Honor.

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1 I mean --

2 THE COURT: She did say that was the only
3 multi-bedroom. I think he's following-up onto that,
4 but I would ask counsel to make sure you do not lead.
5 In other words, he's taking the answer she just gave
6 him and turning it into a question.

7 BY MR. FEW:

8 Q Multi-bedroom house, and then the cottage that we've
9 just discussed. And you said you can't recall when that
10 cottage -- when Josee and Rhett lived there?

11 A I don't recall the date.

12 Q Where -- where else did they live when they were
13 together?

14 A They moved into the Grace Avenue house --

15 Q The big house?

16 A -- 785 Grace Avenue.

17 Q Do you remember when that was?

18 A I don't.

19 Q Were you ever involved in any efforts to rent the --
20 the large house or any other property on the Grace
21 property?

22 A Yes. Let me please go back. They also owned a house
23 on Marlborough and South Boundary, which they renovated
24 and lived there for a period of time. That was -- and I
25 honestly don't recall which -- what the dates were that

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1 they were moved from one to the other. And then, later
2 on, Tiger lived in a house in Aiken Estates, but I do not
3 believe that he and Josee were together at that time.

4 Q Is that the 1032 Clark property?

5 A Yes.

6 Q And then the -- the Marlborough property, do you know
7 if they sold it, or did they use it for rental property?

8 A It was sold. And now, I recollect they moved then
9 over to the Grace Avenue, 785 Grace Avenue.

10 Q So do you know if they ever rented the Marlborough
11 property?

12 A I do not recall.

13 Q But you don't know for sure?

14 A I don't recall. I think she --

15 MR. MCCULLOCH: Your Honor, I object. I think
16 that's asked and answered.

17 THE COURT: Yes.

18 BY MR. FEW:

19 Q How about the South Boundary property? Do you know if
20 they ever rented that property?

21 A I do not recall.

22 Q And then, in 2019, you -- were you helping Mr. Riviere
23 maybe get some renters in some properties during that time
24 period?

25 A Yes.

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1 Q And do you recall having any text messages with Mr.
2 Riviere during that time period?

3 A Yes. It's in the record.

4 Q Well, it's in the --

5 THE COURT: Ma'am, we're creating the record
6 right now.

7 THE WITNESS: Oh. Yes, I texted him asking --

8 MR. MCCULLOCH: Your Honor, I have no idea what
9 is about to be spoken on. I just don't know. I have
10 to object in anticipation. I've not seen the text
11 messages that are in this (unintelligible).

12 THE COURT: Yes, sir. Mr. Few, how much more
13 time do you anticipate with this witness?

14 MR. FEW: Not a whole lot, Your Honor.

15 THE COURT: Well, the reason I ask is we have
16 ordered lunch for the jury. I think it will come in,
17 you know -- well, and we're on the clock, so...

18 MR. FEW: Your Honor, we'll -- we'll be done by
19 12:00 this afternoon.

20 THE COURT: Okay. Hold on one second. You
21 provided a copy to opposing counsel?

22 MR. FEW: Yes, Your Honor. And I really don't
23 intend to offer this. I just wanted to have it
24 available to refresh the witness's memory.

25 BY MR. FEW:

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1 Q Do you have the text messages? Would it -- do you
2 think it would refresh your memory about the --

3 THE COURT: Wait, wait, wait. Counsel, you
4 asked her if she had text messages. I don't know
5 what the response was.

6 MR. MCCULLOCH: And if these are the text
7 messages, Your Honor, I reviewed them. I withdraw my
8 objection.

9 THE COURT: You don't have an objection?

10 MR. MCCULLOCH: I withdraw it at this time.
11 Excuse me.

12 THE COURT: Thank you, sir. Mr. Harte were you
13 reviewing?

14 MR. HARTE: May we approach, Your Honor?

15 THE COURT: Yes, sir.

16 (Bench conference.)

17 BY MR. FEW:

18 Q Ms. Vaillancourt, do you think that if I were to give
19 you the text messages, you could look at them and see if
20 you recognize them and they might refresh your memory
21 about your communications with Mr. Riviere?

22 A I remember part of those text messages have reflected
23 a comment that I made, "Is the cottage on 3rd Avenue
24 available. I have a young employee at Nandina Home and
25 Design that is looking for a property." It never went any

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1 further than that, and I communicated that to him, as far
2 as I recall.

3 Q The -- the -- the person that was working at Nandina,
4 was it a male or a female?

5 A I believe it was a young woman.

6 MR. MCCULLOCH: Your Honor, again, I think this
7 goes far beyond the purpose that we understood --

8 THE WITNESS: Well, I'm refreshing --

9 MR. MCCULLOCH: -- to refresh on the date of her
10 involvement.

11 THE COURT: Yes, sir.

12 MR. MCCULLOCH: It was limited to that, I
13 believe.

14 THE COURT: And the properties.

15 BY MR. FEW:

16 Q And do you recall you all exchanging -- apparently,
17 your birthday must be July the 4th?

18 A Yes, it is.

19 Q Now, did you have any conversations with Josee Riviere
20 about when you were deposed in the other case and it being
21 an inconvenience to you, or something to that effect?

22 MR. HARTE: Objection. May we approach?

23 THE COURT: Yes, sir.

24 MR. HARTE: No. I withdraw that, Your Honor. I
25 withdraw it.

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1 THE COURT: And, counsel, I'll remind you of the
2 scheduling we have outside of the jury.

3 MR. FEW: I'm well aware, Your Honor.

4 THE COURT: Thank you, Mr. Few.

5 THE WITNESS: I do not recall the conversation
6 in which I stated it was an inconvenience. I was
7 subpoenaed --

8 MR. MCCULLOCH: Your Honor, I don't think that's
9 responsive to the question, Your Honor since she said
10 she doesn't recall.

11 THE COURT: Yeah, I think you have answered the
12 question, Ms. Vaillancourt. I appreciate you doing
13 that. We'll let Mr. Few --

14 BY MR. FEW:

15 Q You don't recall Josee saying that she wanted to
16 apologize to you on behalf of Tiger?

17 A I do --

18 MR. MCCULLOCH: And, Your Honor, now we're
19 testifying. I object to that. That's a leading
20 question. That's not a refreshing question, Your
21 Honor. She's testified she doesn't recall.

22 THE COURT: I think we're beyond the refreshing.
23 He's into a new line of questioning. Yes.

24 MR. MCCULLOCH: And I object.

25 THE COURT: Yes, sir, you object.

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1 BY MR. FEW:

2 Q So you -- you do recall her?

3 A I do recall.

4 Q And what else do you remember her saying?

5 A She was sorry that this was happening, and that was
6 the end of our conversation.

7 Q She didn't say anything about --

8 THE COURT: Mr. Few, you got the answer.

9 MR. FEW: -- well, Your Honor, did she say
10 anything about her --

11 MR. MCCULLOCH: Your Honor, I object, of course.

12 THE COURT: I can't let you testify, though as
13 to what she said.

14 THE WITNESS: May I --

15 MR. FEW: I'll try it differently.

16 BY MR. FEW:

17 Q Do you recall if ever becoming aware that Josee and
18 Rhett --

19 MR. MCCULLOCH: Objection, Your Honor.

20 THE COURT: I know that's going to end in an
21 objection as well. Let's have the jury step out for
22 a second. You're very close to your lunch, so I was
23 hoping to get us closer to lunch before you had to
24 step out. Because we do have other matters to
25 discuss too, as I told you before. We continue to

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1 work when you're not in here. I hope the room is big
2 enough for you and that you all are comfortable back
3 there. If it goes into lunch, we'll just let you go
4 ahead and eat lunch and you'll come back afterwards,
5 and you won't have to come in and out again. Okay?
6 Thank you.

7 (The jury exited the courtroom.)

8 (Sidebar.)

9 MR. MCCULLOCH: Your Honor, subject -- subject
10 to my objections are, of course, that it's questions
11 that have been asked and answered, and then, we have
12 a lack of recollection. If now, you are to propose
13 that Mr. Few explain what it is he's -- where he's
14 going and what he's going after, I would ask the
15 witness be excused from the courtroom so we don't
16 just educate her as Mr. Few is trying to educate her
17 through the leading questions. That's exactly what
18 they're trying -- what we're objecting to and what
19 we're trying to avoid. She can stick her fingers in
20 her ears, but that's not exactly a perfect method of
21 not educating her through his explanation.

22 THE COURT: Yes, sir.

23 MR. FEW: Perhaps we could have a sidebar.

24 THE COURT: Yeah. Let's have a sidebar on that
25 issue, because I think the next thing is going to be

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1 to listen to something else.

2 (Sidebar.)

3 THE COURT: Ms. Jimmy, did the jury start eating
4 yet, or you all haven't given them their food yet,
5 have you?

6 THE BAILIFF: I'll go check.

7 THE COURT: Let's check on that. We may break a
8 few minutes early. If they're in the -- if the jury
9 is in the middle of eating, then I don't want to...

10 (Sidebar.)

11 THE COURT: Okay. Well, the jury is going to
12 have us break now, because I did tell them if it went
13 long, they could go ahead and started eating, so
14 that's my fault. I apologize to all concerned.
15 We'll come back at 1:30. If -- if we can have the
16 parties back, and then will start after that. Okay?

17 MR. FEW: Thank you, Your Honor.

18 THE COURT: All right. Thank you. Court is
19 adjourned.

20 (Off the record.)

21 (Recess.)

22 (On the record.)

23 THE COURT: All right. Ms. Vaillancourt is not
24 in here, but that's okay. Before she comes in, let
25 me --

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1 MR. HARTE: She's in the hall, Your Honor.

2 THE COURT: It's okay. We'll wait for a second
3 before she comes in. We had a sidebar conference
4 before we broke for lunch in which we discussed some
5 potential testimony that she would give that arose --
6 or the parties become aware of her deposition in
7 another matter. I took some time to think about
8 that. Mr. McCulloch had objected as to relevance,
9 number one. And I think -- I can't remember exactly
10 the other position or the relevance to that. I did
11 do a kind of hearsay analysis on it as to -- this is
12 how I break it down, so my notes can correct me later
13 on. This is a purported -- this is a statement that
14 the witness made in a deposition in another case
15 against defendant -- that -- saying that Josee
16 Riviere -- Riviere told her something that Mr. Tiger
17 Riviere said. So the statement that Mr. Tiger
18 Riviere supposedly said is the hearsay to Ms. Josee
19 Riviere. But as a statement against interest as to
20 Tiger Riviere to Josee Riviere, the statement of
21 Josee Riviere being offered through this witness,
22 according to counsel, is not for the truth of the
23 matter asserted, which should make it hearsay, but
24 it's for the purpose of establishing the relationship
25 between Josee Riviere and Rhett Riviere at the time

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1 of making the statement.

2 However, I don't -- I think that defense counsel
3 is correct, plaintiffs' counsel doesn't get to stand
4 here and say here's a deposition, you said, did you
5 say, da, da, da, da, da, da in your deposition. If
6 you were using the deposition to refresh her memory
7 -- because it's not a deposition in this case, it was
8 -- I think it was said it was not a designation of a
9 deposition to be admitted into this case -- although
10 all parties were aware this deposition occurred in
11 another case, you have to ask her about any
12 statements or relationship or whatever in order to
13 get there to refresh memory. You just don't start
14 out refreshing memory. I do agree with counsel on
15 that. First, the witness has to answer, and then you
16 get there as to that. But I wanted to preemptively
17 say that. Anything else you all discussed?

18 MR. FEW: And, Your Honor, can I -- I want to
19 speak to that issue, because we were doing some
20 looking at the rules. Rule 611(C) says "When a party
21 calls a hostile witness, an adverse party, or a
22 witness identified with an adverse party,
23 interrogation may be by leading questions." And I
24 would request that we be allowed to ask leading
25 questions of this witness. What I also wanted to say

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1 is, I was not able to even get to the impeachment
2 because they stopped me in the middle of my
3 questions, and then we were over there and then they
4 said, well, nope, if you're just going to ask about
5 the reconciliation, you could have done it. So we're
6 having unnecessary sidebars because they -- they --
7 they have it in their minds that we are constantly
8 asking inappropriate questions. But Your Honor has
9 the discretion under Rule 611(C) to allow us to ask
10 this witness leading questions.

11 THE COURT: We're doing Evidence 101. I
12 understand that. Mr. Few, pull out your rulebook for
13 a second. You looked at Rule 611. What type of
14 witness was it that you're allowed to ask leading
15 questions of?

16 MR. FEW: So the rule says it's "a hostile
17 witness, an adverse party, or a witness identified
18 with an adverse party." She testified she's friends
19 with Josee. She is to be used to be Rhett's agent.
20 I think she falls within that category.

21 THE COURT: You're going under Category No. 3?

22 MR. FEW: Yes, Your Honor.

23 THE COURT: Is she listed as a witness in this
24 case for either of the defendants?

25 MR. FEW: No, Your Honor, but however, another

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1 fact that goes to show that she's related is that
2 they apologized to her for her having to be deposed
3 in the earlier case. They've been friends for
4 decades, for her whole life. I asked her if she was
5 friends with Josee Riviere, and she said yes, she's
6 still friends with her.

7 THE COURT: As I take to Rule 611, you're asking
8 to treat her as a hostile witness. Is there a
9 difference between what you're asking me to do and
10 treating her as a hostile witness?

11 MR. FEW: Well, Your Honor, hostile witness is
12 Part A, that the hostile witness is a different
13 category than this. That's why --

14 THE COURT: Okay.

15 MR. FEW: -- it's listed first.

16 THE COURT: You're distinguishing from that.
17 That's what I wanted to know.

18 MR. FEW: I think Your Honor has an instruction
19 to allow it. And, Your Honor, for expedience sake,
20 we'll be done. I thought -- I thought we would be
21 done with this witness and two more before lunch.

22 THE COURT: I understand. Mr. McCulloch?

23 MR. MCCULLOCH: Well, Your Honor, I don't think
24 that she qualifies under any category as a hostile
25 witness. She has apparently met and cooperated quite

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1 frequently with the plaintiffs in this case. In
2 terms of the other part of C, "a witness identified
3 with an adverse party," I'm not sure I know what that
4 means. But this lady is -- was called to talk about
5 real estate transactions. She also has testified she
6 has a relationship with the plaintiffs in this case.
7 So, I mean, I don't --

8 MR. FEW: She hasn't testified to that.

9 MR. MCCULLOCH: Well, I thought she testified
10 she knew them. Maybe I confused it.

11 THE COURT: I think that was the prior witness
12 that --

13 MR. MCCULLOCH: It could be, Your Honor.

14 THE COURT: -- was referred to, Mr. McCulloch.
15 In all fairness, I think that may be the prior
16 witness that testified that she did have a
17 relationship with one of the firms.

18 MR. MCCULLOCH: Well, Your Honor, if you permit
19 leading, then I'm going to be objecting every time a
20 leading and leading her in the direction of
21 inadmissible testimony --

22 MR. FEW: Your Honor, for the record --

23 MR. MCCULLOCH: -- and irrelevant and --

24 MR. FEW: For the record, Your Honor, I was
25 asking the witness questions that come straight out

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1 of her deposition and answers, unsolicited, not
2 leading questions in the deposition. But because I'm
3 interrupted, I'm not even able to get to the point of
4 using the deposition, either to refresh memory or to
5 impeach because we didn't get there.

6 THE COURT: And, Mr. Few, I assume when you're
7 saying I'm asking her questions straight out of the
8 deposition, you're not saying that you're allowed ask
9 those questions because you asked them in a
10 deposition, you're saying that it's an
11 (unintelligible) question?

12 MR. FEW: No, Your Honor. They're her answers.
13 I'm just getting to the subject of her -- her
14 answers. Ms. Barbier actually took the deposition.

15 THE COURT: Uh-huh.

16 MR. FEW: But, for example -- well, I had the
17 one earlier that we showed over there.

18 THE COURT: Mr. Few, this is the problem I have
19 with continuing to tell me that. Just because a
20 party answers -- or a witness answers something in a
21 deposition in a particular way does not make it
22 admissible in the court. And I think you may be
23 truncating your argument to me. And so, I want to
24 you give you the full idea of the argument, because
25 just to tell me she said this in a deposition, which

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1 is what I'm hearing. I just want to be clear on
2 that. That is what I hear when you make that
3 argument. And of course, we all know that that's not
4 what makes the statement admissible.

5 MR. FEW: Well, I think --

6 THE COURT: I'm with Mr. McCulloch in that I'm
7 not sure what a witness of an adverse party is. It's
8 always been my understanding that it means it is a
9 witness they've identified, they've listed.
10 Sometimes you can have a witness on both witness
11 lists. But the fact that someone knows the other
12 party or knows you doesn't necessarily make them an
13 adverse party. Do we have any --

14 MR. FEW: Your Honor --

15 THE COURT: -- I have not investigated this
16 probably ever. Do we have any authority on that that
17 anybody can present? Mr. Harte?

18 MR. HARTE: Yes, Your Honor. I am looking at
19 the case of Summer -- Sumner versus Pruitt, a case
20 decided by the court of appeals on February 10th of
21 1984. And the Court says there's a difference
22 between a witness who is adverse and one who is
23 hostile. A hostile witness is one whose testimony on
24 direct examination surprises and is harmful to the
25 party who called him. And then, the party is allowed

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1 to present -- to act on leading questions. There's
2 no evidence in this case that this witness is
3 surprise to him. And frankly, I haven't heard
4 anything that was adverse to his position. So the
5 term -- and just because a witness is adverse doesn't
6 mean that you can use leading questions.

7 THE COURT: The rule does say three different
8 things. Hostile is one of them, or adverse, a
9 witness associated with an adverse party. Does the
10 case go on in that --

11 MR. HARTE: Associated with -- no, it doesn't
12 address that. But assisted with an adverse party has
13 to be more than just a friend, Your Honor. I -- I
14 can -- I can search that too for you.

15 THE COURT: You're arguing that, I understand,
16 as to anybody having --

17 MR. HARTE: Yeah, but just to be clear, this
18 witness does not fit the legal definition of a
19 hostile witness.

20 THE COURT: -- and that's your argument, yes.

21 MR. FEW: Well, Your Honor -- I'm sorry.

22 THE COURT: No. Go ahead.

23 MR. FEW: We haven't argued hostile witness.
24 We've argued the third part, which -- which says --

25 THE COURT: The adverse party.

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1 MR. FEW: -- and our authority, I believe, is in
2 your discretion and in the rule itself. The witness
3 identified with an adverse party. They don't have to
4 be identified by the adverse party. That's what the
5 rule could have said, by an adverse party, but
6 instead, it says "with an adverse party." And
7 there's just an abundance of things in the record
8 that we've already set forth: She's friends for
9 life, she's still friends, she -- and that's just
10 with one of the parties. Because the other party,
11 she has had this business relationship listing some
12 sales. So I think that the rule and Your Honor's
13 discretion, because it does say "may." But I think
14 that that's our -- that's our argument.

15 MR. GRIFFIN: Your Honor, I've got some law
16 here. I mean, Westlaw research is the artificial
17 intelligence version under Westlaw provision under
18 South Carolina law.

19 THE COURT: Uh-oh.

20 MR. GRIFFIN: It cites some cases, but it says
21 a, quote, "witness identified with an adverse party,"
22 close quote, refers to a witness who is so closely
23 associated with an opposing party in a legal case
24 that their testimony might be biased or influenced by
25 that relationship. And then there's some cases

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1 cited, Long v. Conroy, and that's a 1965 case; Rule
2 [ph] v. George, which is an older case; and -- and
3 then there's Rhodes v South Carolina Commission on
4 Indigent Defense. I would note the rule in the
5 comments say this is the document prior to law. It's
6 not new rules. But that's what I've got.

7 THE COURT: And I suppose that prior law may be
8 some of the law you just cited from the AI. Mr. Few,
9 you know, I don't think that amounts to an adverse
10 witness, in my discretion. I think also you are a
11 very capable attorney and you can figure out a way to
12 get your point across without having to have the
13 approach of leading questions in that regard. I said
14 before, and it says in these rules that, you know,
15 leading questions aren't always inappropriate and
16 they can be helpful in moving the case along. As we
17 all know, if we let some of those go, which I think
18 was the point I was trying to -- I know that was the
19 point I was trying to make this morning. If you say
20 this is the sky blue today, I'm not going to -- I
21 would hope that nobody is going to object to that,
22 except on the relevancy, of course, Mr. McCulloch.
23 So I think we can move forward on that point.
24 Anything else?

25 MR. GRIFFIN: Right before the break, Your

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1 Honor, Ms. Barbier and I examined Exhibit 18 just to
2 be sure there's -- what was on there should be on
3 there and -- and as happens, there was a subfolder on
4 there that got transferred from her computer with a
5 bunch of case information, and we have deleted that
6 together, and so --

7 THE COURT: All right. So all counsel are
8 satisfied with Exhibit 18?

9 MS. BARBIER: That is accurate, Your Honor.
10 Thank you.

11 MR. GRIFFIN: Yes.

12 THE COURT: Thank you. All right. We have a --
13 I see a stack of paper here. Are there any other
14 exhibits coming up that we need to discuss in the
15 next couple of witnesses?

16 MR. FEW: No, Your Honor. I have some documents
17 that I may show to Suzy Haslup, but it's just going
18 to be refresh your memory. They're MLS documents
19 that were produced by Meybohm. I don't intend to
20 offer them into evidence. And I may well just skip
21 over them, skip over even showing them to her unless
22 I need to.

23 THE COURT: Yes, sir. I'm going to go ahead and
24 anticipate some objection to Ms. Haslup testifying
25 about the sale of the properties; is that correct?

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1 MR. GRIFFIN: Yes, Your Honor.

2 MR. FEW: Was she -- there's other properties
3 that she sold as well, including the 115 3rd Avenue.

4 THE COURT: Any properties?

5 MR. GRIFFIN: Your Honor, the fact that
6 properties are sold and how much they were sold, I
7 mean, that's not relevant to anything. I don't know
8 how they can make it relevant. I don't know what the
9 relevancy is.

10 MR. FEW: Commercial enterprise. They bought it
11 in the name of Chase Enterprises. They never lived
12 in it, they used it for rentals. I just -- you know,
13 we just have a different understanding of what --

14 MR. GRIFFIN: Well, if they bought it and used
15 it for rentals, fine. But then they sold it and how
16 much they sold it for, not relevant.

17 MR. FEW: They didn't make that much money on
18 it. I mean, but --

19 THE COURT: Mr. Harte?

20 MR. HARTE: As we have noted, and as I have said
21 directly as I believe, Mr. Few is a very, very
22 competent lawyer, one of the finest in the state. He
23 knows enough about this case to know that the only
24 owner of any of these properties he's talking about
25 is either Rhett Riviere or the corporations. And

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1 when he uses the phrase "they," he incorporates my
2 client into something -- into a statement which he
3 knows is untrue. There should be no confusion. The
4 properties that he's talking about were never owned
5 by Josee Riviere, period, full stop.

6 MR. FEW: Well, if I ask a question that
7 misleads an answer, then that's what his
8 cross-examination is for. And I have no control over
9 how a witness is going answer a question, and I've
10 never intended to --

11 THE COURT: I'm going to allow property
12 testimony and/or records to indicate the rental and
13 the business that was going on. They have alleged a
14 business enterprise. They've both been named as
15 defendants. The LLCs and various entities. I don't
16 find it overly prejudicial in order to put that in
17 there as to allow them to make that argument or
18 present that evidence in court. As to the sale
19 price, you know, I think what the defense counsel is
20 really trying to say is we don't want this in there
21 because we're not at the damages phase of this trial
22 at this point. But if the sale goes into the fact
23 that this was an ongoing business enterprise, I'm
24 going to allow it for that purpose as well. Anything
25 else?

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1 MR. HARTE: Your Honor, if Mr. Few asks the
2 witness a question and the witness of their own
3 volition says something, he can't be responsible for
4 that. I'm not -- I'm not holding him responsible.
5 But he is responsible for the words he uses, and he
6 knows that there is no ownership interest, never has
7 been, in any of the properties he's talking about by
8 Josee Riviere. And if he, after this conversation,
9 phrases a question so that it appears that she owns
10 an interest in these properties, then he -- he --
11 it's a highly improper question and I'll just put on
12 the record now that I object to it. And perhaps Your
13 Honor will allow it to be, unless you want me to
14 stand and rise if he does that. I don't mind just
15 making it known right now that I consider it to be
16 highly prejudicial. It's improper. If he does it,
17 as he just did a couple of minutes ago, then -- then
18 I think it should be -- he should be admonished to
19 stop. But if -- if I have to stand up every time he
20 does it, I'll be happy to do that.

21 THE COURT: Well, Mr. Harte, I think he said
22 earlier you were going to put in some -- how he hoped
23 to put in some public records to establish exactly
24 who is the owner of record of these properties. So
25 -- and I think what the testimony they're talking

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1 about is also whose owner of record at what
2 particular time, so that should all go in together.

3 MR. HARTE: I'm fine with that, Your Honor. I'm
4 not going to -- I'm not going to object to a thing
5 with respect to public records. I have no objection
6 to that at all. I have no objection to the truth
7 about who owns what, and I'm fine with that.

8 THE COURT: Thank you. Anything else?

9 MR. FEW: Your Honor, just very briefly. As Mr.
10 McCulloch made his statements in the record about my
11 cocounsel earlier today, it's clear to me that
12 strategy of the defense team is to delay, delay,
13 delay, delay and make this case go an extra week or
14 however long it is, and -- because it's -- that's
15 what -- that's what I see happening, so --

16 MR. MCCULLOCH: Well, thanks, Mr. Few. But I
17 will tell you, I have no intent of delaying this.

18 THE COURT: Okay. Good. Then let's get
19 started.

20 MR. MCCULLOCH: That's the last thing I want.

21 THE COURT: Let's get Ms. Vaillancourt in,
22 please. Ms. Vaillancourt, you can come back up to
23 the witness stand.

24 THE WITNESS: Thank you.

25 (The jury entered the courtroom.)

JURY TRIAL, VOL. 3

1 THE COURT: Thank you. I'll remind Ms.
2 Vaillancourt, you remain under oath. You may
3 proceed, Mr. Few.

4 MR. FEW: Thank you, Your Honor.

5 BY MR. FEW:

6 Q Ms. Vaillancourt, you indicated that you're still
7 friends with Josee Riviere; right?

8 A Yes.

9 Q And you have these communications with her about the
10 deposition in the 2022 time period; is that correct?

11 A Yes.

12 Q And what was your understanding of the status of the
13 relationship between Rhett Riviere and Josee Riviere
14 around that time?

15 A They said --

16 MR. HARTE: Objection; foundation.

17 THE WITNESS: -- they seemed to have --

18 THE COURT: Overruled. One minute. Yeah, I
19 have to answer before you can go forward.

20 THE WITNESS: -- they seemed to have a civil
21 relationship at that time.

22 BY MR. FEW:

23 Q Do you recall saying that they were in a courting
24 relationship?

25 A Yes.

JURY TRIAL, VOL. 3

1 MR. MCCULLOCH: Your Honor, I -- I don't know
2 how that isn't objectionable, so I'm objecting to the
3 leading. She characterized the relationship, and
4 that should be sufficient. The question posed by him
5 was not -- it's leading.

6 THE COURT: Thank you, Mr. McCulloch. I'm going
7 to (noise disruption from several people coughing)
8 the question. She did say it was civil. He's
9 refreshing her memory as to the -- according to words
10 used in a prior testimony. Thank you.

11 BY MR. FEW:

12 Q Do you know a Laura VanderVliet?

13 A I do.

14 Q And how do you know her?

15 A She is an equestrian, like myself, and she leased
16 stalls from Tiger at that 725 Grace Avenue.

17 Q 785 Grace Avenue.

18 A 785.

19 Q And do you know if she ever was -- were you or anybody
20 at Meybohm ever involved in putting renters into the big
21 house?

22 A I was. But again, I simply gave names to Tiger, and
23 he knew them already.

24 Q So you -- did you get a fee for that?

25 A I did not on that location, I don't believe.

JURY TRIAL, VOL. 3

1 Q But there was one occasion -- there was an occasion
2 when you got a fee from Tiger; right?

3 MR. MCCULLOCH: Your Honor, I object to leading
4 again.

5 THE COURT: Yeah, just ask open-ended. Thank
6 you. Did you ever -- did you ever get a fee for a
7 renter you sent to Mr. Riviere?

8 THE WITNESS: I did.

9 BY MR. FEW:

10 Q And tell the jury about that for us.

11 A She -- I was not collecting fees from him on a regular
12 basis. He gave me a check many months afterwards because
13 it was my wedding. He gave me a wedding -- he
14 characterized it as a wedding present. He gave me 35 --
15 \$3,500.

16 Q And if you'll take a look at Exhibit 12, the one up
17 there.

18 A Yes.

19 Q And -- and you were right. Sometimes I look at the
20 pictures and gloss over this. But it lists three
21 residential buildings there, doesn't it?

22 A It does on this one, but the third one was not present
23 during the time that I had the listing.

24 Q And you're speaking of the one that says it was actual
25 year built 2019?

JURY TRIAL, VOL. 3

1 A No. I am only speaking of the two residences at the
2 time, which was the residence facing Grace Avenue, and
3 this cottage which you are pointing to and that I pointed
4 to earlier, which was the one-bedroom that they had
5 renovated into a living space. I understand that the
6 building -- the built in 2019 referenced on this is a new
7 building that he built on the site of a piece of a
8 building that had been burned in a fire.

9 Q And do you know Christina Thieme Neuhaus?

10 A Yes.

11 Q Did you ever put her in a rental property of Tiger
12 Riviere's?

13 A I do not recall.

14 Q And as a realtor --

15 A Yes.

16 Q -- explain to the jury the types of things that you
17 must disclose to your clients, if -- either if they're a
18 seller or a buyer -- a renter or a purchaser of the
19 property.

20 A The purchase -- the rent -- the purchase price and the
21 ownership.

22 Q What about conditions of the property, that's what I'm
23 speaking of?

24 A They make that decision for themselves.

25 Q But in terms of the conditions of the property or,

JURY TRIAL, VOL. 3

1 like, if there's mold or something like that, is that --

2 MR. MCCULLOCH: Your Honor, again, I object to
3 the leading on this. It was asked and answered.

4 THE COURT: That was asked and answered. You
5 can try to ask her some other way question, please,
6 Mr. Few.

7 MR. FEW: No further questions. Thank you,
8 Ms. Vaillancourt.

9 THE COURT: Thank you, Ms. Vaillancourt. Can
10 this witness be excused from the trial?

11 MR. MCCULLOCH: Yes.

12 THE COURT: No? Do we anticipate any need to
13 have this witness any further?

14 MR. FEW: Was that redirect? I thought they --

15 THE COURT: Oh, I'm sorry. I'm skipping way
16 ahead.

17 MR. MCCULLOCH: You're not ahead of me, Your
18 Honor. She can be excused for I don't have any
19 questions.

20 THE COURT: Mr. Harte may have some questions,
21 though. I'm sorry.

22 MR. HARTE: I do, Your Honor. Just one moment.

23 THE COURT: I have the post-lunch sleepies, I
24 guess. I'm not sure.

25 //

JURY TRIAL, VOL. 3

1 CROSS-EXAMINATION

2 BY MR. HARTE:

3 Q Good afternoon.

4 A Hello.

5 Q I know you're glad to finally get on the stand. We'll
6 get you out of here pretty quick. Ms. Vaillancourt, you
7 mentioned in your direct testimony that you've known Josee
8 Riviere for a while; is that correct?

9 A Yes.

10 Q And just so we can get a clear picture of that, Josee
11 grew up where?

12 A In Hudson, Québec, Canada.

13 Q And she grew up close to where your family was?

14 A We lived in Montréal during the week and went to a
15 farm within 10 miles of where she lived year-round.

16 Q All right. And how -- when you went to that farm,
17 went to that area, how often do you think you would see
18 her?

19 A Josee is significantly younger than I am. I am 68.
20 I'm guessing she's probably 8 years younger than I am.
21 Our families met intermittently at largely
22 equestrian-related activities.

23 Q And after -- after the period when you and your -- and
24 I believe was your father's name Desmond Stoker. Am I
25 correct on that?

JURY TRIAL, VOL. 3

1 A Yes.

2 Q What did your father do in Canada, do you know?

3 A He was an investment banker in Montreal.

4 Q All right. Didn't he have a position on the Canadian
5 Stock Exchange?

6 A He did. He was the chairman of the Montréal Exchange.

7 Q All right. And when you moved to Aiken, I believe you
8 -- your family moved into a house on Easy Street; am I
9 correct?

10 A Yes.

11 Q And that was a house that was owned by a fellow who
12 had gotten the title pretty well in a mess, hadn't he?

13 A I don't recall.

14 Q Do you recall that -- do you recall that I assisted
15 your father in cleaning all of that up?

16 A I don't.

17 Q Okay. That's interesting, but we won't get into that
18 now. All right. And after you -- when you -- when was
19 the first time you actually started spending a lot of time
20 in Aiken?

21 A In 1992. I moved here year-round with my young man
22 permanently.

23 Q All right. And Josee Riviere -- am I correct that
24 Josee Riviere came to Aiken and started staying here
25 full-time about 1999?

JURY TRIAL, VOL. 3

1 A I believe so.

2 Q All right. And after she came here, did you see her
3 as a friend?

4 A I did.

5 Q And while you were in Aiken during that period -- and
6 let's -- let's say that period of time up until the time
7 she and Rhett divorced, did you see her on a regular
8 basis?

9 A We rode horses together. And at one point, I kept my
10 horse at that farm that Josee and Tiger owned.

11 Q Tell me little bit about Josee's interest in horses.

12 A It was very professional. She came from a
13 professional equestrian family in Canada, and she was --
14 she brought that knowledge when she moved to Aiken.

15 Q And -- and did you find her to be committed fully to
16 the work that she was doing and the pleasure she was
17 getting from her horses?

18 A Yes.

19 Q Were you aware when she and Tiger got married?

20 A Yes.

21 Q And that's what people call Rhett, just in the
22 community he's known as Tiger; correct?

23 A Yes.

24 Q All right. So would you tell me if you saw them, was
25 she, as a new bride, and was she a happy person?

JURY TRIAL, VOL. 3

1 A Yes.

2 Q And was she -- was she spending time there on the
3 farm, on the property riding her horses, and that sort of
4 thing?

5 A Yes.

6 Q All right. Now, did you -- did you have any reason to
7 deal with her on any of these rental properties?

8 A No.

9 Q All right. So -- so with respect to Josee Riviere,
10 tell me a little bit about her. Does she -- you -- you
11 travel along the community in Aiken pretty much, don't
12 you?

13 A I do.

14 Q And that's because you're a real estate person, and
15 you also are associated with activities in Aiken that give
16 you an opportunity to be around people; am I correct in
17 that?

18 A Yes.

19 Q All right. So would you -- you've known Josee's
20 reputation, do you not?

21 A Yes.

22 Q And -- and -- and -- and what is her reputation for
23 truth and veracity in the community?

24 A She has a good reputation.

25 Q Would you believe her under oath?

JURY TRIAL, VOL. 3

1 A Yes.

2 Q What is her reputation for peace and good order in the
3 community?

4 A I'm not sure I understand the question.

5 Q Is she a peaceful person?

6 A Yes.

7 Q All right. Is she a violent person?

8 A No.

9 Q All right. Now, let me ask you this about Josee. Is
10 Josee someone who is involved a lot in the social circles,
11 the -- the -- the busy bee circles, the gossip group?
12 Does she involve herself in that stuff?

13 A No.

14 Q Now, in -- in your deposition --

15 MR. HARTE: -- give me just one moment, Your
16 Honor --

17 BY MR. HARTE:

18 Q -- they asked you about her relationship with Mr.
19 Riviere and the question was, what is her current
20 relationship with Mr. Riviere, and that would have been
21 August of 2022; correct?

22 A Yes.

23 Q Now, after the divorce, what -- in the immediate
24 years, what was the relationship between Josee and Rhett?

25 A Not good.

JURY TRIAL, VOL. 3

1 Q All right. And then, by August of 2022, had that
2 relationship changed some?

3 A It appeared to have leveled.

4 Q All right. So -- and at that time, were you aware
5 that -- let me ask you this. Do you know a fellow by the
6 name of Barry Batterton, B-A-T-T-E-R-T-O-N?

7 A I know him -- I met him once, I believe.

8 Q And -- and did you meet him with Josee?

9 A Yes.

10 Q And was he introduced as her -- as her boyfriend?

11 A Yes.

12 Q And, in fact, did you know that almost immediately
13 after the divorce in 2012, she and Barry Batterton entered
14 into a boyfriend-girlfriend relationship?

15 A I was not.

16 Q All right. And are they still together today, as far
17 as you know?

18 A I have no idea.

19 Q All right. But at a point in -- at a point in time,
20 you did meet him and he was introduced as her boyfriend;
21 is that correct?

22 A Yes.

23 Q Now, did you have -- when you said that they had a
24 courting relationship, what was the source of that
25 comment?

JURY TRIAL, VOL. 3

1 A I believe I meant civilized, friendly. I was not
2 referring to a romantic relationship at all.

3 Q Did you ever receive any indication whatsoever that
4 they had resumed a romantic relationship --

5 A No.

6 Q -- or an intimate relationship?

7 A No.

8 Q I want to touch briefly on the conversation that you
9 say you had with her, and that was -- that -- when this --
10 when these matters first came to light and you say she
11 apologized for you being brought into it; is that correct?

12 A She did.

13 Q All right. And do you know where she was when she
14 made that call?

15 A I do not.

16 Q All right. And what, exactly, did she say to you?

17 A "I'm very sorry that you were pulled into this
18 situation."

19 Q All right. And so, her regret was that you were being
20 pulled in; correct?

21 A Yes.

22 Q Did she -- did she make any -- well, that's fine.
23 We'll leave it at that. When you were working with Rhett,
24 and on this real estate properties, you were a real estate
25 agent; correct?

JURY TRIAL, VOL. 3

1 A Yes.

2 Q And in that capacity working with those properties,
3 did you ever perform any inspection of those?

4 A I showed properties to prospective buyers, and one
5 walks through a property at that time. I am not an
6 inspector.

7 Q All right. And, in fact, you testified that you, as
8 real estate, don't perform inspections; is that correct?

9 A That is correct.

10 Q All right. And -- and that's the practice for agents
11 in Aiken; correct?

12 A Correct.

13 Q All right. So what you -- what you know about a
14 property is what the seller tells you, and then what you
15 can see with your own eyes as you walk through; correct?

16 A Correct.

17 Q And you don't inspect behind that, do you?

18 A I do not.

19 Q So you review as an agent or going through, you're not
20 expected to pull back the walls or search for every little
21 teeny thing that might be there; correct?

22 A Correct.

23 Q All right. And is that -- that's what goes on when
24 you do that; right?

25 A Correct.

JURY TRIAL, VOL. 3

1 Q Were you aware that -- let me ask you this. Did Josee
2 have any interest in boats?

3 A No.

4 Q Did she -- did she spend a lot of time down in
5 Charleston where Mr. Riviere had his boats?

6 A (No audible response.)

7 Q I want to be clear. As far as bringing you in to
8 handle the search for tenants, you dealt with Mr. Riviere,
9 Tiger or Rhett, as we're -- as his real name is?

10 A Yes.

11 Q All right. Did you ever draft a lease for any of his
12 tenants?

13 A I don't recall. Usually, he would draft the leases
14 himself. He understood that part of the business. And I
15 was a procuring agent, which means I simply bring the
16 individual and hand them off most of the time.

17 Q With respect to your situation, Mr. Few asked you if
18 you are were Dacre's sister; is that correct?

19 A That is correct.

20 Q For the information and so that we know something
21 about that, who is Dacre Stoker?

22 A Please rephrase your question.

23 Q All right. Is Dacre -- what -- is Dacre Stoker a
24 writer?

25 A Dacre Stoker now is a writer.

JURY TRIAL, VOL. 3

1 Q And, in fact, you as well as Dacre Stoker are directly
2 related to Bram Stoker?

3 A We are.

4 Q And Bram Stoker was the original author of the Dracula
5 books?

6 A Yes.

7 Q And does Dacre Stoker now -- I think he's published --
8 is it three books?

9 A Three novels, yes.

10 Q Three novels using the notes from Bram Stoker?

11 A The original was the notes from Bram Stoker. The last
12 novel that he wrote was fiction.

13 Q And is there -- is there a film being made of one or
14 more of his --

15 MR. MCCULLOCH: Your Honor, I hesitate to
16 interrupt, but --

17 THE COURT: I'm not sure where this is going,
18 Mr. Harte.

19 MR. MCCULLOCH: It's been a long week already.

20 THE COURT: Yeah.

21 MR. MCCULLOCH: I love Dracula, so.

22 THE COURT: What is the relevance of Dracula to
23 this case regarding the Crespos?

24 MR. HARTE: Because, Your Honor, this -- well, I
25 won't pursue it further. That's sufficient.

JURY TRIAL, VOL. 3

1 Nevermind.

2 THE COURT: Thank you.

3 MR. HARTE: Thank you. I beg the Court's
4 indulgence for just a moment, Your Honor.

5 THE COURT: Certainly Mr. Harte.

6 MR. HARTE: Ms. Vaillancourt, thank you very
7 much for your time. I have no further questions,
8 Your Honor.

9 THE COURT: No, you can't go yet, Ms.
10 Vaillancourt. All right. Plaintiff?

11 MR. FEW: Your Honor, could I have a quick
12 sidebar?

13 (Sidebar.)

14 THE COURT: Please proceed.

15 REDIRECT EXAMINATION

16 BY MR. FEW:

17 Q Ms. Vaillancourt, do you recall Josee Riviere telling
18 you that she had had a reconciliation with Tiger and she
19 wanted you to know that Tiger felt remorse for involving
20 you --

21 MR. HARTE: Objection.

22 BY MR. FEW:

23 Q -- in the prior lawsuit and the deposition?

24 MR. HARTE: Objection.

25 THE COURT: Mr. Harte, your objection has been

JURY TRIAL, VOL. 3

1 noted in the sidebar.

2 MR. HARTE: No. No, Your Honor.

3 THE COURT: Yes, sir.

4 MR. HARTE: No. No. Just a moment.

5 THE COURT: That's exactly what we were
6 discussing, Mr. Harte.

7 MR. HARTE: I apologize, Your Honor.

8 THE COURT: Thank you, sir.

9 MR. HARTE: I misheard him, that's all.

10 THE COURT: That's fine. Thank you, sir.

11 THE WITNESS: I don't recall those words.

12 BY MR. FEW:

13 Q You don't recall saying that?

14 A (No audible response.)

15 Q Do you recall being -- having your deposition taken?

16 A I don't recall the words that you said Josee said.
17 She did not use the word "reconciliation" that I recall.
18 She and Tiger had appeared to have reached some sort of
19 cordial agreement, cordial arrangement.

20 Q Do you recall having your deposition taken on August
21 9th of 2022?

22 A Yes.

23 MR. FEW: Your Honor, may I approach the
24 witness?

25 THE COURT: Yes, sir.

JURY TRIAL, VOL. 3

1 MR. MCCULLOCH: Mr. Few, we are on page 106?

2 MR. FEW: 107, lines 10 through 13.

3 BY MR. FEW:

4 Q Is this page 107 of your deposition?

5 A Yes.

6 Q And you were asked, "Okay. Why did you think she did
7 that after him being asked --

8 A Yes.

9 Q -- she wanted to apologize to you on behalf of Tiger"?

10 A Yes.

11 Q And read your response at A.

12 A "Because she and Tiger had had some sort of
13 reconciliation, and she wanted me to know that Tiger felt
14 remorse for involving me in this." This what I
15 understand, and it was a very short conversation. So it
16 was not about reconciliation.

17 Q Thank you.

18 MR. FEW: No further questions for this witness,
19 Your Honor.

20 MR. MCCULLOCH: No questions, Your Honor.

21 THE COURT: Mr. Harte?

22 MR. HARTE: No -- I have no further questions,
23 Your Honor.

24 THE COURT: All right. Now we're at the part
25 that I jumped to in the beginning. Are we going to

JURY TRIAL, VOL. 3

1 excuse Ms. Vaillancourt, or do we need to have her
2 susceptible to being recalled?

3 MR. FEW: The plaintiff has no reason to hold
4 her. I mean, she can be --

5 MR. MCCULLOCH: No, Your Honor.

6 THE COURT: Mr. Harte?

7 MR. HARTE: No, Your Honor. She's free -- I
8 have no -- I have no reason to insist on her staying
9 at any point.

10 THE COURT: Ms. Vaillancourt, you are excused.
11 Thank you.

12 THE WITNESS: Thank you.

13 THE COURT: As you've previously been instructed
14 by the Court. Next witness.

15 MR. FEW: The plaintiff calls Suzy Haslup.

16 THE CLERK: Place your left hand on the Bible
17 and raise your right hand.

18 (The witness was sworn in.)

19 THE CLERK: Have a seat in the witness chair.
20 Be sure to watch your step. When you're seated,
21 state your full name, please, spelling your last
22 name.

23 THE WITNESS: My name is Suzanne Kuhn Haslup,
24 H-A-S -- as in Susan -- L-U-P.

25 THE COURT: You did that perfectly. Thank you.

JURY TRIAL, VOL. 3

1 You may proceed, Mr. Few.

2 MR. FEW: Thank you.

3 //

4 SUZY HASLUP

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

7 DIRECT EXAMINATION

8 BY MR. FEW:

9 Q Ms. Haslup, do you know Tiger Rhett Riviere?

10 A Yes, sir.

11 Q And how do you know him?

12 A I moved to Aiken in the mid-1990s, and I probably
13 just through parties and people. He was also resident of
14 that area and involved with the training track where I
15 trained horses.

16 Q And so, you've known him since the mid-'90s?

17 A Yes, sir.

18 Q How that Josee Riviere? Do you know Josee?

19 A Probably the same amount of time.

20 Q And do you -- are you personal friends with them or
21 horse-related friends? How would you describe --

22 A Horse-related, mostly, but also friends.

23 Q And then, you've also done some business with Mr.
24 Riviere; right?

25 A Yes, and his children.

JURY TRIAL, VOL. 3

1 Q And what about Catherine Thomas? Do you know
2 Catherine Thomas?

3 A I just know of her.

4 Q And you were involved in the -- when Mr. Riviere
5 purchased the 115-3rd Avenue property?

6 A Yes, sir.

7 Q And do you recall approximately when that was?

8 A I don't remember.

9 Q He was your client?

10 A I represented the seller, and I believe I might have
11 written for -- for him, but I honestly don't remember.

12 Q He ended up selling it a couple of years later?

13 A Yes. I did represent him when I sold it.

14 Q And do you recall if he owned it in his own name, or
15 did he own it in any type of an entity?

16 A I think it was an entity.

17 Q Okay. And was Catherine Thomas involved in the
18 purchase of that property at all?

19 A No.

20 Q Are you sure?

21 A Not to my knowledge.

22 Q What was your understanding of the purpose of the
23 purchase of that property?

24 A I imagine a rental investment.

25 Q He wasn't going to live in it, was he?

JURY TRIAL, VOL. 3

1 A I have no idea. I can't answer that.

2 Q Well, what did he tell you was the reason he was
3 buying it?

4 A Clients don't always tell you why they're going to buy
5 something.

6 Q And you did -- did you ever have any conversations
7 with Catherine Thomas about that property?

8 A Never.

9 Q Do you have any knowledge of that property being
10 leased out on Airbnb?

11 A Not -- not direct -- no, not personally, I do not.
12 I've never seen it on Airbnb.

13 Q And the purchase of the property was -- approximately
14 what year was that?

15 A Honestly, I can't remember.

16 Q Okay.

17 A It's -- it's public record.

18 Q Explained to the jury what the multiple listing
19 service is.

20 A It's what realtors are members of. They're in
21 different areas of the country. Like, we have an Aiken
22 MLS, we have Augusta MLS. You can be a member of both.
23 You can be a member of Charleston.

24 Q Most every real estate agency subscribes to it; right?

25 A Most agents. It's up to the agent.

JURY TRIAL, VOL. 3

1 Q The agent, the individual agent?

2 A Yeah. If you're part of a company, you're more than
3 likely going to have a --

4 Q And so --

5 A -- membership.

6 Q -- you also were the listing agent for the 785 Grace
7 property?

8 A In -- with Diedre.

9 Q And did that property ever sell?

10 A No, sir.

11 Q 785 Grace never sold?

12 A Oh, it sold when we relisted it -- when I relisted it
13 several years after the expiration of that listing
14 agreement.

15 Q So sold under a listing agreement with you on it and
16 not Diedre?

17 A Correct. I was the listing agent.

18 Q And what do you remember about that sale?

19 A Just that I represented Camden and Ashley -- that's
20 Cam-Ash Holdings -- for the sale of that property.

21 Q Okay. And do you know how Cam and Ash got a hold --
22 became owners of that property?

23 A I do not.

24 Q Did you not have any involvement with Rhett Riviere in
25 the sale of that property?

JURY TRIAL, VOL. 3

1 A No, sir, except that he was managing some people that
2 were in the barn, and I'd have to contact him if there was
3 a problem or if I needed to show the property. He would,
4 you know, make sure that everybody knew that I was going
5 to be on the property showing it.

6 Q Were you aware of the rental cottages on that
7 property?

8 A Over the years, yes, the houses had been rented.

9 Q Well, tell the jury which -- which -- which of the
10 residential structures on that property had been rented?

11 A I think all three, over the years.

12 Q Were they being rented at the time of the sale of the
13 property?

14 A There was one person in one of them, and I think the
15 main house may have had somebody as well because I would
16 have to call to get an appointment.

17 Q So who was managing the rentals on the property at the
18 time that it was sold?

19 A Camden.

20 Q Are you sure about that?

21 A I'm not sure about that, but I mean, that's who I
22 called if there was a plumbing leak or, you know, get a
23 hold of him to see who I should call.

24 Q And do you know when -- when did Rhett stop being the
25 person in control, as far as you know, according to your

JURY TRIAL, VOL. 3

1 testimony, of the 785 Grace property?

2 A I honestly don't know because there was a gap between
3 the listings.

4 Q But your listing expired in 2020; right?

5 A Right.

6 Q So it's between 2020 and --

7 A 2023.

8 Q -- so it would have been after August of 2019?

9 A I would imagine, because we would have had to change
10 paperwork.

11 Q Thank you. I have no further questions.

12 THE COURT: Mr. Griffin?

13 CROSS-EXAMINATION

14 BY MR. GRIFFIN:

15 Q Good afternoon.

16 A Good afternoon.

17 Q Just briefly, you mentioned Camden and Ashley. Who is
18 Camden?

19 A Tiger's son, Rhett's son.

20 Q Okay. Who is Ashley?

21 A The daughter.

22 Q And what is Cam-Ash Holdings?

23 A Camden and Ashley. That's the entity that owned
24 Greentree, the property that I sold.

25 Q And that's the 785 Grace Avenue?

JURY TRIAL, VOL. 3

1 A Correct.

2 Q And it also has a Two Notch Road address --

3 A Yes.

4 Q -- of 541 and 547?

5 A Mm-hmm. Yeah, they had two.

6 Q All right. Thank you.

7 A Mm-hmm.

8 THE COURT: Mr. Harte?

9 CROSS-EXAMINATION

10 BY MR. HARTE:

11 Q Ms. Haslup, do you know of Josee Riviere?

12 A Yes, I do.

13 Q And how is it that you know her?

14 A I met Josee and her former husband many years ago with
15 a good friend of mine.

16 Q What type of person is Josee Riviere?

17 A Very upstanding. I -- I couldn't say enough about
18 her.

19 Q Do you know her reputation generally in the community
20 for peace and good order?

21 A Absolutely.

22 Q And what is her reputation for peace and good order?

23 A It's impeccable.

24 Q What is her reputation in the community for -- what --
25 do you know her reputation in the community for truth and

JURY TRIAL, VOL. 3

1 veracity?

2 A I believe it would be impeccable.

3 Q Would you believe her under oath?

4 A Pardon me?

5 Q If she were testifying, would you believe her under
6 oath?

7 A Yes, sir.

8 Q All right.

9 MR. HARTE: That's all I have, Your Honor.

10 THE COURT: Thank you, sir.

11 REDIRECT EXAMINATION

12 BY MR. FEW:

13 Q When a property is sold, it has to have an affidavit
14 of true consideration, doesn't it?

15 A I'm not sure what you mean by that.

16 Q You don't know anything about that? How much did Cam
17 and Ash pay Rhett for that property, if you know?

18 A I do not know.

19 Q That would be in the public records, though, wouldn't
20 it?

21 A I would imagine, yes.

22 Q It would be on the deed?

23 A Not the deed that I would see, unless I -- well,
24 unless I researched it for the name of the seller,
25 correct.

JURY TRIAL, VOL. 3

1 Q And you don't how much they paid for it?

2 A No, I don't. I'm sorry.

3 Q Thank you.

4 THE COURT: Can Ms. Haslup be excused?

5 MR. FEW: Yes. Yes, Your Honor.

6 THE COURT: Thank you, Ms. Haslup. Next
7 witness.

8 MS. BARBIER: Your Honor, the plaintiffs calls
9 Thomas Courtney.

10 THE COURT: I'm sorry, Thomas?

11 MS. BARBIER: Courtney.

12 THE COURT: Courtney. Thank you.

13 THE CLERK: Thomas Courtney.

14 MS. BARBIER: Courtney.

15 THE COURT: Courtney.

16 MS. BARBIER: Thomas Courtney.

17 THE COURT: Courtney with a T? Okay. Thank
18 you.

19 MS. BARBIER: Your Honor, I'm going to grab an
20 exhibit sticker, if that's okay.

21 THE COURT: Yes.

22 THE CLERK: Place your left hand on the Bible
23 and raise your right, please.

24 (The witness was sworn in.)

25 THE CLERK: Have a seat over there in the box.

JURY TRIAL, VOL. 3

1 Watch your -- in the witness stand. Watch your step
2 there. And when you're seated, very clearly state
3 into the microphone your full name, spelling your
4 last name. He's been sworn.

5 THE COURT: Thank you, sir.

6 THE WITNESS: Thomas Courtney, C-O-U-R-T-N-E-Y.

7 THE COURT: You may proceed.

8 MS. BARBIER: Thank you, Your Honor.

9 THOMAS COURTNEY

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

12 DIRECT EXAMINATION

13 BY MS. BARBIER:

14 Q Good afternoon Mr. Courtney.

15 A Good afternoon.

16 Q Do you -- Mr. Courtney, can you tell the jury, do you
17 live in this area?

18 A I do.

19 Q Okay. And do you have a business here?

20 A I do. I have a private practice on Barnwell Street in
21 Aiken.

22 Q Can you tell the jury what kind of private practice
23 that is?

24 A General therapy, trauma therapy.

25 Q What's your educational background?

JURY TRIAL, VOL. 3

1 A I have a bachelors in psychology and English from
2 (unintelligible) college. I have a masters in counseling
3 and psychology from Eastern Michigan University, and I'm
4 all but dissertation for a Ph.D in counseling psychology
5 for the University of South Carolina.

6 Q Have you ever given any lectures?

7 A I have spoken around most of our country.

8 Q What kind of topics do you speak on?

9 A Domestic violence, sexual abuse, parental roots of
10 domestic violence and sexual abuse, problems of
11 child-rearing, things like that.

12 Q Do you ever speak about the impact of sexual offenses,
13 like victims of sexual offenses?

14 A I speak about the emotional effects of molestation and
15 sexual abuse.

16 Q Can you please give the jury just a brief summary of
17 your work experience?

18 A After graduate school, I was a psychologist in the
19 student health service and an adjunct track working in
20 psychology at Michigan Technological University. I came
21 down in 1982 to become a health psychologist at Health
22 Central University Hospital. I was with a mental health
23 (unintelligible) Aiken and Barnwell Mental Health from '93
24 to about 1999, and I've been in practice ever since.

25 Q Are you in private practice?

JURY TRIAL, VOL. 3

1 A I'm semiretired.

2 Q Okay. Do you have -- do you accept insurance with you
3 practice?

4 A No, I don't.

5 Q Because you don't accept insurance, do you keep
6 detailed notes on your therapy visits?

7 A No. Generally, I don't.

8 Q So how long have you been a therapist?

9 A I saw my first patient in 1975.

10 Q Do you know Heather Crespo?

11 A I do.

12 Q Please tell the jury how you know her.

13 A I know of her through the community. She is a friend
14 of acquaintances of mine, and she approached me in the
15 fall of 2022 to see if I would do therapy with her.

16 Q And did you begin seeing her then?

17 A I did.

18 Q Okay. Can you please describe for this jury the --
19 the -- your impressions of Heather during her therapy
20 sessions?

21 A She was stuck in fight-flight response. She was
22 agitated. She was not sleeping well. She expressed her
23 nightmares. She had a lot of self-recrimination, felt
24 shame and embarrassment due to a recent predicament.

25 Q Can you briefly describe what that predicament was?

JURY TRIAL, VOL. 3

1 A She told me that, at a previous time, she and her
2 then-husband had secured housing. They were going to
3 build a farm here in Aiken, sort of their dream place.
4 And during that time, she discovered there was a secret
5 videotaping of both her and her husband in states of
6 undress and sex acts, and apparently, it was in the
7 bathroom.

8 Q You had -- you mentioned that she was in fight or
9 flight -- a fight-or-flight state. Can you explain to the
10 jury what that means?

11 A Sure. When we're put into a stressful and traumatic
12 situation through which we have no recourse, we can't run
13 and we can't fight and feel helpless. So what happens is,
14 the body keeps adrenaline -- pumping adrenaline and
15 cortisol -- stress chemicals -- and we go -- sometimes it
16 will free state, which means that our bodies have an
17 outwardly stress response.

18 Q Do you know if Heather is still living in the Aiken
19 area?

20 A No. I believe that she is now traveling as a
21 traveling nurse.

22 Q Do you know why she chose to do that? Did you all
23 discuss her leaving Aiken?

24 A Yes.

25 Q Tell the jury why she chose to do that.

JURY TRIAL, VOL. 3

1 A My understanding is that Aiken was going to be Heather
2 and Gabriel's dream home. Their father -- he was a polo
3 player -- he's a (unintelligible) lawyer. She was
4 training horses and riding horses, and she had felt like
5 she felt unsafe in her home. Her embarrassment and shock
6 and continued wondering about who in the community knew
7 whether the videos had been shared with other people,
8 feeling like people were talking and she didn't know what
9 they knew. Plus, she is a very committed person. She's a
10 very committed nurse. And while she had an excellent
11 opportunity at the medical center, she was looking for a
12 chance to travel and find new vistas for her medical
13 background.

14 Q Have you ever used the term "displaced" in describing
15 Heather?

16 A I think she's felt displaced a number of times in her
17 life, especially recently.

18 Q Can you explain that?

19 A Well, we create senses of what is a hope or a dream
20 for us, and then when we find that that is not actualizing
21 or when it is abruptly interrupted, we don't have a choice
22 but to move on.

23 Q And so, you mentioned that she had anxiety about where
24 these videos were and who had seen them?

25 A Correct.

JURY TRIAL, VOL. 3

1 Q Do you have any way of assuring her who has seen them
2 and who has not seen them?

3 A (Noise disruption from someone coughing) of views is
4 that if you're a teenager or a tweener and somebody
5 obtains pictures of you that you didn't authorize and
6 shows them around school, how can you know where they've
7 been, whether they've been bought and sold, used by other
8 people?

9 Q So you don't know, do you?

10 A No, I don't.

11 Q What does that lack of knowledge do to someone?

12 A It -- it can feel like a trap, a similar situation.
13 They can't stay and they can't go.

14 Q Prior to this videotaping ordeal in 2022, did Heather
15 enjoy this community?

16 A She seemed to me by what I understood of her, very
17 actively involved. She was involved in the horse
18 community. She had friends. She was excited by the honor
19 of being allowed to be a critical care nurse at the
20 hospital. It really did feel like this was going to be
21 the place where she could finally be safe and comfortable.

22 Q Are you familiar -- I mean, would someone being filmed
23 without their knowledge while they're engaged in sexual
24 activity be traumatizing?

25 A Unless they specifically requested that, I don't see a

JURY TRIAL, VOL. 3

1 case where it wouldn't be traumatizing.

2 Q How about if somebody were filmed, like Heather, in
3 the bathroom and shower going to the bathroom? What would
4 that do to someone's emotional state?

5 A To know that even our most private spaces have been
6 invaded and were not safe, to wonder hour after hour, day
7 after day, who knows what was done with this? Was this
8 used for other people's sexual pleasure and enjoyment?
9 Was it sold? I'll give you an example. A lot of times
10 when people have their cars broken into or their homes
11 broken into, one of the typical phrases is they feel
12 violated. So even nonsexual acts can feel like they have
13 been penetrated or their safety zone has been taken away.
14 Imagine that multiplied greatly.

15 Q How many sessions, approximately, did you have with
16 Heather Crespo?

17 A I believe it was 16.

18 Q I'm going to show you what I've marked as Plaintiff's
19 Exhibit 10.

20 A Mm-hmm.

21 Q Do you recognize that document?

22 A I do.

23 Q What is it?

24 A It's a summary of the charges for the hours of therapy
25 that I provided for Heather.

JURY TRIAL, VOL. 3

1 Q Is that a record that you keep in the regular course
2 of business?

3 A Yes.

4 MS. BARBIER: Your Honor, I move Plaintiffs'
5 Exhibit 10 into evidence.

6 (Plaintiffs' Exhibit 10 was moved
7 for admission into evidence.)

8 MR. GRIFFIN: No objection.

9 THE COURT: Mr. Harte?

10 MR. HARTE: No objection.

11 THE COURT: So moved.

12 (Plaintiffs' Exhibit 10 was
13 admitted into evidence.)

14 BY MS. BARBIER:

15 Q Mr. Courtney, has Heather been emotional in your
16 sessions with her?

17 A Very much so.

18 Q Describe what you mean by emotional?

19 A Tearful, frightened, confused. Again, as I mentioned
20 before, there was a lot of self-recrimination: Why didn't
21 I know this was going on; is this something that stalks me
22 for my life; is this something that I'm causing; am I just
23 vulnerable to this?

24 Q On one particular therapy session, did Heather tell
25 you about the day of her deposition in this case?

JURY TRIAL, VOL. 3

1 A Yes.

2 Q What did she say?

3 A She felt she -- it was humiliating, that it took all
4 of her courage to remain in the room and to answer the
5 questions that were being asked.

6 Q Did she tell you what happened to her after the
7 deposition, where she went?

8 A I don't remember that.

9 Q Do you recall anything about the ER?

10 A No, I don't.

11 Q Long-term picture, can an -- can an experience like
12 this for somebody be very difficult to overcome?

13 A It can be very challenging.

14 Q Is it something that stays with you for the rest of
15 your life?

16 A Possibly. You -- you don't get passive. You don't
17 get over it. You get through it, and sometimes you change
18 your life to accommodate it.

19 Q In terms of how difficult this is to deal with, is
20 there any difference between the way a man deals with it
21 versus a woman?

22 A You know, basically, this is somewhat generic. But
23 typically, Western men in the United States are socialized
24 to believe that any sexual experience that they have is
25 worthwhile more than not, and so the level initial

JURY TRIAL, VOL. 3

1 degradation is higher with a woman. Now, at times, men
2 will realize that they have been victimized and violated.
3 They can become sad, scared, rageful, but it doesn't mean
4 that they weren't violated.

5 Q Are men less likely to go to therapy, in your opinion?

6 A In my experience, yes.

7 Q Why is that?

8 A Again, the whole notion -- really, the notion that
9 whenever sex we've had has been our choice, that we don't
10 talk about things, that it's shameful -- shameful to admit
11 that you have a vulnerability, and out of sight, out of
12 mind.

13 Q Is it a myth that this would be something easier for a
14 man to overcome than a woman?

15 A You know, I don't have the statistics for that, but I
16 think that would be folded into that notion that it's
17 harder for women -- or for men to feel like they have been
18 violated.

19 Q Do men feel violated sometimes?

20 A Oh, yeah. A number of male clients, yeah.

21 Q I don't have any other questions. Please answer any
22 questions that the defense has.

23 CROSS-EXAMINATION

24 BY MR. GRIFFIN:

25 Q Good afternoon, Mr. Courtney. How are you?

JURY TRIAL, VOL. 3

1 A Good afternoon.

2 Q Just to be clear, you said that you -- you were all
3 but a dissertation away from obtaining your Ph.D.?

4 A Yes.

5 Q So you're not a doctor?

6 A No, I'm not a doctor.

7 Q And you're not a medical doctor?

8 A No, I'm not.

9 Q And -- and so, you were unable did not prescribe any
10 medications for Ms. Heather Crespo; correct?

11 A No. I'm not allowed by the State of South Carolina to
12 prescribe medication.

13 Q And -- and to your knowledge, she was not taking any
14 medication for anxiety or depression or anything that you
15 were seeing her about?

16 A Not that I know of.

17 Q And are you aware that she has been in therapy of some
18 sort since she got a divorce from her ex-husband, Gabriel
19 Crespo?

20 A I know she had been in therapy previous to me.

21 Q And that she is a strong believer in therapy?

22 A Yes.

23 Q And during the time you saw her, she had, in addition
24 to what she learned about being videotaped, she was going
25 through a second divorce, was she not?

JURY TRIAL, VOL. 3

1 A That was prior to my meeting her.

2 Q Okay. But were you aware that she was going through
3 second divorce?

4 A I was. She told me that.

5 Q And one of the reasons that she chose to get work
6 elsewhere is that she felt like she was being controlled
7 here by one or both ex-husbands; correct?

8 A She said that one ex-husband was -- there was a
9 conflictual relationship with.

10 Q A conflict?

11 A Yeah.

12 Q Did she use the word "controlling"?

13 A I don't recall.

14 Q And do -- do you remember that being Mr. Gabriel
15 Crespo?

16 A Yes, sir.

17 Q So she was in a conflict with Mr. Gabriel Crespo, and
18 that was one of the reasons that she moved away; right?

19 A My belief is if it -- she had not had the videotaping
20 arise, that she would have had the resources to stay in
21 Aiken.

22 Q Well, I'm asking you what she told you. She told you
23 that she was leaving in part because she was in a
24 conflicting relationship with Mr. Crespo; correct?

25 A She said that that was stressful.

JURY TRIAL, VOL. 3

1 Q And that moving away would de-stress that situation?

2 A Sometimes things feel like a geographic cure.

3 Q And -- and were you aware that Ms. Crespo has had some
4 alcohol addiction issue that she sought treatment for?

5 A I am.

6 Q And that she had turned her life around and went and
7 got a nursing degree; correct?

8 A I am.

9 Q And that -- and applauding her, what she learned then
10 about this case did not cause her to relapse into alcohol
11 dependency, did it?

12 A To my knowledge, no.

13 Q And, in fact, she continued working and was very
14 successful at work, was she not?

15 A She's a very strong character.

16 Q Right. Now, you -- you saw her in -- and I think you
17 said for 16 hours?

18 A Yes, sir.

19 Q And what's the total invoice that's on here?

20 A Total charges, \$1,920.

21 Q \$1,920?

22 A Yes.

23 Q And -- and do you have your clinical service notes in
24 front of you?

25 A I do.

JURY TRIAL, VOL. 3

1 Q Did you see her for the first time in September 22nd,
2 2022?

3 A Yes.

4 Q And then, did you see her again on October 4th, 2022?

5 A I did.

6 Q And then, the third time you saw her was in October
7 20th, 2022; correct?

8 A Yes.

9 Q And then, you saw her again on November 1st, 2022?

10 A Yes.

11 Q And each of those were for 60 minutes; correct?

12 A Yes.

13 Q And then, you saw her on November 14th, 2022; correct?

14 A Yes.

15 Q And then, you saw on November 18th, 2022; is that
16 correct?

17 A Yes.

18 Q And then, on November -- excuse me -- did I -- and
19 then, December the 7th, 2022?

20 A Correct.

21 Q And then, December 27th, 2022?

22 A Yes.

23 Q And January 5th, 2023; correct?

24 A Correct.

25 Q And January 12th, 2023; correct?

JURY TRIAL, VOL. 3

1 A Yes.

2 Q January 26th, 2023; correct?

3 A Correct.

4 Q And February 28th, 2023?

5 A Correct.

6 Q March 31, 2023?

7 A Yes.

8 Q And April 11th, 2023?

9 A Correct.

10 Q And then, June 13th, 2023; correct?

11 A Yes.

12 Q And then, you don't see her again until nine months

13 later on March 19th, 2024; right?

14 A I saw her on 11/14 of '23.

15 Q Okay. I don't have a record of that. So you saw her

16 11/14 of '23?

17 A (No audible response.)

18 Q All right. Did you see her -- when is the next time

19 you saw her?

20 A 3/19/24.

21 Q And have you seen her since then?

22 A No.

23 Q And you indicated that she reported that the -- that

24 having to give a deposition was -- had a significant

25 impact on her; correct?

JURY TRIAL, VOL. 3

1 A Yes.

2 Q Did being a plaintiff in this lawsuit, did that -- did
3 that have an impact on her?

4 A I don't -- I'm not sure I understand the tie.

5 Q Well, explain to me then what you understood her --
6 what her complaints were about having to sit through the
7 deposition.

8 A The best answer I can give you is when we've been
9 victimized, part of what we want to do is just pretend
10 like it didn't happen. So even if you're participating in
11 an ongoing lawsuit, when someone calls you for a
12 deposition, that is startling, and depositions are not
13 known to be gentle affairs.

14 Q And did she contact you after the deposition?

15 A I may have gotten a phone call.

16 Q Before the deposition?

17 A After.

18 Q After the deposition. And -- and I think you
19 indicated that -- that she expressed concern and anxiety
20 about -- anxiety about who in the community know about
21 this?

22 A Correct.

23 Q And it sounds like you speak -- and it sounds like
24 you've spoken around the country on sex abuse cases; is
25 that correct?

JURY TRIAL, VOL. 3

1 A I have.

2 Q And have you testified in court before?

3 A Yes.

4 Q Some cases involving sex abuse?

5 A Yes.

6 Q And it's not uncommon, is it, for litigants in sex
7 abuse cases to proceed anonymously, like a John Doe or a
8 Jane Doe --

9 A Correct.

10 Q -- so that their name is not in the public record;
11 correct?

12 A Right.

13 Q Are you aware that didn't happen here?

14 A I am.

15 Q Do you think that added to the stress and anxiety that
16 Ms. Crespo had?

17 A I understand your point. I think it's a double-edged
18 sword. Sometimes our life and our reputation and the fact
19 that this may have happened to other people is strong
20 enough that we are willing to take a stand so that it
21 didn't happen again, that it doesn't happen to other
22 people.

23 Q And that can equally be done this as a Jane Doe
24 plaintiff; correct?

25 A Mm-hmm.

JURY TRIAL, VOL. 3

1 MR. GRIFFIN: One second, Your Honor. That's
2 all the questions I have.

3 THE COURT: Mr. Courtney, the answer to the last
4 question, I think you went "mm-hmm." Could you say
5 yes or no to that?

6 THE WITNESS: Yes.

7 THE COURT: Into the microphone.

8 THE WITNESS: Yes.

9 THE COURT: Thank you. Okay. Mr. Harte?

10 MR. HARTE: No questions, Your Honor.

11 THE COURT: Thank you.

12 MS. BARBIER: No other questions, Your Honor.

13 THE COURT: Thank you. Mr. Courtney, you may
14 step down. Ms. Barbier, are we excusing
15 Mr. Courtney, or is he subject to recall?

16 MS. BARBIER: We are excusing Mr. Courtney.

17 THE COURT: Thank you, sir. Next witness?

18 MS. BARBIER: Your Honor, the plaintiffs call
19 Carrie Emerson.

20 THE COURT: Is Ms. Emerson going to be a
21 short --

22 MS. BARBIER: I believe she's going to be rather
23 short, Your Honor.

24 THE COURT: Okay. We'll proceed with
25 Ms. Emerson, then, and then we'll take a break. I

JURY TRIAL, VOL. 3

1 understand, you know, short witnesses become long
2 witnesses sometimes, so we don't ever know when
3 that's going happen.

4 THE CLERK: Place your left hand on the Bible
5 and raise your right hand, please.

6 (The witness was sworn in.)

7 THE CLERK: Have a seat in the witness chair.
8 Watch your step as you get up there. And when you're
9 seated, state your full name, spelling your last
10 name.

11 THE COURT: Yes. Please spell your name.

12 THE WITNESS: Carrie Lynn Emerson,
13 E-M-E-R-S-O-N.

14 CARRIE EMERSON
15 was called as a witness, and having been first duly sworn,
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MS. BARBIER:

19 Q Good afternoon, Ms. Emerson.

20 A Good afternoon.

21 Q Ms. Emerson, can you tell the jury where you currently
22 live?

23 A In Windsor, South Carolina.

24 Q Okay. Have you ever lived with Rhett Riviere?

25 A Yes.

JURY TRIAL, VOL. 3

- 1 Q Okay. Does he also go by Tiger?
- 2 A Yes.
- 3 Q Okay. Where did you all live together?
- 4 A Aiken Estates on Clark, 1032 Clark.
- 5 Q Okay. 1032 Clark?
- 6 A Yes.
- 7 Q And approximately when did you live with him?
- 8 A In 2020, I believe, during COVID.
- 9 Q During that time, do you know, did he have a lake
10 house?
- 11 A He bought a lake house.
- 12 Q When did he buy a lake house?
- 13 A When we were dating.
- 14 Q Okay. Do you know how he bought it?
- 15 A No.
- 16 Q Did you know him to have a job?
- 17 A No.
- 18 Q Do you know whether he bought any property in Costa
19 Rica?
- 20 A He mentioned he had bought property in Costa Rica, but
21 that was before I knew him.
- 22 Q Okay. During the time period that you were living
23 with him, were you aware of any investigation into hidden
24 cameras or anything like that?
- 25 A I was told there was one case.

JURY TRIAL, VOL. 3

1 Q Okay. And who told you that?

2 A Rhett did.

3 Q Okay.

4 MR. MCCULLOCH: And I'm sorry, Your Honor. I
5 couldn't hear.

6 THE COURT: She said your -- your client.

7 MR. MCCULLOCH: All right. I understand.

8 BY MS. BARBIER:

9 Q And what did he say about that case?

10 A That his ex had pretty much set him up, and it was
11 just one, maybe two women or something, tennis players,
12 that were renting the 3rd Avenue home.

13 Q And did he tell you there was a camera in the house?

14 A Yes. Well, he said that there was a camera, but he
15 had put a camera in for security reasons, and his
16 ex-girlfriend had rented out the property.

17 Q Did he indicate whether he knew the property was
18 rented?

19 A He told me at first he did not know, that Catherine
20 had told him. They were going out of town.

21 Q Did he ever change that story?

22 A I don't recall.

23 Q Did you have an occasion when you lived at the Clark
24 Road property to clean out the garage?

25 A Yes. I cleaned out the garage.

JURY TRIAL, VOL. 3

1 Q Okay. And in cleaning out the garage, did you -- did
2 you find anything? Did you find a box?

3 A There were boxes --

4 MR. HARTE: Objection to leading, Your Honor.

5 THE WITNESS: -- there was one box that had --

6 THE COURT: Hold on a second. Ms. Barbier, I
7 understand there's some confusion from you and the
8 witness as to what you're getting at, so I would just
9 ask what did you find in the box.

10 BY MS. BARBIER:

11 Q What did you find?

12 A -- there was a bunch of stuff in there, but there was
13 a box that just had old video -- it just said video
14 equipment on it. It looked like older video equipment.

15 Q Okay. Did Mr. Riviere make any statements to you
16 about that box?

17 A I think he joked and said the FBI didn't find that.
18 And I don't recall if he said that or I said that. I
19 don't remember.

20 Q Do you know what happened to that box?

21 A No, I do not.

22 Q Did you ever become aware of the grocery bag thumb
23 drives?

24 A That I had? Yes.

25 MR. MCCULLOCH: Your Honor, again --

JURY TRIAL, VOL. 3

1 THE COURT: Ms. Barbier, let's ask her what she
2 found and anything else, not specify what she may
3 have found, please.

4 MS. BARBIER: Okay.

5 THE COURT: I understand I don't -- we had
6 previous discussion off the record about the way you
7 question. And I know the rules are really specific
8 and it can be hard when you're just talking, so let's
9 try our best.

10 BY MS. BARBIER:

11 Q Did you ever have a grocery bag?

12 A Yes.

13 Q What was in the grocery bag?

14 A Were you referring to the grocery bag when I was
15 moving out? And I had just put a lot of my things,
16 rushing just throw things in. And in one of the bags, I
17 did come to find out eventually there were thumb drives.

18 Q Were they your thumb drives?

19 A No.

20 Q Okay. Who did they belong to?

21 A I would assume they would have belonged to Rhett.

22 Q Okay. Did you have any conversations with him about
23 those thumb drives?

24 A No.

25 Q Do you know what happened to those thumb drives?

JURY TRIAL, VOL. 3

1 A I do not. They were not in the garbage bag in my
2 vehicle.

3 Q Did you take them out of your vehicle?

4 A No.

5 Q Do you know who did?

6 A I do not.

7 Q When you had an occasion -- when you lived at Clark
8 Road, did you ever see Josee Riviere?

9 A At the Clark home?

10 Q Yes.

11 A I did not physically see her there.

12 Q Okay. Did you ever see her?

13 A I would see her walking down Two Notch sometimes.

14 Q Did you ever see her and Mr. Riviere inter-react?

15 A No, not physically, just on the phone they would talk.
16 I think she came over one time to Clark Road to borrow
17 something that was in the garage.

18 Q Did they appear to be friendly?

19 A Yes.

20 Q Do you know whether Rhett Riviere had a familiarity
21 with technical equipment?

22 A Yes, I think he did.

23 Q Did you ever see a blue Cop Camera?

24 A I did.

25 Q Tell the jury about that.

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1 A I had left early to go to the lake house the day
2 before, and he had something to do in Aiken, so I was at
3 the lake house that whole night. The next day, he was
4 rushing to get to the lake house, and he came to the lake
5 house that night. The next day, I had to come back to
6 Aiken for something. I don't know if I had to get feed
7 for the horses or something. So when I went into the
8 Clark home, he had left a blue -- it Cop Cam on the stove
9 in the kitchen.

10 Q And that was in 2020?

11 A I believe it had to have been, yeah.

12 Q You started living together in 2020?

13 A Yeah.

14 Q So it was after 2019?

15 A Yes.

16 Q I don't have any other questions.

17 MR. MCCULLOCH: I don't have any questions, Your
18 Honor?

19 THE COURT: Yes, sir. Mr. Harte?

20 MR. HARTE: No questions.

21 THE COURT: Can we excuse this witness?

22 MS. BARBIER: Yes, Your Honor.

23 THE COURT: You are excused. Thank you, Ms.
24 Emerson. All right. Let's take a 10 to 15-minute
25 break. Understanding to the jury that it may be a

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1 little bit longer. I ask you to return to the jury
2 room. Please do not discuss the case or any of the
3 testimony or the evidence that you've heard thus far.

4 (The jury exited the courtroom.)

5 THE COURT: All right. Counsel, we're moving
6 along a little faster. I want to get to the bottom
7 of this. I did ask that you all go ahead and give me
8 requested charges. I don't know how much more we have to
9 get through before we get to that stage, but if you
10 have something, please e-mail that to me at by the
11 end of the day. Is there anything else before we all
12 go take a break? All right. Thank you.

13 MR. HARTE: I have one question, Your Honor,
14 with respect to the requested charges. May I assume
15 that on the basic charges, such as burden of proof,
16 the jury is to be the judge of the facts, the judge
17 is to be the judge of the law, credibility of
18 witnesses, you know, the elements of the causes of
19 action --

20 THE COURT: I'm happy to share what I have if
21 you all want to review it. I'm sure it's very
22 similar to whatever you would come up with. That's
23 not what I'm seeking. It's the specific charges as
24 to this -- this case. I don't know that it's come up
25 yet, but the plaintiff had asked for an inference as

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1 to the Fifth Amendment, and I don't have the general
2 charges on that issue, if we have anything to talk
3 about on that, so if you all want to propose
4 something on that particularly. And then, the causes
5 of action, if you have anything specific you wanted
6 me to know that.

7 MR. HARTE: Your Honor, the -- the question, I
8 think, from my perspective is, inference against
9 whom?

10 THE COURT: I understand, Mr. Harte. Thank you.

11 MR. HARTE: Thank you.

12 THE COURT: I think that's part of the reason I
13 want you to -- to weigh in on it too.

14 MR. HARTE: Well, I plan to.

15 THE COURT: All right. Thank you. We'll be --
16 I'm sorry, Mr. McCullough?

17 MR. MCCULLOCH: Please finish. I interrupted
18 you.

19 THE COURT: No, no.

20 MR. MCCULLOCH: I was just going to say, Your
21 Honor, we had a sidebar about an hour ago. I think
22 it was the assertion the plaintiffs, at least in
23 part, had opened the door to comment.

24 THE COURT: Please be quiet.

25 MR. MCCULLOCH: I'm sorry. I haven't been able

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1 to really assess, but I believe that it was
2 prejudicial to Mr. Riviere. And I objected at
3 sidebar on the basis that I did not believe that the
4 question he posed to the witness -- and that would
5 have been Ms. Hook, I believe.

6 THE COURT: No, sir. It was --

7 MR. MCCULLOCH: Vaillancourt.

8 THE COURT: -- Ms. Vaillancourt. And if I
9 recall -- not to cut you off, but just to -- we had a
10 sidebar because in the testimony of Ms. Vaillancourt,
11 she had previously given a deposition in another
12 matter. We had a kind of pre-witness call-in after
13 lunch to discuss that and what could come in on that
14 deposition and what would be technically termed as
15 "hearsay." And then, in cross, I believe, if I
16 recall, and I looked at my notes and felt like
17 Mr. Harte had asked her something about the question.
18 She had responded in a manner that was slightly
19 different from what she gave in her deposition, and I
20 allowed the plaintiff to enter that portion of the
21 deposition to fully give that statement and her full
22 answer at that time for their purposes. And you did
23 object as to relevancy, of course, and the improper
24 bias it may give to your client, which --

25 MR. MCCULLOCH: And, Your Honor, at sidebar and

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1 now again, we moved to sever the cases.

2 THE COURT: As so noted. Thank you, sir.

3 MR. HARTE: Your Honor, for the record, I also
4 objected on the grounds that the portion of which
5 Mr. Few was permitted to read was totally unrelated
6 to the -- to the question that I asked, because my
7 question related solely to the witness's response in
8 deposition that she understood that the -- Josee and
9 Tiger were in a courting relationship, and all I
10 asked her was to explain what she meant by a courting
11 relationship. And I maintain that that did not open
12 the door for the evidence that Mr. Few was allowed to
13 put into the record. And -- and --

14 THE COURT: Yes, sir. And hopefully, our
15 sidebar was picked up by the microphone. We've been
16 attempting to go over to a microphone on the other
17 side of the court so that it can be picked up on the
18 record for that purpose, but we're just putting this
19 again on the record just to make certain. Mr. Harte,
20 your objection is noted, and I will assume that you
21 are also renewing your motion to sever at this time,
22 and that --

23 MR. HARTE: Oh, yes, Your Honor.

24 THE COURT: -- will be noted as well.

25 MR. HARTE: Yes, Your Honor. And in every -- as

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1 I say, every minute of every day, it becomes --

2 THE COURT: Yes, sir. I understand.

3 MR. HARTE: -- more prejudicial. Thank you,
4 Your Honor.

5 THE COURT: Thank you. All right. We'll stand
6 down then. Thank you.

7 (Off the record.)

8 (Recess.)

9 (On the record.)

10 MR. GRIFFIN: Yes, Your Honor. The --
11 Ms. Neuhaus -- there -- there -- there are two things
12 that are -- two topics. One topic is that she had
13 discussions with Catherine Thomas. This is a
14 Mr. Riviere's ex-girlfriend who turned the SDS card
15 in. One -- one time -- and both these conversations
16 took place on multiple occasions. But essentially,
17 the bottom line is, Ms. Thomas claimed that
18 Mr. Riviere had drugged her on maybe two or three
19 occasions. One time, she passed out at a birthday
20 party and thought another person had drugged her.
21 But I don't know that they plan to go into that.
22 It's just rank hearsay. And if they're not planning
23 to go into that, then we're fine. But that was her
24 testimony, that Catherine Thomas told her that she
25 was drugged.

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1 And then the second category is, she stayed at
2 Mr. Riviere's rental properties at one point in time
3 and with her husband and child, I believe. And then,
4 once she learned about this investigation, she was
5 worried that maybe she was videotaped, and she
6 believes she probably was videotaped. But there's no
7 evidence that she was videotaped. There's no proof
8 that she was videotaped. And so, her concern about
9 being videotaped, I mean, that's just not relevant at
10 all.

11 THE COURT: Mr. Harte, do you have anything to
12 say on this witness?

13 MR. HARTE: Your Honor, only that the witness --
14 well, first of all, I agree with what Mr. Griffin
15 said. But secondly, the last thing I want to do is
16 -- is advise the Court that this witness is
17 represented by my firm in an automobile accident case
18 at this time. And I have represented her in
19 connection with a real estate matter sometime within
20 the last five years, I guess it is. Other than that,
21 I have no -- nothing have -- I have nothing to add to
22 what Mr. McCullough said.

23 THE COURT: Mr. Few, is your intent to get into
24 whether Ms. Neuhaus was drugged by Mr. Riviere?

25 MR. FEW: Well, I believe the allegation was

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1 that Catherine Thomas was drugged.

2 THE COURT: Excuse me, that Catherine Thomas was
3 drugged.

4 MR. FEW: But there's -- I don't intend to get
5 into that. But there -- there is a situation where
6 husband was drugged, or so they thought, and that's
7 somebody that she has firsthand knowledge of. And
8 she saw it, and it was on Mr. Riviere's boat. And I
9 think we should be entitled to go into that if the
10 witness starts talking about it. Whether or not
11 Catherine Thomas was drugged is a completely
12 different thing, so -- but -- or she could just
13 describe her husband's condition the morning that she
14 got down to the boat, because that's a story --
15 that's -- that's --

16 THE COURT: Explain to me -- now, this is one
17 where I want to no where the relevance of someone
18 else being drugged on a location that may be on some
19 of these videotapes has to do with your clients being
20 videotaped surreptitiously.

21 MR. FEW: -- she's been to the boat three times.
22 The third time she went to the boat, her husband --
23 ex-husband now -- and 10-year-old stepdaughter had
24 been there. She and Catherine Thomas arrived the
25 next morning and her husband was, like, knocked out.

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1 And Mr. Riviere and the 10-year-old girl named
2 Olympia, who she had texted some other people and
3 said he -- he texted my daughter, my stepdaughter,
4 were never to be found. And so, then Catherine --
5 the story is, Catherine Thomas then called him and
6 said, where the heck are you? You can't be away from
7 the boat with a 10-year-old. And then, they came
8 back and there was a big brouhaha. And instead of
9 staying down there, she and her husband drove all the
10 way -- came back to Aiken and completely changed
11 their plans.

12 THE COURT: And what does that have to do with
13 this case? I understand it's -- it's she's alleged a
14 bad act by Mr. Riviere. I get that. But what
15 significance does that have to the Crespos being
16 videoed?

17 MR. FEW: That -- that -- there's no indication
18 that -- that it's not taping, so...

19 THE COURT: Yeah, I mean it is a -- it's true.
20 It's a really bad act. I get that. But I don't know
21 that it has anything to do with the relevant --
22 relevant to the case we've got right now.

23 MR. FEW: Your Honor, I agree.

24 THE COURT: Okay. Thank you, sir. All right.
25 So you will not seek to elicit that testimony, and

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1 you'll hope that the witness will not just blurt
2 anything out.

3 MR. FEW: Well, I do need to get into her about
4 --I'll speak to her not to, Your Honor, because I do
5 need to get into her knowledge of the boat.

6 THE COURT: Yes, okay, for that purpose.

7 MR. GRIFFIN: And, Your Honor, there's still
8 this -- they rented a cottage or the house, I'm not
9 sure. And she has a concern or a belief that she was
10 being videotaped, but there's no evidence of that.
11 And she -- yeah, I don't know what that's relevant
12 to.

13 MR. FEW: Your Honor, she -- I mean, she's got a
14 concern that she was videotaped. She -- she rented
15 there in 2017. Again, she's concerned. They can ask
16 her on cross: Are you aware -- are you aware of
17 anything that you have been videotaped? And she'll
18 answer the question. But undoubtedly -- I mean, she
19 stayed there. She also decorated the third property
20 that was added to Grace in 2019, and so she's going
21 to testify about that as well. And that was the
22 expansion of the Rhett and Catherine rental empire.

23 THE COURT: Rhett and Catherine?

24 MR. FEW: Rhett and Catherine.

25 MR. GRIFFIN: And, Your Honor, one thing we know

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1 is that team over there, their experts have scoured
2 every videotape trying to identify, and they know of
3 this woman. And I promise you, if she had been
4 taped, they would have it and she would have been
5 playing it.

6 THE COURT: I think that the next allegation
7 is -- or -- or statements coming are that we may not
8 know whether you'd been taped or not, given the --
9 what the forensics people said.

10 MR. BEASLEY: Again, it's 24 --

11 MR. FEW: Yeah, Your Honor --

12 MR. BEASLEY: -- there's 24,000 videos, Your
13 Honor. We have not gone through all those.

14 MR. FEW: -- nor have we paid Mr. Edgar to do so
15 because it would be cost prohibitive. That's a
16 question for cross.

17 MR. BEASLEY: They just say, are you aware?
18 They've got experts say. She's not saying she was
19 taped. She said she was afraid she was taped.

20 MR. GRIFFIN: What -- how is that relevant?

21 THE COURT: I will ask, what about your causes
22 of action are we getting to, to say the a third
23 person fears that they have been taped? Is that the
24 -- is -- I mean, going to your repetition when we
25 don't have a tape of those people, and have ten tapes

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1 in evidence of four or more at least to show that,
2 four or five.

3 MR. FEW: Your Honor, it's -- it's -- it's --
4 public harm. I mean, it's part of an enterprise she
5 ran. You know, there were cameras in the location
6 where she was, so --

7 THE COURT: Did she find the cameras? Does she
8 know about the cameras other than that?

9 MR. FEW: No, Your Honor. She was there in
10 2017.

11 THE COURT: Okay. All right. This is what
12 we'll allow is that you can say she rent -- you can
13 get into the fact that she rented the property. I
14 think they can cross as to whether there were any
15 videotapes found. I would ask specifically that we
16 not -- you're not treating her as an adverse witness
17 or a hostile witness are you?

18 MR. FEW: No, Your Honor.

19 THE COURT: All right. So ask your questions
20 appropriately as to what her feelings about renting
21 the property are today. And if she says she now
22 fears that she's been taped, there we go, she now
23 fears that she's been taped.

24 MR. HARTE: But -- but Your -- Your Honor, we
25 have had an entire venire stand up and tell us that

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1 they believe, as God is their witness, that they're
2 all being taped and on Alexa, and that sort of thing.
3 Judge, what -- what a witness is afraid of is not
4 evidence. The witness has to testify as to facts,
5 not --

6 THE COURT: I agree that she's fearful that
7 she's been taped.

8 MR. HARTE: But, Your Honor, that's not
9 admissible evidence. That's not -- again, it's not
10 an admissible statement. There's no -- there is
11 no -- there is no rule in the law that permits the
12 introduction of a statement made by a witness who has
13 not been taped or harmed to say I was afraid of
14 something that I have no proof that happened. Now,
15 if it happened and she says I was afraid before it
16 happened and then it did happen, that's a different
17 story. But there is no evidence that this -- this --
18 this young -- this lady was -- was taped. And so to
19 have her say I was afraid she was taped, you know,
20 you -- I could produce a million people in here who
21 could tell you that they're afraid that aliens are
22 going to come for them. Is that admissible? No.

23 THE COURT: It depends on the case Mr. Harte.

24 MR. HARTE: But, Your Honor, this is not --

25 THE COURT: All right.

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1 MR. HARTE: -- I'm just -- I'm just saying I
2 object to it because one more time, it adds to a --
3 to an ever-growing mountain of prejudice against my
4 client. This is an event that occurred, as I
5 understand it, some time in -- and maybe I'm mistaken
6 and Mr. Few will correct me -- but I believe he said
7 it was in 2019. I think that's what he said.

8 THE COURT: 2017, I believe.

9 MR. HARTE: Thank you, Your Honor. But here's
10 -- the here's the part I want to -- I want to be sure
11 that I understand. He's to be allowed to ask the
12 witness and put before this jury unfounded -- because
13 she has no evidence that she was videoed. She's
14 going to be able to say I'm afraid I was going to be
15 videoed? Is that -- am I hearing that correctly?

16 THE COURT: No, sir. No, sir. You misheard me.
17 The witness is going to be able to testify as to her
18 knowledge of the rental properties of -- of Mr. Rhett
19 Riviere. And apparently, she only knows about
20 Catherine Thomas. And I don't think your client is
21 involved in that statement. And although the witness
22 can describe those properties, she also can state her
23 rental of any of the properties of Mr. Riviere or his
24 corporations. But as stated, if the client -- if the
25 witness -- you know, she can -- I think he could ask

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1 her something like, how do you feel now that you've
2 learned of this? I think she could say I'm fearful,
3 I'm scared, I'm whatever. I think that's fine. That
4 goes into the public interest or a statement about --
5 but they -- exactly what he said, you and other
6 cocounsel can cross-examine: Do you have any
7 evidence of a tape; has anybody shown you a tape; has
8 anybody come to you and told you you've been
9 videotaped? And what you have all told me is the
10 answer will be no, and I think that's appropriate.
11 Thank you. Let's call the witness.

12 MR. HARTE: One moment -- one moment, Your
13 Honor. One moment, Your Honor. Let me -- let me be
14 very clear on this. You have a witness who has been
15 subjected -- now here's the thing. The plaintiffs'
16 attorneys have made it a part of their work to see
17 that the public was bombarded with stories of 21,000
18 videos and other things of that nature. They went on
19 television.

20 THE COURT: Mr. Harte, our jury --

21 MR. HARTE: But, Your Honor --

22 THE COURT: -- stated they had not seen any of
23 that --

24 MR. HARTE: -- I have not --

25 THE COURT: -- so I don't care what they said to

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1 the public as far as 21,000 videos.

2 MR. HARTE: -- but, Your Honor --

3 THE COURT: We have limited that testimony here
4 in court. I do not want to hear about it again. I
5 have heard it ad nauseam.

6 MR. HARTE: -- I am not -- I am not making that
7 point, Your Honor. My point is that this witness --
8 I do not know of any case in the State of South
9 Carolina that has ever allowed a witness who was not
10 injured to say I am afraid, unless she has --

11 THE COURT: Thank you, sir.

12 MR. HARTE: -- unless she has --

13 THE COURT: Well, we'll be the first.

14 MR. HARTE: -- thank you, Your Honor.

15 THE COURT: Thank you. Yes, sir, Mr. Griffin?

16 MR. GRIFFIN: Your Honor, I stand -- I
17 understand the point of we can cross-examine her that
18 you reported to SLED, that you haven't seen any
19 videos. Then I can tell you what's going to happen
20 is what just happened, is they're going to get up and
21 say, well, there's 24,000 videos.

22 THE COURT: No, sir. No, they're not. We're
23 going to require them to --

24 MR. GRIFFIN: Well, they're going to say I
25 opened the door.

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1 THE COURT: -- this is as to this only witness.

2 MR. GRIFFIN: That's exactly what's going to
3 happen.

4 THE COURT: You are on notice that you're not to
5 do that. We're not using that testimony that is
6 allowed to get in anything about the number of
7 videos.

8 MR. GRIFFIN: Thank you.

9 THE COURT: Thank you.

10 MR. FEW: Your Honor, I was going to give her
11 the instructions not to talk about --

12 THE COURT: Thank you, Mr. Few.

13 MR. FEW: -- her husband being drugged. So we
14 should be able to bring her now.

15 THE COURT: Yes, sir.

16 (The witness entered the
17 courtroom.)

18 THE COURT: Ma'am, would you have a seat right
19 there? We need to get -- get the jury in here.

20 THE WITNESS: Right here?

21 THE COURT: Yes, that's fine. That's fine.
22 Anywhere. Thank you. Bring the jury in, please.

23 (The jury entered the courtroom.)

24 THE COURT: You may call your next witness.

25 MR. FEW: Thank you, Your Honor. May it please

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1 the Court, the plaintiff calls Christina Neuhaus.
2 Christina Catherine Neuhaus, is that right?

3 THE CLERK: Place your left hand on the Bible
4 and raise your right hand.

5 (The witness was sworn in.)

6 THE CLERK: Have a seat in the witness chair.
7 Watch your step when you step up.

8 THE WITNESS: Okay.

9 THE CLERK: And when you're seated, please give
10 us your full name and spell your last name.

11 THE WITNESS: Okay. Thank you.

12 THE CLERK: Thank you.

13 THE COURT: Spell your last name for the record.

14 THE WITNESS: My last name is spelled
15 N-E-U-H-A-U-S.

16 THE COURT: Say your full name.

17 THE WITNESS: Christina Capria Neuhaus.

18 THE COURT: Thank you. Mr. Few?

19 CHRISTINA NEUHAUS
20 was called as a witness, and having been first duly sworn,
21 testified as follows:

22 DIRECT EXAMINATION

23 BY MR. FEW:

24 Q Good afternoon, Ms. Neuhaus.

25 A Good afternoon.

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1 Q How long -- where do you live?

2 A I live in Wagener, South Carolina.

3 Q Is that Aiken County?

4 A Yes.

5 Q How long have you lived in Aiken County?

6 A A little over 12 years.

7 Q And do you know Mr. Rhett Riviere?

8 A Yes, I do.

9 Q Do you know Josee Riviere?

10 A No, I don't.

11 Q Okay. How do you know Rhett Riviere?

12 A I met him socially shortly after we moved here at

13 Aiken Polo Club and through other people we had met.

14 Q And when you moved here, what -- are you married now?

15 A No. I'm divorced.

16 Q And when you moved here, were you married?

17 A No. I got married once I got here.

18 Q And what was your husband's first name?

19 A Cristian.

20 Q Cristian. Spell Christian, but pronounced Cristian;

21 is that right?

22 A It's spelled with the CR versus a CH.

23 Q Okay. And was there anybody else in your family at

24 that time?

25 A I'm sorry. Say that again.