

1 MR. VANCE: Well, if I could complete my
2 examination --

3 THE COURT: Go ahead.

4 MR. VANCE: -- on my own --

5 THE COURT: Go ahead.

6 MR. VANCE: -- I would appreciate that.

7 THE COURT: I just wanted a date of my own.

8 MR. VANCE: Okay. Thank you.

9 BY MR. VANCE:

10 Q. So, Ms. Hill, this decree is dated April 27, 1978,
11 correct?

12 A. Yes, it is.

13 Q. Is that right?

14 A. Yeah.

15 Q. And you testified -- I'm sorry. And if you look in the
16 upper right-hand corner of this decree, you see the date,
17 November term, 1977, number 367; do you see that?

18 A. Yes. I don't have my glasses, but --

19 Q. All right.

20 A. -- I'll try.

21 Q. Take my word for it.

22 MR. SHERMAN: We'll stipulate that that's what it
23 says.

24 THE COURT: Okay.

25 Q. So you understand that that means that your divorce case

1 against Mr. Wells was filed in November 19 --

2 THE COURT: Not her case.

3 MR. VANCE: Yes.

4 THE COURT: Oh --

5 MR. VANCE: Her case.

6 THE COURT: -- her husband? Her husband?

7 MR. VANCE: Yes.

8 BY MR. VANCE:

9 Q. -- that your divorce case against Mr. Wells was filed in
10 November of 1977? Do you understand that that's what that
11 means?

12 A. It was not -- it was final -- we started the divorce
13 decree in '76.

14 Q. You did?

15 A. It took a couple of years.

16 Q. Okay, and where did --

17 A. That's why we didn't get married before that.

18 Q. And where did you start this divorce proceeding?

19 A. On JFK.

20 Q. In Philadelphia?

21 A. Jack Braslow (ph.) was the lawyer.

22 Q. In Philadelphia?

23 A. Yes.

24 Q. Now, you testified on direct that you began dating Mr.
25 Sullivan in 1975, while you were still --

1 A. I --

2 Q. -- married to Mr. Wells --

3 A. I --

4 Q. -- correct?

5 A. I met him in '75. I became engaged to him in '76 and
6 started living with him in '76. This marriage did not last
7 for -- it only last (sic) for a couple of months.

8 Q. A couple of months. So --

9 MR. SHERMAN: Your Honor, objection.

10 Q. -- when did you marry --

11 MR. SHERMAN: Your Honor, could you hear --

12 Q. -- Mr. Wells?

13 THE COURT: Now, don't worry. There's no jury. I'm
14 going to listen to this.

15 MR. SHERMAN: But it's so irrelevant. I mean --

16 MR. VANCE: To you, maybe.

17 BY MR. VANCE:

18 Q. When did you marry Mr. Wells, Ms. Hill?

19 A. In '75.

20 Q. In '75?

21 A. Yes.

22 Q. And how long did you and Mr. Wells live together as
23 husband and wife?

24 A. A few months.

25 Q. What's a few months? Three months? Two months? Eight

1 months? Ten months?

2 A. I guess around four months. Bef -- he was someone that I
3 met in high school. We were together -- he was my childhood
4 sweetheart. I met him in high school.

5 Q. And you got married, and you say you -- that marriage was
6 together for a few months?

7 A. Yes.

8 Q. And then you left?

9 A. No, he left.

10 Q. He left you?

11 A. Yes.

12 Q. Okay. But you began dating and became engaged to Mr.
13 Sullivan, you testified, while you were still married to Mr.
14 Wells, correct?

15 A. But separated.

16 Q. But separated? Okay. Now, you testified that you
17 married Mr. Sullivan at the courthouse in Baltimore, Maryland,
18 is that right?

19 A. Yes.

20 Q. Did you invite anyone, or was it just the two of you?

21 A. It was the two of us.

22 Q. And you testified that you lived -- you had a honeymoon
23 in Florida?

24 A. Yes.

25 Q. Where in Florida did you go?

1 A. In Miami.

2 Q. Do you have any pictures --

3 A. In Coconut Grove.

4 Q. Do you have any pictures from that honeymoon?

5 A. I have lots of pictures.

6 Q. Did you bring any with you today?

7 MR. SHERMAN: Objection, Your Honor. He was never
8 asked --

9 THE COURT: Sustained. You guys had plenty of time
10 to do discovery --

11 MR. VANCE: Your Honor --

12 THE COURT: -- more than enough time.

13 BY MR. VANCE:

14 Q. Did you live together in Media in a house that you owned
15 or in a house that you rented?

16 A. We were renting that house.

17 Q. And whose name was on the lease?

18 A. Tom Sullivan.

19 Q. By himself?

20 A. I really don't remember that.

21 Q. You don't remember that?

22 A. It should have been both of us --

23 Q. But you don't know, right?

24 A. -- because we were married.

25 Q. Do you -- did you -- do you have any photographs or

1 birthday cards or anything to prove that you and Mr. Sullivan
2 lived together, other than your testimony?

3 MR. SHERMAN: Objection, Your Honor. He never --

4 THE COURT: Sustained.

5 You don't have to answer that.

6 Go ahead.

7 BY MR. VANCE:

8 Q. Now, you testified that Mr. Su -- that in 1978, Mr.
9 Sullivan was traded to Cleveland, Ohio -- to the Cleveland
10 Browns --

11 A. Yes.

12 Q. -- correct? And that you and Mr. Sullivan moved to
13 Cleveland, rented a space in Barria (ph.) --

14 A. Towers.

15 Q. -- Barria (ph.) Towers. And you also maintained a
16 residence in Media, correct?

17 A. Correct.

18 Q. And you were married at the time, is that right?

19 A. Correct.

20 Q. And you testified that Mr. Sullivan became injured in a
21 game with the Steelers?

22 A. Yes.

23 Q. And do you recall him having an operation?

24 A. Yes. He had an operation on his knee to repair the
25 ligaments and the tendons.

1 Q. And were you with him during that time?

2 A. Yes, I was.

3 Q. And when exactly is it that you and Mr. Sullivan stopped
4 living together as husband and wife?

5 A. Well, he was supposed to go and help his parents remodel
6 their home that they had just moved in, and he was supposed to
7 go and help them. And we -- he came back and forth. And that
8 was in '83.

9 Q. In 1983?

10 A. '83. Between '82, '83, yeah.

11 Q. And was this a mutual decision that you two had stopped
12 living together as husband and wife?

13 A. Well, we wasn't supposed to stop living together. He was
14 just going to help his parents and, you know, he's coming back
15 and forth.

16 Q. And did Mr. Sullivan, when he was married to you, mention
17 that he had previously been married?

18 A. No.

19 Q. You had no knowledge of any previous marriage?

20 A. Never.

21 Q. And when is it that you learned of that marriage other
22 than me just telling you ten seconds ago?

23 A. When NFL brought it to our attention in a letter.

24 Q. Now, you testified that you learned about Mr. Sullivan's
25 death in 2002, correct?

1 A. Yes.

2 Q. And how exactly did you learn about that?

3 A. From a few family members.

4 Q. A few family members of who? Yours or --

5 A. My family member, yeah.

6 Q. Do you recall who told you?

7 A. Arthur Wells.

8 Q. And do you know how he found out? Your ex-husband told
9 you?

10 A. No, my son.

11 Q. Oh, okay. I'm sorry. Your son is Arthur Wells?

12 A. Yes.

13 Q. And how did he found out -- find out, if you know?

14 A. I don't know. We never talked about it.

15 Q. Ms. Hill, I'm giving you a document that's entitled
16 "Application for Widow's or Widower's Insurance Benefits" --

17 MR. VANCE: I'm sorry, Your Honor.

18 Q. -- dated April 4, 2006. And do you recall applying --
19 initially applying for Social Security benefits in April of
20 2006?

21 A. Yes.

22 Q. Okay. And do you recall calling on the telephone and
23 speaking with someone at Social Security and giving them
24 information so that they could complete an application?

25 A. I've called lots of times.

1 Q. But do you -- on any of those occasions, do you recall
2 telling them your name, when you were married, Mr. Sullivan's
3 Social Security number, things of that nature, so that they
4 could pursue the application?

5 A. Maybe.

6 Q. Well, if you would take a look at this document that I
7 have put in front of you --

8 MR. SHERMAN: I'm going to object, Your Honor.

9 A. They kept messing up --

10 MR. SHERMAN: Excuse me one second.

11 A. -- the documents.

12 THE COURT: Wait, wait.

13 MR. VANCE: Okay, well --

14 MR. SHERMAN: I'm going to object, Your Honor, since
15 this hasn't been authenticated as a document that she prepared
16 or that she wrote or that she signed. I would suggest to you
17 that this is inadmissible hearsay. We don't have any
18 knowledge as to the procedures, the systems as to how the
19 information --

20 THE COURT: Where did you get the document?

21 MR. VANCE: I received the document from the Social
22 Security file that was given to Mr. Cost -- to Mr. -- hold on,
23 I can give you the -- that was sent to Mr. Sherman's firm, to
24 Mr. Sherman, by the Social Security Administration on June 6,
25 2010.

1 THE COURT: So this documentation was sent by Social
2 Security?

3 MR. VANCE: Correct.

4 THE COURT: All right.

5 MR. VANCE: Right. So that's where I got it.

6 THE COURT: Okay. So you're asking her if she filled
7 this out. That was from them.

8 MR. VANCE: Yes, Your Honor, but if I could direct
9 her attention to the third page.

10 THE COURT: Go ahead. It's on to the third page.

11 A. There were a lot of mix-ups --

12 MR. VANCE: Or the fourth page. I'm sorry.

13 THE COURT: Turn to the third page. Let's see --

14 THE WITNESS: Okay --

15 THE COURT: -- the question.

16 MR. VANCE: Go to the fourth page.

17 THE WITNESS: -- I cannot see this. I don't have my
18 glasses.

19 BY MR. VANCE:

20 Q. All right, well, on the fourth page, at the bottom, it
21 says "On April 4, 2006, we talked with you and completed your
22 application for Social Security benefits. We stored your
23 application information electronically in our records and
24 attached a summary of your statements. What you need to do:
25 Review your application to ensure that we recorded your

1 statements correctly. If you agree, you may retain the
2 application for your records. If you disagree, you should
3 contact us within ten days after the date of this notice to
4 let us know."

5 Then on the next page it says, "You declared under
6 penalty of perjury that you examined all the information on
7 this form and it is true and correct to the best of your
8 knowledge."

9 MR. SHERMAN: Your Honor, this is an unsigned,
10 undated -- at least my copy --

11 THE COURT: Wait a minute.

12 Did you ever receive that?

13 THE WITNESS: I don't know. I don't think so. No.

14 THE COURT: You don't remember ever receiving that?

15 THE WITNESS: No.

16 THE COURT: Do you get Social Security benefits?

17 THE WITNESS: I do get Social Security --

18 THE COURT: Well, how did that happen?

19 THE WITNESS: At that point, I think they needed the
20 marriage license and I had to send for the marriage license.

21 THE COURT: So you were on the phone with them and
22 they told you what you needed?

23 THE WITNESS: Yes.

24 THE COURT: And you sent them what they said they
25 needed?

1 THE WITNESS: Not at that time I didn't.

2 THE COURT: Well, eventually you did.

3 THE WITNESS: Yes, I did.

4 THE COURT: When did you first start getting Social
5 Security?

6 THE WITNESS: '0 -- I think it was '08.

7 THE COURT: All right, what's your question?

8 BY MR. VANCE:

9 Q. Do you recall telling the Social Security representative,
10 for example, that Mr. Sullivan's date of birth was March 5th,
11 1950?

12 A. March 5th, 1950. That's -- that is his birthday.

13 Q. Right, and you told them that the date of his death was
14 October 10, 2002?

15 A. Yes.

16 Q. And you told them your name is Lavona Hill, correct?

17 A. Yes.

18 Q. And that you used "Lavona Hill" sometimes, "Lavona
19 Bernadette Hill" and "Lavona Wells"? You told them you've
20 used those names, correct?

21 A. Well, Wells was from my first marriage.

22 Q. Right. I -- whatever. But you told them you used
23 that -- those names -- that name?

24 A. I never said that, no.

25 Q. Did you tell the Social Security Administration that you

1 were born on May 13, 1956?

2 A. Yes.

3 Q. And you told them what your Social Security number was?

4 A. Yes.

5 Q. And you told them you were unable to work because of a
6 disabling condition on March 14, 2002?

7 A. Yes.

8 Q. And you told them that you were last -- I'm sorry -- that
9 you were last married to -- I'm sorry, that you were
10 previously married to Arthur Wells in March 1975 in
11 Pennsylvania? You told them about your first marriage,
12 correct?

13 A. I told them about my first marriage and my second
14 marriage.

15 Q. All right. And you told them that --

16 A. That's why I was applying.

17 Q. And you told them that your marriage to Mr. Wells ended
18 on April 5th, 1976, correct?

19 A. Yes.

20 Q. And if you look on page 2, and I understand you don't
21 have your glasses --

22 THE COURT: What is it -- just get to the question.

23 MR. VANCE: I am getting to the point, Your Honor.

24 Q. At the bottom of page 2, there's a section that says
25 "Remarks", and I'm going to read it to you since you can't

1 read this document right now. It says "Remarks: I have never
2 worked in the Social Security system. I left Thomas in or
3 around February 1979 when we lived in Cleveland. I never
4 filed for divorce and I was never notified of any divorce
5 proceedings. I do not know why I never got around to changing
6 my name to Sullivan on my Social Security number records."

7 Do you recall telling the Social Security representative
8 what I just read?

9 A. I don't remember saying that.

10 Q. So you have no idea where they got that information?

11 A. (Pause).

12 Q. Okay.

13 MR. SHERMAN: Your Honor, just note my objection. I
14 know you overruled --

15 THE COURT: She doesn't recall.

16 MR. SHERMAN: -- the -- no, but --

17 THE COURT: That's her answer.

18 MR. SHERMAN: But I just wanted it clear that this is
19 not a writing that she authored or that she signed.

20 THE COURT: The Court is aware of what this is.

21 Go ahead.

22 MR. VANCE: All right.

23 MR. SHERMAN: Sorry, Your Honor.

24 BY MR. VANCE:

25 Q. Now, you said that you did not maintain contact with Mr.

1 Sullivan, according to your recollection, after 1984 or
2 thereabouts, correct?

3 A. Correct.

4 Q. Did he contact you?

5 A. After '84?

6 Q. Yes.

7 A. No.

8 Q. Okay. (Pause). You testified that you visited South
9 Carolina with Mr. Sullivan, correct?

10 A. Yes. We would always stop through South Carolina and --
11 on our way to Florida often.

12 Q. To where in Florida?

13 A. When we would go to Daytona Beach or Miami.

14 Q. And this is when you were married, dating or --

15 A. Dating and married.

16 Q. And you met Mr. Thom -- Mr. Sullivan's parents? Is that
17 your testimony?

18 A. Yes.

19 Q. Did you maintain contact with them after Mr. -- as you
20 testified, Mr. Sullivan went to South Carolina in 1983?

21 A. Did I keep in contact with them?

22 Q. With his parents, yes.

23 A. Not after that, no.

24 Q. All right.

25 MR. VANCE: I don't have any other questions, Your

1 Honor.

2 THE COURT: All right.

3 MR. SHERMAN: No redirect, Your Honor.

4 THE COURT: You have any questions?

5 MR. AMIN: I don't.

6 THE COURT: All right, you may step down. Thank you,
7 Ms. Hill.

8 (Witness excused)

9 THE WITNESS: Thank you.

10 MR. SHERMAN: Your Honor, just before she steps down,
11 it's stipulated, I believe, that she has not received any
12 benefits. I would have her testify to that, if otherwise --

13 THE COURT: That's why we're here.

14 MR. SHERMAN: Right.

15 THE COURT: Okay.

16 MR. SHERMAN: But I just wanted to be complete,
17 that's all.

18 THE COURT: All right.

19 MR. VANCE: Your Honor, I would like to move these
20 two exhibits into evidence.

21 THE COURT: All right. They're received in evidence.
22 Thank you.

23 THE WITNESS: Thank you.

24 MR. SHERMAN: Your Honor, I have no further
25 questions/evidence at this time, except to move into evidence

1 P-1 and 2, the marriage certificate, Social Security --

2 THE COURT: They're moved into evidence.

3 MR. SHERMAN: -- entitlement.

4 THE COURT: We have --

5 MR. SHERMAN: And at this --

6 THE COURT: Chris, you have the original?

7 THE ECRO: I don't have --

8 THE COURT: She took them.

9 THE WITNESS: Oh.

10 THE COURT: I need them.

11 THE WITNESS: I'm sorry.

12 MR. SHERMAN: And at this point I rest.

13 THE COURT: Okay.

14 MR. VANCE: And just for, I guess, housekeeping
15 purposes, if we could call the Decree D-1 and the application
16 D-2.

17 THE COURT: All right.

18 MR. VANCE: So we move those into evidence.

19 THE COURT: All right.

20 MR. VANCE: And, Your Honor, before -- I'm not sure
21 that I need to call Ms. Sullivan, based on Mr. Sherman's
22 opening statement, but I just want to clarify that so that I
23 don't need to call her and we can go directly to our argument.
24 But my understanding is that the plaintiff is conceding that
25 Ms. Sullivan had no knowledge of Ms. Hill's existence until

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1 the time that she was notified of that by the retirement
2 board. Is that correct?

3 MR. SHERMAN: We have no evidence to refute that.

4 THE COURT: Okay.

5 MR. VANCE: Okay.

6 THE COURT: That's stipulated-to. Go ahead.

7 MR. VANCE: All right. And one more -- one second,
8 Your Honor, just to make sure.

9 (Pause)

10 MR. VANCE: I -- if Plaintiff is willing to stipulate
11 that Mr. -- Ms. Sullivan would have testified that Mr.
12 Sullivan never mentioned Ms. Hill to her, or that he had ever
13 been married to her or had made any effort to divorce or
14 anything about her, then --

15 MR. SHERMAN: You can accept that as a fact, Your
16 Honor. I'll never be able to --

17 THE COURT: Okay.

18 MR. SHERMAN: -- refute that.

19 MR. VANCE: All right.

20 THE COURT: Okay.

21 MR. VANCE: So then there's no need -- no other
22 evidence, Your Honor.

23 THE COURT: Okay.

24 You have anything you want to put in?

25 MR. AMIN: Just a few very minor comments by way of

1 housekeeping. First and foremost, thank you so much for
2 having me here. Thank you for letting the plan -- in some
3 ways, we unfortunately have to turn the problem over to you.
4 We paused twice to try to --

5 THE COURT: I have broad shoulders.

6 MR. AMIN: Yes, you do, sir. Yes, you do. Thank
7 you, Your Honor. In terms of housekeeping, without taking any
8 positions whatsoever, the benefits paid prior to the
9 interpleader petition are 192,900. As of -- technically it's
10 November 2nd, 2009. The November 1st payment was made; 2009.
11 Technically the November 2nd -- beginning November 2nd,
12 payment to the present, the total amount interpled, which just
13 means in this situation a suspended benefit as opposed to
14 sending the Court a check and --

15 THE COURT: Okay.

16 MR. VANCE: Suspended benefit is 29,700. And the
17 ongoing benefit, which I suspect would start whenever Your
18 Honor's order issues or whenever this is resolved, is
19 twenty -- 2,700 a month. And I just want to make sure
20 everyone understands that --

21 THE COURT: 2,700 a month?

22 MR. AMIN: Correct. That's the ongoing amount. And
23 I just want to make sure everyone understands that we get that
24 by -- the initial number in Article 7.2 is 3,600.

25 THE COURT: Does anyone disagree with the monthly

1 amount?

2 MR. SHERMAN: No, Your Honor.

3 MR. AMIN: There is no --

4 MR. SHERMAN: In fact, I asked counsel to make this
5 statement --

6 THE COURT: Okay.

7 MR. SHERMAN: -- for purposes of your -- of
8 completion --

9 THE COURT: Okay.

10 MR. SHERMAN: -- of having actual numbers.

11 THE COURT: So as of the date that the amount is
12 interpled, but --

13 MR. AMIN: Yeah.

14 THE COURT: -- really in suspense --

15 MR. AMIN: Correct.

16 THE COURT: -- is what?

17 MR. AMIN: As of that -- it's twenty-nine thousand --

18 THE COURT: No, no. What's the date?

19 MR. AMIN: The --

20 THE COURT: Starting when did you stop making
21 payments?

22 MR. AMIN: That's November 2nd, 2009.

23 THE COURT: 2009.

24 MR. AMIN: Correct.

25 THE COURT: Okay. Okay.

1 MR. AMIN: My only final housekeeping is there has
2 been no challenge to the admissibility of the administrative
3 record. I brought an affidavit. I think that's a little on
4 the moot side now. I mean, there hasn't been any challenge to
5 it. There's never been any question to it. Nobody challenged
6 it's been distributed, circulated.

7 THE COURT: Well, everyone agrees that you didn't
8 have bad faith here, you know.

9 MR. AMIN: I appreciate that.

10 THE COURT: Okay.

11 MR. AMIN: Thank you very much. Just trying to do my
12 best for everyone else.

13 MR. VANCE: Your Honor, if I can, and I don't want to
14 delay the proceeding, but there are -- there is a disputed
15 fact that is -- that I would need some -- either testimony on
16 or a stipulation. Well, actually, probably testimony since
17 it -- but it would involve brief testimony of approximately
18 two minutes.

19 THE COURT: From who?

20 MR. VANCE: From Ms. Sullivan.

21 THE COURT: About what?

22 MR. VANCE: About when she met Mr. Sullivan, the date
23 when she met Mr. Sullivan, and what he represented to her that
24 he had returned to South Carolina.

25 MR. SHERMAN: That would be irrelevant, and that

1 would inadmissible. She can testify when she met Ms. Sullivan
2 and we won't cont --

3 MR. VANCE: Mr.

4 MR. SHERMAN: -- Mr. Sullivan.

5 THE COURT: What date does Ms. -- does your client
6 say she met him?

7 MR. VANCE: She would testify that she met Mr.
8 Sullivan in 1981, when they began working at Exxon Chemical,
9 and that he had told her that he had --

10 THE COURT: Doesn't matter what he told her. That --

11 MR. VANCE: Well --

12 THE COURT: That --

13 MR. VANCE: Well --

14 THE COURT: You know that's not admissible. Go
15 ahead.

16 MR. VANCE: I understand. Okay.

17 MR. SHERMAN: And we don't --

18 THE COURT: They met in 1981?

19 MR. VANCE: 1981.

20 MR. SHERMAN: We don't challenge that, Your Honor. I
21 wouldn't be able to refute that.

22 MR. VANCE: All right. That's fine.

23 THE COURT: All right?

24 MR. VANCE: All right. So does Your Honor want to
25 hear argument? Or I'm not sure how you want to do this.

1 THE COURT: Well, now you can make some argument,
2 and I --

3 MR. VANCE: All right.

4 THE COURT: -- got questions for you when you make
5 the arguments. But go ahead.

6 MR. SHERMAN: Your Honor, on the factual issues, I
7 raised objections and I quibbled a little bit with my
8 colleague in regards to the cross-examination, because it's
9 our contention that the prior marriage and the divorce decree
10 is: (a) exactly consistent with what Plaintiff said, and
11 irrelevant anyway. She was legally divorced in regards to a
12 brief child sweetheart relationship, and that's of no
13 consequence whatsoever.

14 In addition, counsel made references to statements
15 and tried to elicit testimony of some kind of inconsistencies
16 on a document that wasn't signed by her, a bureaucratic
17 document, which ultimately resulted in her obtaining benefits.

18 So I would suggest to you that any cross-examination
19 elicited, in all due respect to my very able colleague, is
20 totally meaningless and irrelevant.

21 THE COURT: That's the nicest thing he said about
22 you, Mr. Vance.

23 MR. VANCE: I appreciate that.

24 MR. SHERMAN: And on top of that all (sic), Your
25 Honor, it's legally irrelevant, which is a segue into the

1 reasons that we're here. All of his questions with regard to
2 what the status of the relationship was is really irrelevant.
3 The reason I elicited some of that testimony was to show you
4 that this wasn't a sham marriage, this wasn't a marriage
5 perpetuated for some type of economic gain or to fool people.
6 This unfortunately is a case where truly two innocent victims
7 are here before you, and I mean that in sincerity. I didn't
8 cross-examine Ms. Sullivan. I could pick apart and have some
9 fun, but that's not the point. The point is that Ms.
10 Sullivan's an innocent party, and we concede that. I mean,
11 she had no knowledge, I'm sure.

12 But the fact of the matter is that Ms. Hill's an
13 innocent party. I mean, it's not as if Ms. Hill married this
14 guy and then all of a sudden ran away with another guy, had a
15 life, lived together even, had a bunch of kids with another
16 guy, even forgetting being married, and somehow she abandoned
17 this marriage or relationship. And that's the reason that I
18 elicited that testimony: so you have an appreciation of the
19 kind of person and the kind of scenario you're dealing with,
20 from Ms. Hill's standpoint.

21 Now, we admit -- and we didn't try to contort the
22 issue; we didn't try to develop machinations to show ongoing
23 contacts after about 1984 or '85. I can't remember exactly
24 what she said, but some type of time around then. It was
25 pretty clear in the evidence and the truth is that there

1 wasn't any real communications. There may have been several
2 calls or communications, but nothing of substance, and we
3 concede that. But that's not the point. The law in
4 Pennsylvania, the law in South Carolina is clear that unless
5 there's an annulment, a dissolution, unless there's anything
6 along those lines, a divorce most pointedly, this marriage is
7 in full force and effect. And unfortunately for Ms. Sullivan,
8 it may not sound great and it may not appear to her to be fair
9 on the equity, but the reason we have this law, and I don't
10 have to tell the jurists in front of me, more experienced than
11 I, that the reason we have this is there has to be some
12 definitions of marriage with some beginning point and end
13 point to have a society that has marriage as a part of its
14 culture.

15 And unfortunately there's going to be scenarios that
16 fall through the cracks when you have gamesmanship, which was
17 obviously done here by Mr. Sullivan, and you're going to have
18 two innocent parties. But the state of the law since the
19 beginning of time in American jurisprudence, and I don't
20 believe I'm exaggerating, is that if you have a legitimate
21 marriage and you don't have abandonment, in the most basic
22 terms you have an ongoing marriage, and all the rights, all
23 the obligations and all the responsibilities that flow from
24 that original marriage remain as such until there's a
25 dissolution, annulment or divorce. That's the state of the

1 Pennsylvania law.

2 Now, I admit, as a matter of academic and, I would
3 use the word loosely with me, intellectual honesty, that there
4 have been some cases that have probed -- and cases in
5 Pennsylvania in particular, that have probed this balance of
6 the presumption of a marriage and also the presumption of a
7 valid second marriage. And I have those cases and I can
8 address those cases. And I am not trying at all to fool the
9 Court. There -- it's not the end of a story automatically if
10 there's a legitimate first marriage, and I recognize that.
11 But in those cases, as a general matter, in all those cases,
12 if you look through the theme of those cases, there was some
13 kind of abandonment or gamesmanship on the party seeking to
14 obtain those benefits. There has never been a case, not one
15 case, where there's been an innocent person like Ms. Hill,
16 under these facts, that have maintained a relationship, that
17 hasn't got married or lived with a husband, or ostensibly
18 lived with a man even, as husband and wife, where there's been
19 a scenario where the courts, through ERISA benefits, through
20 Social Security, through survivor benefits of any kind, have
21 obliterated that first marriage as a matter of law. It just
22 hasn't happened.

23 For example, in South Carolina, if counsel wants
24 South Carolina to -- law to be employed here -- applied,
25 excuse me, there's a very specific statute. And the reason I

1 suggest South Carolina is I had believed that counsel was
2 arguing at one point that South Carolina might apply because
3 that's where the marriage between the Sullivans was
4 consummated. And the fact of the matter is the statute
5 directly supports exactly what I'm saying of South Carolina.
6 It says "All marriages contracted while either of the parties
7 has a former wife or husband shall be void. But this section
8 shall not extend" -- in other words there's exceptions --
9 "this section shall not extend to a person whose husband or
10 wife shall be absent for the space of" -- it had been seven
11 years, it was amended to five years; so even, we'll say, five
12 years, give him the benefit of the doubt -- "shall not extend
13 to a person whose husband or wife shall be absent for the
14 space of five years, the one not knowing the other to be
15 living during that time." And again -- and the next exception
16 is not to any person who shall be divorced, whose first
17 marriage shall be declared void.

18 So what the statute says is essentially that if
19 there's abandonment and the case interprets a statute, uses
20 the word -- it's not a David Sherman word, looking to find a
21 niche -- the statute says, through the case, that "her
22 purported marriage to Husband 2 was void unless one of the
23 statutory exceptions is met. The first exception, the five-
24 year abandonment clause is not implicated here." And the
25 reason I suggest that this is so important is there wasn't an

1 abandonment. The mere fact that Ms. Hill -- anticipating my
2 colleague's argument -- is not living with Mr. Sullivan
3 doesn't constitute abandonment at all, legally, common sense,
4 equitably or any other way.

5 Ms. Hill is available to Mr. Sullivan, at any whims
6 that he has, to talk to her. He can pick up the phone, he
7 knows the family, he knows the mother, he has contacts. He
8 had the ability at any time to call Ms. Sullivan (sic). Ms.
9 Sullivan (sic) didn't go to some obscure place in the world.
10 She stayed exactly where she grew up: in Philadelphia, South
11 Philadelphia and Media.

12 So my point is that, just like the statute, there's
13 no abandonment. There's an absence, because Mr. Sullivan
14 shows, and even if you say Ms. Hill, that this marriage wasn't
15 working. There's an absence, but there's no abandonment. And
16 the fact of the matter is that South Carolina law requires
17 abandonment. Our laws in Pennsylvania would say, on this
18 balancing that I referred to in earlier argument, that if
19 you're going to probe these two marriages, if there's no
20 abandonment on the part of Ms. Hill by any definition, and
21 there wasn't, then first marriage stays in effect. And that's
22 an unfortunate consequence but it's the law.

23 There's the Watts case that talks about -- and I'm
24 not going to sit here and quote or read to you, Your Honor;
25 I'm sure you'll shoot me if I do it. But every single case,

1 particularly the Watts case, the Diabaleto (ph.) case, all
2 talk about the validity of the first marriage unless there's
3 extremely unusual circumstances in regards to abandonment, to
4 an annulment or to a divorce. In other words, the courts
5 require a second person, like Ms. Sullivan, to come into court
6 and prove to you under the presumptions, prove to you after
7 the initial marriage is proven to you as a matter of prima
8 facie evidence, which occurred here. Then Ms. Sullivan has to
9 come in and she has to say 'No, there was an annulment,' 'No,
10 there was a divorce,' or 'There was this extreme case of
11 abandonment.' That's true in South Carolina. It's true in
12 Pennsylvania. And as I read the circuit court cases, it's
13 true in every state in the country, but one, and I forget
14 which one. Might have been Utah. But there was one case.

15 But in every one of these cases, Your Honor, the few
16 times where the first marriage was declared void, it was
17 because they could prove an annulment, prove a divorce, or
18 some kind of extreme abandonment, twenty-four years of some
19 spouse looking for another spouse. I mean, can you imagine
20 soldiers that go off to war? Those are the types of
21 circumstances that we're talking about. But we're not talking
22 about a case like that here. We're not talking about a
23 situation where there was efforts made by Mr. Sullivan to
24 his -- to -- that failed, to communicate, to talk to Ms. Hill
25 to get a divorce, to get an annulment and to do things the

1 legal and proper way.

2 So I'm not going to beat it to death. I've said it
3 in my opening remarks; I've said it here today. I'm just
4 going to conclude with I know and I understand and appreciate,
5 I mean that sincerely, that it's unfortunate Ms. Sullivan, who
6 lived for fifteen, twenty -- twenty years, whatever she did,
7 with Mr. Sullivan. I appreciate that, and I understand the
8 agony that must -- she must feel in regards to that issue.
9 But the truth of the matter is we can't entertain a system --
10 and I don't mean to be so dramatic or macro-global in a
11 factual specific case, but the truth is we can't have a system
12 where marriages that are legitimately consummated are then
13 declared void just because one of the spouses decides 'Oh, I'm
14 not going to go through procedure and entertain a divorce and
15 annulment and do what's right.' You can't have a system -- a
16 culture can't survive the institution of marriage if that's
17 what our system is brought down to.

18 So I would suggest to Your Honor that Ms. Hill's an
19 innocent victim, that she complied with the law, there was no
20 gamesmanship in anything she did or any evidence that you
21 heard. She was totally credible about the relationship and
22 the nature of it, and there wasn't any piece of evidence,
23 anything that you heard, to indicate that she had entertained
24 abandonment, that she completely attempted to thwart any kinds
25 of efforts on the part of Sullivan to properly divorce this

1 marriage. Thank you so much for your patience.

2 MR. VANCE: Well, Your Honor, the issue is relatively
3 simple. The plan requires that the benefits be paid to the
4 spouse of the player. In this instance, Mr. Sullivan, and the
5 administrative record reflects repeatedly, identified his
6 spouse as Barbara Sullivan. And South Carolina law is
7 relevant and does really provide the lynchpin for the Court's
8 decision in this case.

9 The testimony of Ms. Hill is clear on many, many
10 points. First of all, to suggest any testimony that she
11 offered as to Mr. Sullivan's alleged efforts to reconcile or
12 to attempt --

13 THE COURT: I didn't hear that.

14 MR. VANCE: -- attempt to contact her are ir -- are
15 not only -- not so much irrelevant but inadmissible. He's not
16 here to speak for himself, obviously.

17 But the bottom line, Your Honor, is that in, for
18 example, D-2, which is this application that clearly Ms. Hill
19 provided the information to the Social Security representative
20 to complete this information -- they didn't just make it up --
21 she stated the she left, she left, Mr. Sullivan in February of
22 1979.

23 THE COURT: She also testified that -- you know, that
24 by itself does -- isn't determinative, because she said he had
25 an alcohol and drug problem.

1 MR. VANCE: But -- and, again, he's not here to --

2 THE COURT: That doesn't mean --

3 MR. VANCE: -- defend himself.

4 THE COURT: What?

5 MR. VANCE: Here's not here to defend himself, Your
6 Honor. So she could say anything. But what we do know -- she
7 can say anything about what he -- what problems he may have
8 had or why they may have --

9 THE COURT: That doesn't equal abandonment, Mr.
10 Vance.

11 MR. VANCE: Well, Your Honor, first of all, the
12 statute doesn't require abandonment. It doesn't say
13 "abandonment". It's -- it is crystal clear that if there is a
14 five-year period and one spouse not knowing whether the other
15 is alive or dead --

16 THE COURT: Are you saying that Mr. Sullivan had no
17 way to know where Ms. Hill was living?

18 MR. VANCE: That's not what the statute requires,
19 Your Honor. The statute says the one spouse not knowing
20 whether the other is alive or dead. It doesn't say that
21 the --

22 THE COURT: Now, how am I supposed to make that
23 finding?

24 MR. VANCE: Well, you can make the finding based on
25 her own statement to the Social Security Administration that

1 she left him in February of 1979. She claims that they were
2 married in March of 1979, so we'll give her the benefit of the
3 doubt. Maybe she said --

4 THE COURT: Mr. Vance --

5 MR. VANCE: Let me finish, Your Honor, because
6 it's -- this is important to my client. Let's give her the
7 benefit of the doubt that she left him in February of 1980 and
8 that they transcribed it incorrectly. But clearly we're
9 talking about the -- we're talking about her giving the
10 statement to the Social Security rep that she left Mr.
11 Sullivan, not that he left her. She can say everything --
12 anything she wants to now about him having a drug problem and
13 going back and building his parents' house, and whatever she
14 wants to say. But this is what she said four years ago to the
15 Social Security Administration.

16 There's no question that there was no communication
17 between the two of them after he left, or I should say after
18 she left.

19 THE COURT: You want me to take a very broad view of
20 what the word "being absent" is.

21 MR. VANCE: Yes, I do, Your Honor. In this case,
22 because --

23 THE COURT: Absent from what? Absent from the house?
24 Absent from the state?

25 MR. VANCE: Absent, period, from the relationship.

1 We're talking about a marriage. We're not talking about
2 living together in a particular --

3 THE COURT: Absent from the relationship?

4 MR. VANCE: Absent from the relationship.

5 THE COURT: That means that someone on his own can
6 void a marriage without the necessity of a divorce by just
7 saying 'I'm absenting myself from this marriage'? Is that
8 your position?

9 MR. VANCE: My position is that, under South Carolina
10 law, if the one spouse does not know whether the other is
11 alive or dead, for a period of five years, and subsequently
12 marries --

13 THE COURT: There's no evidence --

14 MR. VANCE: -- that that --

15 THE COURT: -- on this record that Mr. Sullivan did
16 or didn't know.

17 MR. VANCE: And there can't be, because he's dead.
18 But, Your Honor --

19 THE COURT: But there is a record, and what the
20 record shows is, unfortunately for both women -- and I want to
21 tell you I just -- both women are innocent victims -- Mr.
22 Sullivan knew he was married to Lavona Hill, because when he
23 married Mrs. Sullivan, he took the old divorce decree to fool
24 the South Carolina authorities that he had been divorced --

25 MR. VANCE: How --

1 THE COURT: -- and that's why he was able to marry.

2 MR. VANCE: How can you make that representation,
3 Your Honor? There's no evidence of that on the record. There
4 is no --

5 THE COURT: The record has the fact that when he
6 married Ms. Sullivan, he introduced the decree from Ms.
7 Well -- from Ms. -- whoever his first --

8 MR. VANCE: Correct. So how does --

9 THE COURT: So he knew what he was doing.

10 MR. VANCE: He knew that he had been married one time
11 and had divorced Ms. -- whatever the first --

12 THE COURT: He knew he'd been married -- what'd he
13 say? He didn't remember being married to Ms. Hill?

14 MR. VANCE: Well, I can't speak for the man, because
15 the man is not here to speak for himself.

16 THE COURT: You want the Court to believe that he
17 forgot about his second marriage?

18 MR. VANCE: No. What the Court -- but if you're
19 willing to presume that he tried to pull a fast one on the
20 Clerk of --

21 THE COURT: You bet.

22 MR. VANCE: -- Dorchester County by bringing the
23 first --

24 THE COURT: That's exactly what I'm presuming.

25 MR. VANCE: Well, Your Honor, if he really wanted to,

1 he didn't even have to say he was married the first time. He
2 just could have -- he could have said nothing and gotten a
3 marriage certificate.

4 THE COURT: That's true, but he already had in his
5 hand a decree.

6 MR. VANCE: Your Honor, the -- with all due respect,
7 your assumption that he's trying to pull a fast one on the
8 Court by giving them the decree from the first marriage just,
9 in my view, does not make sense. What might have occurred is
10 that he may have consulted with an attorney in South
11 Carolina --

12 THE COURT: Um-hum.

13 MR. VANCE: -- who told him 'Look, you're free to
14 marry' Ms. Carson at the time -- or Ms. Hicks at the time,
15 'because you and' -- 'because your wife' --

16 THE COURT: I'm sure if that were the case --

17 MR. VANCE: -- 'because your wife left you' --

18 THE COURT: -- you would have found such a letter and
19 would have presented it to this Court.

20 MR. VANCE: If -- I don't know whether he did it or
21 not, but nor does Your Honor know that he tried to pull a fast
22 one on the clerk at Dorchester County.

23 THE COURT: Okay.

24 MR. VANCE: I mean, I don't know how can you -- I
25 don't know how you can make that presumption, Your Honor, just

1 because he presented the first marriage certificate -- divorce
2 decree. What that shows is a truthful person who represented
3 to the clerk that 'This is my prior marriage and that I
4 divorced this woman and I'm free to marry.'

5 THE COURT: Okay. Good.

6 MR. VANCE: All right. So in any event, under the
7 South Carolina statute, Ms. Sullivan -- in 1981, Mr. Sullivan
8 is already in South Carolina. They don't get married until
9 '86, which is five years. So they fall within the first
10 exception to the bigamy statute. So their marriage is not
11 bigamous under South Carolina law. The plan defines spouse to
12 be -- or spouse is defined as the player's lawful spouse as
13 recognized under applicable state law.

14 THE COURT: Um-hum.

15 MR. VANCE: And under South Carolina law, Ms.
16 Sullivan is Mr. Sullivan's lawful spouse, because that statute
17 applies, the five-year period applies between -- five years
18 prior to their March 1986 wedding. Mr. Sullivan -- there's no
19 evidence that he knew she was alive, and the Court can't
20 presume that he did know that. There is evidence that she
21 represented that she abandoned him, she left him. And so
22 therefore the South Carolina statute would indicate that --

23 THE COURT: When was that South Carolina statute
24 amended from seven to five?

25 MR. VANCE: And it doesn't really matter if it's

1 seven or five, because they -- she left him in 1979. So
2 that's still '86.

3 In any event, that South Carolina statute indicates
4 that the marriage between Thomas Sullivan and Barbara Sullivan
5 is valid and not bigamous under South Carolina law, and
6 therefore the plan properly determined that she was the
7 spouse. The only way that Ms. Hill could have shared in any
8 of those benefits under the plan, as a former spouse, is if
9 she provided -- is if she had a qualified domestic relations
10 order, which she does not have, which the plan told her to go
11 get and she never produced. So therefore she's not entitled
12 to any of those funds.

13 THE COURT: Well she couldn't get one after he died.

14 MR. VANCE: Well, fine. But in any event, so she
15 doesn't -- so she has no entitlement to these funds. Ms.
16 Sullivan is the surviving spouse, and therefore under the plan
17 she is entitled to the benefits. Plain and simple. The South
18 Carolina statute applies. Ms. Hill abandoned, abandoned,
19 Thomas Sullivan. She --

20 THE COURT: And now you're saying the statute says
21 "abandonment".

22 MR. VANCE: No, I'm saying it doesn't require
23 abandonment --

24 THE COURT: Oh.

25 MR. VANCE: -- but that's what she did, because

1 that's what she said she did. She can say whatever she wants
2 there, because that's clearly self-serving her -- I mean
3 serving her interest. But when she talked to the Social
4 Security Administration, you know, she was candid and
5 indicated that she left him. Although abandonment is not
6 required, if you want to accept Mr. Sherman's gloss on the
7 statute, and Your Honor's apparent gloss on the statute, she
8 did abandon him, made no effort to contact him. And she
9 testified she did try to contact him during -- once they had
10 separated. Now, she wasn't truthful as to when they parted,
11 but that is -- there's enough evidence in the record for Your
12 Honor to conclude that the South Carolina statute applies,
13 that exception applies, that the marriage between Thomas
14 Sullivan and Barbara Sullivan was a lawful nonbigamous
15 marriage that would have been recognized under South Carolina
16 law, and therefore she is entitled to the benefits.

17 THE COURT: Other than the references you make
18 obliquely to South Carolina law, neither of you briefed that
19 issue under South Carolina law.

20 MR. VANCE: I did put it in my conclusions of law.

21 THE COURT: I know you did, but you didn't brief that
22 specific -- what cases there are under South Carolina law on
23 that statute.

24 MR. VANCE: Your Honor, in the -- in my proposed
25 findings, I refer to the Lucovich (sic) case, which simply

1 says that the statute is applied as of the date that the
2 marriage is contracted, which means in March 1986 --

3 THE COURT: I know, but the meaning of "absent" under
4 South Carolina law -- I don't know what that is --

5 MR. VANCE: Well, if Your Honor wants --

6 THE COURT: -- if I'm going to use --

7 MR. VANCE: -- if Your Honor is requesting, certainly
8 I will provide whatever supplemental --

9 THE COURT: I want both of you to do it and have it
10 to me --

11 MR. VANCE: -- all there is on that --

12 THE COURT: -- have it to me next -- a week from
13 tomorrow --

14 MR. VANCE: That's fine, Your Honor.

15 THE COURT: -- on --

16 MR. VANCE: But I think that is the key, that
17 statute.

18 THE COURT: Well, that's why I want to flesh it out.
19 Neither of you did that.

20 MR. VANCE: Well, I believe that the evidence already
21 supports it, but to the extent that we have any evidence,
22 because --

23 THE COURT: Well, I don't know if there's any case
24 law under it.

25 MR. VANCE: And if there's not, I think my argument

1 is persuasive.

2 THE COURT: Well, then we'll deal with it.

3 All right.

4 MR. SHERMAN: Can I have a very brief response, Your
5 Honor, to --

6 THE COURT: How brief?

7 MR. SHERMAN: Tell you what: I'll waive it.

8 THE COURT: Good.

9 MR. VANCE: Because when you say "brief" --

10 THE COURT: I keep you to your word, Mr. Sherman.

11 MR. SHERMAN: I understand you do, Your Honor.

12 MR. VANCE: So, Your Honor, in one week you want
13 supplemental findings?

14 THE COURT: Right.

15 MR. SHERMAN: Limited to that --

16 THE COURT: No, not so much findings. I want --

17 MR. VANCE: I mean --

18 THE COURT: -- just that --

19 MR. VANCE: -- the briefing on the issue.

20 THE COURT: -- discrete issue.

21 MR. VANCE: Yes, that's what I meant. I'm sorry.

22 THE COURT: Yes, I do.

23 MR. SHERMAN: Okay.

24 THE COURT: And I'll say that in between now and
25 then -- I don't know what kind of discussions the parties have

1 had here, but I think, having faced each other, not just the
2 lawyers but the spouses, I feel very sad for both of you. And
3 one of you is going to end up much sadder than you are today.
4 And I suggest to you that you ought to sit down and figure out
5 a way to hammer this out in a more sensible fashion and have a
6 court make a final ruling that you're going to be stuck with.

7 So by next Friday, if you haven't worked it out, I'll
8 want those briefs on that issue.

9 MR. SHERMAN: Your Honor, you're still --

10 MR. VANCE: Next Friday?

11 THE COURT: Right.

12 MR. SHERMAN: You're still open-minded, Your Honor,
13 on that issue that you haven't made a conclusive determination
14 with regard to that -- the past benefits, as I understand your
15 feeling?

16 THE COURT: That's correct.

17 MR. SHERMAN: Okay.

18 MR. VANCE: Well, Your Honor, I guess I need to
19 address that. I mean, I think it's obvious that you're not
20 able to require Ms. -- it's not within your power to require
21 Ms. Sullivan to pay benefits that she received from the NFL,
22 which the plaintiff has conceded didn't abuse his discretion
23 in deciding that she was entitled to them.

24 THE COURT: That's why I'm having a problem with it.

25 MR. VANCE: Right. I mean, that's -- I assumed that

1 was the point.

2 THE COURT: Yes.

3 MR. VANCE: But --

4 MR. SHERMAN: But you haven't foreclosed it as a
5 possibility is all I'm suggesting?

6 THE COURT: I haven't foreclosed it, but --

7 MR. SHERMAN: Okay.

8 THE COURT: -- it's a -- you both have steep hills to
9 climb.

10 MR. VANCE: Okay.

11 THE COURT: All right, thank you.

12 MR. VANCE: Thank you.

13 MR. SHERMAN: Thank you, Your Honor.

14 MR. AMIN: Thank you, Your Honor.

15 MR. SHERMAN: Thank you for accommodating us, by the
16 way, on the 10:30 time.

17 THE COURT: It's okay.

18 MR. VANCE: And, Your Honor, I'm not sure if the
19 record has the -- did she give back the original?

20 So you have these --

21 MR. SHERMAN: Yes.

22 THE COURT: Jan, do you have that?

23 MR. VANCE: -- D-1 and D-2?

24 MR. SHERMAN: Hisham, have a safe trip back.

25 MR. AMIN: You too. Thank you very much. I

1 appreciate that.

2 (Court is adjourned)

3 * * * * *

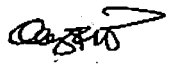
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C E R T I F I C A T I O N

I, Clara Rubin, the court-approved transcriber, do hereby certify the foregoing is a true and correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.



October 25, 2010

CLARA RUBIN

DATE

AAERT Certified Electronic Transcriber

(CET**D-491)


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Certificate of Service

I hereby certify that the foregoing Joint Appendix (Volume II) was filed electronically this January 17, 2012 through the Court's CM/ECF system and is available for viewing and downloading thereon by the following counsel of record:

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