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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IN RE: :
ANDREW J. OSTROWSKI : Case #1:10-MC-0064
:

BEFORE: HONORABLE MATTHEW W. BRANN
PLACE: Williamsport, Pennsylvania
PROCEEDINGS: Motion Hearing
DATE: Tuesday, August 27, 2013
VOLUME: One

APPEARANCES:

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1 (10:04 a.m., convene.)

2 *THE COURT:* Good morning. We are here this morning in
3 the interest of Andrew J. Ostrowski, docketed before this Court
4 to number 1:10-MC-64. Mr. Ostrowski, you're here.

5 *MR. OSTROWSKI:* Yes, Your Honor.

6 *THE COURT:* And you are represented this morning, I
7 understand, by Don Bailey, Esquire. Is this Mr. Bailey?

8 *MR. OSTROWSKI:* Just for a very limited purpose. He's
9 going to make one preliminary motion and I'm going to handle
10 all of the evidentiary aspects of this proceeding.

11 *THE COURT:* All right. And this is Mr. Gilroy.

12 *MR. GILROY:* Good morning, Your Honor. Hubert Gilroy.
13 I have with me Chris Vanlandingham, an associate in my office.

14 *THE COURT:* All right. Good morning. Are we ready to
15 proceed?

16 *MR. OSTROWSKI:* Yes, Your Honor.

17 *THE COURT:* Mr. Ostrowski, if you would like to make a
18 brief opening statement, if you think that's helpful to orient
19 the Court, you may do so.

20 *MR. OSTROWSKI:* Yeah. Well, I'll take a couple
21 minutes to do that. Thank you for the opportunity, Your Honor.

22 *THE COURT:* You're welcome.

23 *MR. OSTROWSKI:* We are here on what was labeled a
24 motion to reopen/reinstate. The primary premise of the motion
25 was that at the time that I was originally disciplined in the

1 year 2010, my suspension order from the Pennsylvania Supreme
2 Court was February 9th, 2010, was for a year and a day. And
3 then the Middle District, through Judge Kane, under the
4 reciprocal discipline provisions, adopted the same discipline
5 and made it effective immediately; I think that was on or about
6 March 23rd, 2010.

7 At the time I had gone through the Pennsylvania
8 procedures -- the Pennsylvania disciplinary process, I did not
9 put on any medical evidence in my case, because I have a
10 history that, in a word, is nothing short of humiliating. I
11 had been through a good five or six year period of some just
12 awful personal circumstances and humiliating course of conduct
13 and experiences.

14 At the time -- you know, it was during that period of
15 time where I was going through what, you know, was an anxiety
16 period and, you know, a whole bunch of, I guess, emotional type
17 of symptoms and things of that nature. I really didn't have a
18 a physician. I was kind of left abandoned in many ways by a
19 physician by the name of Dr. Stefan Kruszewski who was assigned
20 to me or I met him through the Lawyers Concerned for Lawyers
21 through the Pennsylvania Bar Association. I have some history
22 of substance abuse issues that are fully dealt with and
23 resolved at this point.

24 But the point that I'm getting to is during the
25 disciplinary process in Pennsylvania, I did not have what

1 was -- what is called Braun ethics; the case of Commonwealth
2 versus Braun is the case that adopted the standards that govern
3 mitigating medical/psychiatric evidence in disciplinary
4 proceedings. And frankly, you know, the period of time from
5 about 2005 through 2007 or 8, I just did not have anybody who
6 could point to tell me what the heck is going on with me, what
7 is wrong with me.

8 So when it came to the disciplinary proceedings, I
9 just acknowledged that there were circumstances that I had lost
10 control of. And I mean, basically the way I have explained it
11 for the years since that time is I -- you know, and I have
12 apologized to people. I have apologized to every judge of the
13 Middle District Court. I have apologized to other judges. I
14 have specifically apologized to clients on the basis that I
15 allowed my personal circumstances to interfere with my
16 practice. And it caused great humiliation and embarrassment to
17 me, and I think you know caused some inconvenience and
18 aggravation and discomfort to judges and clients. And that's
19 pretty much how I have handled that situation. And that's
20 pretty much how I defended my disciplinary proceedings.

21 Since that time, and actually it was this year,
22 January of this year, I, you know, had continued to just --
23 during my discipline I just continued to keep myself occupied
24 and do things and, you know, just kind of continued to monitor
25 myself and do what I needed to do. And in January of this year

1 I got diagnosed it with posttraumatic stress disorder. I had a
2 traumatic burn over 16 percent of my body. I have got scarring
3 on my back and my arms to show it. This was in the year 1973.
4 When I was hospitalized in 1973 at a Catholic hospital, Saint
5 Joe's Hospital in Lancaster, you know, pain management and pain
6 treatment weren't priority medical items that they are now.
7 And I was not given Morphine. I was given real mild kind of
8 pain medications.

9 And as a result, my system has been, you know, under a
10 severe stress and strain for 40 years. And I have dealt with
11 this issue for 40 years. I have a monkey off my back that I
12 am -- can do nothing but thank the Lord in heaven that I have
13 off my back. But also, now I have a medical diagnosis to
14 operate under.

15 My contention for this hearing is that had I been
16 properly treated and diagnosed in the past, which my doctor,
17 who is going to be our first witness, will testify is just
18 obvious that this is a PTSD issue. Had I been properly
19 diagnosed and treated, A, I never -- with these disciplinary
20 issues, all of which came up under a time of inordinate stress
21 and mental distress for me, never would have occurred, and B,
22 had they occurred, the hearing, the evidence, would have been
23 substantially mitigated by what is now a diagnosed medical
24 condition.

25 So my motion, as something of alternative relief is

1 asked that the motion that my old discipline be reopened and
2 that this new evidence be accepted into that record. Although
3 we're still here under the same docket, so I don't know how --
4 you know, there is nothing to go back and open except maybe
5 Judge Kane's March 2010 order. And that in light of this
6 mitigating evidence, I would be readmitted promptly to the
7 Middle District Bar or roll of attorneys, however we label it.
8 Thank you for the opportunity. And now to Mr. Gilroy to
9 proceed.

10 *THE COURT:* Thank you. Mr. Gilroy.

11 *MR. GILROY:* Good morning, Your Honor. I believe the
12 petitioner and I disagree procedurally as to where we are.
13 By way of background, the Pennsylvania Supreme Court suspended
14 Mr. Ostrowski on February 9th, 2010 for one year and one day.
15 This Court did not take any evidence but on March 23rd, 2010
16 issued a reciprocal discipline for the identical time. There
17 were no proceedings before this Court except for the issuance
18 of the reciprocal discipline.

19 Mr. Ostrowski filed with the Pennsylvania Supreme
20 Court on May 10th, 2013, and it's attached to his petition
21 before this Court, a motion to reopen the proceedings with the
22 Pennsylvania Supreme Court. That motion and answer has been
23 filed and it's still pending. He then files with this Court a
24 motion to reopen the proceedings/reinstate to practice.

25 Procedurally there is no such creature as a motion to

1 reopen before this Court, Your Honor. There is nothing in the
2 rules. Just as Mr. Ostrowski just said, there is nothing to
3 reopen in the federal court because this Court didn't take any
4 testimony. All of the evidence he just suggested he would
5 present may be relevant before the state court if they
6 determine if they are going to reopen and look at some
7 mitigating evidence and determine if the discipline should be
8 changed.

9 But this Court, I'm suggesting, is limited to simply
10 his petition for reinstatement, and that would fall under Rule
11 83.26.3 as to his current fitness to practice law, Judge.

12 So procedurally, I'm going to be objecting if we're
13 going to go back and see what happened five, six, seven years
14 ago with respect to his treatment. I'm suggesting this Court
15 should limit its scope of investigation to currently what is
16 his position and whether he's fit to practice law.

17 On that particular issue, Judge, our sole proof will
18 be presenting evidence from Mr. Ostrowski, in letters and
19 various videos, where he has made a number of statements
20 concerning judges of the Middle District, other judges, the
21 judiciary in general that we feel this Court could determine
22 will put him in violation of Pennsylvania Rule 8.2 and 8.4
23 relative to those actions and that this Court would then have a
24 basis, if Your Honor is of a mind to, to deny the petition for
25 reinstatement.

1 But I think it's a mistake, and I'm going to object
2 for the record if we're going to go back and determine whether
3 there is mitigating circumstances. I just don't think this
4 Court has jurisdiction on that. That matter is before the
5 Pennsylvania Supreme Court. And all this Court did was do the
6 reciprocal discipline.

7 I would also note, Judge, that I know Mr. Ostrowski
8 has subpoenaed a witness and the witness is here, but I want to
9 point out his counsel is here, Garen Meguerian.

10 *MR. MEGUERIAN:* Good morning, Your Honor.

11 *THE COURT:* Good morning.

12 *MR. GILROY:* I just want to point out that he is here
13 and he has filed a motion, and just as a courtesy to fellow
14 counsel, I want to alert the Court that he is here.

15 *THE COURT:* I appreciate that. Thank you very much.

16 *MR. OSTROWSKI:* Your Honor, since it went to legal
17 argument, may I make a brief statement?

18 *THE COURT:* You may.

19 *MR. OSTROWSKI:* Procedurally, regardless of me not
20 having a hearing, there was an order by the Court dated March
21 23rd, 2010 where there were no prehearing memoranda order and
22 there were no prehearing procedures in place. In fact, Mr.
23 Gilroy was not even directed to file the response which would
24 have helped us to flesh out some of these issues.

25 Regardless, Rule 59 and 60, particularly Rule 60(b)

1 for opening prior judgments, prior orders, would provide the
2 legal context in which this old discipline could go back and
3 reopen.

4 Set that issue aside, secondly, under the Rule 86.23.3
5 standard, which requires me to demonstrate my competence --
6 let's see, moral qualifications, competency and learning, you
7 know, the medical evidence, my prior discipline in 2009 which
8 was adopted -- or 2010 which was adopted by this Court, had
9 some significant evidence about my mental competency that would
10 raise reasonable question.

11 I mean, you know, I don't -- I talk of this
12 matter-of-factly with people because I understand what my
13 history looks like to other people. And regardless, for me to
14 be admitted with the record that is already in this Court, that
15 evidence would be relevant to this Rule 83.26.3 standard.

16 With all that being said, I did want Mr. Bailey to
17 make a motion on the Rule 86.23.3 standard preliminarily before
18 we proceed.

19 *THE COURT:* All right. Are you ready to do that at
20 this point, Mr. Bailey?

21 *MR. BAILEY:* Yes, sir. Judge, would you give me
22 permission to address you sitting down? I have horribly bad
23 legs that are --

24 *THE COURT:* It's hard to stand up? That's perfectly
25 fine.

1 *MR. BAILEY:* I could actually show them to you.

2 *THE COURT:* That's perfectly fine. Go right ahead.
3 You may address me from the seated position.

4 *MR. BAILEY:* Thank you, sir, very much. Your Honor, I
5 would only take one minute. I am asking the Court for
6 permission to motion the Court and brief. The issues of the
7 rules put us in a limited entry of appearance. Middle District
8 Rule 83.26.3 and Pennsylvania Rules of Professional Conduct
9 8.2, really on First Amendment grounds, Your Honor, facially,
10 that motion and the brief in support would address the issue of
11 protected speech.

12 With the understanding, and Mr. Gilroy was kind enough
13 to copy me on a response to Mr. Stretton, and that's what
14 created this interest, on the use of his Pennsylvania -- PCLRN
15 I believe. It's a website Mr. Ostrowski runs. And my
16 contention is -- I have not read everything on the website,
17 sir. But it is my contention from what I have seen, it's
18 clearly protected speech. Facially this Court obviously -- I
19 believe if this Court were to see it, it could raise great
20 concerns.

21 *THE COURT:* Great concerns about what?

22 *MR. BAILEY:* About the nature of these rules and their
23 First Amendment status. They are clearly unconstitutional.
24 Clearly. First year law school type clearly unconstitutional.

25 *THE COURT:* Well, I guess I'm not following you. Are

1 you telling me that this Court has in some way shut down this
2 website?

3 *MR. BAILEY:* No, sir.

4 *THE COURT:* Then what are you talking about? I don't
5 follow you.

6 *MR. BAILEY:* I believe that the rules that are being
7 used are unconstitutional as written and as applied.

8 *THE COURT:* Oh. All right.

9 *MR. BAILEY:* And all I wanted to do, sir --

10 *THE COURT:* What's your authority for that?

11 *MR. BAILEY:* My authority for that would be the First
12 Amendment to the U.S. Constitution.

13 *THE COURT:* No. No. No. I understand that. But
14 what's your authority? Cite your case or statutory authority.

15 *MR. BAILEY:* Case of statutory authority?

16 *THE COURT:* Yes. Case or statutory authority. I
17 understand the First Amendment. I understand you're speaking
18 broadly. But what case law supports that? What statutory
19 authority beyond saying that it's simply a violation of the
20 First Amendment rights? What case authority would be helpful
21 and guide the Court and be persuasive authority to this Court?

22 *MR. BAILEY:* Well, that's what I wanted to put in the
23 motion and brief. But in Mr. Ostrowski's motion to this Court,
24 I believe it's a motion in limine. Now, I am not -- I didn't
25 write this thing so I'm not so intimately familiar with it, but

1 I am familiar with some of the cases, Your Honor; particularly
2 the Gentile case, Gentile, commonly used in comments all across
3 the country on issues referring to attorney discipline.

4 There are also issues concerning attorney discipline
5 not only in Pennsylvania's Constitution, where authority is
6 vested in the Supreme Court incidentally, to administer
7 attorney authority. You know, to -- and moderate is the wrong
8 word. But the disciplinary process on attorney licensing.
9 There are no such provisions in the federal Constitution. This
10 is a whole new era and a whole new area where many attorneys
11 and many interest groups across the country are arguing these
12 issues.

13 I wasn't prepared to argue the substance of the
14 motion. Of course, I have no briefing for today. I was merely
15 asking if you would provide me permission to make a motion and
16 to brief it and ask Your Honor to consider it. That's all.

17 *THE COURT:* Yes, I would consider that. And there
18 will be a briefing schedule that will be imposed at the
19 conclusion of today's hearing. And if you care to offer a
20 brief in support of this position, you're welcome to do so.

21 *MR. BAILEY:* I cannot ask more of this Court, sir.
22 I'm grateful to you.

23 *THE COURT:* Anything else preliminarily?

24 Mr. Gilroy, do you care to respond to this in any way?

25 *MR. GILROY:* Just for clarification, I don't know if a

1 motion has been filed or is this the intention to file a
2 motion?

3 *MR. BAILEY:* I felt that I had a duty to ask this
4 Judge for permission to file the motion. So I put it in that
5 form. It is actually a permission to file a motion, with
6 supporting brief. I believe His Honor has already ruled on
7 that. But Mr. Gilroy, there is not -- no.

8 *THE COURT:* There is not a motion before the Court, is
9 there, Mr. Bailey?

10 *MR. BAILEY:* Yes, sir. You're right.

11 *THE COURT:* You are anticipating that you are going to
12 file one. You would like to file the motion, you would like to
13 file a brief in support of that and will be able to do that.
14 That's fine.

15 *MR. BAILEY:* Thank you, sir.

16 *THE COURT:* That's fine. Go ahead, Mr. Gilroy.

17 *MR. GILROY:* Nothing further, Judge.

18 *THE COURT:* Ready to proceed?

19 *MR. OSTROWSKI:* Yes, Your Honor.

20 *THE COURT:* Mr. Ostrowski, call your first witness,
21 who I believe is a witness who will be obtained telephonically.
22 Is that my understanding?

23 *MR. OSTROWSKI:* May I ask the questions sitting?

24 *THE COURT:* That's fine with me. You may question
25 from counsel table or from the podium. Pull the microphones a

1 little closer.

2 *MR. GILROY:* Your Honor, if I may interrupt. I
3 apologize. I understood that perhaps Dr. Kruszewski, if I'm
4 pronouncing that correctly, was going to be the first witness.
5 And I just -- well, basically on his counsel's behalf, he came
6 up here and he's from Paoli. Would the Court consider
7 disposing of that witness first?

8 *THE COURT:* I would but --

9 *MR. GILROY:* It's not my case, but I'm just trying to
10 show courtesies to fellow counsel and it --

11 *THE COURT:* I --

12 *MR. GILROY:* I have an objection as to relevancy of
13 his testimony, so that might be ruled on. We might be going
14 home quickly if the Court sustains my objection.

15 *THE COURT:* I understand that. My understanding was
16 it was a Dr. Schwartz. Is that correct, Mr. Ostrowski?

17 *MR. OSTROWSKI:* That's correct, Your Honor.

18 *THE COURT:* That you wanted to reach telephonically.
19 How long would his examination be, would you think?

20 *MR. OSTROWSKI:* I don't see his examination taking
21 more than 10 or 15 minutes.

22 *THE COURT:* I would like to proceed then with the
23 telephonic witness. And are we ready to do that? We have a
24 telephone number for him, Mr. Ostrowski?

25 *MR. OSTROWSKI:* Yes. I gave it to Kathy.

1 *THE COURT:* And Dr. Schwartz is anticipating the
2 Court's call?

3 *MR. OSTROWSKI:* He is. He is available right now.

4 *THE COURT:* Mrs. McLaughlin, do you want to place that
5 call, or Mrs. Campbell make that call, please.

6 (pause.)

7 "MITCH": Good morning, Dr. Schwartz's office.

8 *MR. OSTROWSKI:* Is this Mitch?

9 "MITCH": Yes.

10 *MR. OSTROWSKI:* Mitch, this is Andy Ostrowski. We are
11 in the federal courtroom and Dr. Schwartz is expecting my call.

12 "MITCH": Okay. Hold on a second, please.

13 *THE WITNESS:* Hello.

14 *MR. OSTROWSKI:* Good morning, Mr. Schwartz. Andy
15 Ostrowski.

16 *THE WITNESS:* Hey.

17 *MR. OSTROWSKI:* I'm in the courtroom and we are on the
18 record in the midst of the proceeding. The Judge has
19 authorized me to call you as my first witness. Are you ready
20 to proceed?

21 *THE WITNESS:* Sure. Can you hear me okay?

22 *MR. OSTROWSKI:* I can hear you fine. Everybody can
23 hear you fine, I believe. Can you hear me okay?

24 *THE WITNESS:* Yes.

25 *THE COURT:* Dr. Schwartz, this is Matthew Brann. I'm

SCHWARTZ - DIRECT

1 a federal judge sitting in Williamsport, Pennsylvania. And my
2 courtroom deputy, Kathy McLaughlin, is going to swear you in.
3 Are you ready to take an oath?

4 *THE WITNESS:* Sure.

5 *THE COURT:* Mrs. McLaughlin, will you administer that
6 oath, please?

7 *THE COURTROOM DEPUTY:* Yes.

8 *STEPHEN SCHWARTZ,*
9 called as a witness on behalf of the Plaintiff, having been
10 duly sworn or affirmed according to law, testified as follows.

11 *THE COURTROOM DEPUTY:* Please state your name for the
12 record.

13 *THE WITNESS:* Stephen Schwartz.

14 *THE COURTROOM DEPUTY:* Thank you.

15 *THE COURT:* All right, Mr. Ostrowski, you may proceed
16 to examine this witness.

17 *MR. OSTROWSKI:* Thank you, Judge.

18 *DIRECT EXAMINATION*

19 *BY MR. OSTROWSKI*

20 *Q.* Dr. Schwartz, could you just summarize your
21 qualifications, licensing, status, and certifications and
22 things like that; educational history briefly, please.

23 *A.* I'm a medical doctor. Graduated from Thomas Jefferson
24 University in 1980. I have had my own family practice for the
25 last 25 years here in Lancaster with my wife. I'm board

SCHWARTZ - DIRECT

1 certified in emergency medicine, practicing that also for the
2 last 25 years, and certified in medical acupuncture and
3 licensed through the State of Pennsylvania.

4 Q. Okay. And is it fair to say that you have the nature of a
5 holistic type of practice?

6 A. Yes. Our family practice is -- well, it was a traditional
7 family practice probably for about ten years, and then when we
8 introduced traditional Chinese medicine, which my wife and I
9 are both extensively trained, then it kind of shifted. Now
10 it's more of a holistic practice. But we still have the
11 ability to practice, you know, traditional western medicine, as
12 well. It's a combined practice basically.

13 Q. Right. And there are times, if appropriate, you prescribe
14 medications for patients and things of that nature. Correct?

15 A. Sure.

16 Q. Or order additional testing; X-rays, MRIs, whatever it
17 takes. Correct?

18 A. Whatever is appropriate.

19 Q. Okay. And now Doctor, I asked you to have in front of you
20 the May 3rd, 2013 correspondence that you prepared, 'To Whom it
21 May Concern' regarding me. Do you have that before you?

22 A. Yes.

23 Q. And just for the record I have that marked here, and I
24 believe the Judge has a copy, with Plaintiff's Exhibit 1 on it.
25 And could you identify what that is?

SCHWARTZ - DIRECT

1 A. It's basically just a progress letter that I wrote for you
2 or on your behalf at that time, which was approximately I would
3 say six is weeks after you started coming here as a patient.

4 Q. Okay. And I had discussed with you my licensing status
5 and a lot of my history during our visits up to that time. Is
6 that correct?

7 A. Yes.

8 Q. Okay. And I'm just going to -- just so we're all
9 operating on the same page, and if the Court indulges me, it's
10 a pretty short letter, I'm going to read that into the record.

11 MR. OSTROWSKI: May I, Your Honor?

12 THE COURT: You may. But the letter speaks for
13 itself. The Court can read the letter. Mr. Gilroy, I assume
14 you have a copy of this?

15 MR. GILROY: Yes, Judge.

16 MR. OSTROWSKI: That's fine. I don't think it's
17 necessary either.

18 BY MR. OSTROWSKI

19 Q. Now, I'm going to ask you some questions about that. Now,
20 have you reviewed any of my prior records?

21 A. Yes.

22 Q. And what prior records of mine have you reviewed?

23 A. Well, you supplied me with records basically from the
24 former Saint Joe's Hospital in Lancaster relating to your burn
25 injury and care when you were eight years old. So I've got

SCHWARTZ - DIRECT

1 that. And there were basically two sets of records associated
2 with that because I guess you had a hospitalization, and then
3 you came back for a second procedure. So basically those are
4 the records that I have got.

5 Q. Okay. Because in this Exhibit 1, your May 3rd, 2013
6 letter, you said we are still waiting for old -- additional old
7 records. Would those be among the records you were waiting
8 for?

9 A. Yes.

10 Q. And have you received any other records from me?

11 A. No, not specifically.

12 Q. Okay. And I -- I talked to you about a Dr. Stefan
13 Kruszewski and my treatment with him. Correct?

14 A. Correct.

15 Q. And we weren't able to get any -- I haven't supplied you
16 with any records from him. Is that also correct?

17 A. Correct.

18 Q. Okay. In your statement -- the first sentence, does that
19 contain what your diagnosis is of me is?

20 A. Yeah. I mean, I would say -- you know, what patients tell
21 me basically that's -- you know, that's largely the basis for
22 what their diagnosis can be called. And you know, that was the
23 diagnosis essentially that you gave me when you came. And I
24 saw no reason to -- I agree with that. It sounds appropriate.

25 Q. Okay. But you -- so that diagnosis that you agree to is

1 posttraumatic stress disorder. Correct?

2 A. Yes. I mean, that's largely the reason that you came to
3 see me for treatment, I believe. And in my notes, in my office
4 notes basically that's the second word, PTSD. You know, when
5 people come in I ask what they're here for, and that's what you
6 told me and that's how I wrote it down.

7 Q. Okay. But you concur in that and that is your operating
8 diagnosis of me. Correct?

9 A. Yes. It seems to be consistent with what's going on and
10 appropriate.

11 Q. Yes. And then I just want to ask you, in the second
12 sentence you say, "It seems fairly obvious that he has carried
13 this trauma with him for the past 40 years." Can you elaborate
14 upon what you meant by it is fairly obvious?

15 A. Well, again, when patients come to see me, you know, I
16 base a good part of my understanding of them on what they tell
17 me. And so also a lot of what I do is I feed back to the
18 patients what I think can help them. And again, that's largely
19 based on what they tell me. So a lot of this relates to the
20 history that I obtained from you. And so you know, that would
21 be -- that would be part of understanding of your problem. And
22 you know, that would basically be a reasonable way to phrase
23 it. So I see no reason to really elaborate on it. It kind of
24 speaks for itself. You know, that's why I guess I said it was
25 fairly obvious.

SCHWARTZ - DIRECT

1 Q. Okay. So that includes then the history that I -- the
2 oral history that I presented to you and things that I
3 presented to you in writing about what my personal experiences
4 with my prior medical history have been. Is that -- is that a
5 fair way to say that?

6 A. Sure. Sure. And you know, I've seen enough posttraumatic
7 stress scenarios to be able to see whether it's appropriate or
8 not in terms of a description of -- you know, or at least the
9 way that you describe it, I saw no reason to question that.
10 It's not a red flag. It seems appropriate.

11 Q. And you do go on and you talk about my prior 40 years
12 saying that you're aware that I had seen multiple physicians
13 and specialists, that I had been hospitalized and things of
14 that nature. I discussed all that with you. Correct?

15 A. Correct.

16 Q. I discussed things like, you know, anxiety and sleep
17 problems and even substance abuse issues and all of those, you
18 know, difficulties and coping mechanisms. Correct?

19 A. Correct. In my office notes on the first visit, the first
20 word is anxiety. Second word is PTSD.

21 Q. Now, can you just generally discuss, how many times have I
22 visited with you either telephonically or office appointments
23 over the past, I guess it's gone on about six months now?

24 A. The first visit was March 22nd, and there's been eight
25 visits.

1 Q. Okay. And can you just describe for the Court what those
2 eight visits entailed?

3 A. Well, the first visit's extensive and involves history, of
4 course. And history consists of both western diagnosis, if
5 it's okay to describe it that way, because I'm an emergency
6 room physician and a family practitioner, and then also a
7 Chinese diagnosis, because largely what we have found is most
8 effective for this is medical acupuncture or a combination of
9 that and Chinese herbs or whatever. That's an eastern
10 diagnosis.

11 The history takes usually at least an hour. In your case
12 it was much longer because I spent a long time speaking with
13 you about -- your history was extensive. It covers 40 years.
14 It took a longer time than usual. Basically that's a large
15 part of the first treatment.

16 And then medical acupuncture is pretty straightforward.
17 It's a treatment that involves needles. And we did that
18 basically from the first time you started coming, we gave you
19 that experience and treatment. And you know, that's -- it's
20 been follow-up visits after that in terms of noting your
21 progress.

22 I don't believe the first visit we did an acupuncture
23 treatment, but we have done one on each of the subsequent
24 visits. So it looks like you've had seven acupuncture
25 treatments.

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1 Q. As far as you know in terms of my reports to you over the
2 time, have I followed all recommendations and tried to
3 incorporate the things you've said into my lifestyle?

4 A. Yeah. I mean, we've seen good progress. Like I said, the
5 letter is just short and concise. But basically whatever
6 detail you would like me to go in to, I could. So far there's
7 been a good response, and again, it's consistent with the
8 diagnosis and consistent with the responses we typically see.
9 There is nothing in your case that is that unusual from the
10 standpoint in terms of other patients we have seen in terms of
11 burn injuries or workman's comp injuries or accidents even.

12 We're often times the doctor of last resort. Sometimes
13 people have seen 10 or 15 specialists before they see us. So
14 you know, this was -- this wasn't an exceptional case, you
15 know, other than the fact that you're a professional and some
16 of the other things that you have gone through in terms of your
17 professional life, that makes it more unique. But otherwise,
18 it's consistent with what we see and your response is
19 consistent with what we see also.

20 Q. Okay. And there are -- you don't have me prescribed any
21 medications or anything like that. Correct?

22 A. Correct.

23 Q. And have I, you know, kept you posted outside of, you
24 know, what things I'm doing for myself, you know, outside of my
25 appointments with you?

1 A. It's all been very positive. There is nothing to report
2 that's a red flag of any kind to me. And again, you know, I'm
3 pleased with your progress and I think you are, too. And
4 again, you know, we're used to seeing this. Everybody is
5 different. Every case is different. But you fit right in to
6 the pattern of things that we have seen along these lines.
7 You've had a very positive response. That always thrills us.
8 Every time it happens, even though we're used to it, because
9 it's just very gratifying. So...

10 Q. And all of your treatments and subsequent follow-ups with
11 me have been centered on treating this anxiety or posttraumatic
12 stress disorder. Is that fair to say?

13 A. Well, I mean, we try not to get too hung up on diagnoses.
14 From the very beginning obviously we need to get some
15 background and we need to have the diagnosis for various
16 reasons. It gives us a starting point. But the whole point of
17 the treatment is a combination of balancing, you know.

18 And that's a combination of, you know, our experience with
19 western medicine and Chinese medicine and the fact that western
20 medicine in certain areas of chronic illness, emotionally or
21 stress-related things, sometimes we find that the acupuncture
22 works better than the western medicine. It doesn't have any
23 side effects. The results are more profound and positive in a
24 lot of cases. It's one of the reasons why we do this; when we
25 introduced it into our practice, we just saw some terrific

1 results. It just kind of grew and then we got more and more
2 training. And so --

3 Q. Well, maybe it wasn't proper for me to use those words of
4 diagnosis in there. But for example, when you're doing
5 acupuncture, you don't use the same pattern with every one of
6 your patients. Correct?

7 A. Every patient is different.

8 Q. Okay. And you use your acupuncture with me, for example,
9 the pattern that you set up and use of the needles is according
10 to your assessment of my, you know, physical/spiritual/mental
11 condition and, you know, your professional judgment as to how
12 it should be treated. Correct?

13 A. Correct. And there are certain imbalances. We all have
14 them. It's a fluid thing. It's not set in stone. It changes
15 from day to day. But we assess each time you come your balance
16 according to certain theories, and one of the theories in
17 Chinese medicine has to do with your different organs. So we
18 try to balance those organs. And you know, of course we can
19 have the overall concept of PTSD or depression or anxiety or
20 whatever it may happen to be.

21 But basically each time you come in we're just trying to
22 help you achieve balance so that your body recognizes it and
23 can maintain that balance. It could reset itself when it goes
24 off. It can be conscious enough or aware enough of what your
25 balance should be when you're placed back into balance so that

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1 if you tend to go off balance, you can correct it yourself.
2 And the drugs that are used often times, you know, in our
3 western practice sometimes interfere with that. So it's
4 actually better if you're not on the drugs, if you can do it.
5 In your case we haven't dealt with drugs at all the whole time.
6 You haven't needed them and we haven't used them.

7 Q. Okay. So is it fair to say then that you're treating --
8 that I'm getting back into this balance that you are trying to
9 achieve? I'm on that path of progress?

10 A. Yeah. I mean, I'm happy for you. I think you are
11 showing -- I think you are showing yourself to be going in a
12 healthy direction basically in all aspects of what I can tell.
13 So that's kind of what we're all about. And I'm happy to
14 report that that's what's going on with you. I'm happy to
15 help. If this helps you, hopefully -- I mean, again, I'm happy
16 to help you however I can. That's how we are with all of our
17 patients. But it's very gratifying, particularly when someone
18 has been going through something for 40 years and we start to
19 see it -- you know, start to see it turning around.

20 Q. Would you agree that communicating the diagnosis and
21 treatment information with the patient is an important part of
22 the treatment?

23 A. It's an important part of our treatment.

24 Q. Okay. And if you had met me ten years ago, would you have
25 expected anything different in terms of diagnosis, treatment,

1 things of that nature?

2 A. Obviously again since it's a fluid situation, it's hard
3 to -- it's hard to say. You know, things happen in context and
4 that's taking it pretty far out of context. But we wouldn't
5 have done anything different if you presented the same way.
6 You know, I mean if you had different life circumstances or
7 different things. You know, again, your imbalances now versus
8 ten years ago or your balances, for that matter, it's not all
9 negative, would maybe have been different and we may have had a
10 different approach or a different assessment or a different
11 treatment.

12 All I can really speak for is today or, you know, this
13 current course. But I can say that, you know, if you would
14 have seen us ten years ago, I don't think we would necessarily
15 have done anything different based on the fact that, you know,
16 a lot of your things have been going on for 40 years, I don't
17 know that ten years ago it would have been that different.

18 Q. And would you -- with everything that you know about me,
19 would you have expected my adjustment and progress to have been
20 the same?

21 A. I would hope so. Again, you know, every case is
22 different. Things change in and out of context. But sure, you
23 know, we're used to good results with people. And so I don't
24 know why you wouldn't have responded ten years to the same kind
25 of treatment if you came in with the same kind of issues.

1 MR. OSTROWSKI: Okay. Thank you, Dr. Schwartz.
2 That's all I have at this point.

3 THE COURT: Mr. Gilroy, would you care to cross
4 examine?

5 MR. GILROY: Yes.

6 CROSS EXAMINATION

7 BY MR. GILROY

8 Q. Dr. Schwartz, this is Hubert Gilroy. I'm going to be
9 asking you a few questions.

10 A. Sure.

11 Q. Doctor, other than the standard training every medical
12 student receives in medical school with respect to
13 psychotherapy and psychology, have you had any specialized
14 training in those fields?

15 A. Specialized training? No. I can tell you this. I mean,
16 it just plays into my experience. It wasn't specialized
17 training but...

18 Q. Other than your life experiences, have you had any
19 specialized training in those years?

20 A. Well, just let me say basically I was the director of a
21 substance abuse program for a year in an inpatient facility.
22 That happened by default. I was covering for a guy who was the
23 director who worked for me in the emergency room at the time.
24 This was about maybe 15 or 20 years ago. He left. So they
25 asked me if I would fill in, and I ended up doing that for a

1 year. So I had to study on my own, but I didn't have special
2 training. But I had special experience through that year.

3 Q. Doctor, have you ever in the past been qualified as an
4 expert witness in any court of law with respect to giving an
5 opinion on someone's mental health?

6 A. No.

7 Q. Am I correct that you said that the first two things you
8 wrote down in your notes when you met with Mr. Ostrowski was
9 anxiety and posttraumatic stress disorder?

10 A. Yes. Yes. I don't know if you heard me or not.

11 Q. I did not hear you. Thank you. So in fact, Mr. Ostrowski
12 showed up at your office and he suggested to you that he
13 suffered from anxiety and posttraumatic stress disorder?

14 A. Yes.

15 Q. And your treatment after that first visit, you've had six
16 or seven other visits, has been to treat Mr. Ostrowski with
17 acupuncture?

18 A. Yeah, basically that's been the treatment.

19 Q. Okay. And any other treatment?

20 A. Well, we've had a lot of discussions -- you know, this is
21 just sort of something personal in our life. But the basis of
22 our practice here is spiritual. So we have had a lot of
23 spiritual discussions. That may or may not have a -- I don't
24 know how that translates into what you are asking me.

25 But to me, in my experience, and you know, like what I saw

1 when I was running the substance abuse unit, you know, some
2 years ago is when people improve in terms of any substance
3 abuse issues which, you know, came up in the course of our
4 discussions too, generally what created permanent cures had to
5 do with spiritual conversions. I spoke with that because
6 that's based on my experience. I spoke with Andy.

7 He actually came in the first time to screen me, to ask me
8 questions to see if he felt it was appropriate for him to come
9 see me and if I would be somebody who could help him. That was
10 something we got into, because that's sort of the basis of my
11 treatment. You know, he was very open to that. In fact, he --
12 that was -- he was comfortable with that.

13 So I would say that that's another part of the treatment.
14 We have had spiritual discussions, because to me that's what
15 makes a permanent difference in your life. It's not just
16 substituting one problem for another or one addiction for
17 another, if you want to use that word or whatever. It's having
18 a true change in your life. And to me that's a spiritual
19 thing. That's not something that a doctor or a technician can
20 necessarily say they were the causes of it. You know, if Andy
21 gets cured, it's not from me. I'm merely an instrument.

22 So I wanted it to be understood from the beginning. We're
23 talking about spiritual matters, balance in his life and
24 something that's beyond technology. So the technology I used
25 in terms of acupuncture or whatever modality or any drug, even

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1 if I were to use that, that wouldn't be what cures him. What
2 cures him is from a higher source. You know, he was
3 questioning me how I operate. I explained that to him. He was
4 fine with it. Acupuncture is simply one of the modalities we
5 used. He may get more out of something else that we talk
6 about, so I don't want to neglect to mention that.

7 Q. Doctor, you indicated you have had a positive response in
8 treating Mr. Ostrowski. So since March 21, how is
9 Mr. Ostrowski different today than he was last March when he
10 met with you?

11 A. Well, when he first came in he was distressed. He was
12 anxious. That was the first thing he said. You know, he was
13 going through a lot of emotional things, if nothing else, and I
14 guess professional things. And you know, one of the reasons he
15 came in was because he had had a disorder that had been
16 bothering him for a long number of years.

17 I would say that he's much more at peace with himself. He
18 seems much more centered and more happy. You know, I think
19 he's better adjusted. You know, in terms of my diagnosis that
20 I do when I see him each time, he seems to be -- he seems to be
21 much more even.

22 MR. GILROY: I have no further questions.

23 MR. OSTROWSKI: Just a few brief.

24 THE COURT: Any redirect examination, Mr. Ostrowski?

25 MR. OSTROWSKI: Just a couple doctor.

REDIRECT EXAMINATION

1
2 BY MR. OSTROWSKI

3 Q. First of all, with respect to your inpatient substance
4 abuse treatment, I think you said you did that for a year. Is
5 that correct?

6 A. I filled in for the director who left until they could
7 find a new director but yeah, basically.

8 Q. So you were essentially a director of a substance abuse
9 treatment center for a year. Was that the position that you
10 served?

11 A. Yes.

12 Q. And in doing that work, you had -- was it a 12 step type
13 of facility?

14 A. It was a 28 bed inpatient unit in a hospital. And during
15 the time that I was there the criteria changed in terms of
16 insurances and what they would cover. So it's just an
17 interesting time in history.

18 But when I first started out and for about the first six
19 months, people could come in simply because they had an
20 addiction. A lot of times they came in simply because they
21 preferred going to a program rather than going to jail. So the
22 incentive of the people who were in there for the first six
23 months was not very strong to quit using their substance. It
24 was just basically to take a break or to get off the street or
25 have three meals a day, have a bed, you know, something like

1 that.

2 Then it changed, the criteria, and there was something
3 that was called dual diagnosis. And for the last six months,
4 and I just happened to be there during that year, you had to
5 have a medical necessity that prompted your admission and then
6 if you had an addiction as well, you could also be admitted for
7 that. You couldn't simply be admitted because you had an
8 addiction. So the focus of the patients and their motivation
9 drastically changed. I just witnessed that by being there. So
10 the people who were really sick had a much stronger motivation
11 to get off of the drugs or the alcohol than the people who just
12 came in basically to avoid going to jail.

13 So it was -- you know, again, I learned a lot through the
14 experience. But you know, I also learned a lot about patients,
15 their behaviors, their motivations. I can't remember what your
16 question was anymore. Sorry but...

17 Q. It was more or less a foundation question, and I'll just
18 ask you directly. Are you familiar through that experience
19 with the 12 step treatment?

20 A. Yes.

21 Q. And that is essentially a spiritual recovery program.
22 Correct?

23 A. Well, it actually -- yeah, it's got several facets to it.
24 One facet is definitely spiritual, and another facet to some
25 degree is substitution, you know, a kind of stepping down.

1 Like it's not actually built into the program, but it's sort of
2 one of the practical aspects or at least one of the ways it's
3 implemented as, you know, you try to get people if they are
4 addicted to something that's really strong or bad for them, you
5 try to step them down and substitute a lesser addiction and the
6 lesser addiction will kind of wean them off. There is some
7 value in that. That's kind of a western medicine concept. But
8 to me what makes the largest difference and what really changes
9 people is the spiritual again, like I said before.

10 Q. Okay. And you have -- you have suggested readings to me
11 and things of that nature. Is that correct?

12 A. Yes, different books.

13 Q. Okay. And one last question. Well also, we have talked
14 about prayer and meditation and all of those types of spiritual
15 faith-based practices. Correct?

16 A. Correct.

17 Q. And you're aware that I'm a lifelong Roman Catholic. Is
18 that correct?

19 A. Yes.

20 Q. Did you answer?

21 A. Yes. Sorry.

22 Q. Sorry. One last question. Every doctor interviews
23 patients and asks them what their symptoms and complaints are
24 when you first meet someone. Is that correct?

25 A. Correct. Well, I don't know what every doctor does. But

1 basically, it's typical like even in the emergency room the
2 first thing we list on patient's charts is the chief complaint.
3 That's kind of the standard medical doctor's note also starts
4 with the chief complaint, and that's in the patient's words.

5 MR. OSTROWSKI: Okay. Doctor, that's all of the
6 questions I have. I want to thank you very much and for your
7 kind words, as well.

8 THE WITNESS: Well, sure.

9 THE COURT: Mr. Gilroy, any recross examination?

10 MR. GILROY: Yes.

11 RECCROSS-EXAMINATION

12 BY MR. GILROY

13 Q. Doctor, with respect to the spiritual component --

14 A. Yes.

15 Q. -- would you counsel Mr. Ostrowski to copy the Vatican on
16 letters of the Pennsylvania Supreme Court?

17 MR. OSTROWSKI: Objection.

18 THE COURT: State the nature of the objection.

19 MR. OSTROWSKI: The objection is relevance and
20 argumentative. There is no foundation for it or anything of
21 that nature.

22 THE COURT: The objection is overruled. You may
23 proceed with your question, Mr. Gilroy.

24 BY MR. GILROY

25 Q. The question was, Doctor, as far as the spiritual aspect

1 of your counseling with Mr. Ostrowski, would you counsel him to
2 copy the Vatican with communications he would have with the
3 Pennsylvania Supreme Court?

4 A. Would I counsel him?

5 Q. Yes.

6 A. No. We -- when I speak with -- when I mention spiritual,
7 it has to do with one's spiritual beliefs and how that affects
8 their health. It has nothing to do with anything political or
9 legal or even representing any particular religion.

10 MR. GILROY: Thank you. Nothing further.

11 THE COURT: All right. Dr. Schwartz, this is the
12 Court. Thank you very much for your testimony this morning.
13 It's appreciated. And we'll ring off.

14 THE WITNESS: Okay. Thank you.

15 THE COURT: You're quite welcome. Goodbye.

16 (Witness excused, phone call terminated.)

17 THE COURT: Mr. Ostrowski, do you want to proceed with
18 your next witness?

19 MR. OSTROWSKI: Yes. My next witness will be Garen
20 Meguerian.

21 MR. MEGUERIAN: Your Honor, he intends to call Dr.
22 Kruszewski's counsel as a witness. I have not been subpoenaed.

23 MR. GILROY: We would ask for an offer of proof,
24 Judge.

25 THE COURT: What is the offer of proof? You are Mr.

1 Meguerian?

2 *MR. MEGUERIAN:* Yes.

3 *THE COURT:* What would be the purpose of calling Mr.
4 Meguerian, who is counsel for Dr. Kruszewski, Mr. Ostrowski?

5 *MR. OSTROWSKI:* My offer of proof relates to a
6 March 22nd, 2013 letter that Mr. Meguerian sent me. If he
7 would stipulate that is his letter and he sent it to me, I
8 would be happy to show it to him, that wouldn't be a problem.
9 I intend to call Dr. Kruszewski as an adverse witness under
10 Federal Rule of Evidence, I believe it's 611(c), and to use
11 cross-examination with him. This is a foundational piece of
12 evidence to establish that there is indeed a basis to use -- to
13 call -- to use leading questions with respect to Dr.
14 Kruszewski.

15 If Mr. Meguerian would like to admit that he sent me
16 this letter and that I sent a response to him, I think we could
17 obviate the need for any testimony. He's in the courtroom, him
18 not being subpoenaed and is not a material issue. He sent me a
19 totally inappropriate and professionally threatening letter.
20 And he's the agent of Dr. Kruszewski.

21 *THE COURT:* Mr. Gilroy, would you care to speak to
22 this issue?

23 *MR. GILROY:* Sure. We don't need the attorney to
24 testify. I have no objection if Mr. Ostrowski suggests the
25 doctor is an adverse witness and wants to proceed as of on

1 cross-examination. I will reserve the objection as to whether
2 any of his testimony is relevant, though. I don't think we
3 need to put the lawyer on the stand.

4 *THE COURT:* Well --

5 *MR. GILROY:* From everything I have looked at, I know
6 they are adverse. So we can agree with that.

7 *MR. OSTROWSKI:* Can we get -- to the extent this gets
8 into evidence --

9 *THE COURT:* Why is this letter helpful or unhelpful to
10 persuade the Court? Remember what you are here to do. What
11 are you here to do today, Mr. Ostrowski?

12 *MR. OSTROWSKI:* I'm here to do what I --

13 *THE COURT:* Broadly, what are you here to do?

14 *MR. OSTROWSKI:* I'm here to get readmitted.

15 *THE COURT:* You are here to persuade the Court.

16 Right?

17 *MR. OSTROWSKI:* Right.

18 *THE COURT:* Right. How is this helpful in persuading
19 the Court? You have Dr. Kruszewski. He's subpoenaed. Call
20 him as your witness and proceed.

21 *MR. OSTROWSKI:* Okay.

22 *THE COURT:* How does Mr. Meguerian's letter, whether
23 it's an offensive letter or it's not, helpful to persuading
24 this Court?

25 *MR. OSTROWSKI:* The level of animosity and hostility

1 with which I was treated from a physician who was supposed to
2 have my best interests at heart is very persuasive in terms of
3 affecting the mind of the Court.

4 *THE COURT:* Right. But you can take that up in your
5 examination under Rule 611 of Dr. Kruszewski, can't you?

6 *MR. OSTROWSKI:* Okay. Okay. Thank you, Your Honor.

7 *THE COURT:* Isn't that going to be persuasive or not
8 persuasive? I don't think there is any need to call Mr.
9 Meguerian.

10 *MR. OSTROWSKI:* Okay.

11 *THE COURT:* Mr. Meguerian, is there anything you care
12 to add to that?

13 *MR. MEGUERIAN:* Your Honor, the only thing I would
14 like is the ability to object when Dr. Kruszewski is on the
15 stand.

16 *THE COURT:* I will grant you that ability. Mr.
17 Gilroy, I assume you have no objection to that.

18 *MR. GILROY:* None at all, Judge.

19 *THE COURT:* Mr. Ostrowski.

20 *MR. OSTROWSKI:* I do have an objection to that. This
21 is my disciplinary proceeding where special disciplinary
22 counsel, Hubert Gilroy, has been given a special assignment by
23 Judge Kane to prosecute this case. He knows and knew fully
24 well that -- I attached a ten-page statement that I wrote out
25 about Dr. Kruszewski. It muddies the record. I don't know --

1 I know that a motion to quash subpoenas was filed just on
2 Friday, but I don't think that this gentleman has any standing
3 to come in and, you know, object to questions in my
4 disciplinary proceeding.

5 I have no problem if he wants to sit by Mr. Gilroy and
6 confer with him. But Mr. Gilroy is lead counsel in this case
7 and I don't know that this gentleman has an appearance entered
8 for anything other than that motion to quash.

9 *THE COURT:* Your objection is noted as overruled. The
10 Court did issue an order dated August 23rd, 2013. I think it
11 speaks for itself. It's the penultimate note. The final
12 paragraph of the Order says, "The undersigned is sympathetic to
13 Dr. Kruszewski's arguments, reminds Ostrowski that this hearing
14 is related only to Ostrowski's motion for readmittance to
15 practice in the Middle District. This hearing is not an
16 opportunity for Ostrowski to ostensibly move for readmittance
17 but in fact litigate a hypothetical medical malpractice case
18 against Dr. Kruszewski."

19 To the extent that we venture into that area, Mr.
20 Meguerian, I think, would be appropriately able to object. If
21 you don't venture into that area, Mr. Meguerian, I'm sure, will
22 be silent. You may proceed. Are you calling Dr. Kruszewski as
23 your witness?

24 *MR. OSTROWSKI:* Yes, I am calling Dr. Kruszewski.

25 *MR. GILROY:* We would ask for an offer of proof,

1 Judge, for this particular witness. Our understanding is Dr.
2 Kruszewski has not treated Mr. Ostrowski for eight years. On
3 that basis, where we believe the focus of this hearing should
4 be, we would suggest anything he has to say is not relevant.

5 Were this case before the Pennsylvania Supreme Court
6 on a reopen proceedings to determine whether there was any
7 mitigation that should have been offered three years ago,
8 perhaps it may be relevant, perhaps it may not. But for
9 purposes of this Court's proceeding, I'm going to suggest that
10 it's not relevant at all as to what this doctor who hasn't
11 treated the patient for eight years has to say.

12 *THE COURT:* Mr. Ostrowski, would you care to respond
13 to that?

14 *MR. OSTROWSKI:* Yeah, I will respond. That is
15 patently absurd for him to make that argument. The ten-page
16 statement I wrote out against Dr. Kruszewski and submitted to
17 the Pennsylvania Bureau of Occupational and Professional
18 Affairs was attached to my motion. The entire premise of the
19 motion was that I had this evidence that I was mistreated by a
20 physician. Whether I have other claims against this gentleman
21 or not are not for this proceeding, and I will be very candid
22 in saying that I do have claims against him.

23 I am not using this proceeding for a discovery
24 proceeding or to set up a claim for any other reason. The
25 statement was the basis of my motion. Dr. Schwartz just

1 testified extensively without one single objection to my
2 medical history, and even a question as to what if he had
3 treated me ten years ago. The relevant conduct under the
4 standard under Rule 86 -- 83.26.3 is to determine my moral
5 qualifications, competency and learning in law. I have to
6 demonstrate that by clear and convincing evidence.

7 This gentleman, Dr. Kruszewski's, mistreatment of me
8 under the guise of so-called treatment of me was a huge, huge
9 factor that affected my life. It affected my licensing status.
10 It is directly relevant to these proceedings, and I will be
11 completely compromised if I am not able to call him.

12 I believe the objection is waived by allowing this Dr.
13 Schwartz. You granted the opportunity without objection for
14 Dr. Schwartz to testify. Nobody filed a motion or anything.

15 *THE COURT:* Thank you. The objection is overruled. I
16 think Dr. Kruszewski's testimony is relevant for a limited
17 purpose. However, the Court is not particularly interested in
18 prior medical treatment. So you are allowed to examine this
19 witness. Mr. Gilroy can cross examine, or essentially it would
20 be a direct examination, I guess, if you are going to take this
21 witness under Rule 611. But it's for a limited purpose,
22 Mr. Ostrowski.

23 *MR. OSTROWSKI:* Okay.

24 *THE COURT:* The objection is overruled. You called
25 the witness. Dr. Kruszewski, if you would come forward.

1 Mrs. McLaughlin will swear you in. Mrs. McLaughlin.

2 STEFAN PHILIP KRUZEWSKI,
3 called as a witness on behalf of the Plaintiff, having been
4 duly sworn or affirmed according to law, testified as follows:

5 THE COURTROOM DEPUTY: Please be seated.

6 THE COURT: And Gentlemen, excuse me just a moment.
7 The Court would prefer, if there are going to be exhibits
8 admitted, offered in I think at the conclusion of each
9 witness's testimony. So Mr. Ostrowski, you offered in
10 Plaintiff's Exhibit 1, which is the correspondence, 'To Whom it
11 May Concern' letter dated May 3rd, 2013 signed by -- I assume
12 signed by Dr. Schwartz. Do you move the admission of this
13 exhibit?

14 MR. OSTROWSKI: I formally move that into evidence.

15 THE COURT: Any objection to this, Mr. Gilroy?

16 MR. GILROY: No objection.

17 THE COURT: Then this exhibit is duly admitted. Thank
18 you.

19 MR. GILROY: Your Honor, if I may have an
20 understanding with the Court. Just because I'm not objecting,
21 I don't want to be here all day arguing objections. I suspect
22 the Court is of the same mind. Just because I'm not objecting
23 to some information, that doesn't suggest that it's relevant.
24 I've already put on the record my position with respect to this
25 witness's testimony.

1 *THE COURT:* Yes. And that is so noted. Thank you.

2 *THE COURTROOM DEPUTY:* Would you please state your
3 full name for the record?

4 *THE WITNESS:* Yes. Stefan Philip Kruszewski.

5 *MR. OSTROWSKI:* Your Honor, may I approach the
6 witness?

7 *THE COURT:* You may approach the witness.

8 DIRECT EXAMINATION (as-on-cross)

9 *BY MR. OSTROWSKI*

10 *Q.* Could you please state your full name, sir?

11 *A.* Yes. It's Stefan Philip Kruszewski.

12 *Q.* And what is your background and qualifications? You are
13 currently a licensed medical doctor in the State of
14 Pennsylvania. Correct?

15 *A.* Yes. I went to Princeton University and graduated in
16 1973. I went to Harvard Medical School and graduated in 1977
17 with an emphasis in pediatric neurology. I then went on to
18 internal medicine at Beth Israel Deaconess Hospital in Boston.
19 Subsequent to that I went to the Robert Wood Johnson University
20 of Medicine and Dentistry in New Jersey and studied psychiatry
21 and stayed on their faculty for two years in
22 psychopharmacology, epidemiology.

23 Subsequent to that I was licensed in a number of states
24 including Pennsylvania. I'm actively licensed right now in
25 Texas and California, Indiana, Nebraska, New Jersey, Delaware

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1 and as I said, Pennsylvania. I'm board certified by the
2 American Board of Psychiatry and Neurology and General
3 Psychiatry. I was previously board certified in addiction
4 psychiatry and geriatric psychiatry by the same Board. I was
5 certified also by the American Board of Adolescent Psychiatry,
6 and I am certified for the lifetime by the American Board of
7 Addiction Medicine.

8 I currently am employed for ten years working for
9 Gaudenzia, Incorporated in Harrisburg and vicinity. I've also
10 been working for Mazzitti and Sullivan for 13 years now. As
11 you know, I have a long history of being a qui tam relator. I
12 have had three successful settlements, one against Pfizer,
13 Incorporated and one against AstraZeneca, Incorporated and one
14 against Southwood Psychiatric Hospital in Pittsburgh,
15 Pennsylvania.

16 My current academic appointment is with the Johns Hopkins
17 University Medical School with the Bloomberg School of Public
18 Health. In that department I worked for the Center for Drug
19 Safety and Effectiveness in the department of mental health.

20 Q. And Doctor, as a convenience, I placed before you an
21 exhibit marked as Plaintiff's Exhibit 2. Do you have that in
22 front of you? I think I have that --

23 A. Yes, I do.

24 Q. Is that your CV? Look at the stickers on the bottom. One
25 is a two and one is a three. Frankly, I forget what I put the

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1 numbers on. I thought two was your curriculum vitae.

2 A. I'm sorry. I'm not hearing you.

3 Q. There's a pink sticker on the bottom right-hand corner.

4 A. It says number two.

5 Q. That's Exhibit 2. You have that -- it says updated March,
6 2013. And that is on your medical website. Is that correct?

7 A. I think that's correct. I brought a more updated one
8 actually and counsel has it.

9 Q. If he wants to use it, I won't have an objection. But
10 this is fine for my purposes. This is prepared by you and is a
11 full and accurate summary as of March of 2013 of your
12 background and qualifications. Is that correct?

13 A. That's correct.

14 Q. Now, Doctor, could you briefly describe what
15 neuropsychiatry is?

16 A. My specialty is primarily addiction medicine. My
17 secondary specialty is neuropsychiatry. That's the
18 neurological underpinnings of psychiatric disorders.

19 Q. And would that include things like studying anxiety and
20 treating anxiety conditions and things of that nature?

21 A. If there are -- if there's an organic basis for anxiety,
22 yes. But the general study of anxiety is within the confines
23 of general psychiatry.

24 Q. Okay. I believe you said you were formerly certified in
25 addiction psychiatry. Did I hear that correctly?

KRUZEWSKI - DIRECT (as-on-cross)

1 A. Yeah. One of the subspecialty boards under the American
2 Board of Psychiatry and Neurology is addiction psychiatry. It
3 lapses after ten years, and I didn't retake the exam because I
4 was already board certified by the American Board of Psychiatry
5 and by the American Board of Addiction Medicine.

6 Q. But you still specialize in addiction psychiatry.
7 Correct?

8 A. That's correct.

9 Q. And you are board certified in neuropsychiatry. And do
10 you specialize in that, as well?

11 A. There is no board in neuropsychiatry. That's one of my
12 subspecialties. There is no specific board for that.

13 Q. And you know who I am. Correct?

14 A. You are Mr. Ostrowski, yes.

15 Q. And we met professionally. Is that correct?

16 A. Yes. In July of 2003.

17 Q. Okay. And you have a recollection of meeting me and
18 treating with me. Is that correct?

19 A. I do.

20 Q. Now, I had served or sent a request for medical records to
21 your office. Are you aware of that?

22 A. Yes.

23 Q. That was in or around February 2013. Correct?

24 A. February or March of 2013, yes.

25 Q. And have those records -- where are those records?

KRUZEWSKI - DIRECT (as-on-cross)

1 A. The records at this moment, a copy of them are with
2 counsel.

3 Q. Okay. May I have a copy of my records?

4 A. No.

5 *MR. OSTROWSKI:* I don't think that that is really your
6 decision, Doctor. I subpoenaed the records. They haven't been
7 provided to me. I sent a medical request. I did a follow-up
8 medical request and got a threatening letter from that lawyer
9 who now has my records and this gentleman won't give them to
10 me?

11 *MR. MEGUERIAN:* Your Honor.

12 *THE COURT:* Mr. Meguerian, do you want to speak to
13 this issue?

14 *MR. MEGUERIAN:* Yes. Your Honor, you specifically
15 said this was not going to be discovery opportunity for
16 Mr. Ostrowski. Unless he can explain why his records are
17 relevant from eight years ago for his fitness to return to the
18 practice of law before this Court, I see no basis for him to
19 obtain those records.

20 *MR. OSTROWSKI:* How about --

21 *THE COURT:* Mr. Ostrowski, why are they relevant to
22 today's proceeding?

23 *MR. OSTROWSKI:* Well --

24 *THE COURT:* It may be relevant to another proceeding.
25 Why are they relevant to today's proceeding?

KRUZEWSKI - DIRECT (as-on-cross)

1 *MR. OSTROWSKI:* One, I sent a records request in
2 February of 2013. I got a mealy-mouth response saying our
3 policy is to destroy these records after seven years. And I
4 did a follow-up request to that and got a threatening letter
5 from that lawyer about not ever contacting this man again, et
6 cetera, et cetera, et cetera.

7 So let's not talk about proceedings. Let's talk about
8 me being a patient of this physician. And I don't have to give
9 anybody a reason why I want my records. They are my records
10 and I want them and he has them. And this doctor is under
11 subpoena to give them to me and should give them to me right
12 now.

13 *THE COURT:* I don't think these records are relevant
14 to today's proceedings. So to the extent that there's an
15 objection, that objection is sustained. Do you have some other
16 questions for this witness?

17 *MR. OSTROWSKI:* Yes. Thank you.

18 *THE COURT:* Go right ahead.

19 *BY MR. OSTROWSKI*

20 *Q.* Okay. Sir, when I came to visit you -- well, let's just
21 get right to -- you never said I have posttraumatic stress
22 disorder. Correct?

23 *MR. MEGUERIAN:* Your Honor, objection again.
24 Relevance. We are talking about eight years ago.

25 *THE COURT:* What is the relevance of that question,

KRUZEWSKI - DIRECT (as-on-cross)

1 Mr. Ostrowski, relative to today's proceeding, which deals with
2 a reinstatement to the Bar of the Middle District of
3 Pennsylvania?

4 *MR. OSTROWSKI:* The relevance to that proceeding is
5 the trauma and anxiety disorder with which I was obviously
6 affected for 40 years, according to the doctor who just
7 testified without objection, substantially. And I'll testify,
8 too, and I'll tie this stuff together. But it substantially
9 impacted my prior standing with the Bar.

10 One of the key components in my disciplinary case was
11 a case by the name of Aaron Chambers that was being litigated
12 before Judge Kane. And my psychiatric/medical, however you
13 want to label it, condition related substantially to that
14 discipline. I think that this Court in determining whether I
15 should currently be readmitted, I caused -- I caused some
16 inconvenience to a judge of this Court. I caused potential
17 prejudice and tremendous inconvenience to my client. Those
18 relate specifically to my competency and ability to practice
19 law. And it's the entire premise of my motion, and it was the
20 entire premise of Dr. Schwartz's testimony that the evidence
21 has been admitted into the record.

22 *THE COURT:* Didn't we get that testimony, though,
23 really from Dr. Schwartz earlier this morning?

24 *MR. OSTROWSKI:* Your Honor, well, we got that that is
25 my current diagnosis.

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1 *THE COURT:* Isn't that what this Court should be
2 concerned about today, in terms of readmission to the Bar
3 today? That is what you are seeking in your May 2013 motion to
4 the Court.

5 *MR. OSTROWSKI:* But looking back also, Your Honor,
6 to -- and I think I just addressed the issue. These stress
7 disorders -- you know, my quote, unquote misconduct never
8 involved one deceitful word I ever uttered and never involved
9 any lies, never involved taking money from people, never
10 involved criminal behavior. It involved me having some severe
11 psychic issues that I was dealing with.

12 My contention when we do post hearing briefing is I
13 never would have experienced these psychic issues had I ever
14 been on the diagnosis that I had been searching for for years
15 and properly treated.

16 *THE COURT:* Well, the Court -- thank you, Mr.
17 Meguerian. The Court understands that. The objection is
18 sustained. Do you have some other questions for this witness?

19 *MR. OSTROWSKI:* Sure.

20 *BY MR. OSTROWSKI*

21 *Q.* Doctor, I placed before you an exhibit marked as
22 Plaintiff's Exhibit Number 3. Do you have that?

23 *A.* Yes, I do.

24 *Q.* It says at the top of it received by a Kendra Donnelly
25 4/10/13 and sworn statement of Andrew J. Ostrowski.

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1 A. Yes.

2 Q. Have you seen that before?

3 A. I'm aware of it. I've not read it.

4 Q. Okay. So this is the first time then that you are seeing
5 it?

6 A. I'm aware of it but I've not read it.

7 Q. Well, being aware -- I want to know if you have seen it
8 before.

9 A. I've seen the cover. I have not read the document.

10 Q. Okay. The -- during the course of -- could you describe
11 for the Court what your treatment of me involved?

12 *MR. MEGUERIAN:* Objection, Your Honor. Again, we're
13 getting into past treatment.

14 *THE COURT:* I think I've made it clear, as politely
15 and as formally as we can, that we don't want to venture down
16 that path. That objection is sustained.

17 If you have other questions of this witness,
18 Mr. Ostrowski, you may certainly ask them.

19 *BY MR. OSTROWSKI*

20 Q. Doctor, you're an oil painter. Is that correct?

21 A. Yes.

22 *MR. MEGUERIAN:* Objection, Your Honor. Not relevant.

23 *THE COURT:* What would the relevance of that be to
24 this proceeding relating to your reinstatement --

25 *MR. OSTROWSKI:* I will withdraw --

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1 *THE COURT:* Excuse me. Relating to your reinstatement
2 to the Bar of the Middle District of Pennsylvania?

3 *MR. OSTROWSKI:* Well, Doctor -- or excuse me. Judge,
4 the relevance is I attached a ten-page sworn statement to my
5 motion to be readmitted.

6 *THE COURT:* Dr. Kruszewski has testified that he is
7 familiar with it but has not read it.

8 *MR. OSTROWSKI:* Well, this is a statement of me.
9 That's fine. I'm not going to ask him specifically about the
10 statement. But this statement contains a whole host of factual
11 allegations that I have made --

12 *THE COURT:* But we will give you the opportunity to
13 testify about that in detail if you care to.

14 *MR. OSTROWSKI:* Well, you know --

15 *THE COURT:* It seems to me this question is not
16 relevant to today's proceedings, so the objection is sustained.
17 If you have other questions of this witness, you may ask them.

18 *MR. OSTROWSKI:* I understand. I just want to make a
19 point about your statement about I'll be given an opportunity
20 to testify. I understand I'll be given an opportunity to
21 testify. This is my hearing and I'm going in the order that I
22 deem appropriate. And frankly, I called Dr. Kruszewski second
23 out of respect for his concerns as expressed by his counsel as
24 to wanting to get out of here and things of that nature.

25 May I take this -- may I have this witness step down

KRUZEWSKI - DIRECT (as-on-cross)

1 and I take the stand and testify and then call him to lay some
2 foundation?

3 *THE COURT:* No. No. Mr. Ostrowski, I understand what
4 you are saying. It's really the Court's hearing today. You
5 are the subject of the Court's hearing. Now, do you have other
6 questions of this witness?

7 *MR. OSTROWSKI:* Yes.

8 *THE COURT:* If you do, you certainly may ask them.

9 *BY MR. OSTROWSKI*

10 Q. Doctor, did you once ask me if you could paint a picture
11 of me naked?

12 *MR. MEGUERIAN:* Objection, Your Honor.

13 *MR. GILROY:* Objection, Judge.

14 *MR. MEGUERIAN:* This is now bordering on harassment,
15 Your Honor.

16 *THE COURT:* Why are these questions relevant to
17 today's proceedings which would relate to your readmittance to
18 the Bar of the Middle District of Pennsylvania, Mr. Ostrowski?

19 *MR. OSTROWSKI:* Because as I have said at length on
20 several occasions, not only was this a failure to communicate a
21 diagnosis issue but that the treatment, if you want to call it
22 treatment, that I was subjected to was part of the problem.
23 This man is the one that put me into the position that I was in
24 that directly led to the disciplines that I was involved in.

25 *THE COURT:* Well, the Court understands that. The

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1 objection is sustained. If you have other questions of this
2 witness, you may ask them.

3 *MR. OSTROWSKI:* Okay.

4 *BY MR. OSTROWSKI*

5 *Q.* Doctor, you said something about anxiety early on and you
6 commented on that. And you said to the extent it's
7 biologically or physiologically based. Isn't every anxiety
8 reaction, in essence, physiological?

9 *A.* I probably would agree with that, yes.

10 *Q.* Are you familiar with the HPA axis?

11 *MR. MEGUERIAN:* Your Honor, is Mr. Ostrowski going to
12 compensate Dr. Kruszewski to act as his expert? He's here
13 essentially as a hostile witness, and now he's being probed
14 into areas that are more appropriate for an expert witness.

15 *MR. GILROY:* That was my objection.

16 *MR. MEGUERIAN:* And believe me, he is not being
17 compensated for that. I can represent that to the Court. So
18 if Mr. Ostrowski wants to compensate Dr. Kruszewski as an
19 expert at his normal hourly rate, I will be happy to let Dr.
20 Kruszewski testify on these questions.

21 *THE COURT:* Do you want to speak to that, Mr. Gilroy?

22 *MR. GILROY:* I would even suggest he could refuse to
23 testify as an expert witness. Just because you're an expert
24 doesn't mean you can be subpoenaed and required. He is asking
25 this witness expert questions. This is a fact witness. I

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1 object.

2 *THE COURT:* Why are these objections inappropriate,
3 Mr. Ostrowski? It seems to the Court that they are --

4 *MR. OSTROWSKI:* What's inappropriate is this wise guy
5 response like does he want to compensate him for being an
6 expert witness. Just make an objection on the record next
7 time. And I don't need to be patronized or ridiculed about
8 asking appropriate objections (sic). So that's one thing
9 that's inappropriate about the objection.

10 *THE COURT:* The Court notes that.

11 *MR. OSTROWSKI:* Secondly, I spoke to the issue. It
12 all relates to my prior history.

13 *THE COURT:* Mr. Ostrowski, the Court has made a ruling
14 on that already. It has made a ruling in its Order of
15 August 23rd, a copy of which I assume you received and which I
16 read to you earlier.

17 *MR. OSTROWSKI:* And Your Honor, in all candor, I would
18 have been -- I haven't even -- the Order just came late in the
19 mail yesterday and I did not even --

20 *THE COURT:* Well, I have it here. Would you like to
21 take a look at it?

22 *MR. OSTROWSKI:* No. You read it.

23 *THE COURT:* So the objection is sustained. If you
24 have other questions of this witness that would be germane to
25 these proceedings, you certainly may ask them. Go right ahead.

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1 MR. MEGUERIAN: Your Honor, I want to apologize for my
2 tone on the earlier objection. I will try to restrain myself.

3 THE COURT: Thank you.

4 MR. MEGUERIAN: Thank you.

5 BY MR. OSTROWSKI

6 Q. Did you have a diagnosis for me?

7 MR. GILROY: Objection, Judge. Not relevant, a
8 diagnosis from eight years ago.

9 THE COURT: I've sustained the objection consistent
10 with my prior rulings. Mr. Ostrowski, do you have other
11 questions of this witness?

12 MR. OSTROWSKI: Judge, if I can seek clarification.
13 You allowed this witness to testify and said that he was
14 available -- you thought that it was appropriate for limited
15 purposes.

16 THE COURT: Yes.

17 MR. OSTROWSKI: I'm sorry. May I take a moment and
18 read the Order? I'm sorry. Maybe I missed something.

19 THE COURT: My Order? Certainly.

20 (pause.)

21 MR. OSTROWSKI: Your Honor, since it just came in the
22 mail yesterday, got the belatedly filed motion to quash that
23 was filed --

24 THE COURT: Well, Mr. Ostrowski, would you like to
25 take a few minutes?

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1 *MR. OSTROWSKI:* Yeah, I do. But I do want to say
2 this.

3 *THE COURT:* The Court can stand in recess for ten
4 minutes, if you would like to familiarize yourself with the
5 Court Order. Mr. Gilroy, I assume there is no objection to
6 that?

7 *MR. GILROY:* I could use a break anyway. These
8 motions are on-line. Everybody has access to it. Even I, Fred
9 Flintstone of computers, is able to know that there is
10 something filed.

11 *THE COURT:* The only thing is, and the Court sort of
12 made an error in this originally, Mr. Ostrowski is a suspended
13 member of the Bar so he is not a filer now in the ECF system.
14 When the Court issued the Order originally, it was sent out to
15 him through ECF. Of course he couldn't receive that. That's
16 the Court's error. He's a member of the Bar, but he's a
17 suspended member of the bar. So everything that is sent to
18 Mr. Ostrowski, as he corrected us, is sent through first class
19 mail.

20 *MR. GILROY:* I stand corrected.

21 *THE COURT:* In that sense, he probably is receiving
22 the mail late. Why don't we do this? Mr. Ostrowski, why don't
23 you take a look at the Court's Order, that's fine, and some
24 other correspondence. Why don't we stand in recess for about
25 15 minutes? We'll reconvene at 11:40. The Court will rise.

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1 *THE COURTROOM DEPUTY:* All rise.

2 (A recess was taken from 11:25 a.m. to 11:40 a.m.)

3 *THE COURT:* All right. We're back on the record.

4 Mr. Ostrowski, did you have a chance to look over the Court's
5 Order of August 23rd of this year and the other correspondence
6 that was referenced to the Court?

7 *MR. OSTROWSKI:* Yes, Your Honor.

8 *THE COURT:* And I gave you, by the way, the Court's
9 copy of the Order, which you are welcome to keep. No, that's
10 fine. You keep it. I had my staff print me another copy.

11 *MR. OSTROWSKI:* Just for the record, Your Honor, you
12 know, it could be helpful that you didn't indicate and you said
13 that it would be relevant for limited purposes. I came into
14 this proceeding thinking that anybody that knows a thing about
15 Andy Ostrowski and that would be Courts who have called my
16 office questioning, and Judge Caldwell at one point called
17 Mr. Bailey and asked him how I was. Judge Kane called the
18 office and asked him how I was doing, I believe. Other Courts
19 have made inquiries. Clients have made inquiries. I've got
20 family members who have made inquiries, Andy, what has gone on
21 with you for the past five or six years.

22 I would think that in your mind as you make the
23 decision on this motion that you would like to have some
24 evidence about what the heck has gone on with Andy Ostrowski
25 for the past seven or eight years.

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1 Every one of my questions has been directed to that.
2 This motion, this outrageous motion -- and I agree with your
3 characterization that it was -- you know, there were concerns
4 that these gentleman had about the statements that I have made.
5 And I have no secret that I have legal claims against Dr.
6 Kruszewski that I fully intend to pursue.

7 But this course of communication started with a two
8 sentence request for my medical records that came back as being
9 denied. So you know, and whether I filed a complaint against
10 him with the Pennsylvania Department of State, Bureau of
11 Professional Occupational Affairs, that is my complete right as
12 an American citizen to do and somebody who legitimately feels
13 that -- and is no one that doesn't read that statement that I
14 wrote and look at this guy and say what the heck did you do to
15 him.

16 I believe that all of that testimony is relevant. It
17 was the basis upon which this hearing was granted. I
18 understand that, Your Honor, you are -- you know, I've been
19 into this situation with the Courts, in the Middle District in
20 particular, before where the judge appeared to have some
21 preconceived notion about what relevant issues are that somehow
22 or other the defense attorneys are always in cue with. And I'm
23 not suggesting any improper communications or anything.

24 *THE COURT:* I hope not.

25 *MR. OSTROWSKI:* No. No. Of course not. But they get

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1 up and object, kind of knowing, you know, that they are just --
2 they just muddy the waters. I could have been done with this
3 witness a considerable period of time ago. Every question that
4 I ask, it makes me feel well -- and I've been down this road
5 too many times to even count, that I'm sitting here thinking
6 well, if I asked this question and the judge is going to start
7 getting frustrated with me. But I think it's a relevant
8 question. I know it's a relevant question. I know in all my
9 experience, education and training that these are relevant and
10 material issues to these proceedings, but I'm going to start
11 angering the judge. He's going to allow these guys to get up
12 and object to every single question I ask. And it creates a
13 very cumbersome process.

14 With all that being said, I would take exception to
15 every one of your prior rulings that these are not relevant and
16 ask the Court maybe if you can offer me a little better
17 guidance as to what you -- I mean, you denied a motion to
18 quash. You said that you believe that this gentleman has
19 things to offer for purposes of this proceeding.

20 And maybe if you can educate me a little bit more, I
21 won't feel -- honestly, Judge, when I ask these questions, I
22 ask them in good faith with a reasonable belief that they are
23 based in law and fact. And I do not do it -- I don't want to
24 frustrate you. You and I have never met before. I'm hoping to
25 return to practice in front of you, and I would like to just

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1 make sure that I'm doing everything that I can to comport with
2 your thinking and conduct myself accordingly.

3 *THE COURT:* Well, the Court notes your observations
4 and thanks you for the same. What the Court is interested in,
5 I suppose, is Dr. Kruszewski's recent interactions with you, if
6 there have been any, that would weigh on whether or not you are
7 fit to return to the practice of law before the Bar of the
8 Middle District of Pennsylvania. And that evidence, that
9 testimony may be elicited either under cross-examination or
10 perhaps direct examination from Mr. Gilroy or maybe not at all.

11 *MR. OSTROWSKI:* I --

12 *THE COURT:* And that is why this Court believes that
13 this witness has relevant testimony to offer. But I think I
14 have made it clear that this witness's treatments of you eight
15 years past is not relevant to today's proceeding. I understand
16 that you disagree with that. That's the Court's ruling.

17 I also understand that you have other issues you've
18 referenced, and for that matter Dr. Kruszewski, through his
19 counsel, has referenced in his motion to quash. But those
20 issues are for another day in another court.

21 *MR. OSTROWSKI:* Well, with all due respect, Your
22 Honor, I think I understand what you want me not to do. It is
23 hard for an attorney or litigant in my position to conform my
24 thinking and presentation to matters that I know just are in
25 error. And I -- you know, I say this with all due respect.

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1 You know, I attached this motion -- this statement to my motion
2 that was all about Dr. Kruszewski. You know, the hearing was
3 granted on the motion with this statement attached. There were
4 no -- there wasn't even a response to the motion asked for.
5 There was no prehearing procedures put into place.

6 *THE COURT:* But Mr. Ostrowski, you are kind of getting
7 to what the Court would be concerned about. That is this.
8 Courts makes rulings and sometimes those rulings are in error.
9 Some of my rulings may be in error. Mr. Meguerian strongly
10 believes that the ruling I made on August 23rd was in error.
11 He may be right about that.

12 The Court did its level best to consider the motion to
13 quash and to make a ruling on that motion to quash that day,
14 which meant moving everything else off the Court's desk to
15 attend to that issue. The reason for that is, of course, and
16 we had the hearing on Tuesday. But we disagree about that
17 intellectually. If you can't conform -- I use that simply as
18 an example here.

19 If you, as an attorney, as an officer of the court,
20 cannot conform your thinking to a Court's ruling, how on earth
21 can you return and effectively practice before this or any
22 other Court? Judges make rulings that you may not agree with
23 intellectually. And those judges, or at least this judge,
24 acknowledges that those rulings in some cases may be in error,
25 even if the Court does its level best to make those rulings

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1 correctly, you know with appropriate intellectual
2 consideration --

3 *MR. OSTROWSKI:* I --

4 *THE COURT:* -- courts makes rulings. All Courts do.
5 If the Court doesn't make a ruling and the ruling is not
6 followed, you just end up descending into some level of chaos.
7 We can't have that. Even if the rules are incorrect, in the
8 case laws that's developed in this country it's very clear on
9 that point. And for that matter, it is in Great Britain, from
10 which we have borrowed the constitutional scheme in a sense and
11 certainly our law to a large degree.

12 We understand that Courts may make rulings that are
13 incorrect, but counsel and the parties are bound to follow
14 those rulings unless they are overturned by an appellate court.

15 *MR. OSTROWSKI:* And --

16 *THE COURT:* If you can't conform your thinking to a
17 Court's ruling that is adverse to what you firmly believe is
18 incorrect, how can you return effectively to the practice of
19 law? That's what -- aren't you suggesting that you're not able
20 to do that? Well, if you're not able to do that, are you able
21 to effectively practice before the Bar of this Court knowing
22 that from time to time the federal judges sitting in the Middle
23 District of Pennsylvania and hearing matters which you are
24 appearing as counsel of record for clients, may make adverse
25 rulings? Isn't that what you're saying?

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1 *MR. OSTROWSKI:* Well, no, that is not what I'm saying.

2 *THE COURT:* Well then, you restate it. I don't want
3 to put words in your mouth. It sounds to me like that's what
4 you're telling me.

5 *MR. OSTROWSKI:* It's very well taken, what you're
6 saying. And it's -- in all due respect, it is a two-way
7 street, Your Honor, that, you know, the judges at times have to
8 sit behind the bench and have the same faith and respect for
9 attorneys that they demand of themselves, and to know that
10 attorneys like myself have a demonstrated history of competence
11 before these courts.

12 I believe that I have conducted myself fully
13 appropriately at all times before every court. I have been
14 fully prepared -- except for in these times of psychic distress
15 that I went through, I have been fully prepared on the law and
16 the facts in my case.

17 Now, it's when the Court starts to gesticulate, and
18 I'm not suggesting you do this, but I sense you're starting to
19 get -- the frustration comes across and you are able to
20 communicate --

21 *THE COURT:* I don't think I'm particularly frustrated
22 with you. If I have demonstrated frustration or any
23 discourtesy, you please care to point that out to the Court.
24 What I will do is this, Mr. Ostrowski. I think what attorneys
25 forget, and what I tried to do when I was at the Bar -- I

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1 practiced before the Bar of the Commonwealth and the Bar of
2 this Court for about 22 years. What I tried to do is I tried
3 to go into court and I tried to appear before judges and juries
4 and really any other attorneys, my clients, members of boards
5 that I sat on, and I tried to go in and I tried to persuade
6 them. I tried to persuade them of my position. Seems to me
7 that that -- beyond the ethics of the matter, that's what
8 attorneys should try to do.

9 When I became a judge in January, I was surprised.
10 People asked me what's the biggest surprise. I think the
11 biggest surprise is the number of attorneys who really aren't
12 very persuasive with the Court. They don't make very good
13 arguments or they continue to make the same argument after the
14 Court has made a ruling. Again, the ruling may be in error,
15 but that's the Court's ruling. And I keep thinking back to my
16 practice as to whether I was always persuasive. I tried to be
17 persuasive.

18 I think what I would say to you is you're not being
19 persuasive with the Court right now with this argument. If you
20 have other questions for Dr. Kruszewski, let's get to them.
21 Your points are noted. The Court understands that. They are
22 well stated. But if you have other questions on direct
23 examination taken under Rule 611(c)(2) of this witness, you may
24 proceed.

25 *MR. OSTROWSKI:* Okay. May I approach the witness?

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1 *THE COURT:* You may.

2 *BY MR. OSTROWSKI*

3 *Q.* Okay. Dr. Kruszewski, I laid a series of exhibits in
4 front of you. Do you have those before you? Correct?

5 *A.* Yes.

6 *Q.* They have the pink official court exhibit sticker on them.
7 Is that correct?

8 *A.* Yes.

9 *Q.* Now, Exhibit 4, have you seen that before?

10 *A.* Yes.

11 *MR. GILROY:* Judge, maybe to move it along, I'll
12 stipulate to what some of these documents are. Exhibit 4 is a
13 letter from Mr. Ostrowski to the doctor asking for medical
14 records.

15 *THE COURT:* Very well.

16 *MR. GILROY:* Exhibit 5 is a response from the doctor's
17 office saying no. Exhibit 6 is an e-mail Mr. Ostrowski sent to
18 the doctor. Exhibit 7 is a letter from Attorney Meguerian
19 dated March 22nd, 2013. And Exhibit 8, a letter from
20 Mr. Ostrowski to Attorney Meguerian. I'll stipulate that those
21 are what those documents are.

22 I don't see the relevancy so we would object to
23 further questions on them. But if they are relevant, they are
24 in the record.

25 *THE COURT:* Mr. Ostrowski, he'll stipulate to Exhibits

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1 4, 5, 6 and 7 -- Mr. Gilroy?

2 *MR. GILROY:* And 8.

3 *THE COURT:* Exhibits 4 through 8.

4 *MR. OSTROWSKI:* Okay. That's great.

5 *THE COURT:* Why are they relevant, however?

6 *MR. OSTROWSKI:* That's what I'm going to speak to.

7 *THE COURT:* Go right ahead.

8 *MR. OSTROWSKI:* In your Order itself you said that
9 "While Dr. Kruszewski's medical treatment of Ostrowski eight
10 years ago may or may not be relevant, the fact that Dr.
11 Kruszewski and/or Mr. Tobiasz have had recent interactions with
12 Ostrowski that speak to Mr. Ostrowski's current activities is
13 relevant."

14 I mean, I don't -- this Order, you are crediting them.
15 While the Court appreciates the movant's fears, then you call
16 their fears perverfid. It's a little hard to understand, but I
17 believe that you are specifically saying that these recent
18 activities are relevant for some purpose.

19 And if I can conform my presentation to your thinking,
20 I would think that you're saying that there might be something
21 amiss with the way I have conducted myself in my interactions
22 with my former physician or something that you're saying is
23 relevant about these -- I would -- you know, my thinking is
24 that these are kind of irrelevant except that, you know, they
25 show his continuing conduct and mistreatment of me.

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1 But it says right in your Order that these current
2 activities are relevant, and these are all 2013 exhibits.

3 *THE COURT:* Mr. Gilroy, do you care to speak to the
4 issue?

5 *MR. GILROY:* I'm sure Your Honor suggested -- well, I
6 believe Your Honor suggested in the decision that you issued
7 that recent contacts that bear on the issue of Mr. Ostrowski's
8 capacity and ability to practice law before this Court would be
9 relevant.

10 *THE COURT:* Yes.

11 *MR. GILROY:* The request for medical records and
12 denials and letters back and forth between the attorneys, I
13 don't believe they are relevant. Like I said, we'll stipulate
14 that these are what they are, but I don't think we need any
15 testimony on them.

16 *THE COURT:* But you object to the relevance of them?

17 *MR. GILROY:* Yes, I do.

18 *THE COURT:* The objection is sustained.

19 Mr. Ostrowski, do you have any other questions of this
20 witness?

21 *MR. OSTROWSKI:* Your Honor, if I may. And I'm not
22 going to -- I don't intend to go back and forth but a lot of --
23 you know, these became relevant when I read Mr. Meguerian's
24 motion to quash, which I just opened as I sat here and read it.
25 And they are suggesting that I have engaged in a course of

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1 harassing contacts with this gentleman, which is anything --
2 again, I think the Court expressed a concern well. I can see
3 what he would have to be concerned about, because I'm raising
4 some legitimate claims, in my view. I'm not saying that the
5 Court said that. He's going to be dealing with me for a while.
6 So in that sense, he's got some concerns.

7 *MR. GILROY:* We are not presenting any evidence on
8 allegations of harassing contacts at all, Judge, in any way,
9 shape, or form. So that's not something we're going to be
10 arguing. Their interaction recently bears on his fitness to
11 practice law.

12 *THE COURT:* Do you anticipate cross examining or
13 examining Dr. Kruszewski much at all, Mr. Gilroy?

14 *MR. GILROY:* Just one particular issue.

15 *MR. OSTROWSKI:* If I may, I'll proffer the question.
16 And I handed copies of the exhibits up. But February 27th,
17 2013 was a two sentence request for medical records; very
18 short, very polite and very professional.

19 *THE COURT:* Yes.

20 *MR. OSTROWSKI:* There was a March 6th, 2013 response
21 that did not come with any medical records.

22 *MR. GILROY:* I think Your Honor already ruled on this.

23 *MR. OSTROWSKI:* Can I finish?

24 *MR. GILROY:* I don't know how many times you have to
25 hear no. Your Honor has ruled and we're going back again.

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1 *THE COURT:* Mr. Ostrowski, I've made a ruling. I
2 don't think these documents are relevant to today's
3 proceedings. But if you have other questions for Dr.
4 Kruszewski, you certainly may ask them. Your points relating
5 to these exhibits, however, are noted by the Court, and the
6 Court thanks you for the same.

7 *MR. OSTROWSKI:* But you said that -- in your Order you
8 said that the fact that Dr. Kruszewski and Mr. Tobiasz have had
9 recent interactions with Mr. Ostrowski that speak to
10 Mr. Ostrowski's current activities is relevant. I was asking
11 about relevant --

12 *THE COURT:* The medical record issue, the shuffling
13 back and forth of whether you can have the medical records or
14 not relative to when, I'm assuming another case not before this
15 Court, really have no relevance to today's proceedings.

16 *MR. OSTROWSKI:* And Your Honor --

17 *THE COURT:* I understand. But again, hard as it may
18 be, you need to conform your thinking, or try to, to the
19 Court's ruling.

20 *MR. OSTROWSKI:* And I'm fully capable of doing that.

21 *THE COURT:* Thank you. If you have any other
22 questions of this witness, you may proceed to ask them.

23 *MR. OSTROWSKI:* One other point of order, Judge, on
24 this. I have not had a chance to respond to the motion by Mr.
25 Meguerian. I don't know if in your Order when you said that --

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1 *THE COURT:* You don't need to respond to it. The
2 Court has responded to it.

3 *MR. OSTROWSKI:* But there are accusations made in
4 there and characterizations about me and my conduct that I
5 would like an opportunity to respond to. I don't know what you
6 mean when you say recent interactions that speak to my current
7 activities is relevant. Those are your words, Judge. And
8 these were the only current activities that I had with this
9 gentleman. Now you said that they were relevant and now you're
10 saying that they are not. So I can't conform to duplicitous
11 statements.

12 Again, with all due respect, that's what we're dealing
13 with here. You said that they are relevant in denying the
14 motion to quash and now you are granting an objection that they
15 are not relevant. That's the kind of difficult things that
16 attorneys have a heck of a hard time conforming to. I would
17 like some guidance if you can give me some.

18 *THE COURT:* I can give you some. Mr. Ostrowski, in
19 the motion to quash that Mr. Meguerian filed on behalf of his
20 clients, he suggested that there was harassment that you had
21 exhibited towards them. You denied that. I understand that.
22 That's relevant, I think, to today's proceedings. Medical
23 malpractice claim, if that's what this is, in another court is
24 not relevant to today's proceeding. So in seeking out these
25 medical records, which you apparently attempted to do earlier

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1 this year, and Dr. Kruszewski's denial of them through counsel,
2 is not relevant to today's proceeding.

3 *MR. OSTROWSKI:* So we are operating under the
4 presumption that there is evidence of my harassment.

5 *THE COURT:* No. We're not operating under that
6 presumption. I don't know whether there has been harassment or
7 there hasn't been.

8 *MR. OSTROWSKI:* That's why I marked these as exhibits
9 and want to just go through them.

10 *THE COURT:* Well, the Court has made a ruling. Let's
11 proceed forward. If you have questions of this witness, you
12 may ask those questions.

13 *MR. OSTROWSKI:* Okay.

14 *THE COURT:* If you don't, you are certainly welcome to
15 pass the witness to Mr. Gilroy and allow him to ask questions.

16 May I ask a question? Ma'am, who are you sitting at
17 counsel's table?

18 *MR. OSTROWSKI:* This is an assistant. She is here
19 assisting me.

20 *THE COURT:* Ma'am, here is -- you are in federal
21 court. And when you are in federal court, it's a formal
22 proceeding. I don't think this Court is demonstrating any
23 discourtesy to counsel or to any of the witnesses. You are
24 making a number of facial expressions that, at least to me, are
25 offensive. Stop doing that.

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1 Mr. Ostrowski, you may proceed.

2 *MR. OSTROWSKI:* And I would concur with that, Judge.
3 I don't see anything. And typically when I'm in court with
4 people and I see that from witnesses or clients or others, I
5 make the same kind of instruction. I agree with that. Thank
6 you, Your Honor. Okay.

7 *BY MR. OSTROWSKI*

8 *Q.* Now, Dr. Kruszewski, there is a hearing that's set up for
9 a summary criminal trespass against me. Correct?

10 *MR. GILROY:* Objection, Judge. It's not relevant to
11 the proceedings. We are not going to assert that interactions
12 between this witness and Mr. Ostrowski are in any way relevant,
13 regardless of what the motion to quash said. A motion to quash
14 is not evidence in this case, Judge. I don't feel we need to
15 try a summary harassment case here today, because we're not
16 pursuing that as that. If we did, I would suggest it is
17 relevant. But we are not going down that road.

18 *THE COURT:* Objection sustained.

19 *MR. OSTROWSKI:* But that's what you just said, Judge.
20 That is what you just said, that these current interactions,
21 you know, were what you were thinking of when you wanted some
22 explanation.

23 *THE COURT:* Well, Mr. Ostrowski.

24 *MR. OSTROWSKI:* They go every which way.

25 *THE COURT:* No. No.

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1 *MR. OSTROWSKI:* I know my future is in your hands,
2 Judge, but these things need to make some consistent intuitive
3 sense.

4 *THE COURT:* Mr. Ostrowski.

5 *MR. OSTROWSKI:* It is going both ways and it is going
6 every way.

7 *THE COURT:* Mr. --

8 *MR. OSTROWSKI:* And that suggests many other
9 implications that suggested I am not getting a fair chance to
10 be readmitted to the roll of attorneys. I know what I'm up
11 against, Judge. I'm not a dumb person. I think that my
12 presentation, I think that my arguments, I think my motions
13 before you demonstrate my competency, demonstrate my intellect,
14 demonstrate my integrity. But to sit up and suggest oh, well,
15 if you can't conform to my thinking, Judge, no reasonable
16 person on planet Earth can conform to two different statements
17 that are made within a minute of each other.

18 You just got finished ruling that there was some
19 relevance to this stuff in terms of my recent interactions with
20 this gentleman. And then he gets up and makes an objection
21 that it's not relevant, and you sustain the objection.

22 *THE COURT:* Allow me to clarify. I don't know how Mr.
23 Gilroy -- and I'm going to describe Mr. Gilroy as sort of
24 disciplinary counsel, counsel for the Court. I don't know how
25 he's going to proceed to put his case on. I really have no

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1 idea about that.

2 If he was prepared to examine Dr. Kruszewski regarding
3 Dr. Kruszewski's recent interactions with you, Dr. Kruszewski
4 were to say well, Mr. Ostrowski has harassed me in some fashion
5 or another, it seems to me that is relevant to today's
6 proceedings. What Mr. Gilroy, I think, is explaining to the
7 Court -- again, I don't want to put words in his mouth -- are
8 that well, no, he's really not going to go down that path at
9 all.

10 If he's not going to go down that path, then your
11 examination of Dr. Kruszewski on that particular point really
12 isn't germane to this proceeding. If disciplinary counsel is
13 not going to go down that path, well, that's frankly helpful
14 probably to you and not unhelpful.

15 MR. OSTROWSKI: Okay. And the suggestion keeps coming
16 forth that I'm trying to make this proof of a medical
17 malpractice case. I'll take care -- when I said in my
18 documents I'll deal with Dr. Kruszewski myself, I will deal
19 with him legally myself. I will handle my claims against him.
20 I will handle them appropriately. I'll be fully prepared. I
21 am not trying to turn this case into a medical malpractice. I
22 have a living at stake here.

23 I have a substantial history of practicing law in the
24 courts. I am not a personal injury lawyer. I am not a
25 contract negotiator. I'm a civil rights lawyer. This is

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1 important to me. It is my passion. It is what I do with my
2 life. It is what I'm going to continue to do. These --

3 This doctor is relevant to my reinstatement to the
4 roll of the Courts so that I can continue to try to represent
5 injured and disenfranchised American citizens who want access
6 to their courts and want a fair day in court.

7 I am not here on some alternative agenda or motive. I
8 honored my profession. I practiced law with dignity and
9 respect and integrity. I never mistreated people. I am not
10 mistreating anybody here and not using this for an alternative,
11 ulterior purpose. The continued suggestion, and it was even
12 made by Your Honor, that I am, I do take considerable exception
13 to. Because you are holding my future in my (sic) hands, a
14 little show of disrespect is going to come back and prejudice
15 me, well, you know, I'm here because I honor the profession.

16 *THE COURT:* Mr. Ostrowski, those observations are
17 noted. Do you have any other questions for this witness?

18 *MR. OSTROWSKI:* Okay.

19 *BY MR. OSTROWSKI*

20 *Q.* Dr. Kruszewski, isn't it true that you told Don Bailey to
21 keep me away from their children?

22 *A.* I don't recall that.

23 *Q.* I never made a single statement or comment to you in the
24 course of our treatment that would suggest that I was ever any
25 sort of a threat to another human being.

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1 *MR. MEGUERIAN:* Objection, relevance.

2 *MR. GILROY:* Objection. That's not a question.

3 *THE COURT:* Are you testifying, Mr. Ostrowski, or do
4 you have a question?

5 *MR. OSTROWSKI:* I'm asking him if that's true, because
6 I will testify to that. I'll withdraw that, Dr. Kruszewski.

7 *THE COURT:* Maybe you want to phrase it -- I know you
8 are examining in a difficult way under Rule 611, but if you
9 could ask that question differently, then the Court can make a
10 ruling on it, if there's an objection. Or if there is no
11 objection, then the testimony will be heard.

12 *BY MR. OSTROWSKI*

13 *Q.* During the course of my treatment with you, did I ever
14 make a statement to you that caused you any concern that I was
15 a threat of harm to children or anybody, other than possibly
16 myself, when I told you that I had suicidal feelings? Did I
17 ever talk about anything that would lead you to believe
18 anything that you would say something to keep me away from
19 other people?

20 *MR. GILROY:* Objection, Judge. Eight years ago what
21 Mr. Ostrowski said is not relevant to the proceedings here
22 today. It's his fitness today to be readmitted to practicing
23 law.

24 *THE COURT:* The objection will be sustained unless you
25 are telling me, Mr. Ostrowski, that these conversations with

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1 Dr. Kruszewski were recent conversations. Were they, or are
2 they conversations from some time in the past?

3 *MR. OSTROWSKI:* They are conversations from some time
4 in the past.

5 *THE COURT:* If that's the case, the objection is
6 sustained.

7 *BY MR. OSTROWSKI*

8 *Q.* Your treatment of me was with treating me as a substance
9 abuser. Is that correct?

10 *MR. MEGUERIAN:* Objection. Relevance.

11 *MR. GILROY:* Same objection, Judge.

12 *THE COURT:* Sustained.

13 *MR. OSTROWSKI:* Judge, do you want to know anything
14 about my history? I'll just ask you, do you want to know
15 what's going on with me for the past six, seven years?

16 *THE COURT:* Mr. Ostrowski, you'll have an opportunity,
17 if you care to, to testify yourself, and the Court will weigh
18 those remarks at that time and rule on whatever objections are
19 made to that testimony at that time, if you care to testify in
20 your own behalf.

21 *MR. OSTROWSKI:* Those are all of the questions I have
22 then, Your Honor.

23 *THE COURT:* Thank you. Cross-examination, Mr. Gilroy.

24 *MR. GILROY:* Your Honor, may I approach the witness?

25 *THE COURT:* You may.

1 CROSS EXAMINATION

2 BY MR. GILROY

3 Q. Doctor, referring to Plaintiff's Exhibit Number 3, which I
4 believe is in front of you.

5 A. Yes.

6 Q. The sworn statement, which was attached to Mr. Ostrowski's
7 filings with this Court. Would you refer, please, to page
8 eight. And just to yourself, would you please read the last
9 paragraph on page eight starting with the word sometime?

10 A. Read it out loud?

11 Q. No, just read it to yourself. When you are finished you
12 may look up.

13 A. Yes.

14 Q. You read that paragraph?

15 A. I did.

16 Q. Did you ever tell Mr. Ostrowski, Mr. Bailey or anyone else
17 that Federal Judge John E. Jones was -- that you were treating
18 him for an alcohol abuse issue and issues associated with Judge
19 Jones having a very tiny penis, one inch in length?

20 A. None of that is true.

21 MR. GILROY: No further questions.

22 MR. OSTROWSKI: Your Honor, the door --

23 THE COURT: Redirect examination?

24 MR. OSTROWSKI: My contention is the door has just
25 been opened.

1 REDIRECT EXAMINATION

2 BY MR. OSTROWSKI

3 Q. Dr. Kruszewski, you wanted to talk to me about my penis.
4 Correct?5 MR. GILROY: Objection, Judge. The door is not open.
6 The sworn statement is dated April 2013, which is a statement
7 that Mr. Ostrowski filed with this Court, with the Pennsylvania
8 Supreme Court, about allegations concerning a federal judge.
9 All I asked was did this witness tell him that, as he alleged
10 in this statement. He may testify in rebuttal to that that
11 yes, he was told. But I don't believe any door is open. Very
12 minute, limited question, Judge.13 THE COURT: Agreed. Objection sustained. Do you have
14 any other questions of this witness based on Mr. Gilroy's
15 cross-examination, Mr. Ostrowski?

16 MR. OSTROWSKI: Yes, I do, Your Honor.

17 THE COURT: Go right ahead.

18 BY MR. OSTROWSKI

19 Q. If that was true, would you agree with my statement that
20 this was totally offensive to hear that a Harvard educated
21 so-called world-renowned doctor would have such a pathetic lack
22 of ethics and discretion that would be --

23 MR. MEGUERIAN: Objection. Argumentative.

24 MR. OSTROWSKI: If that was stated --

25 MR. MEGUERIAN: And no facts in the record.

1 *THE COURT:* I'll overrule the objection. Dr.
2 Kruszewski, you may answer that question.

3 *THE WITNESS:* Could you repeat that? I'm sorry.

4 *BY MR. OSTROWSKI*

5 *Q.* Would you agree with me that if that were true that that
6 would be a display -- as I said, that would be totally
7 offensive to hear that a Harvard educated and so-called
8 world-renowned doctor would have such a pathetic lack of ethics
9 and discretion to make such a comment?

10 *A.* I think that the statement is disgusting. So however that
11 relates to it. In terms of the Honorable Judge Jones, he has
12 been a colleague, a friend. He was my personal attorney since
13 about 1994. He is -- I consider him a role model, somebody
14 that I respect enormously. I would never say that -- I just
15 want to finish. Thank you. I would never say that --

16 *MR. OSTROWSKI:* You are finished. You answered yes.
17 Your attorney can follow up with you.

18 *MR. GILROY:* Excuse me.

19 *THE WITNESS:* I think the statement --

20 *MR. OSTROWSKI:* If you want to elaborate, how
21 wonderful.

22 *THE COURT:* Just a second. The witness may answer the
23 question. Dr. Kruszewski, you may proceed to answer.

24 *THE WITNESS:* I think like many of the other
25 statements that I'm aware of that you have made in here and

1 what I've just read to Mazzitti and Sullivan to the partial
2 hospitalization to the physician's health program and my former
3 colleague, Dr. Hobbs, to me the disgusting statements you made
4 about John and David, who are sitting here today, and the
5 absolutely disgusting statements you made about the medical
6 board have me extremely concerned about you on an ongoing
7 basis. So as that is relevant to this hearing, that is my
8 position.

9 *BY MR. OSTROWSKI*

10 Q. Why don't you recount for the Court and for me what all of
11 these disgusting statements are that I have made specifically?

12 A. Okay. You talk about me in a disparaging manner, for
13 example.

14 Q. Sir, disgusting statements. Not characterizations. I
15 talk about you in a disparaging manner. I'll stipulate to
16 that. Can you point to statements that I made about John and
17 David and all of these other people that you just had in your
18 mind that I said that you objected to. What are the
19 statements, Doctor?

20 A. I'm very concerned about you.

21 Q. What are these statements that you just testified to that
22 I made about all of these other people that are causing you
23 concern other than the fact that I have talked about you
24 disparagingly?

25 A. I'm happy to give you an example.

1 *THE COURT:* Go right ahead, Doctor. That's fine.
2 That's what Mr. Ostrowski is asking you to do, I believe.

3 *THE WITNESS:* You mentioned somewhere in an e-mail or
4 one of your diatribes that my homosexual friends and me do X, Y
5 and Z. You have no clue what our life is like. Also, calling
6 me a homosexual in a disparaging manner, it violates my basic
7 civil rights as a psychiatrist who happens to be gay. I think
8 it's like using an N word for an African American lawyer. So I
9 think it's disgusting.

10 *BY MR. OSTROWSKI*

11 *Q.* You think the word homosexual is disgusting?

12 *A.* I think the way you used it, and I don't have it here,
13 about what my homosexual friends and I do, that you have -- you
14 have nothing -- you know nothing about my personal life.

15 *Q.* Can you point to me anywhere where I talked about what you
16 and your homosexual friends do?

17 *A.* As I said, I don't have that here. It's in one of the
18 things that you said and you've put on your -- I don't know if
19 it's on your website. You sent it around. You sent around
20 things -- let me add something that just happened.

21 *Q.* Sir, I'm asking you to recount statements that I made that
22 you were talking about when you just said all of these things
23 that I made disparaging -- and people that I made disparaging
24 comments about. I would love for you to point me where I said
25 what you and your homosexual friends do. I've never said that

1 but I --

2 *THE COURT:* I think, Mr. Ostrowski, that's what the
3 witness is attempting to do. Dr. Kruszewski, if you care to
4 finish your statement, you may do so.

5 *THE WITNESS:* I have, Your Honor, great respect for
6 the judges of the Middle District. When I've read in your 41
7 page manifesto that you sent around and that you pinned on to
8 your website about the judges, Yvette Kane and Sylvia Rambo
9 being evil and John Jones being evil and Christopher Conner
10 being evil, I take that to heart. I think that you present no
11 facts to that. And it's discouraging and concerning for me as
12 someone who offered to help you get off your drugs and alcohol.

13 You've continued to state a number of things
14 besmirching my reputation to Mazzitti and Sullivan, to my
15 current employer, someone I have known for 13 years. He did
16 it -- he took it, he read it, whatever you sent to him, and he
17 shredded it. If it's appropriate for the Court to know, he
18 said this is an embarrassment to you not to me.

19 *Q.* Sir, I never treated with you for alcohol abuse.

20 *THE COURT:* Well, again, Mr. Ostrowski, if you care to
21 testify, you'll have that opportunity.

22 *MR. OSTROWSKI:* Yes. I'm impeaching his testimony
23 with a question. I never treated with you for alcohol abuse.
24 Is that correct?

25 *MR. MEGUERIAN:* Objection, Your Honor.

1 MR. OSTROWSKI: Don't look to your attorney waiting
2 for cues. Look to me and answer the question.

3 MR. MEGUERIAN: Objection. Relevance.

4 MR. OSTROWSKI: He just said --

5 THE COURT: What is the relevance of this?

6 MR. OSTROWSKI: He just, in his effort to disparage me
7 and to denigrate me and to portray me as someone who has made
8 these statements that were not very measured and out of
9 control, that he -- and talk about disparaging. This gentleman
10 is an addictions counselor. Getting off of drugs and alcohol.
11 I never said the homosexual friends stuff. You disparaged me
12 by saying --

13 THE COURT: The objection is sustained. If you have
14 other questions of this witness, you may ask them.

15 MR. OSTROWSKI: May I approach?

16 THE COURT: You may.

17 BY MR. OSTROWSKI

18 Q. Sir, I have placed before you a document marked as
19 Plaintiff's Exhibit 9. It is a February 26th, 2013 statement
20 or something that I wrote in with some attachments. Is that
21 the so-called manifesto that you refer -- well, I call it a
22 manifesto. Is that what you're referring to?

23 A. Yes.

24 Q. And you read through that?

25 A. I've read parts of it in my -- I'm aware of it.

1 Q. Okay. Can you -- what parts of it did you read?

2 A. I skimmed it. When I believed that it represented, if I
3 can say this, ramblings of a grandiose and delusional
4 individual, I stopped.

5 Q. Wouldn't you think you would want to finish it to make
6 that conclusion?

7 A. No.

8 Q. Did he -- can you point to where are in here I said that
9 Judge Kane and Judge Conner and Judge Rambo each are evil?

10 A. I would have to read the whole document again.

11 MR. GILROY: Page five, line four, sir, if you want to
12 refer to that.

13 THE WITNESS: I'm sorry. Page five?

14 MR. GILROY: Yes, fourth line down. These federal
15 judges...

16 THE WITNESS: I think I must have --

17 MR. OSTROWSKI: What he has highlighted is, "These
18 federal judges we have here in Harrisburg, however, cannot step
19 out of their Pennsylvania political ways and don't have the
20 simple courage to call a perjurer a perjurer because of where
21 their political affiliations and vengeful motivations lie." I
22 think that's what he is referring to.

23 MR. GILROY: Page nine, Doctor, under subparagraph two
24 on the --

25 MR. OSTROWSKI: I asked the doctor if he could go

1 through and tell me. He was pretty -- pretty clear and
2 specific on all of these statements that I made. I thought
3 that he would be able to find them.

4 MR. GILROY: I'm just trying to move it along, Judge.

5 THE COURT: I appreciate that.

6 MR. GILROY: I have these highlighted, and that
7 statement says on page nine subparagraph two, "You should
8 immediately initiate impeachment proceedings against at least
9 Judges Christopher Conner, John Jones and Yvette Kane. These
10 are terrible people and no better as judges anyway."

11 THE WITNESS: You know, it strikes a lot of pain in
12 me. Yvette Kane was the federal --

13 BY MR. OSTROWSKI

14 Q. There is no question. I asked you where you could find
15 these statements that I made that I called these judges each
16 evil. You said that I called them each evil. I asked you
17 where you found that.

18 A. I would have to look and I would have to make sure that
19 it's in this document. You have used those words, though.

20 Q. I believe that there is evil in the world. Do you believe
21 there is evil in the world, Doctor?

22 MR. MEGUERIAN: Objection, Your Honor.

23 MR. GILROY: We'll stipulate, Judge, that there is
24 evil in the world.

25 THE COURT: Counsel will stipulate and the Court will

1 acknowledge that there is evil, Mr. Ostrowski. Thank you. Do
2 you have any other questions of this witness?

3 *BY MR. OSTROWSKI*

4 Q. Other than can you point to me where I talked about --
5 well, maybe not other than these -- can you point to these
6 disparaging remarks I made other than just mentioning the word
7 homosexual, about you being a homosexual? You don't consider
8 you being a homosexual inherently disparaging, do you?

9 A. I've already answered that. I think you're using the word
10 homosexual and what my homosexual friends and I do. We are a
11 family. I've been with Mr. Tobiasz for 33 years this October.
12 We are family. As I said, it's trampling on my civil rights
13 also to use false statements, to knowingly misrepresent truths
14 about me and spread it and go specifically to all of the people
15 who employ me and put it on your website. My nephew and I
16 talked about a day ago, and he said you know, I read this
17 disgusting stuff from this guy named Mr. Ostrowski.

18 *MR. OSTROWSKI:* Objection.

19 *THE WITNESS:* That's the way he put it.

20 *THE COURT:* Who objected? I'm sorry. I missed it.

21 *MR. OSTROWSKI:* I objected to him talking about what
22 his nephew said. It's hearsay.

23 *THE COURT:* Sustained.

24 *BY MR. OSTROWSKI*

25 Q. Would you consider it to be appropriate for a psychiatrist

1 to ask a patient if he could paint him nude?

2 MR. GILROY: Objection, Judge. Not relevant.

3 MR. OSTROWSKI: He's --

4 THE COURT: Sustained.

5 BY MR. OSTROWSKI

6 Q. Isn't it true that you delivered a stack of hard core
7 pornography magazines to Mr. Bailey's office and said look at
8 these, Don?

9 MR. GILROY: Objection.

10 THE WITNESS: I have absolutely no recollection of
11 that.

12 THE COURT: You don't need to answer, Dr. Kruszewski.
13 I sustained the objection.

14 THE WITNESS: I'm sorry.

15 THE COURT: That's all right. I understand.

16 BY MR. OSTROWSKI

17 Q. What are the disparaging statements or comments I made
18 about Dr. Thomas Hobbs?

19 A. That you're planning to sue him and the Pennsylvania
20 Medical Society.

21 Q. Is there something inherently disgusting about that?

22 A. I don't think I said that was specifically disgusting. I
23 said going to them, whether or not -- I don't even know if you
24 ever met Tom Hobbs. But assuming that you might have, it's
25 amazing that you again use my name, go to the Medical Society

1 and say, and by the way, I'm demanding \$90,000, you know to --
2 for me to go away. That's your demand.

3 Q. I'm fully aware of everything that I -- every word I have
4 uttered and every word I have written, sir.

5 MR. OSTROWSKI: I have no further questions.

6 THE COURT: Thank you. Mr. Gilroy, any recross
7 examination?

8 MR. GILROY: No, sir.

9 THE COURT: Thank you. Dr. Kruszewski, I believe you
10 are here under subpoena. There will be no further questions
11 for you. You are released from your subpoena and you are free
12 to leave. Thank you, sir.

13 THE WITNESS: Thank you.

14 (Witness excused.)

15 MR. OSTROWSKI: I'm making a request for my records.

16 THE COURT: My courtroom deputy has noted that we have
17 noted for the record but not necessarily admitted Plaintiff's
18 Exhibit 2, 3, 4, 5, 6, 7, 8 and 9. The Court, I think, has
19 ruled that Exhibits 4, 5, 6, 7 and 8 are not relevant to this
20 proceeding. They were stipulated to, I believe, by Mr. Gilroy.
21 The Court ultimately concluded that they weren't relevant to
22 today's proceeding.

23 MR. GILROY: That's correct, Judge.

24 THE COURT: So that leaves Plaintiff's Exhibit 2, 3
25 and 9.

1 MR. GILROY: I have no objection to those exhibits.

2 THE COURT: All right. Do you move for the admission
3 of those exhibits, Mr. Ostrowski?

4 MR. OSTROWSKI: No. Which ones?

5 THE COURT: Exhibits 2, 3 and 9.

6 MR. OSTROWSKI: Numbers 2 and 3, yes.

7 THE COURT: You are moving for the admission of 2 and
8 3?

9 MR. OSTROWSKI: Yes. Exhibit 9 was just marked
10 because I wanted him to look at some issues --

11 THE COURT: Exhibit 9, I think it's been described
12 generally and the Court is going to describe it as the
13 manifesto.

14 MR. OSTROWSKI: I described it as that. It's fair to
15 describe it as that.

16 THE COURT: Do you move for the admission of the
17 manifesto?

18 MR. GILROY: Might as well do it now. I'm going to
19 put it in in my case anyhow.

20 MR. OSTROWSKI: I object. I'm not putting that
21 document into my case. I don't want it in my case. I'll let
22 this gentleman get into it in his case. It's authenticated by
23 testimony. And if they want to make these the issues in the
24 case, that's for them to make these the issues in the case.

25 THE COURT: Is it your document, Mr. Ostrowski? Did

1 you prepare that document?

2 *MR. OSTROWSKI:* I --

3 *MR. GILROY:* It's a February 26th, 2013 letter --

4 *THE COURT:* Just a moment, Mr. Ostrowski.

5 *MR. GILROY:* It's a February 26th, 2013 letter from
6 Mr. Ostrowski to Michael Daley of the Pennsylvania Supreme
7 Court with various attachments, Judge.

8 *THE COURT:* Is that your work, Mr. Ostrowski?

9 *MR. OSTROWSKI:* Let me just make it clear. This is my
10 work. I am not testifying now. I am not going to dispute
11 that. But to keep this record clean, because, you know, this
12 relates to the issue of Your Honor in ruling on the motion to
13 quash of Mr. Killion of suggesting that I've got some -- I have
14 displayed some anxiousness about making this issue about
15 Mr. Killion. I didn't. I never did. That was Your Honor's
16 origination, suggesting that I did that. I only served
17 Mr. Killion with the subpoena after Your Honor filed my motion
18 to quash trying to keep these issues out.

19 For purposes of keeping a clean and orderly and
20 organized record, I would prefer that I not be -- that I not
21 sponsor that document. If Mr. Gilroy has some questions to me
22 about the document, that he present them to me and ask them to
23 me when I'm a witness on the stand. Just to keep it clean and
24 orderly.

25 *THE COURT:* That's fine. Your objection is noted.

1 Plaintiff's Exhibits 2 and 3 are admitted, and the Court will
2 reserve ruling on Plaintiff's Exhibit 9. We'll take that up
3 perhaps at another time, Mr. Gilroy. Thank you.

4 *MR. GILROY:* Judge, I've just been alerted that there
5 were other witnesses that are subpoenaed.

6 *THE COURT:* I'm about to attend to that. Just a
7 moment. The Court is missing Exhibits 2 and 3. Do you have
8 copies that could be marked, or perhaps the originals are at
9 the witness stand. Mr. Ostrowski, would you mind retrieving
10 those for Mrs. McLaughlin and handing those to her?

11 Mr. Gilroy, who are the other witnesses who have been
12 subpoenaed? Were they subpoenaed --

13 *MR. MEGUERIAN:* There is Mr. Tobiasz, Your Honor. I
14 don't think he has got anything relevant to say today.

15 *MR. OSTROWSKI:* Can I handle that by proffer?

16 *THE COURT:* Yes. Go ahead, Mr. Ostrowski.

17 *MR. OSTROWSKI:* Your Honor, this relates to a course
18 of recent communications that you deemed relevant that I just
19 wanted to -- I was going to call -- the Exhibit 4 was my two
20 sentence request for records. Exhibit 5 was his response. And
21 I just wanted to ask him why he didn't just forward me my
22 records instead of --

23 *THE COURT:* Who are we talking about?

24 *MR. OSTROWSKI:* Mr. Tobiasz. Mr. Tobiasz was Exhibit
25 Number 5. And that was the one creating the clear suggestion

1 that the records were destroyed.

2 *THE COURT:* Well, again, I think the Court has made a
3 ruling on those issues, Mr. Ostrowski. Is there any other
4 offer of proof for Mr. Tobiasz? Any reason that he should be
5 here today?

6 *MR. OSTROWSKI:* Well, just that -- and I neglected to
7 ask this question of Dr. Kruszewski. But they were fully aware
8 that this issue involving the criminal trespass, I wanted to
9 ask a question and get an answer, that they are having me
10 charged with criminal trespass when they knew that I was
11 engaged in efforts to serve a subpoena. That was the only
12 other question that I wanted to ask and get an answer to.

13 *THE COURT:* Mr. Gilroy.

14 *MR. GILROY:* We object to that as not relevant, to not
15 get involved in trying a summary criminal trespass case here
16 today. I believe you sustained that objection.

17 *THE COURT:* It would seem to me I have sustained that
18 objection. It would seem to me that's an issue for another day
19 and another court, Mr. Ostrowski. Is there any reason
20 Mr. Tobiasz should not be dismissed from this subpoena?

21 *MR. OSTROWSKI:* Well, with my exceptions noted.

22 *THE COURT:* Your exceptions are all noted.

23 *MR. OSTROWSKI:* I have nothing else to proffer. I did
24 have some additional questions to proffer about things that I
25 said in my statement about them trying to fix me up with women

1 and, you know, statements like social encounters.

2 *THE COURT:* I understand that, Mr. Ostrowski. But
3 you'll have that opportunity, if you care to testify, and we
4 get to that later this afternoon.

5 *MR. OSTROWSKI:* Okay.

6 *THE COURT:* With regard to Mr. Tobiasz, is there any
7 reason the Court should not release Mr. Tobiasz from his
8 subpoena and allow him to leave?

9 *MR. OSTROWSKI:* Not with all of the exceptions on the
10 record.

11 *THE COURT:* Thank you. Mr. Meguerian, you are here
12 for Dr. Kruszewski and Mr. Tobiasz. Is that correct?

13 *MR. MEGUERIAN:* Yes, Your Honor.

14 *THE COURT:* Is there anyone else who is here under
15 subpoena, Mr. Gilroy, that Mr. Meguerian would have any
16 involvement with?

17 *MR. GILROY:* Not that I'm aware of.

18 *THE COURT:* All right. Would counsel approach,
19 please, for just a moment? Mr. Bailey, are you able to come
20 forward?

21 *MR. BAILEY:* Yes, Your Honor.

22 (The following occurred at sidebar between Court and
23 counsel:)

24 *THE COURT:* This is really for you, Mr. Meguerian.
25 You filed a motion to quash on August 23rd. Is that right?

1 MR. MEGUERIAN: Yes, Your Honor.

2 THE COURT: And the Court acted on that, I think, with
3 an order issued that day. But my understanding from my law
4 clerk, Yvonne Campbell, standing to my left is an event
5 subsequent when you called chambers and basically chewed her
6 out.

7 MR. MEGUERIAN: Your Honor. No, I --

8 THE COURT: Hold on a minute. Don't interrupt me.
9 And exhibited anger and suggested it was a bad ruling, et
10 cetera. Is that correct, or is Mrs. Campbell not correct in
11 what she has related to me?

12 MR. MEGUERIAN: Your Honor, I'm not going to impugn
13 the integrity of a law clerk. I will express to you that I was
14 very frustrated by a footnote because it seemed to indicate
15 that my client was lackadaisical. It expressly said that my
16 client was lackadaisical in taking the approach of quashing the
17 subpoena when -- and I was trying to tell the law clerk it was
18 entirely me. It was entirely me. I just had too much on my
19 plate the last ten days and I could not -- simply could not --
20 did not have time to get to the motion, on top of I wanted to
21 express to her that I was dealing with some very heavy issues
22 with my father and his competence. But I just didn't get into
23 that. I was expressing my frustration.

24 And then she said look, if you have a problem with my
25 order, then file a motion for reconsideration. And then I

1 immediately stepped back and I realized I was out of bounds and
2 I said look, I apologize. The real reason for my call is I was
3 looking for a clarification on the medical records issue which
4 was what was subpoenaed.

5 To the extent that I came across as disrespectful, I
6 want to apologize to this Court and to the law clerk. It was
7 certainly not my intention.

8 I was really just ashamed of the footnote because it
9 seemed to indicate that something that was my fault was being
10 reflected poorly on my clients. We acted immediately upon
11 receiving the subpoena. We were not lackadaisical. We were
12 not -- they did not drag their heels. In fact, they were so
13 alarmed by it, they contacted me the day of. But I just had so
14 much on my plate with respect to other motions. I can tell you
15 I was all over the place arguing preliminary objections and
16 taking depositions. I simply did not have time to get to this
17 until I got to it.

18 *THE COURT:* The Court is very conscious -- I was at
19 the bar for 22 years and I took the bench here in mid January
20 of this year. The practice of law is difficult. If you are
21 ever on an initial case management call with me, or will be in
22 the future, what I say to the attorneys, which are really
23 relating to discovery orders is I tend to give attorneys
24 extended periods of time for discovery. My colleagues think
25 I'm quite liberal. It's probably the only thing liberal they

1 would say about me, probably. But it's difficult to engage in
2 the practice of law. I was there. I understand that.

3 But don't ever, don't ever do something like that with
4 my staff again. You were out of line. Mrs. Campbell has been
5 my clerk. She was my late predecessor, Judge James McClure's
6 clerk for seven years. She relates to me that basically what
7 she got was a hot-headed response.

8 Look, I understand the practice of law. I do. I got
9 orders from judges that I thought were ridiculous orders, but
10 I, for heaven's sake, never called the judge and said hey, I
11 got this order, et cetera. You get the order. You move on.
12 Maybe they allow this sort of behavior in the Eastern District
13 of Pennsylvania.

14 *MR. MEGUERIAN:* No.

15 *THE COURT:* But I doubt it. Don't ever do something
16 like that again. Mrs. Campbell reacted to that thinking that
17 maybe she had been threatened. If you do that to me again, I
18 will send the United States Marshals down to your office and
19 deal with you lickety split. Do you understand what I'm saying
20 to you? Don't do it again.

21 I understand. I understand you may have family
22 issues. I understand you have a busy practice. I was there.
23 I'm busy myself. But you don't react that way. Courts issue
24 orders.

25 The order that I issued on August 23rd may have been

1 wrong. But it's never a -- and that's what I'm trying to
2 explain to Mr. Ostrowski today. Courts issue orders. Judges
3 do their level best to make these rulings. And I believe it
4 was done in the right way, because the motion to quash came in
5 the last minute. And I had to really clear my desk and attend
6 to that issue that day in fairness to you. So it wasn't you
7 weren't fooling around, your clients weren't fooling around
8 over the weekend, well, am I going to have to appear or not.
9 Then maybe getting an order from the Court at 4:30 on Monday
10 afternoon, the day before the hearing. No. No. No. I mean,
11 we have handled the thing in a very -- we thought, I thought in
12 a very diligent way. Don't do that sort of stunt again.

13 *MR. MEGUERIAN:* Your Honor.

14 *THE COURT:* I understand. You got an adverse order
15 and you leave it alone.

16 *MR. MEGUERIAN:* It's the same thing you told
17 Mr. Ostrowski. I want to apologize to this Court. I want to
18 apologize to counsel and to your clerk.

19 *THE COURT:* You seem fine today in court. This is my
20 sense of it. I don't know you. I had never met you before and
21 we may never meet again. But you seem hot headed. You're just
22 representing your client. That's it.

23 *MR. MEGUERIAN:* Appreciate it.

24 *THE COURT:* Okay. Step back. Thank you.

25 (Whereupon, the discussion held at sidebar between the

1 Court and counsel was concluded.)

2 *THE COURT:* Well, it is now 12:40. Mr. Ostrowski, do
3 you have any other witnesses to call?

4 *MR. OSTROWSKI:* Just myself and Mr. Bailey.

5 *THE COURT:* All right. Well, do you care to break for
6 lunch at this point? Do you want to begin that examination? I
7 would think this might be an appropriate point to break off and
8 break for hunch for an hour or so before we begin what I may
9 consider to be a relatively detailed examination and
10 cross-examination. Mr. Ostrowski. Mr. Gilroy.

11 *MR. OSTROWSKI:* I'll go either way. If we can keep it
12 short; the shorter the better, the break.

13 *THE COURT:* We'll leave that to counsel. I'm
14 flexible.

15 *MR. GILROY:* I usually don't eat lunch. I'm usually
16 at the Y. I wish I was down there, too.

17 *THE COURT:* You look pretty fit, Mr. Gilroy. I'm not
18 as fit as you. I would like to break for lunch.

19 *MR. OSTROWSKI:* Your staff. I don't know. People
20 generally eat, for some reason --

21 *THE COURT:* I think this would maybe be an appropriate
22 point to take a break for lunch, allow counsel to have lunch or
23 not, as they care to, walk around for a moment. And why don't
24 we reconvene then at quarter of two. So we will break for a
25 little over an hour, the standard recess, and allow everyone to

1 have lunch and then begin your examination, cross-examination
2 or anything Mr. Bailey has to add. We will stand in recess for
3 a little over an hour. Thank you.

4 (Whereupon, a luncheon recess was taken from 12:42
5 p.m. to 1:45 p.m.) PROOF!!!!

6 *THE COURT:* Counsel, we're back after a lunch recess.
7 Mr. Ostrowski, are you ready to call your next
8 witness?

9 *MR. OSTROWSKI:* Yes, Your Honor. I would call myself.

10 *THE COURT:* That's fine.

11 *MR. OSTROWSKI:* Can I carry stuff up? Not to shuffle
12 through stuff, but if I have some exhibits or something, I'll
13 have them with me.

14 *THE COURT:* Go right ahead and do that. If you'll
15 stand, Mrs. McLaughlin will administer the oath.

16 ANDREW J. OSTROWSKI,
17 called as a witness on behalf of the Plaintiff, having been
18 duly sworn or affirmed according to law, testified as follows:

19 *THE COURTROOM DEPUTY:* Please be seated. Please state
20 your full name for the record.

21 *MR. OSTROWSKI:* Andrew J. Ostrowski.

22 *THE COURTROOM DEPUTY:* Thank you.

23 *MR. OSTROWSKI:* Your Honor, the way I'm going to
24 proceed is I'm going to just kind of ask myself questions and
25 then proceed to answer to give Mr. Gilroy an opportunity to

OSTROWSKI - DIRECT (narrative)

1 object as I go through. With that being said --

2 *THE COURT:* You're going to ask and answer questions?

3 *MR. OSTROWSKI:* Well, that's technically the way it's
4 supposed to be done, to give -- rather than just running on a
5 narrative, I'll just -- and maybe not formal questions but
6 indicate the subject that I'm going to testify in response to.
7 Okay.

8 *THE COURT:* Mr. Gilroy, do you have any objection to
9 that? That's kind of an awkward way of doing it. I think
10 probably Mr. Ostrowski is technically correct in that.

11 *MR. GILROY:* I don't plan on objecting very much. I
12 believe he needs to have the opportunity to present his
13 personal narrative.

14 *THE COURT:* My preference would be -- your point is
15 well taken and it is an awkward way of proceeding. My
16 preference is to simply provide a narrative and then allow Mr.
17 Gilroy -- essentially it would be easier for you. It's more
18 fluid for you. It's easier for the Court. I think it is also
19 easier for Mr. Gilroy to pose objections there overall. I
20 guess that would be my preference. Again, I think that's
21 easier for you to testify that way, by providing a narrative.
22 So go right ahead.

23 *MR. BAILEY:* Your Honor, hear me on this issue?

24 *THE COURT:* Yes, go right ahead.

25 *MR. BAILEY:* I take responsibility.

OSTROWSKI - DIRECT (narrative)

1 MR. OSTROWSKI: I'm fine with it.

2 MR. BAILEY: Because of a standard and what occurs in
3 the criminal standard, you have to ask the questions to do it.
4 So I was responsible in advising him for that.

5 MR. OSTROWSKI: That's okay.

6 THE COURT: That's noted. Thank you. Mr. Ostrowski,
7 go right ahead with your narrative. Thank you.

8 MR. OSTROWSKI: The first portion, you know, to
9 address the motion that I filed. My name is Andy Ostrowski. I
10 was admitted to the Bar of Pennsylvania, I believe,
11 December 2nd, 1992. My background was from 1992 until 1995 I
12 was an associate at the law firm of Mette, Evans and Woodside
13 in Harrisburg. I had considerable experience working with
14 Judge Conner when I was at that law firm. And I worked on
15 numerous cases together and got to know each other somewhat
16 through social functions, playing golf and playing volleyball
17 and doing the things that young lawyers do with attorneys,
18 older attorneys at that time.

19 My separation from Mette, Evans and Woodside came in
20 1995. It actually was a more or less an asking you to leave
21 type of situation because, you know, some things were said to
22 me about, you know -- about not adjusting to the climate there
23 or not grasping the practice of law, things of that nature. I
24 did take umbrage with that but will acknowledge that some of
25 the psychological, psychiatric, physiological issues that I

OSTROWSKI - DIRECT (narrative)

1 have dealt with that have become matters of record in my state
2 disciplinary proceedings really did start to manifest with law
3 school and being a lawyer and, you know, dealing with the
4 stresses and strains and burdens of dealing with all that. It
5 became difficult at times to deal with stress, very frankly.

6 I think that prior to that time in my life for the
7 most part I was able to get by on natural ability alone and
8 natural intelligence. But when -- you know, given what I
9 understand about the condition that I deal with, the
10 posttraumatic stress disorder, particularly its etiology with
11 me coming from being severely burned when I was a child and the
12 mis -- under treatment of pain and things of that nature, my
13 system pretty much for my whole life was, you know, an in
14 elevated state. That started to manifest. So there were some
15 communications that I had with Mette, Evans and Woodside. In
16 any event, I moved on.

17 I then practiced with the law firm of Serratelli,
18 Schiffman, Brown and Calhoon. I believe -- I worked for Steve
19 Schiffman when I was in law school. Like I do with everybody;
20 attorneys, judges, staff, secretaries, he and I got along well.
21 And after I left Mette, Evans and Woodside, I kind of worked
22 with him on a contract basis for a little while. And Lori
23 Serratelli, of course. I had my first -- in fact, my first
24 trial experience I had when I was in law school, Lori
25 Serratelli tried a gender discrimination case with Judge Muir.

OSTROWSKI - DIRECT (narrative)

1 That was the first time I was in federal court. That was
2 probably in 1991 or so.

3 I worked with that law firm for -- I think I
4 officially became an employee in 1997, around the time when I
5 was getting married. I thought that I needed a little bit more
6 structure in place. Continued working with them until the
7 year, late 2000. It was during that period of time that I
8 started really becoming a civil rights practitioner, handled a
9 lot of discrimination cases against the Commonwealth of
10 Pennsylvania, Department of General Services. Handled a lot of
11 cases against Hershey Foods. Handled cases against Penn State
12 University. And frankly, really liked the work that I had
13 done. You know, I was doing some good work. I was generating
14 some income, some income for me, some income for the firm, and
15 things were going along pretty well.

16 It was in probably late 2000 when, I guess because of
17 the nature of the cases that I was taking, I had, you know,
18 sued Governor Tom Ridge and some secretaries of various
19 departments. And you know, Steve Schiffman came to me and said
20 well, Andy, we love you and this and that and the other thing,
21 but it's time for you to move on. And I took that with nothing
22 but respect and appreciation from where they came from. Left
23 on completely cordial terms and are still on completely cordial
24 terms. When I see them, we say hello and chitchat and
25 everything is fine. There is no animosity. No hard feelings.

OSTROWSKI - DIRECT (narrative)

1 It was -- and during that period of time I was
2 diagnosed by a doctor in around -- this was around the time
3 that my relationship with Mette, Evans and Woodside had
4 terminated. I had experienced some problems. And you know, I
5 met a counselor back then, a gentleman by the name of Jake
6 Thiessen, T-H-I-E-S-S-E-N, who is still one of my -- one of the
7 dearest and closest people to me in my life that I still
8 communicate with. I still have counsel with. And my wife who
9 I was dating at the time, we just kind of -- he suggested ADHD
10 as being something that I should look into, and I did look into
11 that. Met up with a doctor and he ended up prescribing me
12 Adderall, which is basically an amphetamine.

13 Very frankly, I didn't follow my doctor's orders with
14 it and used it more than I should have. It wasn't a good thing
15 for me. It wasn't good for my marriage. But I worked and I
16 worked. That's all I did. I practiced law and everything, and
17 my life was around practicing law. A lot of things suffered
18 because of it. My marriage suffered because of it and ended.
19 And that was just the medical matrix for me at that point.

20 Now, I want to hop back and talk about what one of the
21 issues is that came up through Dr. Schwartz, and that is --
22 that is this PTSD. It was June 2nd, 1973 I was in a fire. It
23 was brothers. I have four brothers. I come from a Roman
24 Catholic family. I have one sister. Just a typical middle
25 class upbringing in rural Lancaster County, East Hempfield

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1 Township, Pennsylvania.

2 There was one Saturday afternoon dad left some gas
3 out, and me and the brothers, three older brothers and one
4 younger brother, just started playing with it. And my one
5 brother threw a match on the gas can. It lit on fire. He
6 kicked it. It hit me in the back and burned me. I have scars
7 about halfway up my back on the right-hand side, and I have a
8 pretty big scar on the inside of this elbow and some scarring
9 still on my right arm, up and down my right arm.

10 I was hospitalized for six weeks at the time, a little
11 over five weeks it was and separated from my family. It was a
12 very, very close family growing up. In fact, even to this day,
13 the closest relationships that I have in my life are -- well,
14 Don Bailey I'm close with and a few other close friends. But
15 my immediate family and I are still very close and it's always
16 been that way.

17 But when I was in the hospital, separated completely
18 from my family for about five weeks, every time my parents came
19 in to see me they had mask and gloves and caps and gowns on.
20 And it was a very cold and austere environment. Looking over
21 the medical records and things, it was really an under
22 treatment for the pain issue. Pain management is a huge part
23 of treatment nowadays. But back then, particularly at a
24 Catholic hospital, they didn't want to use a lot of drugs. And
25 the drug of choice was Morphine, and they didn't use that.

OSTROWSKI - DIRECT (narrative)

1 So essentially I was in a prolonged state of pain for,
2 you know, the five weeks I was there. And then afterwards
3 there was some complications and infections or something that I
4 had to come back for additional treatments for.

5 And you know, fast forwarding back to around the year
6 2000. Now, understanding I had -- it was after I got out of
7 law school, I was -- in fact, I dated during law school Susan
8 Schwab, who is now a magistrate judge. She knew what I was --
9 some of the stressors and emotional strains that I dealt with
10 and she tried to help me along the way.

11 But for some reason, you know, I went for treatment.
12 I went to doctors. I went to counselors. I went to everybody.
13 Nobody ever really put a finger on what was going on with me.
14 Frankly, I always knew that I was someone who was missing
15 something, but I didn't know. I knew I had these scars and
16 these burns, but I didn't think about it a lot. I didn't
17 obsess about it, et cetera.

18 But regardless, I, you know, started this pattern in
19 around 1994. So towards the end of my career with my career
20 with Mette, Evans and Woodside where I was trying to figure out
21 what the heck was going on with me, why my stress reactions
22 were so out of proportion to what my life circumstances were.
23 And I knew that. I was my biggest critic. And I just knew
24 that there was something going on.

25 So coming into then it was around 2001 is when I --

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1 Don Bailey and I had met through a mutual potential prospective
2 client sometime in the late '90s. It was in 2001, you know,
3 when I was asked to, you know, find other employment with
4 Serratelli, Schiffman that I just picked up the phone and I
5 called Don. I said I don't know if you remember me. Andy
6 Ostrowski. We met. I admire you. I thought you were great.
7 Hey, how would you like to practice law together. He said
8 sure. He said come on down, we'll talk. So I went down and
9 talked and knew right away that I was in the right place and
10 that I was with the right person.

11 So that became -- I think that was in February of 2001
12 that became, you know, my full-time employment. You know, I
13 was a self-employed -- there was a brief period of time where
14 Don and I and Sam Stretton held ourselves out as partners. We
15 had some letterhead. We got together and talked business and
16 went out socially and talked business. But it wasn't like a
17 formally structured partnership with agreements and profit
18 sharing. It was pretty much running my own ship and Don ran
19 his own ship. And Sam, of course, his primary is in West
20 Chester, and he did his own thing.

21 Don and I never -- we rarely -- we talked cases like
22 all attorneys talk about cases together. You got a legal issue
23 that comes up. You pop your head in your colleague's door and
24 say hey and you bounce something off them. It was a great
25 professional relationship that we had. We didn't -- rarely --

OSTROWSKI - DIRECT (narrative)

1 I would handle some litigation for him and cases of his, but we
2 didn't plan cases together and talk about cases. The way Don
3 was with cases is if he referred a client to me to take over
4 one of his cases, then I took the case over and managed it. He
5 would like to stay in contact with his clients, of course,
6 because he's very client service oriented, but, you know,
7 calling the shots and things of that nature were my deal.

8 It got to be, you know, around 2003 or so. And I --
9 you know, during this initial period of time I was still taking
10 this Adderall. And I wasn't taking it as prescribed. It
11 became a problem. You know, my poor wife had to deal with my
12 obsessive focus on working all the time, and she was a back
13 seat to everything. Things started falling apart. And you
14 know, frankly, you know, as humiliating as it is, I got
15 involved in an extramarital affair. You know, and then the
16 guilt with that and the -- you know, the dealing with what I
17 was dealing with and the pressures of work, things started kind
18 of spinning out of control for me.

19 My wife, she hung in there. She's a saint and God
20 bless her. But at one point she ended up she had to file for a
21 divorce. Of course, I never thought that that would be my
22 life. Things were going out of control. And then, you know,
23 there was always this issue have I got to deal with these --
24 there were times in my past where I was a marijuana smoker. It
25 was basically like a self-medication thing. But with that --

OSTROWSKI - DIRECT (narrative)

1 with taking Adderall and smoking pot or whatever, it was a lot
2 of guilt that's built up with that.

3 Here I am, I'm a lawyer. And you know, I know that I
4 have these issues. But these are the things that help me cope.
5 So you know, there's a lot of emotional turmoil that went with
6 that. It was never just a reckless thing. It wasn't just a
7 recreational thing. I wasn't a gambler. I wasn't a drinker.
8 I just managed my -- you know, my emotional state for a lot of
9 of my adult life and my professional life, sadly.

10 But with all that, you know, then the marriage
11 starting spinning out of control, you know, I was -- I had to
12 find a way to deal with these issues once again. I went
13 through an alternative treatment thing with some doctors up in
14 Allentown, and that involved like going into saunas and
15 sweating it out. It was based on like a Scientology type of
16 program actually. But I wasn't a Scientologist or anything.

17 But during that period of time with the marriage kind
18 of falling apart, with me not using my normal coping
19 mechanisms, which to me, were really medical treatments,
20 treating my condition because no one else seemed to ever have
21 an answer for me and the work stress started picking up, I
22 started trying more cases in federal courts, getting more
23 complex type of civil rights cases, never stopped handling
24 those types of cases, but I really started spinning out of
25 control in around 2003.

OSTROWSKI - DIRECT (narrative)

1 That's when it was -- you know, it was my wife
2 actually who came to me and begged me, Andy, I found this
3 Lawyers Concerned for Lawyers thing. Please call them. I said
4 great, I'll call them. I called them and they are the ones
5 that got me hooked up with Dr. Kruszewski. Dr. Kruszewski's
6 first words to me were, you're in the right place. So I was
7 really in a bad state, though. My productivity was way down
8 with the work. But I was committed even at that point to try
9 to deal with these issues.

10 I started treating with Dr. Kruszewski. His diagnosis
11 of me was always you're a substance abuser. Okay. You know, I
12 mean, I was always kind of suspicious. Well, you know what --
13 the way these things kind of take hold of me, it just didn't
14 make sense. But I gave him a complete and thorough history
15 because I wanted these issues resolved. You know, it's
16 humiliating and you feel weak, morally weak and spiritually
17 weak and mentally weak; like, I'm less than a man having to
18 deal with these issues and never getting to an answer.

19 But I started following his treatment. No
20 medications. No drugs. That was always his thing, no
21 substances. You're just a substance abuser. And started going
22 to the 12 step meetings, et cetera, et cetera. And you know,
23 during that treatment initially I thought well, I'm with the
24 right guy. You know, I'm just going to do everything he says.

25 I went to my 12 step meetings and had a sponsor. You

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1 know, just did everything that I was supposed to be doing. I
2 started coming back and practicing a little bit more. I came
3 up here with -- in fact, it was Judge Muir in 2003, the
4 Messarge case, had a tremendous result. And I think the court
5 reporter here probably remembers that case. We did, we had a
6 tremendous result.

7 But you know, then after that, you know, Dr.
8 Kruszewski just started becoming more distant from me. I
9 wasn't able to get access to him. He wasn't returning phone
10 calls. And you know, then I stopped. And it was right around
11 the same time when the final divorce papers came through. You
12 know, it was an emotional time for me. I went back and I
13 started using marijuana again. But I told Dr. Kruszewski. I
14 called him. I asked him for help. I told him things were
15 starting to kind of come apart for me a little bit, and he just
16 wasn't real receptive.

17 The next year then was, you know, professionally I was
18 trying a lot of cases. I was doing a lot of things. But there
19 was a lot of stress. And my personal life I didn't have
20 completely in check. You know, just had a couple relationships
21 that weren't -- you know, weren't the best relationships. And
22 you know, things started to fall apart a little bit for me
23 again.

24 This doctor just became completely inaccessible to me.
25 You know, the stuff -- I know we talked about getting in

OSTROWSKI - DIRECT (narrative)

1 through him, but it's in my statement. My statement is in
2 evidence. You know, he did, he made -- he made suggestions to
3 me. He asked me -- you know, I'm sitting -- we used to meet at
4 his house. House up in the woods. And he had a little
5 conservatory with a piano and his oil paintings would be
6 around. We would sit in there and talk. And one time, this
7 was before -- this was probably like late 2003. He was looking
8 at me and says, you know, would you ever -- would you mind
9 modeling nude for me. And I just -- I mean, honestly, I know
10 psychiatrists are kind of kooky, and I know how artsy people
11 are. I didn't make a big deal out of it. It was just kind of
12 puzzling to me. I don't know if I maybe said yes or just kind
13 of shrugged it off, whatever, we'll talk about it or think
14 about it. But that was a little bit bizarre.

15 He did. He did say things. He wanted me to talk
16 about my penis, and he talked about other people, you know,
17 having problems with their penis issues and things of that
18 nature. And I just -- you know, I was just -- I just blew that
19 off, like that's not my problem. I'm not concerned about that.
20 I don't have those kind of hang-ups and I don't really care to
21 talk about them. I've got an anxiety issue and those are the
22 things that I want to focus on.

23 So that kind of went on for a while. Early on in that
24 treatment with Dr. Kruszewski, he never gave me a diagnosis
25 other than I was a substance abuser. I -- you know, I guess I

OSTROWSKI - DIRECT (narrative)

1 was. I was never an alcoholic. You know, I didn't feel that
2 compulsion. All I knew is when I didn't do things like smoke
3 marijuana or stuff like that, I started getting anxiety. That
4 helped me. It helped me keep that under control.

5 But I went through this drug treatment program at
6 Marworth, which is in Waverly, Pa, I guess in Lackawanna
7 County. That's where he refers other doctors to. When I was
8 there they said -- in my view, when I went to Dr. Kruszewski,
9 he was the man for me. He was giving -- he was put together
10 with me through the Lawyers Concerned for Lawyers program. I
11 had gone through physicians. And I was putting all my -- I put
12 all of my faith in him. I didn't not disclose a thing. Told
13 him all about the burn stuff, all about everything in my
14 history. There was not a single thing that I didn't disclose
15 to this man. He sent me up to Marworth.

16 When I was at Marworth they did a whole host of
17 written testing. Other people weren't doing it, though. It
18 was me. I kept getting called in to take this written test or
19 talk to this person and didn't get any results. I was asking
20 other people did they have you do that, and they were saying
21 no. So I just thought -- honestly, I thought well good, then
22 I'm getting treated right. Someone is trying to help me here.
23 Which I hope that that is still the case.

24 But you know, you heard Dr. Schwartz testify, or you
25 read his letter, the condition I was dealing with was obvious.

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1 It was obvious to him. It is obvious. It's obvious to me.
2 And I'll get to how I realized it. But you know, it wasn't
3 disclosed to me. And there is no question in my mind that Dr.
4 Kruszewski knows what I was dealing with, and for some reason
5 or another did not disclose that to me.

6 Okay. Trying to get off the Dr. Kruszewski stuff.

7 I think I covered everything except one meeting. He
8 mentioned this thing I said about Dr. Hobbs. Trust me, it was
9 bizarre to me, too. He came down -- I called him. And this
10 was later in 2005. First, he told me he doesn't -- he didn't
11 want to prescribe me any medication. And I didn't ask for
12 medication. I don't believe -- you know, the whole
13 pharmaceutical industry, I don't trust. I don't think those
14 medications are good. I never wanted to be on them. I had
15 tried them in the past but just never really felt comfortable
16 with that. And he never prescribed anything.

17 But then all of the sudden later, he prescribed me
18 Lithium one time. He prescribed me Klonopin, which is a highly
19 addictive benzodiazepine at one time. And one point I was in a
20 real bad state, April, Easter of 2005 I was at my sister's
21 place. She called in. And this Dr. Kruszewski who sat here
22 and just tried to tear me down with a pack of lies, what he was
23 doing up here is all he was doing, he called in phenobarbital.
24 And just -- you know, my sister even said that's just bizarre.
25 That was bizarre to her at that time. She didn't know what he

OSTROWSKI - DIRECT (narrative)

1 was doing at the time.

2 But that went on. And it was around that same time I
3 called him, and Don and Adrienne were aware and nobody was in
4 the office. I was having a real bad time. I got in touch with
5 him, and he's like all right, I'm going to come down, Andy. He
6 came down to the office, 4311 North Sixth Street. Picked me up
7 in the little white Lexus SUV that he has. He drove me over to
8 the Pennsylvania Medical Society. And I was in a real bad way.
9 I told him everything. I told him everything that was going
10 on.

11 This doctor, Dr. Thomas Hobbs, I find out -- we don't
12 go up to an office. We go down and we sit in a lobby at a
13 table. I sat there and this Dr. Hobbs comes down, comes out
14 the elevator and comes to sit at the table across from me. I
15 remember Stefan was sitting here to my right. This doctor, he
16 looked at me and he said -- I was in -- I had -- I mean, part
17 of my condition was what is called an attachment disorder
18 where -- and you know, I don't like to over-do these things.
19 The psychology, it's humiliating. It's been humiliating enough
20 to live with. It's humiliating to keep talking about, but it
21 is the truth. And sometimes people make more out of their
22 psychological problems than they should and just aren't taking
23 responsibility. But in retrospect, these things were real.

24 But I had some issues with attachments to women. You
25 know, I had an extramarital affair and had relationships going

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1 on at the time. And this doctor -- and the one kind of bizarre
2 one that I was in broke off, and this Dr. Hobbs -- and they
3 knew. I talked to Stefan Kruszewski about all this.

4 He comes down and he sits at the table across from me.
5 He looks at me and says would any drugs help you right now.
6 And I was just such as basket case, I looked at him and said
7 no. Would Adderall help you. No. Would any women help you
8 right now. Would it help to be with a woman right now. I said
9 no. He got up. Got back on the elevator and left.

10 Stefan got up and said let's go. I got in the car
11 with him. Stefan dropped me off at my office. I pointed at my
12 car. I said do you see that damage on my car, Dr. Kruszewski.
13 I always called him Dr. Kruszewski out of respect. I didn't
14 call him Stefan. He said yeah. I said I did that when I was
15 backing out of a place when I was looking for a place to kill
16 myself. He looked at me, looked at my car and said oh.

17 And I was like waiting for him to -- I mean, it was
18 like a desperate plea for help. He just had me get out of the
19 car and left. Don wasn't there. No one was there. I was like
20 that man just completely abandoned me. I mean, I knew it right
21 then. I was like, this was bizarre. There goes my last hope.
22 And that was it. And that was probably in May 2005 or so.

23 And from there I just -- you know, it just -- my life
24 at that point just spiraled, went into a downward spiral even
25 worse than it was from there. Because I was committed to not

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1 going back to using illegal drugs, and I didn't want to go back
2 on medication.

3 And I just thank God for Don Bailey and his family who
4 basically warehoused me at times in that office and for my
5 family, without whom I would be dead right now. But for a
6 couple of years I was just not functioning. I was not
7 functioning professionally. I had no personal life. Don was
8 really my only friend in the world. You know, he would give me
9 some work to do. Occasionally, you know, work on some briefs.
10 I had some clients, but things weren't going well. Somehow I
11 was able to manage, but things weren't going well at all. And
12 you know, I just didn't know what was going on. I just
13 couldn't function. I couldn't function at all.

14 Then you know, then just to -- now to talk
15 specifically about some of the discipline. In 2003 -- and it's
16 all in the record now. I submitted the record to the Court
17 from the state court disciplinary proceedings. There were two
18 prior informal admonitions. The first one came in 2003 when I
19 was first going through these problems. Really bad going
20 through the problems.

21 It was a girl by the name of Alecia Boucher
22 (phonetic). She was a 21-year-old girl at the time. She came
23 to me. She had a couple of problems. One was she had a car
24 accident she wanted some help with, and she also had some minor
25 criminal issues, like retail theft and things. But the first

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1 thing she started talking to me about was this overbearing
2 mother of hers, and she wanted her mother out of her life. And
3 I counseled her with this. I said, you know, if you are asking
4 me to --

5 *MR. GILROY:* Excuse me, Judge. I said I wasn't going
6 to object much. I'm objecting to any relevancy to the prior
7 disciplines or admonitions from the state court, because we're
8 just going to go through what happened and why it happened.
9 We're here today to figure out if Mr. Ostrowski is fit to
10 practice law today. And I didn't object when he was giving his
11 personal history, but I'm objecting to the relevancy of the
12 prior disciplinary proceedings.

13 *MR. OSTROWSKI:* If I may respond?

14 *THE COURT:* You may respond.

15 *MR. OSTROWSKI:* My response is that in order to -- you
16 know, I have been disciplined in the past. And you have to
17 make a decision as to -- you know, these things are in the
18 record now. And I never put on any mitigating evidence at my
19 prior proceedings, because I wanted to just get rid of them and
20 get them resolved and get done away with. I was just going
21 back to provide a little bit more context. I wasn't going to
22 get hung up on them. I just thought it was relevant for the
23 entire context. The entire record of all of my disciplinary
24 proceedings are before the Court now, and I was just adding
25 what -- you know, what additional mitigating evidence that I

OSTROWSKI - DIRECT (narrative)

1 didn't offer before.

2 *THE COURT:* Well, that's noted. The objection is
3 sustained.

4 *MR. OSTROWSKI:* Okay.

5 *THE COURT:* Again, you remember what you are trying to
6 do today, which is to try to persuade this Court of your
7 fitness to return to the practice and the Bar of the Middle
8 District. Try to focus on that. The objection is sustained,
9 but you can finish your narrative.

10 *MR. OSTROWSKI:* Okay. Just getting through, I was
11 going to comment on the Aaron Chambers case, which is what led
12 to -- you know, I was going through this period of time back in
13 from 2005 up until about 2008 or 9, where what I just explained
14 to you was my wife, and I don't have children. You know, to
15 this day it hurts me every day that I don't. I'm not married
16 now. I had a wonderful wife who was just totally committed to
17 me. But this is what my life was.

18 I'm trying to provide context for what was going on at
19 the time, because at some point or another you're going to have
20 to make an assessment of really what was going on at the time.
21 There is reason to believe that I was nuts or whatever
22 people -- however people want to label it. But I wasn't. I
23 was dealing with posttraumatic stress disorder that wasn't
24 diagnosed and got out of control. And I had a difficult time
25 dealing with it, and that's what led to my prior disciplines.

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1 Had I -- as Dr. Schwartz testified to today, had he
2 met me in 2003 and we got on the proper diagnosis and the
3 proper treatment plan, I don't think anybody sitting in this
4 courtroom today, other than Dr. Kruszewski who tried to, would
5 say that I'm emotionally unfit or not sane and rational and
6 reasonable. I am completely sane and rational and reasonable.
7 I am mentally competent. I am intellectually competent.

8 And that doctor sat here today and he tried to hurt me
9 again. He tried to hurt me by not sending me my own medical
10 records. A lot is made about me coming in here and wanting to
11 make this about a medical malpractice case. All of the
12 interactions with him started with a very honest letter that I
13 wrote requesting my medical records. I have a doctor that I'm
14 treating with that has not had the opportunity to see those
15 medical records. They exist, and you heard it admitted today
16 that have been withheld from me. These people are continuing
17 to try to hurt me. That is relevant. And that is the context
18 and confirms exactly what I was saying in my statement, that
19 this doctor not only mistreated me, he was trying to hurt me.
20 And if a doctor -- for a doctor to, you know, call and makes it
21 a police matter and, you know, send no trespass letters about
22 requesting my medical records that he had the whole time, that
23 man should be punished. There should be a complaint issued
24 against him and a complaint issued against his lawyer. That
25 lawyer should be told you get those medical records to

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1 Mr. Ostrowski and you get them to him today. This man has
2 ongoing treatment issues.

3 That's how that situation should be handled. Not to
4 suggest that I'm some kind of threat of harm to these people.
5 I needed help. I've got it under control now. But still, I
6 want those darn records, and they are still hurting me from
7 trying to withhold them from me.

8 I was just outraged to sit here and have to listen to the
9 fact that they are there and what they went through, getting
10 charged with criminal trespass because I was trying to serve a
11 federal subpoena. I mean, these people are nuts. And that
12 stuff that he said up here today about me was just him trying
13 to hurt me more.

14 Regardless's. Specifically, okay I covered a lot of the
15 history. The Aaron Chambers stuff, you know, I was in one of
16 those bad states. Aaron Chambers was not prejudiced. I felt
17 terrible for him. But he had trial counsel. I took care of
18 seeing that he had trial counsel. Don Bailey stepped in to
19 help out to make sure he had trial counsel. He was not
20 prejudiced by my conduct other than the fact that I would have
21 done a better job for him, because when I'm on my game I'm as
22 good as they come.

23 I know the rules of evidence. I know the law. I treat
24 people with respect. I'm good in front of juries. I have a
25 demonstrated record of doing that. And that's why I prejudiced

OSTROWSKI - DIRECT (narrative)

1 Aaron Chambers. And I feel bad about that.

2 In terms of what some people get from counsel, Aaron
3 Chambers was not prejudiced at all. And in fact, after my
4 disciplinary hearing he came up to me and said Andy, I'm sorry.
5 Would you represent me again. And of course I said yeah. Of
6 course that never materialized. And I don't know what
7 happened.

8 Now, to fast forward. How it happened with this PTSD
9 was -- you know, I didn't -- and this needs to be explained
10 because this is a real key part of my motion. I did not put on
11 any mitigating evidence. You know, I know what I had
12 experienced from 2005 to 2008 or 9 or so. And you know, when I
13 had to deal with the disciplinary -- you know, I was saying to
14 family and whatnot, at some point or another I'm going to have
15 to take some professional responsibility for what's going on.
16 Even though it was physiological, physical, mental,
17 psychiatric, whatever you want to call it, it hurt me more than
18 anybody else. Trust me. It did more harm to me than to the
19 system or any one client, what I was going through.

20 Because I love what I do. I love being in the courtroom.
21 I love practicing civil rights law. I love and respect and
22 admire the Courts, notwithstanding some things that may or may
23 not have been gotten into here. And I have the utmost regard
24 for the practice of law, what I do.

25 I don't think there is ever a staff person from a judge's

OSTROWSKI - DIRECT (narrative)

1 chambers that I ever mistreated or I ever misspoke to. I may
2 have had some difficulties with judges, as we discussed
3 conforming, you know, my thinking to some of the things that I
4 have dealt with. But I always try to deal with them
5 respectfully and professionally and on the record of
6 proceedings.

7 And on that point of what we've talked about from counsel
8 table about conforming to judicial thinking is -- you know, the
9 judges in my view needed to -- because it's apparent to me that
10 you've got some -- you may have had some discussions about some
11 of this with some of them, because I had heard some of that
12 before that I don't take the rulings well. But you know, I
13 need to set up appeal records, too. And by sitting and being
14 quiet and anticipating an objection and knowing what a judge is
15 going to say and not saying it, that is compromising my
16 client's rights.

17 A judge has to have that same respect and regard for the
18 intellectual process of the attorney to know that an attorney,
19 when they are asking questions in court, are doing it for
20 proper purposes; not to just be defiant, not to just be
21 difficult, not to just be someone that they can't control, but
22 because I need to make these arguments at some point down the
23 road. I need to argue to the Third Circuit that these rulings
24 to this series of questions that I asked demonstrated a bigger
25 point sometimes.

OSTROWSKI - DIRECT (narrative)

1 So I mean, if judges are communicating that I just don't
2 take rulings well and I just am defiant or something, that is
3 anything but the case. You get to the point where you know
4 that it has to stop. I think I have demonstrated that today
5 when you and I had the dialogue that we had, I got to the point
6 where I felt, okay, my point is clear. And that's my process,
7 that my point is clear on the record and that the judge's point
8 is clear on the record.

9 Now if I go forward and continue asking these questions,
10 then it would be unreasonable. So it's not just that this is a
11 guy who wants to fight all the time. It's anything but the
12 case. I'm not a fighter. I fight for my clients. I believe
13 in what I do. I fight zealously for them and always have.
14 That should frankly be rewarded and not used against me to the
15 extent that that is your thinking and you make your decision.
16 I should be credited with my passion and with my integrity and
17 my zeal for my clients and not chastised as somebody who just
18 can't take no for an answer.

19 I happen to believe and I am blessed to happen to believe
20 that in every case I ever filed I filed a good case. I filed a
21 case with merit. I filed a case that at the very least should
22 have gone to a jury and a jury should have decided the facts
23 and they should have made appropriate awards. So when you
24 believe that you're right about things and when you're dealing
25 with the civil rights cases and you are dealing with those

OSTROWSKI - DIRECT (narrative)

1 inherent inalienable rights of man, rights endowed by their
2 Creator, that's a heck of a responsibility for a human being to
3 have. And I honored that responsibility. And people come to
4 me.

5 You know, I believe that I am defending those rights. And
6 you know, I'm going to -- you know, if it comes to representing
7 a client and speaking for the client at the risk of a judge
8 saying I can't conform my thinking to their rulings, I'm going
9 to side with the client every time. I'm going to do that
10 today. I'm going to do that if I get readmitted. And I'm
11 going to do that for the rest of my professional life in any
12 context that I have to do it. It will always be well
13 motivated. It will always be with a reasonable belief in the
14 merits of my positions. It will always be based upon the law.
15 It was always be proper under the rules of evidence. It will
16 always be done with decorum, with respect and dignity.

17 If I happen to have some judges who don't have a
18 temperament where they, for whatever their thinking is, you
19 know, need to put it in a light where a lawyer doing his job is
20 looked at as someone who is just a fighter and a renegade and a
21 rebel, that is just, you know, tilting at windmills, that's a
22 judge's problem. That's not my problem. Because I know that I
23 conform myself to the rules of Court, to the rules of law, to
24 the rules of ethics and to the standards of professionalism.
25 And I have done that in all times in my life.

OSTROWSKI - DIRECT (narrative)

1 I have explained now the personal circumstances that led
2 to my discipline. I can conform myself very easily to proper
3 thinking. I can even wrap my mind around improper thinking. I
4 tried to articulate my positions on the record. I tried to do
5 it fairly. And I think that everything that I have said today,
6 I think my testimony now demonstrates that I meet the standard
7 of moral qualifications, competency and learning.

8 I do continue to study these issues. I follow the Supreme
9 Court precedent. And I'm fully competent, willing and able to
10 return to the practice of law. Regardless of anything that has
11 gone on in my professional history from December of 1992 to the
12 present, I can appear in court in front of you, I can appear in
13 court in front of Judge Kane, Judge Jones, Judge Conner, any
14 judge in the Middle District, any judge in the Eastern
15 District, any judge in the state court, any judge in any court
16 in the land up through the United States Supreme Court, and I
17 can treat them in every case on its own merits. I can look at
18 every fact and legal issue independently.

19 I am not out to hurt and harm and do anything other than
20 to establish -- you know, than to practice law the way I was
21 trained to practice law, the way I feel in my heart is right to
22 practice law. I got the blessing to practice law with Don
23 Bailey the last few years. I do have some feelings about some
24 things that have gone on with respect to his professional
25 history.

OSTROWSKI - DIRECT (narrative)

1 But there is nothing -- no evidence that I cannot properly
2 return to the practice of law and start practicing. My medical
3 issues are under control. I have a clear diagnosis. I have a
4 clear plan. I'm on it. I'm getting better. I have grown up
5 Roman Catholic. There are periods of time where I fell away,
6 for lack of a better term, you know, didn't practice my faith.
7 But it's always been an important part of my life. It was
8 always an important part of my marriage. I got away from it
9 after the marriage broke up, and I went on my little bit of a
10 downward spiral.

11 But I am firmly rooted in faith and spiritually right now.
12 I don't use any drugs whatsoever. I take maybe a Tylenol or
13 something if I have a headache. I take multi-vitamins. I
14 don't take any prescribed drugs or illegal drugs. I might have
15 a couple of beers with my brothers if we are doing something.
16 I might sit over at Don's and have a beer occasionally or
17 something. But I don't go out drinking. I don't gamble. And
18 I don't rob, steal, thief. I've never stolen a thing.

19 None of my discipline -- I did a little assessment. I had
20 some help with an assessment here done, comparing my discipline
21 to others. My discipline did not involve any deceit, any
22 deception. I have never taken a dime from any client. I have
23 never overcharged a client. I have been underpaid. I have
24 under charged. I've been generous with clients. I try to do
25 as much as I can. I would help everybody in the world I can

OSTROWSKI - DIRECT (narrative)

1 for free, if I could, because I care about what I do. But I
2 can't. I have to pay some bills, too.

3 No deceit. I'm not a liar. I never lied to a judge. In
4 my 20 years of practice, if I'm not in the office -- if I'm in
5 the office -- if I'm in the office and I don't want to take a
6 phone call, I don't say I'm not here. I say I'm not available.
7 I don't tolerate lies. I don't tolerate deception. I don't
8 tolerate any of it. I don't engage in it, and I don't tolerate
9 it. There is none of that in my history.

10 My professional, personal history and my disciplinary
11 history had to do when some psychological, psychiatric,
12 physiological, however you want to define the conditions, that
13 got out of control because I was not properly treated for a
14 disorder that I have had for 40 years. That I'm blessed and
15 thankful that I am now treated and will continue to be blessed
16 and thankful for, whether I get my license back or not and
17 readmitted to the roll of attorneys.

18 I think -- I think I have spoken on my behalf to give you
19 a record to return me to the practice of law, Your Honor, and I
20 would look forward to the opportunity of practicing in front of
21 you. All right.

22 *THE COURT:* All right. Mr. Ostrowski, thank you very
23 much. Mr. Gilroy, cross-examination.

24 *MR. GILROY:* May I approach here, Judge --

25 *THE COURT:* You may.

OSTROWSKI - DIRECT (narrative)

1 MR. GILROY: -- to layout some exhibits.

2 THE COURT: You may.

3 MR. GILROY: Your Honor, how do you want me to
4 categorize my exhibits? I think you referred to me as
5 disciplinary counsel. Would a D-1 be fine?

6 THE COURT: I think so in this circumstance. The
7 terms of art are a little odd because to some degree
8 Mr. Ostrowski has also been referred to as the respondent in
9 the rules. And I sort of consider Mr. Ostrowski --
10 Mr. Ostrowski, I consider you to be the petitioner really.

11 MR. GILROY: The --

12 THE COURT: Your petition, your motion.

13 MR. OSTROWSKI: The stickers are Plaintiff's exhibit
14 stickers.

15 THE COURT: I think that's fine. Let's deal with it
16 as a D. The Court can keep it straight that way.

17 MR. GILROY: May I question from here and walk up?

18 THE COURT: That's fine, perfectly fine.

19 CROSS EXAMINATION

20 BY MR. GILROY

21 Q. Mr. Ostrowski, just to be clear, you filed this petition
22 with the Middle District Court after you filed the petition
23 with the Pennsylvania Supreme Court to reopen your proceedings.
24 Correct?

25 A. That's correct. And I attached the state court petition

1 to the Middle District motion.

2 Q. And you did not petition the state court to be reinstated
3 with the Pennsylvania Supreme Court. Is that correct?

4 A. Yeah, I asked for the same relief, that my old proceedings
5 would be reopened and that my penalties should be mitigated
6 based on this newly discovered evidence, and I should be
7 returned immediately to the roll of attorneys in state court,
8 as well.

9 Q. Well, I'm going to show you just a copy of your motion
10 that you filed with the Pennsylvania Court. I just want to
11 clarify. You asked the Pennsylvania Court to reopen your
12 original disciplinary proceedings. That's how the petition is
13 captioned. Is that correct?

14 A. Yes. Motion to reopen proceedings.

15 Q. Right. And in this Federal Court, you are asking the
16 Court to reopen the proceedings but also to simply reinstate
17 you under the applicable rules of the Federal Middle District?

18 A. That's correct. And there is case law. It's one of the
19 Surrick cases. I don't have it here in my notes. And I don't
20 know if it's Surrick v Killion. There are two or three Surrick
21 cases. But in one of the Surrick cases on the reciprocal
22 discipline issues, it says reciprocal discipline -- and I'll
23 cite the case in my post-hearing submission. "Reciprocal
24 discipline only applies at the imposition of discipline phase.
25 When it comes to readmitting attorneys to practice, it's not

1 conditional or contingent upon readmission to the state
2 courts." There is case law on that.

3 Q. By way of background, you became aware that I was
4 appointed by Judge Kane as an investigative attorney to
5 investigate Mr. Bailey, Mr. Don Bailey. Is that right?

6 MR. OSTROWSKI: I'm going to object to any questions
7 about Attorney Don Bailey or his disciplinary proceedings as
8 having any relevance to my case.

9 THE COURT: Why would it be relevant, Mr. Gilroy?

10 MR. GILROY: What we would offer, Your Honor, is a
11 letter from Mr. Ostrowski to me and a number of other documents
12 and actually films where Mr. Ostrowski is making certain
13 comments concerning judges of the Middle District, his opinions
14 on them, accusing them of -- actually accusing them of crime.
15 But it's relating to and started with the investigation of
16 Mr. Bailey. So I merely have to give the Court the background
17 to find out how this thing started.

18 THE COURT: The objection is overruled. It is
19 relevant for that purpose.

20 BY MR. GILROY

21 Q. Sir, I believe the question was you were aware I was
22 appointed as investigative counsel by Judge Kane to evaluate
23 Don Bailey's conduct in the Middle District?

24 A. That's correct.

25 Q. Now, I'm going to show you what's been marked as Exhibit

1 D-1. Is that a letter you sent to me on January 24th, 2011?

2 A. Yes, it is. And I'll just note that pages two through
3 nine say January 22nd, 2011. But that was just me not -- me
4 finishing the letter on that day and not going back and
5 correcting those and those headings. Yes, this was all of the
6 letter.

7 Q. And the last page, page nine, a copy of the letter was
8 sent to all of the judges of the Middle District of
9 Pennsylvania; Judge Scirica, Judge Vanaskie, Senator Toomey,
10 Senator Casey, Representative Holden, Governor Corbett and
11 others.

12 A. Yeah, John Conyers, Don Bailey, Paul Killion, Ed Frese,
13 Sam Stretton and Devin Jacob, yes.

14 Q. Referring to page two of this D-1 and highlighted in
15 yellow --

16 A. I'll stipulate this is my letter and everything in it are
17 my words. And not only did I adopt these, I typed it myself,
18 every letter on that document.

19 Q. So you agree on page two that you call --

20 A. I agree with everything that I said. I agree that these
21 are my words, sir.

22 Q. Okay.

23 MR. GILROY: Did Your Honor want the portions that I
24 consider to be relevant to highlight through testimony, or does
25 Your Honor just want to rely upon me to, in a post-hearing

1 submission, highlight the pertinent parts of this letter that I
2 would like to refer to?

3 *THE COURT:* I think that's probably sufficient. And
4 the Court will read everything. But it probably would be
5 helpful in the post-hearing brief to simply outline what you
6 consider to be the most relevant parts of that or any other
7 subsequent correspondence.

8 *BY MR. GILROY*

9 Q. Mr. Ostrowski, I'm showing you what's been marked as
10 Defendant's Exhibit 2. Is that a February 20th, 2012 e-mail
11 that you sent to me and numerous other individuals, as noted on
12 the e-mail?

13 A. The one I have says Monday, August 26th from Katie J.
14 Maxwell. Oh, I see what you did. It was one that you printed
15 out from hers.

16 Q. Yes.

17 A. Yes. Okay. Okay. February 20th, 2012. Yes, that's my
18 e-mail. Those are my words. I typed every letter of them.
19 Same stipulation on that.

20 Q. I'll show you what's been marked as Defendant's Exhibit
21 Number 3. Is that a letter dated February 26th, 2013 from you
22 to Michael Daley of the Pennsylvania Supreme Court that
23 includes numerous attachments?

24 A. Yep, that's mine.

25 Q. And that's the letter that you copied and noted on page

1 ten to President Obama, Senator Casey, Senator Toomey, the
2 Vatican and others?

3 A. That is correct. Those others are justices of the United
4 States Supreme Court, justices of the Pennsylvania Supreme
5 Court, James Horne, Esquire, Pam Collins, Esquire, Don Bailey,
6 Esquire and the Pennsylvania Civil Rights Law Network. It has
7 attachments to it. All of those attachments are mine. I think
8 I -- well, there's -- there's a writ of certiorari in there
9 that is signed by Margaret Royer. But yes, I'm familiar with
10 that report.

11 Q. A document that's already of record is your motion to
12 reopen proceedings and reinstatement you to practice, and
13 attached to that was the sworn statement of Andrew J. Ostrowski
14 marked as Exhibit B, which is dated April 10th, 2013. Is that
15 a document that you prepared and you authored?

16 A. It's already in evidence, yes.

17 Q. It's correct, is it not, that you set up a web page known
18 as Pennsylvania Civil Rights Law Net on or about June 1st of
19 2010? I'll show you for your recollection. It's not an
20 exhibit but a document that may aid you in coming up with that
21 date that I had trouble seeing myself.

22 A. Yeah. I think I recall the first post on there being
23 February of 2011. But it's not Civil Rights Law Net. It's the
24 Pennsylvania Civil Rights Law Network. It's a website and an
25 organization of American citizens, of which I am one, that

1 discuss matters of public concern under the First Amendment of
2 the United States Constitution. But yes, that's me. It's a
3 press agency, as well.

4 Q. I'm showing you what's been marked as Exhibit D-4. Is
5 that a compilation, for lack of a better term, of cover sheets
6 for various YouTube postings that you placed on the
7 Pennsylvania Civil Rights Law Network, the first two pages
8 referring to posting number one and the second posting, number
9 two. Posting number one being done on May 22nd, 2013. Number
10 two also on May 22nd, 2013. Posting number three, May 22nd,
11 2013. Posting number four, May 22nd, 2013. Posting number
12 five, May 22nd, 2013. And posting number six is February 24th,
13 2013.

14 A. I didn't go through every one of them with you there, but
15 I put a series of videos -- I recorded some videos in my
16 office. Some friends helped me out with them. And they were
17 put up on-line on the PCRLN on the 1776 YouTube channel.

18 Q. On YouTube and on the Pennsylvania Civil Rights Law
19 Network?

20 A. No, they weren't put up specifically linked into the
21 Pennsylvania Civil Rights Law Network dot-com. There's a
22 Pennsylvania Civil Rights Law Network YouTube channel, which is
23 where these were put up, in the hopes of expanding that with
24 other lawyers and witnesses and individual injured American
25 citizens and anybody else with the courage to come out and

1 speak about their rights and their experiences with the
2 judicial system in the United States of America.

3 MR. GILROY: I have provided you with a thumb drive.
4 Your Honor. By way of explanation I would like to enter into
5 evidence copies of these various videos, six in nature, that
6 are included on a thumb drive. We could show them. It's going
7 to take about an hour. But again, just like as in the letters,
8 they speak for themselves. I provided a copy of this to
9 Mr. Ostrowski. He has seen these.

10 BY MR. GILROY

11 Q. And we're asking if Mr. Ostrowski, would you agree that we
12 submit to the Court a thumb drive that actually contains eight
13 videos but we only refer to videos one through six in our
14 analysis?

15 A. I have the thumb drive that you handed to me when we took
16 the lunch break. I'll accept your representation of what's on
17 it. We didn't have any prehearing procedures. I had no notice
18 of what you were going to be getting into. But by all means,
19 anybody in the world is free to go on that website and look at
20 those videos.

21 I object that they are relevant at all to these
22 proceedings, but I think that issue has already been addressed
23 by the Court.

24 MR. GILROY: So we need to mark this, I believe, as
25 Number 5. And I don't need this back. I'll give you a copy of

1 that. And Your Honor, and I provided one of these to
2 Mr. Ostrowski, also. My office, particularly
3 Mr. Vanlandingham, reviewed with me the videos, and we have
4 prepared a document that we would like to direct the Court to
5 certain areas of the videos. The Court can watch the whole
6 thing. But certain areas of the videos that if you asked us to
7 show them here in court, we would cue it up to the third minute
8 and show that and then the sixth minute and show that. So I
9 would like to mark that as Defense Exhibit Number 7.

10 *THE COURTROOM DEPUTY:* It's Exhibit Number 6.

11 *MR. GILROY:* Exhibit Number 6. I'm sorry. Just for
12 the record, this is a document that I showed that we would like
13 to -- Defendant's Exhibit 6 to direct the Court's attention to
14 the video.

15 *BY MR. GILROY*

16 *Q.* Would you agree I gave you a copy of that?

17 *A.* Yeah. I'm not going to have a major dispute. The way the
18 words appear on this are not all exactly my words. I think
19 this is intended as an index for the Court to use. I think
20 that the Court should look at every video in its entirety and
21 make its assessment under the appropriate standards. But in
22 terms of that, I'll trust your compilation. But those are
23 counsel's words. When it says summary of statement, those are
24 counsel's words that he's choosing to use there.

25

1 *THE COURT:* The Court understands that.

2 *MR. GILROY:* Yes. Basically an index referring to
3 particular portions of the video.

4 *THE COURT:* Yes. Thank you.

5 *THE WITNESS:* That's correct.

6 *BY MR. GILROY*

7 *Q.* And just for chronological purposes, it's correct that --
8 and this is shown on the first video that you announced the
9 date that these videos were created was August 28th of 2012?

10 *A.* I'm -- whatever date that was, I'm pretty sure it was
11 August of 2012. If it was the 28th, then that's what we'll
12 rely on.

13 *Q.* Okay.

14 *A.* It was in my office.

15 *Q.* Subject to the motion that Mr. Bailey indicated he would
16 be filing relative to certain constitutional protections, you
17 agree that the letters and the videos that you just identified
18 are yours; your words and your representations to the Courts
19 and to various individuals and entities?

20 *A.* Yes, I do.

21 *MR. GILROY:* Your Honor, with the understanding that I
22 will be able to refer in a post-hearing memorandum to specific
23 items in each of those exhibits, we have no further questions.

24 *THE COURT:* All right. Thank you. Any redirect
25 narrative relative to that cross-examination, Mr. Ostrowski?

1 MR. OSTROWSKI: Yes, Your Honor.

2 REDIRECT EXAMINATION

3 MR. OSTROWSKI: And just for the record and I kind of
4 let -- not let my guard down, but I had intended to argue or
5 object as also being beyond the scope. This -- I understand
6 this is their case in opposition. That cross-examination of me
7 is their case in opposition to my readmission is what I
8 understand. Can I ask, is that an accurate --

9 MR. GILROY: That's correct. And I agree it was
10 beyond the scope, but it saved Mr. Ostrowski stepping down and
11 resting and me putting him back up there.

12 THE COURT: That's fine. And the Court understands
13 that. And Mr. Ostrowski, you don't have any objection. It
14 saves time and resources, and the Court is certainly
15 appreciative of that.

16 MR. OSTROWSKI: This is in my role as my own advocate
17 and not as testimonial at this point. But my view is that, you
18 know, these documents and these exhibits standing alone mean
19 nothing. I don't know if Mr. Gilroy has any other witnesses to
20 call or anything. But I'll let him make that decision. But I
21 believe that they have a case and that these statements that I
22 made establish nothing on their on. With that being said, I'll
23 return to witness mode.

24 Yes, those are all my words. Every word that was
25 uttered was uttered with a reasonable belief in its good faith

OSTROWSKI - REDIRECT (narrative)

1 basis. There is the January 24th, 2011 letter, Exhibit D-1,
2 maybe it was. Yes, January 24th, 2011 letter was a letter
3 written addressed to Mr. Gilroy. It was on the -- I was in a
4 suspended status at the time. It was with respect to
5 disciplinary proceedings that were going on with Mr. Bailey. I
6 believe that this letter -- I know that this letter was sent to
7 every judge in the Middle District in a good faith basis to
8 handle these things as responsible professionals, jurists,
9 lawyers; that there was a situation that I had come to believe
10 was not proper in its origins that was going on with
11 Mr. Bailey. I believe that some agendas were being served. I
12 believe that there is a good faith basis to believe everything
13 that I said. Not a single word that I ever said was said with
14 malice in any of this.

15 These things are difficult things for me to have to
16 say, because I knew at some point I would be sitting here in
17 front of you or somebody else in the Middle District or other
18 judges across the state. And believe me, that -- those things
19 were all present in my mind when I compiled these videos, when
20 I drafted these letters, when I did this. But I have come to
21 an understanding of what the First Amendment means. It is the
22 First Amendment. It is our paramount rights. I believe that
23 there are some problems that have manifested themselves in the
24 court system in the Middle District that have affected --
25 really manifested themselves through what is going on with Don

OSTROWSKI - REDIRECT (narrative)

1 Bailey.

2 I -- you know, choices of language. I think my
3 language is all appropriate. One comment that I would like to
4 make is what Dr. Kruszewski testified to and pointed to in my
5 statement about the stuff concerning Judge Jones. That's
6 evidence. Those comments were made. Those statements were
7 made. I probably, in retrospect, should not have put -- you
8 know, Dr. Kruszewski disclosed the psychiatric, psychological
9 conditions of judges and doctors and others to others. And I
10 found that to be absolutely repulsive when I heard him talking
11 about that.

12 Others that have heard this information, they get a
13 laugh or a chuckle out of it. I never got a laugh or a chuckle
14 out of any of it. I didn't think it was funny. I didn't think
15 it was appropriate. It's wrong of him to do. That was a
16 matter that was probably personal to Judge Jones and may have
17 exceeded -- you know, it's said in good faith, but I should
18 have probably tempered that and had a little bit more respect
19 for Judge Jones's issues than Dr. Kruszewski had.

20 But I -- you know, I have said things that have -- you
21 know, I saw one of the highlights in one of the letters was
22 take this crooked system apart. I mean, that's my literary
23 license. I do intend from either inside of the Bar or outside
24 of the Bar to continue to address and work on these issues that
25 I work on. They are of the utmost importance.

OSTROWSKI - REDIRECT (narrative)

1 An individual American citizen's ability to come into
2 a court and to be treated with fairness and dignity has
3 implications far, far beyond any one individual's rights. They
4 set up the entire system. You know, our entire political
5 climate and culture, in my view, is centered around the
6 reliability of the courts to do their job and to do it fairly
7 and honestly. I don't believe that that happens. I have -- I
8 have not -- well, strike that. I'm getting into counsel mode.

9 But there is abundant evidence. I have said things
10 that have been critical, and these are my right. I measured
11 all of these things, and none of these things were said in a
12 fit of pique, none of these things were said for a vindictive
13 purpose. Possibly that Judge Jones thing, maybe I did. Maybe
14 I was a little bit excessive in saying something like that.

15 But the fact is that that doctor abused me. He's the
16 one that should be having licensing issues. And everything
17 that I have said has been in good faith.

18 I have one additional exhibit that I want to mark and
19 I do -- I would move -- you know, I was going to mark my
20 January 24th, 2011 letter and ask that the whole thing be
21 admitted. The reason I am offering -- I don't agree, and as
22 Mr. Bailey said, the Rule 8.2, that is -- that says -- I don't
23 have the exact language. I have it in one of my notes here.
24 But the language is that reckless disregard -- false or
25 recklessly in disregard with the truth.

OSTROWSKI - REDIRECT (narrative)

1 None of these things that I have said I contend are
2 false. And if they are not 100 percent accurate factually, I
3 would have to be shown that, someone would have to demonstrate
4 that, I believe. But if they are not, then my January 24th,
5 2011 letter demonstrates without question that I was motivated
6 by proper motives, that I do what I do in good faith and that
7 I'm just not afraid to say difficult things.

8 Look, Judge, I got nothing. I don't have my license
9 to practice law. I went to law school. I put blood, sweat and
10 tears into this. And you know when you decide to do what I do
11 the way I do it, you make certain decisions. Fortunately,
12 thank God, I don't have a wife and a family now because I
13 wouldn't -- probably wouldn't have been able to say or do some
14 of the things that I have said and done. But I have. They
15 haven't been reckless. I do have nothing to lose. A lot of
16 people have a lot to lose if these issues aren't given a
17 serious look.

18 I do have one additional exhibit, Plaintiff's
19 Exhibit 10. I don't read my own handwriting. I'm going to --
20 this is the original of that document, and I'm showing what
21 that is. My business card with attorney at law scratched out
22 is put on the front. But it has a clip on it on the right-hand
23 side. It was one, two, three, four discreet documents. The
24 first one was 'PCRLN Call Goes Out to Senators Casey and
25 Toomey.'

OSTROWSKI - REDIRECT (narrative)

1 The second one was a lawsuit that I filed, Andrew J.
2 Ostrowski and the Pennsylvania Civil Rights Law Network versus
3 Paul Killion, Robert Fulton, Supreme Court of Pennsylvania,
4 Supreme Court Disciplinary Board, Brian Cali, Deon Turner,
5 Robert Snook, Capitol Police Officer Sloan, John and Jane Does
6 1 through 25. Number 12-CV-2054. That was later withdrawn by
7 me. But that's the actual lawsuit that was filed.

8 The third article is titled 'Bailey Clients Demand
9 Cases to be Reopened. Hearing Transcripts Now Available.' It
10 was posted on the Pennsylvania Civil Rights Law Network on
11 November 5th, 2011.

12 And the fourth one is 'PCRLN Statement on Lawless
13 America Project/Bailey Case Update/Ostrowski Updates.' I want
14 to testify just a little bit.

15 This document as clipped together to me and with my
16 business card on it, just like this, was hand delivered to
17 Senator Pat Casey's -- or Senator Bob Casey's staff in his
18 office in Washington D.C. A copy of it was handed, just like
19 this, to Senator Pat Toomey's office in Washington D.C. I went
20 down there. I traveled down there with copies of this to give
21 to those judges.

22 The amicus curiae designation moniker on that site
23 were things written by me. These were before I was diagnosed
24 with this PTSD. I knew I had things to say, but frankly I
25 didn't think attaching my name to anything was doing anything

OSTROWSKI - REDIRECT (narrative)

1 but damaging its credibility. I don't do that now. I post
2 under my name, Andy Ostrowski and always will. I don't shy
3 away at all from what I say. These were all presented. These
4 talked about --

5 *THE COURT:* Excuse me. So the Court understands, is
6 this your work?

7 *MR. OSTROWSKI:* Yes, this is my work. This is all my
8 work. 99 percent of everything on that Pennsylvania Civil
9 Rights Law Network site was typed by me. There is one or two
10 small things that somebody else I allowed to put up. But the
11 first one -- the first one covers PCLRN Call Goes out to
12 Toomey and Casey; in that is the body of an e-mail, Dear Harry
13 and Bob. That's Harry McGrath and Robert Graci.

14 Harry McGrath was Senator Bob Casey's designee to fill
15 judicial selections for the Middle District, your position.
16 And Senator -- and Bob Graci, who is now chief counsel for the
17 Pennsylvania Judicial Conduct Board, was Senator Pat Toomey's
18 designee for selecting these vacancies.

19 Are you not hearing me?

20 *THE COURT:* No, I'm hearing you just fine.

21 *MR. OSTROWSKI:* I'm sorry. I thought you were making
22 a motion.

23 *THE COURT:* I was adjusting my glasses. No, I hear
24 you fine.

25 *MR. OSTROWSKI:* Okay. I'm sorry. I didn't know if

OSTROWSKI - REDIRECT (narrative)

1 you weren't hearing me.

2 That e-mail was sent to them referred to the
3 Pennsylvania Civil Rights Law Network. This packet was hand
4 delivered to both of their offices by me in Washington D.C.
5 exactly as they are here, petitioning my government for not
6 just a redress of grievances but petitioning for, you know, a
7 fair system, fair judges. I hope that your selection to the
8 bench is a reflection that these concerns are being listened
9 to. But these are petitioning activities.

10 Everything that Mr. Gilroy has presented in here is my
11 unqualified, inherent and inalienable right to express. It's
12 on file with both of their offices in Washington D.C. I'm
13 proud of these. I included the Lawless America statement on
14 the Lawless America Project, because this was some knucklehead
15 with this Lawless America organization that came through and
16 was down in D.C. at the same time that ended up being a real
17 nut job, and I think was doing a real disservice to justice in
18 America, the way that man was behaving, and I wanted to
19 distance myself from that. So that's why that is in there.

20 These are all legitimate First Amendment petitioning
21 activities. My lawsuit was in good faith. If it wasn't in
22 good faith, somebody come back and have me attacked for -- you
23 know, file sanctions against me for abuse of litigation.

24 With that, I have nothing further, Your Honor.

25 *THE COURT:* Just so I understand. Is this Plaintiff's

OSTROWSKI - REDIRECT (narrative)

1 Exhibit 10 or Plaintiff's 18?

2 MR. OSTROWSKI: That's my bad writing. It's
3 Plaintiff's Exhibit 10. If I may, I have one more point.

4 THE COURT: Sure. Thank you for clarifying.

5 MR. OSTROWSKI: One more point is I also -- I could
6 never make a copy of the darn thing. There was -- that I also
7 went down with the intention of presenting to those senators,
8 and I don't have the congressional record reference, but I
9 believe it was May 19th, 1979, May 1979 that Don Bailey gave a
10 speech on the floor of the United States Congress. It was, you
11 know, a speech in support of basically the rights that we're
12 talking about here and in support of his service for his
13 country.

14 And I showed that speech to -- I forget the people's
15 names we met with at Senator Casey and Senator Toomey's office.
16 But I had the plaque with the speech on it. I said I want you
17 to go look up that speech. I want you to take this -- I asked
18 to speak with both of them personally. I wanted to speak with
19 Senator Casey personally and Senator Toomey personally.
20 Neither of them were available. I asked them specifically, I
21 said I want you to do what you can to help that man, because I
22 believe Don Bailey has been mistreated by a lot of what has
23 gone on over the years.

24 So I was on Capitol Hill presenting these issues to
25 the United States senators. If I can't present them there --

OSTROWSKI - REDIRECT (narrative)

1 if the Courts can keep me from practicing on this standard
2 of -- you know, that Rule 83.26.3 standard is moral fitness,
3 competency and learnedness, you know, the Rule 8.2 standard is
4 incorporated into that, which requires recklessness and not
5 knowingly false or something along those lines, neither of
6 those standards can be met. I don't know. I assume Mr. Gilroy
7 has no more evidence that he can call. But testimonily I'm
8 done at this point.

9 *THE COURT:* All right. Any recross examination, Mr.
10 Gilroy?

11 *MR. GILROY:* Yes.

12 *THE COURT:* Go right ahead.

13 *RECCROSS EXAMINATION*

14 *BY MR. GILROY*

15 *Q.* Plaintiff's Exhibit 10, Mr. Ostrowski, when was that
16 delivered?

17 *A.* Good question. I think the date was February 6th, 2013,
18 if I'm not mistaken. I think it was February 6th.

19 *Q.* Now, you said that everything you testified to here today
20 that, everything you said in those various exhibits, the
21 letters that you wrote and your appearances on the website, was
22 said in good faith without malice. Is that what you're telling
23 the Court?

24 *A.* Absolutely.

25 *Q.* So when you attach to the petition for reinstatement a

1 document that suggested Judge Jones was seeking treatment for
2 drug abuse and because he had a small penis, you are saying
3 that was made without any malice?

4 A. I think I adequately explained that. I look back over
5 these things and with where I was and looking in retrospect,
6 you have to understand, sir, that I had just realized at that
7 point -- this was within a month of me realizing what this
8 doctor had done to me and what he had kept from me for all of
9 those years and the hurt that he tried to do to me. And that
10 statement was directed to him. And I was offended that that
11 man said that.

12 Bad judgment, maybe. You know, but why am I the one that
13 has to exercise perfect judgment? I don't think it relates to
14 competency. I don't think it was said with malice. It was
15 said. No, that's factually true, sir. It is factually true.

16 Q. And when you appear on a video and you say Judge Conner is
17 a liar and a perjurer, he lied under oath, are you saying that
18 that was said in good faith and without any malice?

19 A. Absolutely. I have a document -- well, in fact, I have --
20 there is a document -- Judge Conner -- I knew that this was --
21 this was one of the issues that I knew was going to come up in
22 this hearing. I'm sorry to say this, but Judge Conner
23 testified falsely and lied under oath at the disciplinary
24 proceeding. I'm sorry. I don't know what it means. I don't
25 know what has to be done about it, if anything. An apology

1 might work.

2 But he got on the stand and testified that he had never
3 submitted any complaints against Don Bailey, and there's a
4 document in the Office of Disciplinary Counsel that says
5 complaint of Christopher C. Conner. His name was all over it.

6 Judge Conner was a reporter to the disciplinary
7 authorities. Judge Conner was identified by Disciplinary
8 Counsel Bob Fulton in the presence of Don Bailey and Sam
9 Stretton as being the one, one of them with Judge Scirica and
10 judge -- I don't know who the other one was so I won't say. I
11 don't recall right now. But Judge Scirica and Judge Conner
12 were the ones making the complaints about Don Bailey.

13 And Judge Conner got on the stand and he did not testify
14 truthfully. And that is a lie and that is perjury. He swore
15 an oath and he didn't testify truthfully. Sorry.

16 Q. When you sent the letter to Mr. Daley in February of 2013
17 and when you said on page five, quote, these federal judges we
18 have here in Harrisburg, however, cannot step out of their
19 Pennsylvania crony political ways and don't have the simple
20 courage to call a perjurer a perjurer because where the
21 political affiliations and vengeful motivations lie, end quote.

22 Are you saying there is no malice in that, saying the
23 entire federal judiciary in the City of Harrisburg has vengeful
24 motivations and acting solely out of political affiliations?

25 A. I have other quotes on the website talking about crony

1 capitalism courts. I have a post about the Penn State Sandusky
2 scandal. I'll tell you what motivated that.

3 I tried cases against Penn State University and their
4 McQuaide Blasko law firm, and in every single case there was a
5 lying witness. And I made arguments to attorneys and judges
6 that there is an institutional policy of deception. And I even
7 went so far as to argue that it began with Graham Spanier, and
8 I made those arguments in front of judges and my cases got
9 thrown out. And my deposition testimony where I prove that
10 people are liars, you know, in the administration at Penn State
11 gets dismissed as if it doesn't exist.

12 And these Penn State cases where they just abuse people,
13 abuse employees. They mistreat them. And they have these
14 lawyers from McQuaide Blasko who also engage and foster that
15 whole policy and practice of secrecy that for some reason, you
16 know, the judges -- and the judges I'm referring to are Judges
17 Kane, Rambo, Conner -- no, Judge Conner never had one of my
18 Penn State cases. In fact, I don't know who had them.

19 But there are other examples of this in other cases. But
20 specifically on the Penn State thing, if people -- I'll tell
21 you, Mr. Gilroy, if people had listened to me 10, 12 years ago
22 when I was saying that there was a bunch of liars up there, and
23 it goes right into Graham Spanier's office, maybe some kids,
24 some children would have lives now. You know, that's what I'm
25 saying.

1 Q. So when a judge overrules your position and you lose a few
2 cases, you're suggesting that it's okay for you to call judges
3 perjurers and liars and having vengeful and political
4 motivations, the entire Middle District panel sitting in
5 Harrisburg?

6 A. You are taking things and conflating them yourself. You
7 are combining things that don't need to be combined. I said
8 that Judge Conner, you know, lied and perjured himself in the
9 Don Bailey disciplinary proceeding. I don't think that I have
10 the ability to come forward and say that as an attorney in
11 these cases.

12 The other things that I said were said in a political
13 climate where just this state of Pennsylvania is dealing with a
14 huge institutional embarrassment that's going to be a smear on
15 our state for all eternity that nobody can undo. I said those
16 things as an American citizen. And yes, I did say vengeful
17 motivations, because I have sat in meetings where Sam Stretton
18 and Don Bailey -- in fact, right out on Third Street in
19 Williamsport, PA there used to be a little cafe right next to
20 this courthouse. And Sam Stretton sat there in that meeting
21 and confirmed that, and he looked right at me and right at Don,
22 that Judges Muir, McClure and Rambo had a secret meeting when
23 they were out to get him.

24 So sorry, Pal, that I had to offer the truth. But it is
25 the truth. And it's said in a good faith basis. Yeah, it

1 doesn't sound good. And when you repeat those words back in a
2 vacuum, I'm sitting here thinking oh, geeze, did I really say
3 that. But yes, I said that, and I had a good faith basis for
4 saying it. And it's true.

5 *MR. GILROY:* No further questions.

6 *THE COURT:* Thank you. Mr. Gilroy, you had a number
7 of exhibits, I think it's marked as Defendant's D --

8 *MR. GILROY:* D-1 through 6, Judge.

9 *THE COURT:* D-1 through 6. Mr. Ostrowski, I assume
10 you have no objection to these exhibits; they are largely your
11 own.

12 *MR. OSTROWSKI:* None.

13 *THE COURT:* They are admitted, D-1 through 6. And
14 then we have -- the Court has before it Plaintiff's Exhibit 10,
15 which is a compilation -- I'm sorry, Mr. Ostrowski. I lost
16 track. Is it three or four different documents?

17 *MR. OSTROWSKI:* There were four. I was making all of
18 the copies yesterday and I was trying to figure out how best
19 to --

20 *THE COURT:* Sir, this is what I have. I don't want to
21 contradict you. But I have one document that appears to be --
22 well, it has your business card over the top, which I -- you
23 know, with all due respect is a bad way to do it. But what I'm
24 missing out of it then is, in large part, the first and second
25 paragraphs of this, whatever it is, missive, I guess, this

OSTROWSKI - RECROSS

1 PCRLN missive. And then that seems to run on, I guess what is
2 commentary. It looks like maybe it's e-mail commentary. And
3 then there's a complaint that you referenced, which is
4 Ostrowski, et al versus Killion, et al. And that runs on a
5 number of pages of undetermined number. And then at the end
6 there appears to be a -- what I have as a three-page -- again,
7 you know, it's a missive of some sort that is entitled PCRLN
8 Statement on Lawless America Project/Bailey Case
9 update/Ostrowski Case Update. That's all I have before me. Is
10 there a fourth document?

11 MR. OSTROWSKI: Yeah.

12 THE COURT: I don't have that, sir.

13 MR. OSTROWSKI: Okay.

14 THE COURT: So Mr. Gilroy, what do you have in front
15 of you?

16 MR. GILROY: I think we have just exactly what you
17 had. The last one -- the last document attached is the PCRLN
18 statement on Lawless America Project.

19 THE COURT: Did you mean for there to be a fourth
20 attachment, Mr. Ostrowski?

21 MR. OSTROWSKI: Yes, Your Honor.

22 THE COURT: That's all right. I just didn't have it.
23 If you were going to offer this as an exhibit, I would like to
24 see what it is. And I think in order for Mr. Gilroy to
25 determine whether or not he's going to object to it, he needs

1 to take a look at it.

2 *MR. OSTROWSKI:* Well --

3 *THE COURT:* Do you have it in front of you?

4 *MR. OSTROWSKI:* I have it as part of this packet.

5 *THE COURT:* Why don't you just hand it to Mr. Gilroy,
6 and then what I will do is we are going to take a little
7 recess, in which time I am going to have my courtroom deputy or
8 my clerk make a copy of that for the Court and also Mr. Gilroy.
9 And I think what I would like to have, if this is ultimately
10 going to be offered into evidence, is a full page one without
11 the business card.

12 What I prefer you do is attach the business card so
13 it's the first page. You have the original in front of you.
14 So I can read all of this and Mr. Gilroy can read all of this.
15 I don't know what this is or I don't know how important it is,
16 but I want to be able to read everything.

17 Hand that to Mr. Gilroy. Is that the fourth
18 attachment?

19 *MR. OSTROWSKI:* Yes.

20 *THE COURT:* Take a look at that, Mr. Gilroy.

21 *MR. GILROY:* I don't have any problem with it as long
22 as it's copied.

23 *THE COURT:* That's fine. Do you have an objection to
24 this Plaintiff's Exhibit 10 being moved into evidence?

25 *MR. GILROY:* No, sir.

1 *THE COURT:* Why don't we do this. It's quarter after
2 three. Do you have any other witnesses, Mr. Ostrowski?

3 *MR. OSTROWSKI:* I have one more piece of evidence, and
4 I was going to have Mr. Bailey authenticate that if I needed a
5 witness.

6 *THE COURT:* Why don't we take a recess at this point?
7 If you would hand -- I guess what I would like you to do is
8 hand the entire original Plaintiff's Exhibit 10 that has four
9 attachments, including the one that Mr. Gilroy has just
10 reviewed, to my courtroom deputy, Mrs. McLaughlin. And then on
11 the top of it when you copy his business card, such as it is,
12 just make that on a separate sheet of paper. Then we'll have
13 that marked as Plaintiff's Exhibit 10.

14 Do you follow me, Mr. Ostrowski? So the Court has a
15 complete record and Mr. Gilroy will have a complete record, and
16 obviously give a copy back to you. So I guess we would need
17 the original and three copies. So if you'll do that. The
18 Court will stand in recess for 15 minutes. We will reconvene
19 at 3:30. Thank you.

20 *THE COURTROOM DEPUTY:* All rise.

21 (A recess was taken from 3:15 p.m. to 3:40 p.m.)

22 *THE COURT:* Mr. Ostrowski, you're still on the stand.

23 *MR. OSTROWSKI:* Just to conclude.

24 *THE COURT:* I'm sorry. I thought you were done.

25 *MR. OSTROWSKI:* I did say I was done. I wanted to

1 cover one more matter.

2 *THE COURT:* That's fine.

3 *MR. OSTROWSKI:* Plaintiff's Exhibit 12 is a brief
4 motion to dismiss in the nature of habeas corpus and/or motion
5 for judgment for acquittal that was filed by Don Bailey in his
6 disciplinary proceedings on December 7th, 2011. In that
7 document --

8 *MR. GILROY:* Excuse me. Just for point of order, I
9 think we jumped from 10 to 12.

10 *THE COURTROOM DEPUTY:* This is 11.

11 *MR. GILROY:* You may want to talk about 11, which we
12 don't object to. The judge is confused.

13 *THE COURT:* I'm a little confused. You are
14 referencing Petitioner's 12. Do you have that in your hand?

15 *MR. OSTROWSKI:* Yes, that's what I have in my hand.
16 I'll talk about that. Exhibit 11 is a copy -- and Mr. Gilroy
17 stipulated and I submitted to Kathy a copy of the transcript of
18 the Don Bailey proceedings. That's into evidence by --

19 *THE COURT:* That's Petitioner's 11.

20 *MR. GILROY:* Petitioner's 11 is a transcript of Mr.
21 Bailey in proceedings before the Disciplinary Board of
22 Pennsylvania.

23 *THE COURT:* You don't have an objection?

24 *MR. GILROY:* No objection.

25 *THE COURT:* That's admitted.

1 *MR. OSTROWSKI:* Just the brief testimony on that is
2 that contains a lot of the evidence upon which I relied in
3 making the good faith accusations that I made or the good faith
4 statements I made in some of the other documents that
5 Mr. Gilroy offered.

6 And I want to offer Plaintiff's Exhibit 12, which is
7 the December 7th, 2011 brief that Mr. Bailey filed. In that
8 specifically at pages seven and eight, it covers the issue of,
9 among other things, Judge Conner pestering Paul Killion to do
10 something and then outlines the evidence that supports the
11 assertion that Judge Conner testified falsely. These are the
12 things that I relied upon in making the statements that I made.
13 These were not submitted by me. These were submitted in
14 Mr. Bailey's case. My comments came subsequent to these, and
15 this is the source of where those comments came from. That's
16 that.

17 *MR. GILROY:* We don't agree to that admission, Judge.
18 That's a motion in the other case. The transcript includes
19 Mr. Ostrowski's testimony in that case. So I thought that
20 would be relevant to these proceedings.

21 *THE COURT:* This is Petitioner's 11 that I have just
22 admitted?

23 *MR. GILROY:* You are being asked to admit.

24 *MR. OSTROWSKI:* Number 11 was admitted by stipulation.

25 *MR. GILROY:* Exhibit Number 11 was the transcript.

1 *THE COURT:* Excuse me. What is 12 then, Mr.
2 Ostrowski?

3 *MR. OSTROWSKI:* Twelve is the motion to dismiss in the
4 nature of habeas corpus and/or motion for judgment of
5 acquittal. I understand it's a motion in that case. It's the
6 content of that motion that I was relying on in my capacity as
7 a press agent working for the press, the Pennsylvania Civil
8 Rights Law Network, that reported on the content of this when I
9 made other statements.

10 *THE COURT:* Who prepared that motion?

11 *MR. OSTROWSKI:* Submitted by Don Bailey in his
12 disciplinary case.

13 *THE COURT:* And you object to that, Mr. Gilroy?

14 *MR. GILROY:* Yes, sir.

15 *THE COURT:* State the nature of the objection, the
16 grounds for the objection.

17 *MR. GILROY:* We admitted the transcript because it
18 includes Mr. Ostrowski's testimony, some of which I think may
19 be relevant for Your Honor's consideration.

20 *THE COURT:* Yes, and speaks for itself.

21 *MR. GILROY:* Subsequent motions filed by parties to
22 the case, I don't believe it has any relevancy to these
23 proceedings. If he's going to say he relied upon this as far
24 as why he made a statement in August of 2012, is it good faith
25 to rely upon a motion an attorney files that suggests -- that

1 forms the truth of everything that's included in the motions.
2 Motions are black and white. One says red. The other says
3 blue. And I don't think you can rely upon that.

4 *THE COURT:* How would you respond to that,
5 Mr. Ostrowski? That's a well taken objection, I think you'll
6 agree.

7 *MR. OSTROWSKI:* I think that's argument. I don't
8 know -- I mean, I think implicit in his argument is that
9 relevant. He's arguing the weight that it should be given, I
10 think, and the reasonableness of the position -- my testimony
11 has taken. I don't think it makes it not relevant. My
12 testimony is that these are among the other things I relied
13 upon.

14 *THE COURT:* I'm going to sustain that objection. I
15 will not admit Petitioner's Exhibit 12. Mr. Ostrowski, is
16 there anything else?

17 *MR. OSTROWSKI:* No. Thank you, Your Honor.

18 *THE COURT:* Thank you very much. You may stand down.

19 (Witness excused.)

20 *THE COURT:* Mr. Ostrowski, do you have any other
21 witnesses you would like to call this afternoon?

22 *MR. OSTROWSKI:* No, Your Honor. I don't know if you
23 are going to shift to ask him if he's going to have any more in
24 his case. I had points I wanted to make.

25 *THE COURT:* I'm going to come back to that. You rest

1 then?

2 *MR. OSTROWSKI:* We rest.

3 *THE COURT:* Thank you. Mr. Gilroy.

4 *MR. GILROY:* We have nothing further, Judge.

5 *THE COURT:* All right. Well, this is what I would
6 like to do. I'll certainly hear, if you care to make it, some
7 closing argument or summation or some points, if you want to
8 make them. But what I would really like to get to is a
9 timeframe for the submission of briefs.

10 Now, Mr. Bailey wants to file a motion -- I don't know
11 how I'm going to consider that, if it's sort of an amicus
12 curiae motion. Essentially that's kind of what it is, I think.
13 I will give you the opportunity to do that and to brief the
14 same.

15 And Mr. Ostrowski, I'm going to give you a reasonable
16 period of time to file a memorandum of law or a brief in
17 support of your motion before the Court and then a reasonable
18 period of time for Mr. Gilroy to respond to that.

19 So today is Tuesday, August the 27th. What would seem
20 to be reasonable to you to get your thoughts together and put
21 pen to paper and make an appropriate case -- citation to case
22 authority and the rules? What would you consider to be
23 reasonable?

24 *MR. OSTROWSKI:* Well, first, I think I would like to
25 have a copy of the transcript first and I don't -- honestly,

1 Judge, it's been this long, I'm in no -- you know, it's urgent
2 for me and I want to attend to it promptly. But I understand
3 that court reporters have some difficulty getting to this and
4 can be some affordability.

5 *THE COURT:* I'm not going to speak for her. She will
6 speak for herself. But I think Mrs. Fausnaught is probably in
7 a reasonable position, based on a conversation a week or so
8 ago. Am I right, Mrs. Fausnaught? I don't want to speak for
9 you.

10 *THE COURT REPORTER:* You are correct, Judge.

11 *THE COURT:* So I think a transcript could probably be
12 prepared relatively quickly. So what would be a reasonable
13 period of time? I mean, a 30 day period? Is that --

14 *MR. OSTROWSKI:* That's exactly what I was going to ask
15 for.

16 *THE COURT:* Thirty days from today. And Mr. Bailey,
17 what would you like to do in terms of your submission, about
18 the same time?

19 *MR. BAILEY:* Yes, sir, just to follow along.

20 *THE COURT:* Would that -- so allow you both 30 days.
21 In other words, by -- and I don't know what September
22 27th falls, but I think it is a Friday.

23 *MR. BAILEY:* That would be running concurrently.
24 Correct?

25 *THE COURT:* Excuse me?

1 MR. BAILEY: That would be running concurrently?

2 THE COURT: Yes, concurrent. That's correct.

3 MR. BAILEY: That's fine, Judge.

4 THE COURT: So we'll say by -- assuming I've got this
5 right, and somebody will correct me if I don't have this
6 right -- Friday, September 27th.

7 Mr. Gilroy, what would you think is a reasonable
8 period of time, 30 days after that?

9 MR. GILROY: That would be fine, Judge.

10 THE COURT: Is that more than reasonable?

11 MR. GILROY: I just want to make sure I understand it,
12 that Mr. Ostrowski is going to file some memorandum in support
13 of his position. Mr. Bailey is filing a motion relative to
14 these First Amendment claims and I suspect a memorandum in
15 support of that motion.

16 THE COURT: That is my understanding. Mr. Bailey, is
17 that right?

18 MR. BAILEY: Yes, sir, both the memorandum and brief
19 30 days concurrent with the instructions to counsel.

20 MR. GILROY: And then I'll -- may I file one document
21 in response to both of those? Because Mr. Bailey, technically
22 he's entered an appearance for Mr. Ostrowski. I'll do it any
23 way you want, Judge.

24 THE COURT: I don't object to it. I think to me that
25 keeps the record cleaner if you do that. Do you, Gentlemen,

1 Mr. Ostrowski, Mr. Bailey, do you have an objection to that?

2 MR. BAILEY: No. My issues are quite precise and
3 focused, and I'm sure that would be fine, Your Honor.

4 THE COURT: Then let me just restate for the record so
5 we're clear about that, and then I'll give you an opportunity
6 to make whatever points you want to make, Mr. Ostrowski, before
7 we conclude and Mr. Gilroy in response.

8 So Mr. Ostrowski is going to file a memorandum of law
9 or brief in support of his motion on or before September 27th,
10 2013. And Mr. Bailey, you know, essentially acting in an
11 amicus curiae fashion, a motion as he stated this morning in
12 support of essentially a First Amendment claim and a brief in
13 support of that by the same date, which is, say, September the
14 27th, 2013.

15 And then Mr. Gilroy will have 30 days from that date,
16 which will be whatever 30 days is, but approximately I guess
17 October 26th -- 27th, I guess probably, October 27th, unless
18 that falls on a weekend, to respond. Mr. Gilroy is going to
19 respond with a brief that addresses both Mr. Ostrowski's brief
20 as well as Mr. Bailey's brief and motion. So we're clear about
21 that. Mr. Bailey.

22 MR. BAILEY: Yes, sir. On page limitations.

23 THE COURT: Well, the Middle District rule has a 15
24 page limitation. Of course, nobody likes that. Judges like
25 it. I didn't like it as a lawyer. Now, as a judge, I think

1 it's a terrific idea. But what I will do, what I have tried to
2 do to be fair is there are constantly -- it would seem a
3 quarter of my docket are motions to extend the page limitation.

4 And provided that both of the attorneys agree, and we
5 have had some cases where sometimes the attorneys don't agree,
6 I have generally extended that, but I have said, you know, be
7 reasonable. Use what lawyers and judges are paid to do, which
8 is what? Good judgment. So that never works, good judgment.
9 Somebody may have good judgment. Somebody else may disagree.

10 So if you would like to exceed that, I don't have an
11 objection to that. But give me idea what that ought to be;
12 Mr. Ostrowski, Mr. Bailey, Mr. Gilroy.

13 *MR. GILROY:* I think we should have a limit anyway
14 Judge, because, for example, on my brief I'm going to need --
15 since we didn't outline via testimony, I'm going to have to go
16 through those various exhibits and go through that transcript
17 and point Your Honor to this is what Mr. Ostrowski said about
18 this, and there's quite a bit of quotes.

19 *THE COURT:* Yes.

20 *MR. GILROY:* So we're going to have to address a
21 number of evidentiary matters to lay it out for the Court. And
22 then we're going to have to reply to a First Amendment
23 constitutional challenge. Then we're just going to have to
24 address the local rules. So, I don't know, 25 pages.

25 *THE COURT:* I would think something like that would be

1 reasonable. I would even allow 30.

2 Mr. Ostrowski, what do you think is fair and
3 reasonable to you to make your case for the Court?

4 *MR. OSTROWSKI:* I think that 25 or 30 sounds fair and
5 reasonable to me.

6 *THE COURT:* Mr. Bailey.

7 *MR. BAILEY:* Yes, sir. I was going to actually
8 ironically suggest 30 pages. And if there's a need come back
9 and ask you for leave to do --

10 *THE COURT:* That's fine. I think 30 -- we have to
11 read it, of course. That's what we do here, we read and read
12 and read and read. Right, Mrs. Campbell? Mrs. Campbell
13 agrees. So why don't we say 30 pages each on the briefs. And
14 your motion, I assume, is several pages, Mr. Bailey. I'm not
15 particularly worried about that. We can figure that out. So
16 we're clear about that, that we will exceed the local rule.

17 Maybe I should take that issue up with my colleagues
18 about extending that page limitation. I don't know that I may
19 get alive out of the board of judge's meeting, though. I think
20 15 pages usually does it, but I think the Court appreciates
21 that some cases require briefing that exceeds 15 pages. This
22 may be one of them.

23 Mr. Ostrowski, do you want to make some points or if
24 you want to make some summation, and I'll give Mr. Gilroy -- I
25 have an understanding what this case is about. But go ahead

1 and make the points you would like to make.

2 *MR. OSTROWSKI:* Before we make the motion to protect
3 the record on some of the issues that are going to relate to
4 Mr. Bailey and some of the arguments I'm going to make, before
5 I get to that, the Surrick case that I cited, I have here for
6 Ms. Campbell's purposes, Surrick v Killion 449 F.3d, 520, 2006.

7 *THE COURT:* Yes. The Court is familiar with and has
8 read that opinion. Thank you.

9 *MR. OSTROWSKI:* I didn't have the citation, but I
10 figured I should offer that.

11 Now, those are in the nature of motions. Clearly I
12 have conformed my thinking to yours, and I understand what the
13 lay of the land here is. But regardless, for the record I need
14 to make a couple of motions.

15 One would be a motion to dismiss in a sense, an
16 alternative motion that this record be kept open for additional
17 evidence. And here is why. As I pointed out during my
18 testimony, the Rule 8.2, which is adopted as a standard of
19 conduct here in this 83.26.3 hearing, requires a state of mind
20 requirement.

21 The argument that Mr. Gilroy has to make and that this
22 Court will have to adopt, if I'm to be prohibited from
23 practicing law, is the mere fact that these statements were
24 made sine qua non of me not being competent to return to
25 practice. There has been no evidence apart from my testimony

1 to establish a state of mind. To the extent that the Court is
2 inclined to disagree with that and think that this record could
3 support a finding that a violation of Rule 8.2 ergo non
4 admission under 83.26.3 has been made, I would submit that this
5 record should be kept open and I should be able to subpoena
6 more witnesses. I did lay out a motion for continuance last
7 week. That's why I'm not going to go too far with this,
8 because I understand in a sense you already ruled on these
9 things.

10 However, there are a whole host of witnesses that I
11 could bring in here to further establish -- and I did file a
12 motion for continuance to protect the record on this. But the
13 mere fact that statements are made, and this will be covered in
14 Mr. Bailey's motion, is a pretty, I'll say, frightening
15 proposition for First Amendment purposes, if the fact that I
16 made those statements alone can be used to keep me from
17 practicing law.

18 I mean, am I going to be barred from practicing
19 forever, because they are never going to go away. I mean, I
20 have made the statements. You know, I understand the standard
21 is if this application is going to be denied, then I'm barred
22 for a year from applying for readmission. Well, next year when
23 I apply for readmission, these statements are still going to
24 have been made. They're not going to go away. So under this
25 analysis, this is a -- there's a prospect of the mere fact that

1 I made certain statements without any other evidence, without
2 bringing Judge Jones in here, without calling Dr. Kruszewski
3 himself, without putting on any other medical evidence, there
4 is nothing other than the fact that these mere statements have
5 been made.

6 So it's in the nature of a dual motion to dismiss for
7 failing to meet their burden, or in the alternative for a
8 motion to establish a second hearing so I can subpoena more
9 witnesses and put on more of a defense.

10 *THE COURT:* Mr. Gilroy, do you care to respond to
11 that?

12 *MR. GILROY:* Well, as far as the motion to dismiss,
13 Judge, I think you are going to have to look at the videos and
14 look the statements to see whether there is sufficient evidence
15 presented. By agreement of basically to move this matter
16 along, we didn't go over each and every, what I would consider,
17 inappropriate or slanderous or just down right malicious
18 statements that Mr. Ostrowski made towards the judiciary and
19 other folks. So I think you just have to deny that.

20 Mr. Ostrowski has an interesting argument, how is he
21 ever going to get admitted. Well, if he showed up here today
22 and said yeah, you know what, I know now because of Dr.
23 Schwartz taking care of me and me getting better that I got to
24 play by the rules, and the rules say you don't call the judges
25 crooks and cheaters and political cronies and everything else

1 he has referred to them as. If he comes in a year from now and
2 says that and we believe he's credible, then that's fine. But
3 yes, the statements are out there, but everyone knows the rules
4 are the rules.

5 You don't argue with the umpire about balls and
6 strikes or you're out of the game. That's just it. That's how
7 you play baseball. Well, in the judiciary, as being an
8 attorney, as an attorney you have an obligation to respect the
9 judiciary. He just has not assumed that obligation nor has he
10 suggested that he needs to.

11 So there is a methodology. And I understand that
12 there's First Amendment claims. I think they will be easily
13 disposed of. But there is no situation that he just can't do
14 anything, he can't ever practice law.

15 I think the Bar would welcome him back. He's an
16 intelligent man. If you sit down and chat with him and have a
17 beer with him, which I could do, I'm sure he's very charming.
18 But you just can't go around saying stuff about the judiciary
19 and the judicial system that Mr. Ostrowski is saying. I don't
20 like being here against a fellow lawyer who has a background
21 much like me. I get no joy out of advocating this. But the
22 reality is lawyers have an obligation to the Court. They have
23 an obligation to the system.

24 And hopefully next year -- I'm hopeful that he will be
25 denied. I believe that's what should be done, denied

1 readmission. And hopefully we'll be back here and he'll be
2 thinking differently. Thank you, Judge.

3 *THE COURT:* Thank you. If it's a motion to dismiss,
4 you indicate, Mr. Ostrowski, the burden is on disciplinary
5 counsel. Don't you agree the burden is on you? I think that
6 needs to be corrected and made clear. That's the Court's
7 position. I think the rule supports that clearly.

8 What I'm looking at, of course, is local Rule 83.26.3,
9 which has been referenced multiple times in this hearing today,
10 which says, in pertinent part, "Petitioner shall have the
11 burden of demonstrating. Petitioner shall have the burden of
12 demonstrating" -- not disciplinary counsel -- "by clear and
13 convincing evidence that he or she has the moral
14 qualifications, competency and learning of the law required for
15 admission to practice law before this Court and that his or her
16 resumption of the practice of law will not be detrimental to
17 the integrity and standing of the Bar or to the administration
18 of justice or subversive of the public interest."

19 It seems to me the Court needs to read all of that not
20 part of that. So to that extent your motion is denied.

21 Did you have another motion you wanted to make before
22 the Court?

23 *MR. OSTROWSKI:* Just a comment. As you set the
24 dialogue for as we address these things post hearing, that's
25 part of the problem here is that this was treated as a whole

1 new disciplinary proceeding. You know, to -- I mean, I opposed
2 getting into the Don Bailey stuff and getting into my First
3 Amendment rights anyway. I didn't bring this evidence in.
4 They brought it in under Rule 8.2, which kind of created a
5 disciplinary proceeding for conduct that occurred post
6 suspension that just created some confusion into how this thing
7 should be handled and --

8 *THE COURT:* But it seems to me that's relevant,
9 though. And the Court would think that that conduct is, in
10 fact, what the Court should look to to see if you should be
11 readmitted to the Bar. I'm not sure why that would not be
12 relevant. It seems to me that's very relevant.

13 Now, I have not looked through that evidence. The
14 only item that I have really looked at is your statement,
15 your -- I guess it's described as an affidavit that is attached
16 to your motion that was filed by this Court in May of this
17 year. Other than sort of skimming, and I don't even think that
18 I have looked at these exhibits, I haven't looked at any. I
19 will. I am going to read all of that and I'm going to watch
20 the videotapes. I will watch all of it. I won't watch and
21 look at simply the pertinent parts, because I want to see that
22 in, I think as you would agree, full context.

23 Not unlike reading this rule. I'm not reading the
24 rule and reading the cause of it. I prefer to read the entire
25 rule. And I think you would want me to watch the entire

1 videotape to see everything that is said in context. It seems
2 to me to do otherwise is not fair. So it's going to take some
3 time on my part to do that, but we will do that.

4 Is there another motion you wanted to address with the
5 Court?

6 *MR. OSTROWSKI:* Just because one thing that occurred
7 to me because I was trying to hurry things along, the exhibit
8 that ticked off all of the points, there was a point -- and I'm
9 just going to alert this to you now, and I'll argue it in my
10 motion -- where I did make a comment in one of my videos that I
11 was pretty upset with the way Judge Jones handled a case. As I
12 was talking about what was going on in my state of mind when I
13 said, you know, I wanted to say look, you MF'er. I said that.
14 Because I felt that what happened in the courtroom and I
15 didn't -- I didn't vocalize that to anybody. I don't do that
16 in court. I thought that to myself because I was moved by
17 passion in one particular circumstance.

18 But as you were going through your commentary, that
19 occurred to me, and I wanted you to know that that's one thing
20 that I neglected to address in my testimony. It was more said
21 in reflection on this poor man, Miles Thomas's case and how I
22 felt he became victimized by this whole process. I think the
23 video really does speak for itself, and I would appreciate you
24 watching it.

25 *THE COURT:* I will watch it. I assure you that I will

1 watch all of the videos and I will look at all of that
2 evidence, all of the documentary evidence that was offered.

3 *MR. OSTROWSKI:* Judge, you've been very accommodating
4 and respectful. I appreciate that, and I thank you.

5 *THE COURT:* Thank you.

6 Mr. Gilroy, do you have anything to add?

7 *MR. GILROY:* Thank you, Judge. Nothing. It was a
8 pleasure appearing before you.

9 *THE COURT:* Delighted.

10 Mr. Ostrowski, one thing you need to be aware of. I
11 think you are, but I guess I'm not entirely clear. I was
12 appointed to hear this case by Chief Judge Kane, even in
13 substantial part because I don't know who you are. And I don't
14 say that in a -- I don't say that in a disrespectful fashion.
15 I just don't know you at all. And I think that the sense was
16 that I was a judge who could, as a newly appointed judge,
17 preside fairly regarding your readmission issue for an attorney
18 that I really just didn't know anything about.

19 I'm from Bradford County. I practiced primarily -- I
20 practiced in a number of areas but primarily here in the
21 northern and the north central part of the state. There are a
22 lot of attorneys that I know in the greater Harrisburg area and
23 I practiced with or against. You are just not one of those.
24 But I don't say that in a fashion that I should know who you
25 were. I just didn't, frankly.

1 I think you should also be aware that I tried to give
2 you great accommodation today, and it's now a little after
3 4:00, to make your case. I had hoped that this matter would be
4 taken care of in a couple of hours. Well, it's taken more time
5 than that. I tried to give you every opportunity to make your
6 case today, you know, without rushing you. And the same
7 courtesy extended to Mr. Gilroy to make out your case.

8 I think you need to be aware. You're going to drive
9 back, I assume to Harrisburg, tonight. The drive back is about
10 an hour and 45 minutes or so. You are going to be thinking
11 about this hearing, you know, how you conducted yourself and
12 whether you were persuasive to the Court. I expect. At least
13 if I were you, that's what I would be doing that. If I were
14 leaving a court proceeding, I was always running that back
15 through my mind, basically how did I do is essentially what you
16 would say.

17 You should be aware that I will give this case very
18 serious consideration. I understand that this is your
19 livelihood. This is how you make your living. You are a
20 member of the Bar. You're a suspended member of the Bar, but
21 you were a member of the Bar, and you are seeking readmission
22 to this Court where apparently you had a considerable practice
23 before the federal court or federal courts at least of this
24 state. And I think you need to understand the Court takes that
25 very seriously. We will give that very good due consideration.

1 I warranted that when I took the bench that I would
2 really try to handle cases that were before me diligently. The
3 one thing that concerns me, and it doesn't concern me overly
4 but it concerns me, is when I took the bench in January I had
5 all of these older cases that were reassigned to me from the
6 other judges. Because the thing is you appreciate that this
7 district was down three judges, three fully-active judges and
8 then two judges. So there was an enormous caseload. And then
9 we have seven senior judges; four of those judges are over the
10 age of 87, and one is really not active at all at this point.
11 Wonderful to have those judges aboard, but they were only able
12 to do so much.

13 So the bottom line is the court was really under
14 considerable stress until I took the bench, along with my
15 friend and coeval, Judge Mannion, back in January of this year.
16 So we have tried to sort out and prioritize cases to the best
17 of our ability, because we have some motions that are stale
18 motions, motions that are out there that were filed a year or
19 more ago.

20 That makes me uneasy, because I think the litigants,
21 most importantly the litigants, and also the attorneys are
22 entitled to a relatively prompt decision from this Court.
23 Although I really had nothing to do with that, I mean those
24 matters are now before me. I'm attempting to deal with those
25 issues as quickly as I can. I think we -- I would like to

1 think my staff and I have made considerable headway on that in
2 the seven months that I've been on duty here in this courthouse
3 in Williamsport.

4 We will attend to your issue, I think, relatively
5 quickly, but it won't be instantaneous, and I want you to
6 understand that. And it's simply because of -- it's simply
7 because of that. I think in a year or so we'll have things
8 sorted out and will hopefully be back on kind of even keel and
9 the older matters will really have been disposed of.

10 We will not give you an instantaneous decision, but I
11 will really intend to be reasonably prompt. And I say that to
12 all of the attorneys appearing before me, because I was in your
13 position at one point wondering how quickly is the judge going
14 to rule. You need to understand that I take that seriously.
15 I'm aware of it. And I am not, I don't think, dilatory in my
16 conduct.

17 So Gentlemen, thank you very much. Appreciate your
18 presentations today.

19 *MR. OSTROWSKI:* And restoring my admission would
20 resolve a lot of that time.

21 *THE COURT:* Thank you. We'll stand adjourned.

22 *THE COURTROOM DEPUTY:* Please rise.

23 (4:09 p.m., court adjourned.)
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s/Lori A. Fausnaught, RMR, CRR

Lori A. Fausnaught, RMR, CRR
Official Court Reporter

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