

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CIVIL PART
HUDSON COUNTY
DOCKET NO. HUD-L-5473-12
APP. DIV. NO. _____

MICHAEL FERGUSON, et al., :
 : TRANSCRIPT
Plaintiffs, :
vs. : OF
 :
JONAH, ARTHUR GOLDBERG, ALAN : PRETRIAL CONFERENCE
DOWNING and ALAN DOWNING LIFE :
COACHING, L.L.C., :
 :
Defendants. :
 :
 :

Place: Hudson County Superior Court
Administration Building
595 Newark Avenue
Jersey City, N.J. 07306

Date: June 1, 2015
Volume 2 of 2
Pages 201 - 225

B E F O R E:

HONORABLE PETER F. BARISO, JR., A.J.S.C.

TRANSCRIPT ORDERED BY:

JODI ERICKSON, ESQ.,
(Cleary, Gottlieb, Steen & Hamilton, L.L.P.)

Audio Recorded by: C. Ortiz

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1 surprised to learn, that we did follow the court rule.
2 And that court rule says --

3 THE COURT: Yes, you're supposed to give them
4 to them with your pretrial submissions.

5 MR. DINIELLI: Yes.

6 THE COURT: These are just -- I understand
7 what you're telling me these are. But they would still
8 -- you'd still have to mark these so they're part of
9 the record. If you didn't mark these and it goes for
10 appellate review, what would they say they are?

11 MR. DINIELLI: That's fine, Your Honor.
12 We're happy to do that.

13 THE COURT: And you're the one who's worried
14 about how long this is going to take. Okay. Make sure
15 you take a look at these. And remember that I need to
16 know what the objections are.

17 MR. LI MANDRI: Well it would be easier if I
18 know they're -- the only, the only ones they want to --

19 THE COURT: You don't --

20 MR. LI MANDRI: -- use for opening or close?

21 THE COURT: -- well the opening are the first
22 three -- no, first two?

23 What, what did you say the opening was?

24 MR. KESSLER: Your Honor, it's -- right.
25 It's the first slide, the second slide. And then I

1 believe what is now currently slide six.

2 MR. MCCOY: Called JONAH --

3 THE COURT: One --

4 MR. KESSLER: Yeah, sorry. So your -- so
5 they're, they're numbered on the corner there, so --

6 MR. LI MANDRI: But the problem is six
7 doesn't accurately reflect how the Court identified the
8 proffers in its order. If they do it that way, I don't
9 have a problem with it. If they just take it out of
10 the Court's -- the proffers that are --

11 MR. KESSLER: Your Honor, --

12 MR. LI MANDRI: -- put forward.

13 THE COURT: No, listen, this is what they're
14 alleging your misrepresentations are. This is not what
15 the Court said.

16 MR. KESSLER: No, so, Your Honor, we're happy
17 to discuss with the defendants. And in fact when we
18 gave them these exhibits we said if there are wording
19 issue things we can agree on in advance of the pretrial
20 hearing that will, you know, having to raise with this
21 discussion with the Court, we're happy to do that. --

22 THE COURT: Right.

23 MR. KESSLER: -- The defendants didn't take
24 us up on that offer. We're happy to do it now.

25 THE COURT: No, but my understand --

1 MR. LI MANDRI: Well we were -- plenty of
2 talking constantly.

3 THE COURT: My understanding would be,
4 Counsel, what's on here is not what I said or anybody
5 else said. What they intend on saying in the picture
6 is what you would say standing up. "We intend to prove
7 the following: that JONAH made the following
8 misrepresentations." And they want it on a slide, so
9 the jury can see it while they're saying it.

10 MR. LI MANDRI: And I don't necessarily have
11 a problem with that, but I thought the proffers are
12 supposed to be very specific and not now if they want
13 to, reframe them to be.

14 THE COURT: Well this is, well this is part
15 of -- this is what they're saying you misrepresented.

16 MR. LI MANDRI: But one, two, three, four,
17 five --

18 THE COURT: You said that it's a disease or
19 disorder. You have specific success rates. It can
20 heal you in a particular time frame. It's based on
21 science. It effectively treats homosexuality and can
22 change you from gay to, gay to straight.

23 MR. LI MANDRI: I don't remember effectively
24 treats homosexuality being something that --

25 THE COURT: Well I don't know where that

1 comes from, but they're going to say you made that
2 misrepresentation.

3 MR. LI MANDRI: Your Honor, there are certain
4 joint exhibits the parties agreed to. Can -- since we
5 know those will be admitted into evidence since they've
6 agreed to them, and I don't intend to use a lot of
7 them, but I assume that they're going to be joint
8 exhibits --

9 THE COURT: If you both agree they should go
10 into evidence, I'll mark them into evidence.

11 MR. LI MANDRI: That they can be referred --
12 used in opening?

13 THE COURT: Yes, if you both agree.

14 MR. LI MANDRI: Well we've agreed they're
15 joint exhibits. So I'm assuming --

16 THE COURT: Well there's a difference between
17 joint exhibits --

18 MR. LI MANDRI: Right.

19 THE COURT: -- and whether they go into
20 evidence or not. So if you both agree they're going to
21 be admissible into evidence, then we'll mark them into
22 evidence and you can use them in your opening.

23 MR. LI MANDRI: That's what I assume we meant
24 by joint exhibits.

25 THE COURT: Well I don't know if -- I don't

1 know what the discussions were.
2 MR. LI MANDRI: I don't know what it means to
3 have a joint exhibit. --
4 MS. BENSMAN: Your Honor, --
5 MR. LI MANDRI: -- Nobody's objecting to it.
6 How do -- if no one objects to it --
7 THE COURT: No one's objecting to it being
8 marked as exhibit. Did you discuss admissibility?
9 MR. LI MANDRI: Well I assume if you don't
10 object to it being marked as an exhibit, you don't
11 object to it being displayed. It doesn't mean it goes
12 into the jury room.
13 THE COURT: Well evidence goes into the jury
14 room. If you mark it into evidence -- all evidence
15 marked in this case will go into the jury room.
16 They're entitled to see --
17 MR. LI MANDRI: I understand.
18 THE COURT: -- everything that's marked into
19 evidence.
20 MR. LI MANDRI: But if it's joint exhibit,
21 does that -- without objection, that means it's going
22 to be displayed and then later we'll decide if it goes
23 into the jury room. --
24 THE COURT: Yes.
25 MR. LI MANDRI: -- If it can be displayed,

1 then why can't we display --
2 THE COURT: Well the jury can't see it. The
3 jury doesn't see every exhibit. An expert report is
4 marked as an exhibit. Unless the parties agree that it
5 goes into evidence, they don't see the expert report.
6 MR. LI MANDRI: I understand, but it's not a
7 joint exhibit because --
8 THE COURT: Well even if it is --
9 MR. LI MANDRI: -- we'd have objections to
10 it.
11 THE COURT: -- a joint exhibit. I may agree
12 with you that this is your expert's report, mark it as
13 a joint exhibit. I don't care. That doesn't mean I
14 consent to you handing the report to the jurors.
15 MR. LI MANDRI: I see. My understanding is a
16 joint exhibit was that neither side objects -- has any
17 objection to the exhibit.
18 THE COURT: Well they don't have an objection
19 to the exhibit. They may have an objection to you
20 giving it to the jury or they may have an objection to
21 you reading the exhibit to the jury in your opening. I
22 don't know. Guys, this is not the first case you've
23 tried.
24 MR. LI MANDRI: No, no, I understand. It's
25 just that I've gotten used to using the term "joint

1 exhibit" unless there's something that -- basically
2 you're agreeing is admissible.

3 THE COURT: Okay. So you'll take a look at
4 these. And then we'll decide --

5 MR. KESSLER: While we're on the subject,
6 Your Honor, just really briefly, the defendants
7 discussed with us at the break that we discuss with the
8 Court how to sort of approach the witness with a
9 document, that it would happen once and then counsel
10 should be -- feel free to approach the witness in the
11 future.

12 We are wondering whether that's the same
13 procedure for the publishing of exhibits to the jury,
14 that we would ask the Court's permission to publish to
15 the jury for the first time with each witness, but then
16 not again.

17 MR. LI MANDRI: Once the document is
18 published to one witness, it can be published to any
19 witness, is that what you're saying?

20 MR. KESSLER: No, I'm sorry. I'm saying --

21 THE COURT: Listen, stop. The jury is not
22 going to see an exhibit unless it's admitted into
23 evidence.

24 MR. KESSLER: That's correct.

25 THE COURT: So if the both sides agree it's

1 in evidence, then it's in evidence. It doesn't have --
2 how many times you want to show it to the jury is up to
3 you.

4 MR. KESSLER: Okay.

5 THE COURT: What you're showing me here are
6 slides. You don't intend to offer any of these things
7 in evidence, do you?

8 MR. KESSLER: No, Your Honor.

9 THE COURT: Okay. So these would -- these
10 could be joint exhibits that are never going to go into
11 evidence. But they have to be marked something.
12 Because if I let them use it and an appellate court
13 disagrees with me because you objected to it, it's got
14 to be referred to as something.

15 MR. LI MANDRI: Sure. We'd mark it as
16 plaintiffs' X. But I wouldn't refer to it as a joint
17 because I'm not agreeing to it.

18 THE COURT: Okay.

19 MR. LI MANDRI: There are things, such as the
20 clients' consent forms, we've marked as joint exhibits.
21 I assumed those as operative documents that, because we
22 marked them as joint exhibits, it means there's no
23 objection and we all know they're going to go into
24 evidence because they're part of the core documents in
25 this case.

1 THE COURT: Well that may be true. If that's
2 true, my court clerk will mark them into evidence --

3 MR. LI MANDRI: But until then --

4 THE COURT: -- and we can reference them as
5 J-1 in evidence as opposed to exhibit. There's two
6 different things: exhibits and evidence. So you'll
7 take a look at these. And I'll have to decide whether
8 we can use them or not.

9 I mean, by my cursory review, I don't --
10 again, I don't know what the objection could be to
11 putting up a slide that shows an expert's credentials
12 because he's going to tell them what they are. But if
13 you want to object to, I'll listen.

14 MR. LI MANDRI: I don't want to overemphasize
15 an opening statement. At the time they're testifying I
16 might not have an objection, but --

17 THE COURT: But right now the only thing on
18 opening statement is one, two and six. That's, that's
19 what you're asking. --

20 MR. KESSLER: Yes, Your Honor.

21 THE COURT: -- And counsel will let me know
22 tomorrow what his position is on one, two and six.
23 Are you telling me that if you don't get pictures,
24 that's what you're going to show the jury, the two
25 silhouettes? Or are you saying if you get photo --

1 well see, you're asking counsel to agree to something
2 that's not the final slide.

3 MR. KESSLER: Your Honor, I, so I -- we have
4 revised versions I'm happy to send to Chuck. We wanted
5 to give them to him as a week in advance to comply with
6 the rule.

7 THE COURT: All right. Well if you have
8 revised ones, can we give them the revised ones, so we
9 know --

10 MR. KESSLER: Yeah, we absolutely will.

11 THE COURT: -- so he knows what he's talking
12 about?

13 MR. KESSLER: Yes, Your Honor.

14 THE COURT: Because what you handed me was
15 two black silhouettes. So if I was looking at this as
16 Mr. LiMandri, I'd say I'm not objecting. Put the black
17 silhouettes up there. But now you're telling me you
18 have photographs that go there.

19 MR. KESSLER: That's right, Your Honor.

20 MR. LI MANDRI: Okay, I'll look at them.

21 THE COURT: All right.

22 MR. MCCOY: Your Honor, may I ask you one
23 question about voir dire for tomorrow?

24 THE COURT: Yes.

25 MR. MCCOY: As you know, we left off from the

1 prescreen with about a dozen or so people still in the,
2 in the gallery. I assume that we will resume with that
3 set of people.

4 The -- we had gone through the questionnaires
5 that you let us take home over the weekend. And we
6 have a list of some additional people that we would
7 suggest also go through that prescreen process, but --

8 THE COURT: They're all going through it.

9 MR. MCCOY: So you're going to take all of
10 the remaining 70 through?

11 THE COURT: Well yeah, they're all going
12 through it because they got to tell us their answers to
13 those questions.

14 MR. MCCOY: Okay. I understand.

15 THE COURT: Everyone is going to report here
16 at 10:00 tomorrow. So they're going to need places to
17 sit, because they're sitting first. Because I told
18 them all to report here at 10:00. And that's what
19 we're doing tomorrow. We'll finish with the 12 and
20 we're going right into the next group. Because they
21 all have to be prescreened on that question.

22 Right now you only have three people, right,
23 by my count. I only have three people who have already
24 been prescreened on those 11 questions.

25 MR. MCCOY: That's right, Your Honor.

1 MR. LI MANDRI: That is correct.

2 THE COURT: So we're going to go through
3 hopefully -- I think we have, I hope another 75. We
4 got to go through with those 11 questions before we
5 even get to the other questions.

6 I've already -- and if you have any contacts,
7 if you know people that are coming here from the press,
8 you can forewarn them no cameras tomorrow in the
9 courtroom. There will be no cameras permitted during
10 jury selection at all.

11 And the last thing was I did get one inquiry,
12 and I don't think I addressed this, about a -- an area
13 for the press or for interviews or for -- I don't
14 remember what the exact inquiry was. I've spoken to
15 the Sheriff's Department. If you want, you can use the
16 front of the Brennan courthouse. That's the nice
17 building next door, if you're looking at it, walking up
18 the steps. You can use to the left. The staircase is
19 divided into thirds, the big center. You can use the
20 left side stairs.

21 And there's a nice plaza in front of it. But
22 stay to the left, so that you only block off the outer
23 left staircase as you face it, the outer right as
24 you're coming out of the building if you want. That
25 would be the designated area.

1 MR. LI MANDRI: I don't know though what
2 press coverage there will be. I assume there might be
3 some. If somebody asks you a question in the hallway,
4 would you prefer we tell them we can't speak? Well
5 obviously you wouldn't do it for the jurors around
6 anyhow, but --

7 THE COURT: Yeah, I mean, I would -- that's
8 why I'm -- look, I would prefer that it not take place
9 or at least you wait until the jurors leave. I don't
10 care if you want --

11 MR. LI MANDRI: Right.

12 THE COURT: -- if you personally want to talk
13 to people in the hallway, that's fine. But I would
14 always wait until the jury left. --

15 MR. LI MANDRI: Yeah, give (Indiscernible) --

16 THE COURT: -- Because you're just never
17 going to know. And that's the last thing you need, is
18 to have a juror come in --

19 MR. LI MANDRI: No, --

20 THE COURT: -- and say gee, I heard so-and-so
21 talking to -- so my advice would simply be to just --
22 you're free to -- listen, once I leave here you can
23 wait in the courtroom with them for all I care, as long
24 as the jury's gone.

25 MR. LI MANDRI: I see, that would be safer.

1 THE COURT: But I don't want any interviews
2 or press coverage to be conducted in the courtroom,
3 anything formal other than just saying, you know, I'm
4 making it available in front of the Brennan courthouse.

5 And I think that was the last --

6 MR. DINIELLI: Yes, Your Honor.

7 THE COURT: -- I think I addressed all of the
8 other ones that I was asked. Okay, that's it?

9 MR. LI MANDRI: The Court did have -- and I'm
10 not suggesting we do it today -- jury instructions. I,
11 I think we have plenty of time to deal with that later.

12 THE COURT: Yeah, I wanted two sides to.
13 Because I know I just got -- you just handed me
14 something today. So I think the two sides should
15 further discuss it among themselves first and narrow
16 down.

17 MR. LI MANDRI: We've narrowed with the areas
18 of primary disagreement are. We can tell you those I
19 think and perhaps take it up later --

20 THE COURT: Yeah.

21 MR. LI MANDRI: -- if that would be helpful.

22 THE COURT: No, we can do it during the
23 course of the trial or -- you know, so that you can
24 both -- I'll either make my rulings, so that at the end
25 the jury charge can be finalized and everybody's got a

1 typed copy of it.

2 MR. MCCOY: Your Honor, we met and conferred,
3 was it last night?

4 MR. LI MANDRI: Yes.

5 MR. MCCOY: It's all running together
6 already.

7 MR. LI MANDRI: Yeah.

8 MR. MCCOY: Last night we had a productive
9 discussion. We each took away some homework. And so
10 that process is on the way. And I think we can
11 continue with it.

12 THE COURT: Okay. So then you'll finalize
13 the questions. And I would say bring in about maybe
14 60, 65 copies.

15 MR. LI MANDRI: Just one question that I have
16 that relates to the jury instructions, but also to
17 opening statement. The Defense does not typically use
18 the expression "conversion therapy". We did with some
19 of the plaintiffs' experts, but that was the
20 terminology they, they used. But my clients never used
21 "conversion therapy" as a term. --

22 THE COURT: Okay.

23 MR. LI MANDRI: -- They talk about their
24 gender affirming processes. So we're going to object
25 to the use of the term "conversion therapy" in the

1 instructions. We can deal with that later. But even
2 in, in opening I don't know how the Court prefers that
3 be handled. But we do have an objection to that term
4 being used because it's been -- the term has just been
5 greatly maligned in the media, particularly recently,
6 even with, as counsel pointed out, the president making
7 a statement.

8 And I know the Southern Poverty Law Center
9 has been involved in legislative efforts in Washington,
10 going on simultaneously with this case, talking about
11 conversion therapy. And I think it's prejudicial to my
12 clients for the -- you know, particularly the
13 plaintiffs' counsel to be involved in those efforts,
14 using that term, getting a lot of publicity in the
15 media with it, adverse publicity, and then saddling my
16 clients with terms that they don't use and have never
17 used.

18 THE COURT: Well you're, you're saying that
19 your clients never used that terminology?

20 MR. LI MANDRI: No, not to describe what they
21 do.

22 THE COURT: What about the component parts?
23 What about the People Can Change or --

24 MR. LI MANDRI: No, it's all general
25 wholeness, gender affirming processes. People Can

1 Change doesn't use it either. And Rich Wyler will say
2 that.

3 THE COURT: Okay.

4 MR. DINIELLI: Your Honor, the Court already
5 has prescreened or will have prescreened everyone about
6 exposure to media. So if there any questions about
7 someone having a bad idea about what the defendants do
8 --

9 THE COURT: No, no, I'm -- no, no, I'm not
10 worried about the media. I'm just concerned where does
11 it -- if they've never used the terminology, what are
12 we basing the use of the term "conversion therapy" on
13 if that's not in --

14 MR. DINIELLI: Your Honor, it is, it is an
15 umbrella term that's widely used as is "reparative
16 therapy". There are a number of terms. I don't think
17 it's fair to force me to say that what they do --

18 THE COURT: No, no, I'm just asking you --

19 MR. DINIELLI: -- is gender affirming
20 processes.

21 THE COURT: -- what you're basing it on. I'm
22 asking for a proffer, so I know how to rule if there's
23 an objection. Are your experts going to say that?

24 MR. DINIELLI: In his deposition Mr. Goldberg
25 said that the two terms were synonymous. --

1 THE COURT: All right.

2 MR. DINIELLI: -- And we can show that to
3 you.

4 THE COURT: Okay, no, --

5 MR. LI MANDRI: But they don't use it. I
6 mean, it, it --

7 THE COURT: No, but, but, Counsel, if they're
8 synonymous and people are going to say it's the same
9 thing, then I'm not going to, I'm not going to prohibit
10 them from using the terminology.

11 MR. LI MANDRI: I understand, but the terms
12 to be --

13 THE COURT: You can certainly tell the jury
14 we've never used that term.

15 MR. DINIELLI: Mr. LiMandri, if it helps, I
16 intend to tell the jury that your clients don't use the
17 word "conversion therapy". That's fine. I'm not going
18 to try to suggest that they call it something they
19 don't. But we need shorthand and that's what people
20 call it. --

21 THE COURT: That's fine.

22 MR. DINIELLI: -- And Mr., and Mr. Goldberg
23 said it's the same thing.

24 THE COURT: As long as there's a proffer that
25 people are going to say that, that's fine. But if you

1 get up and say they used the terminology, then there's
2 going to be an objection.

3 MR. DINIELLI: That's right.

4 THE COURT: All right.

5 MR. LI MANDRI: Did you want me to identify,
6 just what I understand in two minutes to be the points
7 of difference and we can take it up later, of the jury
8 instructions or would you rather not?

9 THE COURT: No, no, we don't have to do the
10 jury instructions now. What you can look at though is
11 there was a -- are you objecting to their preliminary
12 instructions to the jury?

13 MR. LI MANDRI: I don't think -- I, I --

14 THE COURT: Talk about that and let me know
15 tomorrow.

16 MR. LI MANDRI: If they're the standard form
17 ones, no.

18 THE COURT: Yeah, the follow -- if I, if I
19 looked at it, you pretty much follow the model jury
20 instructions for the preliminary charge to the jury.

21 MR. MCCOY: For the preliminary charge to the
22 jury? Yes, Your Honor. --

23 THE COURT: Yeah, I didn't see -- but --

24 MR. MCCOY: -- I don't think we had any, any
25 -- no, --

1 THE COURT: I don't think -- I didn't receive
2 an objection --

3 MR. LI MANDRI: No, (Indiscernible) --

4 THE COURT: -- from you. And I think when I
5 read them they appeared to be --

6 MR. MCCOY: All of our issues, Your Honor,
7 are after --

8 THE COURT: Okay.

9 MR. MCCOY: -- or before they go to
10 deliberate.

11 MR. LI MANDRI: There's like four that deal
12 with the substantive --

13 THE COURT: That's fine. --

14 MR. LI MANDRI: -- legal issues and burden of
15 proof, --

16 THE COURT: -- We'll work on those. --

17 MR. LI MANDRI: -- that's it.

18 THE COURT: -- We don't have to do that now.

19 MR. LI MANDRI: Okay.

20 MR. MCCOY: Correct, that's correct.

21 THE COURT: Okay. So then we will start
22 tomorrow -- well we can do one of two things. If --
23 well -- the jurors will be here at 10:00. So that if
24 there's any issues that are remaining, although it's
25 going to be difficult because you're going to have too

1 many -- I had them report directly here because I
2 didn't want to waste time, have them go downstairs at
3 10:00 and then bring them up.

4 So I don't think we're going to be able to do
5 a lot of legal issues in the morning. But if there's
6 something that you think needs to be addressed
7 immediately, then we should do it at 9:00.

8 MR. LI MANDRI: No, the only issue is the
9 framing -- the wording for that one question, which --

10 THE COURT: Yeah. So why don't -- yeah. I
11 mean, I, I think it's going to be difficult, but I'll
12 give you an opportunity to try and phrase it. And then
13 have the jury questioned, so that -- my suggestion, and
14 we could --

15 And again, given the number of questions, I
16 mean, think about whether you really want them to fill
17 out another questionnaire or whether we should do what
18 I said and just give it to them, put eight people in
19 the box, tell the people in the audience to read them
20 while we have the eight people stand up and just tell
21 us their answers.

22 I think that in this case it will involve the
23 people more. Because what I don't -- what I want to
24 avoid, especially for three folks coming back at 10:00,
25 they're going to be sitting there while we do 60 some

1 more or 70 some more preliminary screening.

2 MR. MCCOY: Your Honor, --

3 THE COURT: I don't know what else I could
4 do. I mean, I guess I could tell those three people
5 they can go get coffee and come back at 11:00 or 12:00.
6 But I don't -- I figure this way if I -- instead of
7 them sitting, filling them out, I always tell the
8 people that are remaining, please follow along with the
9 questions, so that when you come up, you'll be able to
10 go through them quicker.

11 And I'm not adverse, if you want, we can give
12 them pencils and say while you're sitting there, if you
13 want to make notes for yourself or whatever. But I'd
14 rather just do it verbally and move it along if we can,
15 unless someone really wants them to fill out the form.

16 MR. MCCOY: Yeah, Your Honor, we think that
17 that probably makes sense because we're not going to
18 have time to review the forms if they filled --

19 THE COURT: Yeah.

20 MR. MCCOY: -- it out on paper. --

21 THE COURT: So --

22 MR. MCCOY: -- So if anything, it would be
23 allowing the jurors back here maybe to do some kind of
24 busy work. But I think maybe they could benefit from
25 listening --

1 THE COURT: Yeah, that's --

2 MR. MCCOY: -- to the questions as well.

3 THE COURT: -- normally -- usually what
4 happens is that after awhile you'll get people will
5 come up who will say, depending on -- I don't know how
6 you have the final form. But I used to get some that
7 will come up and say one, you know, Peter Bariso, bah-
8 bah-bah, address, juror number, occupation, children,
9 et cetera. And then they'll go questions 11 through
10 16, no. But I don't know how you have yours written
11 out.

12 But that's why I'm saying, that people who
13 listen are able to come up and go through it quicker.
14 What I intend to do once we finalize the list is
15 obviously, if we ask them, well one of the questions
16 about been involved in litigation et cetera, what I ask
17 them verbally is to just tell us yes or no. Then we'll
18 make notes. And then I'll ask that juror to come to
19 sidebar and we'll do -- you answered yes to question
20 number 16; can you tell us what type of litigation you
21 were involved in.

22 MR. MCCOY: Would you like me -- I can -- so
23 -- and it's currently drafted. It says yes, and then
24 it says please explain. We can leave off the yes,
25 please explain.

1 THE COURT: No, you could, you could, you
2 could put that there, but I'll just -- I mean, you
3 could just put yes or no. And if they answer yes,
4 we'll bring them over to sidebar and they'll explain it
5 to us.

6 MR. MCCOY: That's fine. So what I would
7 propose is we will take Your Honor's rulings, the
8 current form of it, we will modify it according to that
9 and we'll send it to the defendants. We'll expect that
10 they'll send us some kind of language. And we'll try
11 to work that out. And, and if we can't, we'll have you
12 work it out first thing in the morning. And --

13 THE COURT: Yeah.

14 MR. MCCOY: -- if we can, fine. But -- and
15 you said you want 65 copies? We can bring 75 if you
16 want.

17 THE COURT: I don't think you're going, I
18 don't think you're going -- well it's up to you. I
19 don't -- I think you're going to lose more. I'm just
20 trying to think how many are left. We have 12 from the
21 original group --

22 MR. MCCOY: We only have one question to work
23 out. If they want to make copies presumably before we
24 come to court. I don't know if we can just spend five
25 minutes --

1 THE COURT: Go ahead, you can --
2 MR. MCCOY: -- off the record --
3 THE COURT: -- stay here, yeah.
4 MR. MCCOY: -- and see if we can work it out
5 --
6 THE COURT: Go ahead.
7 MR. MCCOY: -- so we you'll print your form
8 tonight. And I don't have to worry about running off
9 to print it in the morning, --
10 THE COURT: All right.
11 MR. MCCOY: -- if we can come up with
12 something neutral. Thank you, Your Honor.
13 (Proceedings adjourned to 6-2-15)
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CERTIFICATION

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3 I, Mary Nelson, the assigned transcriber, do
4 hereby certify the foregoing Transcript of Proceedings
5 in the Hudson County Superior Court, Law Division, on
6 June 1, 2015 and recorded on CD 6/1/15 from 12:33 to
7 12:53, is prepared in full compliance with the current
8 Transcript Format for Judicial Proceedings and is a
9 true and accurate compressed transcript of the
10 proceedings as recorded.
11
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13

14 Name /s/ Mary Nelson A.O.C. No. 219
15 METRO TRANSCRIPTS, L.L.C. Dated: 6/10/15
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