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I N D E X6/9/15MOTION RE: VIDEOTAPED DEPOSITIONSPageARGUMENT

By Mr. LiMandri/Mr. Kessler

6

The Court

76

WITNESSES FOR THEDirectCrossRedirectRecrossPLAINTIFF

MS. JO BRUCK

By Mr. Wolfe

20

73

By Mr. MR. JONNA:

37

75

MS. BELLA LEVIN

By Mr. McCoy

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By Mr. Laffey

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MR. CHAIM LEVIN

By Mr. McCoy

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By Mr. LiMandri

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1 (Jury not present in the courtroom)

2 THE COURT: All right. We're on the record
3 in Ferguson v. JONAH. I -- I asked to come out because
4 I have reviewed the sheet of objections to the
5 designations from the videotaped depositions, and I
6 have a quandary because I'm not sure how I can actually
7 rule on these.

8 If I'm correct, some of these objections are
9 in response to questions that were asked and answers
10 given. So I don't know what the parameters were of
11 this video -- these videotaped depositions, and I
12 didn't see anything in the transcripts as to how the
13 parties were viewing this. So it's difficult for me to
14 rule. Because normally on a videotaped dep, if an
15 attorney asked a question and got an answer to the
16 question, I don't know how that attorney could then
17 tell me they don't want to hear the answer.

18 So -- and that's a difficulty I have with --
19 with some of the objections. There are objections to a
20 question that was posed by the attorney.

21 MR. LI MANDRI: I can address that I think,
22 Your Honor. Again, I did offer the plaintiffs that we
23 do a discovery deposition so basically they know what
24 the witness is going to say followed by their trial
25 preservation testimony. And they declined that.

1 And I was fine to go along with their
2 declining it because it was to their advantage. I
3 already knew what the witness was going to say.
4 Obviously I'm calling the witness. I met with the
5 witness. I gave them the opportunity to do a discovery
6 deposition. They chose not to. And that's the usual
7 procedure, as the Court knows.

8 So the only stipulation we entered into at
9 that point would be objections as to form of the
10 question would be waived as is the usual case if not
11 made. But the only other objections that would be
12 preserved would be for the time of trial. There was no
13 discussion as to whether they could later object as to
14 questions they asked. And a lot of this arises in the
15 context the Court -- as the Court notes in the
16 plaintiffs' cross-examination of the defense witnesses.

17 So that specific issue was not raised or
18 discussed. And I -- I just assumed if they were going
19 to ask the questions they'd live with the answers, not
20 being -- moving to strike them later. So I was a
21 little surprised when they were striking a lot of
22 testimony that -- as to questions they asked. But
23 that's where we're at, Your Honor.

24 MR. KESSLER: Your Honor, a few things. One,
25 as we talked about before, we were in sort of an -- an

1 uncomfortable position with trying to take discovery
2 depositions and also trial preservation depositions.
3 The reason that the testimony has been objected to by
4 the plaintiffs is because the defendants have
5 designated it. This is testimony that we have not
6 offered, that we never intended the jury to hear.
7 These are also similar in form and substance to the
8 objections we made to Jonathan Hoffman (phonetic),
9 which we all entered together.

10 Many of the objections that the Court
11 reviewed and sustained for the plaintiffs were
12 objections that we made to questions that we asked
13 because the defendants designated them to be heard for
14 the jury, and -- and we think that these are similar in
15 form and substance.

16 THE COURT: Well, it just presents a problem
17 for me because normally, as I say, in a videotaped
18 deposition for trial there would be objections made at
19 the time, and then if the -- the Court would have to
20 rule on those objections.

21 For instance, let's -- let's just look at, as
22 an example, David DiGiacomo (phonetic), Page 20, Line
23 7.

24 MR. KESSLER: Which witness, Your Honor?

25 THE COURT: This is David DiGiacomo. Not --

1 well, not -- not Page 20. While we're here, this is a
2 question that's posed by the defendants' attorney,
3 correct?

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

5 THE COURT: Why is it speculation?

6 MR. KESSLER: I -- Your Honor --

7 THE COURT: I mean the question asked for his
8 thought process, right?

9 MR. KESSLER: I -- I think, Your Honor, the
10 questions asks simply whether Mr. DiGiacomo believes he
11 would be alive if it weren't for JONAH, and I think it
12 is asking him to speculate as to the direction he feels
13 his life would have taken, the activities he feels he
14 would have been involved in. There's no suggestion, at
15 least in the question, that it's limited to his
16 personal knowledge of any plans he had. It -- it seems
17 quite speculative to us.

18 MR. LI MANDRI: He'd be the one and only
19 person in the world that could answer that question
20 properly without speculating because he knew what
21 activity he was engaged in. In fact, the question was
22 preceded by him saying that he kept descending into
23 deeper and darker activities to the point where with
24 one anonymous sexual liaison the person started
25 hemorrhaging from the mouth, and he realized, my God,

1 I'm either going to kill someone or be killed doing all
2 this S&M, other kind of activities.

3 So for him he laid an adequate foundation as
4 to why he did not think he would be alive because he
5 was -- said he was absolutely out of -- out of control
6 doing things he knew was dangerous and -- and harmful,
7 but he couldn't help himself. So --

8 THE COURT: All right. But -- but having
9 said that, what -- what does that have to do with the
10 issues in the case?

11 MR. LI MANDRI: Yeah --

12 THE COURT: Whether he -- whether -- whether
13 his -- his personal practice and what he was doing. I
14 thought we weren't going to get into people's personal
15 sexual practices. What --

16 MR. LI MANDRI: Well, we're getting into why
17 for some people it's not only helpful but essential
18 they get the type of services my clients are providing,
19 and his referral counselor, again, wasn't doing
20 anything except talk therapy and treating the guy for
21 free for almost two years. So it was, for him, a life-
22 saving service that was being provided through my
23 clients' referral and why he was deeply grateful. And
24 I think the jury needs to hear that, especially since
25 the plaintiffs are saying the harm greatly outweighs

1 the benefit. In this case, the benefit to this person
2 was -- was life-saving. And I believe that that's a
3 factor. The jury definitely needs to consider, in
4 light of the plaintiffs' testimony, as to why this
5 practice needs to be shut down for everyone for all
6 time.

7 MR. KESSLER: Well, Your Honor, first, it's
8 certainly not the plaintiffs' contention that this
9 practice needs to be shut down for everyone. Second,
10 even if the question weren't speculative, Mr. DiGiacomo
11 didn't see -- didn't come to his client or therapist
12 through JONAH as he testified and we designated, and as
13 Mr. LiMandri mentioned in his opening, Mr. DiGiacomo
14 had a religious conversion, and that is the reason that
15 he stopped engaging in sexual practices. He testified
16 he was celibate before he came to JONAH. And even if
17 it were true, therefore that this question's not
18 speculative, it's simply not that JONAH had anything to
19 do with his ending the practices that he discusses in
20 his answer.

21 MR. LI MANDRI: The counselor's a JONAH
22 referral counselor, and he said that he definitely
23 needed the help to stay on track because although he
24 made the decision he wanted to change, he was not
25 capable of carrying through with it without help. And

1 he said without that assistance that he got, and he
2 went further and said the assistance he got from Mr.
3 Goldberg as well, who he continued to correspond with.
4 So it's not as if he did not benefit directly from my
5 clients and -- and with the JONAH referral counselor,
6 although now I don't remember if the referral came
7 directly from JONAH or not. This guy --

8 MR. KESSLER: It did not.

9 MR. LI MANDRI: -- goes -- this guy does work
10 as a JONAH referral counselor doing the same thing
11 regardless who he receives the referral from. And Mr.
12 DiGiacomo was in touch with Mr. Goldberg, getting the
13 benefit of his mentoring as well.

14 THE COURT: Well, I mean, I'm trying to
15 figure that out from the beginning of the deposition,
16 and this is -- who is Baxter Feffer (phonetic)?

17 (Mr. LiMandri confers with his clients)

18 MR. LI MANDRI: Okay. My client refreshes my
19 recollection that he did refer Mr. DiGiacomo to Mr.
20 Feffer, so it was, indeed, a direct JONAH referral.

21 MR. KESSLER: Your Honor, regardless of
22 whether or not Mr. Feffer is -- was referred or
23 received Mr. DiGiacomo through a general referral, I --
24 the testimony of Mr. DiGiacomo is that he experienced a
25 religious conversion and was celibate before he came to

1 JONAH or did any of the -- the therapy that Mr.
2 LiMandri's discussing.

3 MR. LI MANDRI: He said he was still
4 struggling.

5 MR. KESSLER: But not with the issues that he
6 discussed in his answer.

7 THE COURT: I don't -- I don't -- I don't --
8 I don't see why we have to get into all of that. I
9 really don't. I don't see why that has to come into
10 the case as to why he -- I mean, he was seeking help,
11 and he got help. Do we really have to get into all of
12 these specifics? I don't -- I don't see why that needs
13 to be discussed in this case. He's being offered as
14 what? As a success story?

15 MR. LI MANDRI: Yes, Your Honor.

16 THE COURT: Or what is the purpose of Mr.
17 DiGiacomo?

18 MR. LI MANDRI: He's a success story.

19 THE COURT: All right. So he's going to talk
20 about how JONAH helped him, presumably.

21 MR. LI MANDRI: That is correct.

22 THE COURT: We don't need to get into all of
23 that. I really don't think it's necessary that this
24 testimony on Page 20 is relevant as to the fact that he
25 was a success story. JONAH helped him, and he can tell

1 the jury -- presumably he tells the jury how JONAH
2 helped him.

3 MR. LI MANDRI: Fine, Your Honor.

4 THE COURT: All right? I just think that
5 that's -- that's really not necessary. I'm not going
6 to allow that.

7 MR. KESSLER: Thank you, Judge.

8 THE COURT: But the more important one, if I
9 get the pages here right, now if we go to 216. No,
10 wait a minute. Let me get these right.

11 Yes. David DiGiacomo, two-sixteen-oh-four.
12 Who -- now at this point is it -- are you asked -- is
13 the plaintiff asking these questions?

14 MR. KESSLER: Yes, Your Honor.

15 THE COURT: I mean, I have to ask this
16 question. Why would you ask these questions and then
17 object to it?

18 MR. KESSLER: Your Honor, again, we --

19 THE COURT: This would be similar to him
20 sitting in the witness stand, and if you asked the
21 question, do you think -- I'm sorry -- do you think you
22 would be having romantic-type of relationships with
23 women if JONAH had not referred you to Mr. Feffer, and
24 he starts answering a question, what would you want me
25 to do?

1 MR. KESSLER: Your Honor, we would never ask
2 that question in the court, and plaintiff --

3 THE COURT: Well, you asked this on a
4 videotaped deposition for trial.

5 MR. KESSLER: Your Honor, it -- it was
6 certainly not our understanding at the time we took
7 each and every one of the depositions that none of the
8 witnesses would be -- would be available to come in
9 trial. It was our understanding that some of them may
10 not be able to. But frankly, it wasn't until we
11 offered to pay for the travel costs of each of these
12 witnesses that we found that the defendants felt that
13 they were satisfied with the testimony that they had in
14 the video depositions and didn't -- didn't want to --
15 to see if any of these witnesses wanted to come to
16 trial. And that's why we went through the process of
17 designating these video depositions. And -- and,
18 frankly, this is not testimony we ever intended the
19 jury to hear. We didn't designate it.

20 THE COURT: Why wasn't something said on the
21 record at the deposition?

22 MR. KESSLER: Because it -- it wasn't our
23 understanding that none of the witnesses, as a
24 category, would be coming to trial.

25 THE COURT: Where is Mr. DiGiacomo? Where

1 does he live?
2 MR. KESSLER: I'm honestly not sure.
3 MR. LI MANDRI: I believe California, Your
4 Honor. Los Angeles.
5 MR. DINIELLI: Denver.
6 UNIDENTIFIED 1: No.
7 UNIDENTIFIED 2: No.
8 MR. LI MANDRI: Yes, doesn't he?
9 MR. DINIELLI: He's in Denver.
10 UNIDENTIFIED 1: No.
11 UNIDENTIFIED 2: He lives in Denver,
12 Colorado.
13 MR. LI MANDRI: I'm sorry. I thought he
14 worked for the LA Opera or something.
15 MR. KESSLER: I think he works for, like, for
16 the Denver Opera.
17 THE COURT: He runs an opera house in Denver.
18 MR. DINIELLI: Yeah, that's right.
19 MR. LI MANDRI: I'm sorry. Okay.
20 MR. KESSLER: And, again, we, you know, we
21 offered to -- to pay the travel and lodging of each of
22 these people.
23 THE COURT: Well, I -- but I -- I -- I
24 understand that. But I, you know, if they don't want
25 to come, they don't want to come. That was the --

1 wasn't that the purpose of the videotaped dep, that if
2 they weren't available that you were going to show the
3 videotaped dep?
4 MR. KESSLER: It was our understanding that
5 this far out it was difficult for these witnesses to
6 know if they'd be available. We didn't realize that
7 the --
8 THE COURT: Well, why was the -- why was the
9 deposition videotaped? Let me ask a simple question.
10 Why was the deposition videotaped?
11 MR. LI MANDRI: People were coming from all
12 over the country, and we didn't want to have to
13 coordinate scheduling people coming from all over the
14 country during trial, and we wanted to be in a position
15 to have a finite amount of testimony so that we could
16 better plan our trial to finish on time, particularly
17 when we were going to be using the nine witnesses that
18 we are.
19 MR. KESSLER: Your Honor --
20 MR. LI MANDRI: We wanted to have a finite
21 amount of testimony, and I didn't want the headache of
22 trying to coordinate all these schedules, and I did not
23 know who would be available if at all. Even as to the
24 more live ones, I'm having trouble with vacation
25 schedules and everything else. It would be a nightmare

1 if I had to try to coordinate all nine schedules at
2 this time of year.

3 MR. KESSLER: Your Honor, every single
4 deposition in this case was videotaped. The
5 depositions of the plaintiffs, the depositions of the
6 defendants, and certainly no one here thought that
7 those people would be appearing by videotape. It's
8 simply, we think, a best practice to have a video if
9 you're going to impeach a witness. It's often better
10 to see the way they answered a question as compared to
11 the -- the words they used.

12 THE COURT: I agree, but why wasn't a
13 discovery deposition taken?

14 MR. KESSLER: It -- it -- it was in this
15 case. These were discovery depositions.

16 THE COURT: Well, see, that's the problem. I
17 have one side telling me they're not discovery
18 depositions, and the other side telling me they are.

19 MR. KESSLER: Your Honor, I'll tell you that
20 -- that no lawyer in this case from that time or from
21 now remembers having Mr. LiMandri offering to do
22 bifurcated depositions. That's just something that --

23 MR. LI MANDRI: That is absolutely not true.
24 It's probably on the record. But beyond that --
25 because I had a clear recollection because I -- I told

1 you, I've done maritime cases where we had to do this
2 all the time, and that's how we did it. But -- and I
3 believe I actually said that to Mr. McCoy at the time.

4 But separate and apart from that, we had
5 several conversations with the Court where it was my
6 understanding, far be it from me to put words in the
7 Court's mouth, but it was my recollection that the
8 Court suggested, and I -- I agreed and I expected as
9 much, that this was a good way to handle these
10 witnesses.

11 MR. KESSLER: Your Honor --

12 MR. LI MANDRI: And that we would get -- we
13 would get the testimony on the record and not have to
14 worry about bringing them into court, that we would use
15 the videotapes for that purpose.

16 MR. KESSLER: Your Honor, my understanding of
17 -- of those discussions with the Court was that Mr.
18 LiMandri was taking issue with us wanting to fly across
19 the country and do all these depositions in person, and
20 the Court suggested we may be able to do them by video,
21 which means that we would do them by Skype or -- or
22 somehow telephonically, and that was the purpose of
23 suggesting we do them, quote/unquote "by video," not
24 that we preserve them for trial.

25 THE COURT: Well, I don't have any record, I

1 don't have any discussions, I have no idea what the
2 purpose of these depositions were. They're all out-of-
3 state or out-of-country witnesses. They were done on
4 videotape. I'm not -- I said this from day one, I'm at
5 a loss as to how I'm supposed to rule on these
6 objections when I have no objection whether these truly
7 were videotaped, they've been asked, depositions for trials or
8 not. I -- there's nothing on any of these records on
9 the transcript that says anything except the usual.
10 Tell me where they are, good morning, and then you
11 start.

12 MR. LI MANDRI: Well, I can tell you that I
13 -- I did say -- it was Mr. DiGiacomo. He was the first
14 one. We began. I suggested to Mr. McCoy, he said no.
15 Why don't you ask your questions and we'll ask our
16 questions. I suggested a bifurcated deposition. I'm
17 representing that to the Court because I have a clear
18 recollection.

19 THE COURT: Okay.

20 MR. MC COY: Your Honor, I'll represent to
21 the Court that I don't have any recollection of that.

22 MR. LI MANDRI: Well, there's probably emails
23 to that effect, but --

24 THE COURT: Well, you guys can figure it out
25 and give me some more insight because I have no idea

1 how to rule on these objections.

2 Officer, are the jurors here?

3 THE COURT OFFICER: Yes, sir.

4 THE COURT: Okay. They can come out. They
5 can come out. I'll be right here.

6 (Jury present in the courtroom)

7 THE COURT: Well, good morning, ladies and
8 gentlemen. All eight jurors are present and accounted
9 for. Thank you again for your promptness in showing up
10 this morning, and we are ready to proceed.

11 Plaintiff, please call your next witness.

12 MR. DINIELLI: Thank you, Your Honor. The
13 plaintiffs call Jo Bruck, and my colleague Sam Wolf
14 will be doing the questioning of this witness.

15 THE COURT: Good morning, Ms. Bruck. Would
16 you just remain standing?

17 THE COURT OFFICER: Raise your right hand.
18 Raise your right hand.

19 MS. J O B R U C K, PLAINTIFFS' WITNESS, SWORN.

20 THE COURT OFFICER: State your name for the
21 record, please.

22 THE WITNESS: Jo Bruck.

23 THE COURT OFFICER: Thank you. You may have
24 a seat.

25 DIRECT EXAMINATION BY MR. WOLFE:

1 Q Good morning, Ms. Bruck.
2 A Good morning.
3 Q Would you tell the jury where you live?
4 A Chicago.
5 Q How are you related to this law suit?
6 A My son is Sheldon Bruck.
7 Q Describe briefly Sheldon as a young person
8 and a young man.
9 A He was very easygoing, very happy, very smart.
10 Easy to get along with.
11 Q How old was Sheldon when he went to JONAH?
12 A He was 17.
13 Q Describe your relationship with Sheldon as he
14 was growing up.
15 A We were very close. I have four children. I like
16 to think I'm close with all of them. I have two older
17 daughters who were in school, so I had that chance to
18 spend with Sheldon just me and him, and he was a really
19 great kid.
20 Q Do you have any other children?
21 A Yes, I have three other children.
22 Q Did Sheldon show any interest in girls
23 growing up?
24 A He was friends with girls. He was friends with
25 girls, boys.

1 Q Did Sheldon go on dates with girls?
2 A No.
3 Q When Sheldon was growing up, did you have any
4 idea of his sexual orientation?
5 A I had an idea.
6 Q What was that?
7 A First of all, I think mothers kind of know these
8 things. They just have insight into their children.
9 He was not a typical boy. He wasn't into sports.
10 Loved to watch me put on makeup. He was just -- he
11 was, like, wise beyond his years, and I just had this
12 feeling since he was probably three I would say.
13 Q What was your own view of homosexuality when
14 Sheldon was around the age of 17?
15 A I come from an Orthodox Jewish community. They're
16 -- we weren't exposed to a lot of that. I always tried
17 to keep an open mind with these things, especially
18 since I thought I would have to be dealing with it.
19 Q Were there any openly homosexual people in
20 your community?
21 A Not that I know of, but I'm sure there were.
22 Q What is your understanding of homosexuality
23 now?
24 A Something you're born with. That's the way God
25 created you, and for some people it's a struggle to

1 understand that, but they -- you do begin.

2 Q I'd like to talk for a minute about when you
3 actually learned officially that Sheldon was gay. When
4 was it that he told you that?

5 A He had called me. He was in summer camp and he
6 called me crying. And he wasn't a big crier. And he
7 -- he told me he was struggling with something. And of
8 course I thought that's what it was. But he didn't
9 want to tell me what it was. So he wanted to talk to
10 someone, a professional when he came home.

11 Q Was it during that conversation, the phone
12 call, that he told you he was gay, or later?

13 A No. It was later on.

14 Q Tell the jury about when you found out.

15 A He had left me a letter on his computer and asked
16 me not to read it while he was still in the house, left
17 the house, and I sat and read the letter on his
18 computer. And he told me not to contact him after
19 that.

20 Q What was your reaction after reading the
21 letter?

22 A I pretty much knew what it was going to be about,
23 but it's still hard for a parent to hear that their
24 child is struggling with anything. So I sat there
25 reading it and cried.

1 Q Did you have an idea the letter would be
2 coming around that time?

3 A I figured I would be hearing about it soon.

4 Q Actually, what was Sheldon's mood in the
5 months around that time that he sent you the letter?

6 A He had been seeing a therapist, so he was already
7 on the mend and feeling better about himself, more
8 confident.

9 Q Once -- once he sent you the letter, did you
10 have any discussion with Sheldon about his desire to
11 change? Was there any mention?

12 A Not right away. We were -- my husband and I
13 contacted a well-known doctor-rabbi from Milwaukee, and
14 he had mentioned JONAH to us. So I sat down and
15 discussed it with him.

16 Q Was that your first knowledge or your first
17 interaction with JONAH? The first time you'd heard of
18 it?

19 A My husband's name is Jonah. I had Googled his
20 name one day, and up popped this website. So I, like,
21 I kind of -- I didn't really look at it so much, but it
22 was always in the back of my mind. So that was the
23 first time I had seen it.

24 Q Around when was that with respect to when
25 Sheldon told you he was gay?

1 A Probably two years before that.

2 Q And then how did you get back in touch with
3 JONAH after -- after you received the letter from
4 JONAH?

5 A I went back online to the website, and I contacted
6 Arthur Goldberg.

7 Q Who reached out to who at that time?

8 A I -- I called Arthur Goldberg, and he asked me if
9 he should contact Sheldon. And I -- I told him I would
10 sit and discuss it with Sheldon, and if he wanted to
11 proceed, he would call him.

12 Q Approximately how long was your conversation
13 with Mr. Goldberg?

14 A It was probably about a half an hour.

15 Q Did you tell Sheldon that you were going to
16 be calling JONAH?

17 A No.

18 Q Let's talk about that conversation with Mr.
19 Goldberg. What do you recall about that?

20 A He was very happy to hear from me, very upbeat,
21 very -- he sounded almost like -- like he was, like, a
22 game-show host, like, you know? I -- you called the
23 right place. He knew I was an Orthodox Jew, so he kind
24 of played on that and, you know, threw out a few of the
25 words I would understand, being an Orthodox Jew. And

1 he told me I called the right place, and he was going
2 to help him.

3 And he explained to me that homosexuality
4 wasn't really a thing. It was more of a Hollywood
5 thing. It was this gay agenda, and it was really like
6 a glitch that happens around puberty. You, you know,
7 idolize your same sex parent, and at puberty, when
8 you're supposed to then have this attraction to
9 females, something happens and the parent that you
10 idolize ends up becoming, you know, this love kind of
11 thing. And that's what happens. Like, something in
12 your brain kind of switches. There's -- there's a
13 glitch in there.

14 Q You say a glitch. Did Mr. Goldberg give any
15 further explanation of why Sheldon would think that he
16 might be gay?

17 A He said that because he probably spent more time
18 with his mother and not enough time with his father
19 that that was a common thing. And being that my
20 husband was at work most of Sheldon's childhood, I
21 thought, oh my goodness, maybe it was something to
22 that.

23 Q How did that feel to hear that you might be
24 the cause of your son's being gay?

25 A Well, you feel guilt anyway when your child is

1 struggling with anything, and you want to figure out
2 how -- how you can help them. So hearing that it was
3 possible that it was my fault, it was really hurtful.

4 Q How did Mr. Goldberg describe JONAH's
5 services could be offered to Sheldon?

6 A He told me they had weekends, which he described
7 religiously as Shabbaton, and that he has so many
8 people that had been through the program that were
9 successful, that were, you know, heterosexual adults
10 that were married with children and that he could meet
11 with all these people and he could be healed as well.

12 Q You -- you said the word success. What did
13 you understand the word success to mean in terms of
14 what they could do for Sheldon?

15 A That he wouldn't be a homosexual. That he would
16 be a heterosexual.

17 Q Is there anything else that you recall right
18 now about your conversation about Mr. Goldberg -- with
19 Mr. Goldberg?

20 A Just the fact that he kept talking about this gay
21 agenda. I'd never heard of that before. And that he
22 was so adamant that it was not a big deal and that he
23 was lucky that he was so young because he had someone
24 that had come to him at 75 and -- and wanted to in his
25 older age, you know, find his -- his true self.

1 Q What words did he use to describe gay people?

2 A He called it a same sex attraction because
3 homosexuality -- in our conversation he said it didn't
4 exist. So it was just same sex attraction and it could
5 -- it could be easily fixed.

6 Q Did he describe how they would fix it?

7 A He talked about the -- they had group therapy
8 sessions and things like that, and in -- he would, you
9 know, have a therapist. And -- and they would have
10 these group sessions. And they all kind of helped each
11 other.

12 Q What was Mr. Goldberg's tone during this
13 conversation?

14 A Like I said, he sounded very welcoming and kind of
15 slick and, like, he had, like, a sales pitch.

16 Q Did -- did Mr. Goldberg talk about any
17 counselors that might be a fit for Sheldon, that he
18 might offer for Sheldon?

19 A He said that he would, you know, find a counselor
20 that would be, you know, try to be a good fit for him.
21 He knew I was an Orthodox Jew. He knew Sheldon was an
22 Orthodox Jew. So I just assumed, you know, he would
23 find someone that understood where he was coming from.

24 Q Was -- was Sheldon eventually counseled by an
25 Orthodox Jew?

1 A No. He wasn't an Orthodox Jew. He wasn't Jewish
2 at all.

3 Q What was your reaction to that?

4 A I thought it was kind of interesting. Orthodox or
5 not, it didn't really bother me. But I thought just as
6 a Jewish person he could understand where Sheldon was
7 coming from. But I didn't say anything. I figured I
8 would see how it went.

9 Q How did Mr. Goldberg describe the counselors?
10 Did he characterize them at all?

11 A No. I just assumed they were therapists.

12 Q What did you understand Arthur Goldberg's
13 credentials to be?

14 A Well, I assumed he ran this kind of organization.
15 I thought he was a therapist as well. He told me he
16 had written a book, and I -- based on what he said, I
17 assumed he had credentials in this field.

18 Q Do you recall him describing his -- his
19 credentials at all?

20 A I don't. He talked about his book, and he told me
21 I should look into that.

22 MR. WOLFE: Permission to show the witness
23 Joint-35.

24 THE COURT: Joint-35? Okay.

25 Q I'm going to have you focus just on the --

1 it's the second to the last -- the paragraph beginning,
2 "So in my judgment" -- and highlighting, "So in my
3 judgment as a professional in the field" -- does that
4 help refresh your memory in terms of what Mr. Goldberg
5 did say?

6 A Sure. Yeah.

7 MR. WOLFE: You can take that down.

8 Q You mentioned before that Mr. Goldberg had
9 said that a cause of Sheldon's homosexuality might be
10 that you were too close to him. Had -- had anyone ever
11 told that to you before?

12 A No. No one's ever said that. And he didn't say
13 it would -- it might be a cause. He just assumed that
14 was the cause.

15 Q Overall, how did you feel coming out of that
16 conversation with Mr. Goldberg?

17 A I felt pretty confident that he knew what he was
18 talking about.

19 Q How did that conversation influence your
20 decision to engage JONAH in therapy for Sheldon?

21 A I had never talked to someone that close related
22 to the field, and he made me feel pretty confident that
23 he was in fact a professional. And that the people
24 that he dealt with were professionals, and they must
25 know more than I do.

1 Q How did the conversation end?

2 A He asked me if I wanted him to contact Sheldon.
3 And I told him that I would talk to Sheldon about it
4 and I would let him make that decision if he wanted to
5 contact him.

6 Q Did -- did he make a decision to begin
7 conversion therapy, for Sheldon with JONAH?

8 A So Sheldon had contacted them after I spoke with
9 him, and he decided that he would like to try it.

10 Q Why did you think JONAH would be a good
11 program for Sheldon at the time?

12 A Sheldon had come to me that he was struggling with
13 his sexuality, and as a mother you want to make sure
14 that you can help your child wherever you can, and
15 Arthur Goldberg sounded like he knew what he was
16 talking about, and he sounded like, you know, someone
17 that understood where we were coming from as Orthodox
18 Jews, and I thought it's worth a try.

19 Q You said earlier that Mr. Goldberg had used
20 some words that appealed to you as a Jewish person.
21 Did Sheldon's counseling turn out to be religious?

22 A Not at all.

23 Q After that initial conversation with Mr.
24 Goldberg, did you speak with him again?

25 A I spoke with him after Sheldon contacted him. He

1 had called me to let me know that Sheldon contacted
2 them and that he was -- he spoke with him.

3 Q What was Mr. Goldberg's tone during that
4 call?

5 A Still very confident that they could help him.
6 Like, he -- he sounded like he had this all figured
7 out. It was not a big deal.

8 Q Again, when you say help him, what do you
9 mean specifically?

10 A Well, he told me that because of that glitch that
11 he -- they were able to work with him and make him see
12 that, you know, it was just an issue in his brain, I
13 guess you want to say, and they could fix that.

14 Q Did you receive any other calls from Arthur
15 Goldberg related to Sheldon?

16 A I think he had called a few times after Sheldon
17 stopped, and I just didn't answer the phone.

18 Q Why not?

19 A Sheldon made the decision that it wasn't working
20 for him, and I respected that.

21 Q Did you understand that JONAH's program was
22 scientifically based?

23 A That's how he made it sound. He didn't make it
24 sound like it was his idea and his thinking. He told
25 me that based on several things that he's read and

1 several things that are out there in the psychiatric
2 world, this was actually something that was accepted.

3 Q What did Arthur Goldberg say about Sheldon's
4 chance of success in becoming heterosexual?

5 A It was just a non-issue. It was just a glitch.
6 He would do the program, and he would be fine.

7 Q Did you believe Mr. Goldberg's claims about
8 the success of JONAH's program?

9 A I had no reason not to. I wanted to.

10 Q When did Arthur Goldberg recommend a
11 counselor for Sheldon?

12 A Probably a few weeks after that.

13 Q What was your own hope for Sheldon's therapy
14 with JONAH?

15 A I was hoping that Sheldon wouldn't feel like he
16 was struggling anymore. My hope was that it wasn't a
17 big deal and that he wasn't going to be a homosexual
18 because that's not what he wanted. I thought he, you
19 know, was going to be okay. He was going to do the
20 program, he was going to live a happy life. He had
21 talked about, you know, getting married and having
22 children. That's what he wanted. And I thought that
23 would happen for him.

24 Q How old was Sheldon at the time?

25 A Seventeen.

1 Q Did you have to sign anything before Sheldon
2 began therapy with JONAH?

3 A I signed some kind of document to allow him to
4 begin.

5 Q When did you receive that document?

6 A Right before he started speaking to his therapist.

7 Q Who sent it to you?

8 A I think the therapist sent it to Sheldon and
9 Sheldon brought it to me to sign.

10 Q Did you sign it?

11 A I signed it.

12 Q Did you review it before you signed it?

13 A I skimmed it.

14 Q What did you think it was?

15 A Just a piece of paper that said they're not
16 responsible for anything.

17 Q Did you have any concerns about the form?

18 A Not really.

19 Q Why not?

20 A Well, in order to begin treatment, I had to sign
21 it. So I signed it.

22 Q Before you signed it, did anyone from JONAH
23 explain to you what it was?

24 A No.

25 Q Who paid for Sheldon's counseling sessions

1 with JONAH?
2 A My husband and I.
3 Q Do you remember how much the sessions cost?
4 A I believe they were \$100 a session. It was just
5 over the phone.
6 Q How many sessions did you pay for in all?
7 A We paid for five sessions. He had four with
8 Sheldon and then we spoke with the therapist ourselves.
9 Q Why did you decide to pay for the sessions
10 with JONAH?
11 A It was going to help my son.
12 Q Apart from the payments for counseling, did
13 you pay anything else to JONAH?
14 A No. I -- I got solicitations over email and stuff
15 for them, but I just ignored it.
16 Q What sort of solicitations?
17 A For money.
18 Q You mentioned before that after several
19 sessions JONAH decided to end therapy. When did you
20 learn that?
21 A Sheldon came to me after his fourth session, and
22 he said that he was making him uncomfortable. And he
23 didn't think it was a good fit for him, and he didn't
24 want to go back to the dark places that he had been to
25 because he didn't want to be depressed. And he felt

1 like it was dragging him back there, so he decided to
2 end it.
3 Q What was your reaction to Sheldon's decision
4 to end conversion therapy with JONAH?
5 A He's a smart kid. I thought he could make that
6 decision, and we were fine with it.
7 Q Bringing ourselves to the present time, what
8 are your thoughts about JONAH now?
9 A I think --
10 MR. JONNA: Objection. Relevance.
11 THE COURT: Sustained.
12 A I think they --
13 THE COURT: Sustained, ma'am.
14 Q Sustained. Next question.
15 A Sorry.
16 Q Have you seen any ads for JONAH since Sheldon
17 ended his therapy?
18 A I do all the time.
19 Q Do you know any other parents of gay children
20 now?
21 A Yes, I do.
22 Q How did you come to know them?
23 MR. JONNA: Objection. Relevance, Your
24 Honor.
25 THE COURT: Why do we need to know about

1 parents of other gay children?
2 MR. WOLFE: I can move on. It's fine.
3 THE COURT: Okay. Sustained.
4 Q How is Sheldon doing now?
5 A He's doing great.
6 Q Why are you -- why are you bringing this
7 lawsuit?
8 A I feel like Arthur Goldberg in particular, because
9 he's the one I spoke with, lied to me. And I feel like
10 it's a dangerous thing. And there is such a thing as
11 homosexuality. And at 17 I feel like Sheldon was
12 struggling like any other 17-year-old, struggling with
13 whatever issues they have at that point. And I think
14 he was vulnerable at the time, and we were certainly
15 vulnerable at the time. And it -- it's false.
16 MR. WOLFE: No further questions at this
17 time.
18 THE COURT: Cross-examine?
19 CROSS-EXAMINATION BY MR. JONNA:
20 Q Good morning, Mrs. Bruck.
21 A Good morning.
22 Q You stated that you're Orthodox Jewish,
23 correct?
24 A Yes, I am.
25 Q In fact, you consider yourself a religious

1 person, don't you?
2 A Yes, I am.
3 Q And as an Orthodox Jew, you believe that the
4 holy books of the Torah contain certain laws from God.
5 Don't you?
6 A Absolutely.
7 Q Some of those teachings happen to pertain to
8 certain homosexual acts, right?
9 A A homosexual act. Correct.
10 Q Now, Mrs. Bruck, you testified that you found
11 JONAH online, right?
12 A Yes, I did.
13 Q And at this time, this is before Sheldon's
14 involvement with JONAH, you were aware about his
15 concerns with his sexual orientation. Weren't you?
16 A I wasn't aware of his concerns until he stated it
17 in the letter.
18 MR. JONNA: Your Honor, I have permission to
19 show Page 21, Lines 8 to 15 of Mrs. Bruck's deposition?
20 MR. WOLFE: Can you repeat the -- the lines?
21 THE COURT: Page -- Page 21.
22 MR. WOLFE: Page 21, what?
23 MR. JONNA: Line 8 to 15.
24 THE COURT: Line 8 to 15?
25 MR. WOLFE: No objection.

1 THE COURT: Okay.
2 (Portion of videotaped deposition of J. Bruck
3 played from 9:55:03 to 9:55:18)
4 Q So you thought your son might be gay,
5 but you weren't sure at the time, correct?
6 A I was pretty sure. But he didn't tell me.
7 Q Well, in fact, you knew he also had a crush
8 on a girl, right?
9 A I didn't believe he really had a crush on a girl.
10 He had never told me. He told his siblings.
11 MR. JONNA: Your Honor, I'd like permission
12 to show Defendant's Exhibit D-2.
13 MR. WOLFE: Could you show us what you have?
14 It's a letter?
15 MR. JONNA: D-2. According to my notes it's
16 a three-page letter, two-and-a-half page letter.
17 MR. WOLFE: No objection.
18 THE COURT: Okay.
19 Q Towards the end of the third paragraph --
20 MR. WOLFE: What page?
21 MR. JONNA: First page.
22 Q I believe you testified, ma'am, this is the
23 letter that Sheldon left on his computer?
24 A Uh-huh.
25 THE COURT: Is that a yes?

1 THE WITNESS: Yes.
2 MR. JONNA: Let's highlight the sentence
3 starting with, the fact.
4 Q "The fact that I'm religious now is due to
5 two things: my friends, which lately you haven't wanted
6 me to hang out with, and a girl, who I don't know how I
7 have a crush on." Now he stated this in a letter that
8 you read.
9 A Yes.
10 Q Okay.
11 MR. JONNA: Turn to the third page, please.
12 Starting with someday.
13 Q "Someday I would love to get married to a
14 beautiful girl, have beautiful children and live a
15 great life like I've always dreamed. God willing that
16 should happen. When it does, please don't feel like
17 you're keeping a deep, dark secret. I can always love
18 my wife, even if I might not love her as much sexually.
19 I would never give into these desires." And then he
20 goes on to say, "But if you want me to stay religious,
21 you would trust me in that I'm going to do what I need
22 to do." You'd agree, wouldn't you, ma'am, that your
23 son -- you and your son were religiously motivated at
24 the time, correct?
25 A It was -- it's my lifestyle. I'm a religious Jew.

1 I wasn't motivated. That's just who I am.

2 Q And then you read this letter, after you read
3 it, you found JONAH, and you looked it up online again
4 to see if it could help Sheldon, right?

5 A I got information from someone who I respected who
6 told me that I should look them up.

7 Q You certainly weren't anti-gay back then,
8 were you?

9 A Not at all.

10 Q You just wanted what you thought was best for
11 your son, right?

12 A Of course.

13 Q And it was comforting at the time that JONAH
14 was Torah-based, wasn't it?

15 A Sure.

16 Q Because, as you testified, you're Orthodox
17 Jewish, right?

18 A Absolutely.

19 Q And when you contacted JONAH and spoke to Mr.
20 Goldberg, you knew that they were a Jewish, Torah-based
21 organization, correct?

22 A Oh, I -- I thought they were.

23 MR. JONNA: Your Honor, I'd like permission
24 to show Exhibit J-35. Actually it's a joint exhibit.

25 THE COURT: Okay.

1 MR. JONNA: We just looked at it.

2 THE COURT: Okay.

3 Q By the way, just to confirm, you never spoke
4 to defendant Alan Downing, correct?

5 A No.

6 Q You never spoke to Elaine Berk?

7 A No.

8 Q You never participated on the Listserv?

9 A No.

10 Q So Exhibit J-35 happens to be the only
11 substantive email you exchanged with Mr. Goldberg or
12 any other defendants in this case. Is that right?

13 A Uh-huh. Yes.

14 Q It's dated October 12th, 2009, and it was --
15 if you look at the email on the bottom of the first
16 page it's from Arthur Goldberg to you, and he copies
17 your son, correct?

18 A Yes.

19 Q First sentence reads, "Your son, Sheldon, has
20 been in touch with us at JONAH concerning his personal
21 struggle or the perception that he is gay, while also
22 having feelings for a girl he knows. He has expressed
23 great confusion about sexuality and contacted us since
24 we at JONAH are the only Jewish-based organization in
25 the world that works with those unhappy with their

1 sexual" -- "with confusion in order to help them
2 realize their heterosexual potential."

3 THE COURT: Is there a question?

4 Q The question was you realize based on the
5 communication from Mr. Goldberg that it was a Jewish,
6 Torah-based organization.

7 A I thought it was. Yes.

8 Q Towards the end of the second paragraph Mr.
9 Goldberg states that they would find him a counselor
10 that would work with him to enhance his own sense of
11 self -- self worth, self confidence, and self esteem,
12 all of which will help alleviate the sexual confusion.
13 In this email Mr. Goldberg never said he would change
14 your son from gay to straight. Did he, ma'am?

15 A Not in this email he didn't but that's what he
16 said when I spoke with him.

17 Q In fact, that would have been absurd,
18 wouldn't it? Because it was pretty clear to everyone
19 that Sheldon wasn't even sure if he was gay, correct?

20 A When he told me later on about his sexuality, he
21 said that he was too afraid to let us know that he was
22 gay, so he wrote in his email that he was struggling
23 with the thoughts of being gay.

24 Q Well, we talked about this phone call you had
25 with Mr. Goldberg. And you remember, I just showed you

1 a clip of your deposition, you remember taking your
2 deposition about a year and a half ago, right?

3 A Yes, I do.

4 Q And you were told that you were under oath,
5 and you were asked if you didn't understand a question
6 that you could have it rephrased, correct?

7 A Yes.

8 Q And there was no reason why you couldn't give
9 your best testimony a year and a half ago, correct?

10 A Yes.

11 Q So we talked about this phone call with Mr.
12 Goldberg. We got a lot more detail today than we did
13 at your deposition. So I'd like to play the clip where
14 you discuss this phone call a year-and-a-half ago. And
15 that's on Page 24, Line 12 to Page 27, Line 13.

16 MR. WOLFE: May we get the citation again,
17 please?

18 MR. JONNA: Page 24, Line 12 to 27, Line 13.

19 MR. WOLFE: Objection, Your Honor. This is
20 not impeach -- an impeachment.

21 MR. JONNA: First of all, it doesn't need to
22 be. Second of all, it is because she was asked to --
23 to describe the entire conversation.

24 THE COURT: Let me -- let -- let me see it at
25 sidebar.

1 (Sidebar)

2 MR. WOLFE: There were -- (indiscernible)
3 details included today for the first time.

4 MR. JONNA: It's our understanding that the
5 deposition of the party can be used for any purpose,
6 Your Honor.

7 THE COURT: Yes. But not when you're
8 questioning her. Certainly you have the right to read
9 her testimony on your direct case. But right now your
10 insinuation is that this is impeachment, and it's not
11 (indiscernible). I don't see anything on here.

12 MR. JONNA: She used a lot of words that
13 weren't ever mentioned -- that were mentioned today for
14 the first time.

15 THE COURT: Well, you could ask her that
16 question. You didn't ask her that question.

17 MR. JONNA: Well, since we asked her for a
18 full recap back then, I want to -- I want to show the
19 difference of how she described it a year and a half
20 ago versus how she described it today.

21 THE COURT: You can do that, but that's not
22 impeachment. You can read her a transcript. You can
23 (indiscernible) party's deposition on your case. But
24 not in the middle of cross-examination. The only
25 impeachment brought here if any --

1 MR. JONNA: Towards the end.

2 THE COURT: -- is that she didn't say some of
3 the words that she said here today. If you ask her the
4 right way, you may be able to read some of this, but
5 the simple thing is to ask her whether she ever said
6 some of the things she said earlier when you asked her
7 this question at her deposition.

8 MR. JONNA: Okay.

9 THE COURT: But she -- a lot of the stuff
10 that's there she's testified to. It's exactly what her
11 testimony is.

12 MR. JONNA: A lot of it is, but a lot of it's
13 not.

14 THE COURT: Your point is some of the things
15 she said today are not there.

16 MR. JONNA: Correct.

17 THE COURT: All right. Well, ask her that.

18 MR. JONNA: Okay.

19 THE COURT: That's not impeachment, just
20 reading out three pages. The objection's sustained.

21 (Sidebar concluded)

22 Q During your deposition, you never used the
23 word glitch, did you?

24 A I don't recall.

25 Q Would it surprise you if the word glitch

1 doesn't appear in your deposition anywhere?
2 A Not necessarily.
3 Q Would it surprise you if the word slick
4 didn't appear anywhere, describing Mr. Goldberg?
5 A That would -- I guess you're saying it didn't
6 appear there.
7 Q I'm asking you if that --
8 A That's --
9 Q -- would surprise you?
10 A I guess not.
11 Q And Mr. Goldberg never told you he was a
12 therapist. Did he?
13 A No. He didn't say he was a therapist. It just --
14 he made it sound like he was.
15 Q And you never asked for a Jewish counselor
16 for your son. Did you?
17 A No, I didn't.
18 Q In fact, he made it quite clear, did you not,
19 that Mr. Goldberg didn't say he could definitely change
20 your son from gay to straight.
21 A Can you repeat that?
22 Q You -- you testified during your deposition,
23 did you not, that Mr. Goldberg did not say that he
24 could change your son from gay to straight?
25 A I don't remember. That was a year and a half ago.

1 I really don't remember.
2 Q Would it surprise you if you never -- if you
3 --
4 A If I didn't say that he could change my son?
5 Q If you -- if you --
6 A If he -- he never said?
7 Q You were asked if Mr. Goldberg made that
8 statement, and you answered that he did not. Would
9 that surprise you?
10 MR. WOLFE: Objection. Misstates testimony.
11 THE COURT: Do you have that question and
12 answer at the deposition?
13 MR. JONNA: Yes.
14 THE COURT: Well, why don't you ask her the
15 question and give her the answer, and ask her if she
16 recalls giving that testimony.
17 MR. JONNA: Okay.
18 Q "Question: Did he said he would definitely
19 change from gay to straight?
20 Answer: No. Because he said there was really
21 no such thing as being gay."
22 "Question: Did he say he could definitely
23 help him overcome all same sex attractions?
24 Answer: For the most part."
25 "Question: Did he quantify that term's

1 percentages?
2 Answer: No."
3 THE COURT: Counsel, I think we've gone
4 beyond what you wanted her to answer.
5 Do you recall that -- those questions and
6 answers?
7 THE WITNESS: Now I do. Yes.
8 THE COURT: Okay.
9 Next question.
10 MR. JONNA: Let's take a look at Exhibit J-2,
11 please.
12 THE COURT: Go ahead.
13 Q Your testimony today is that you just skimmed
14 this agreement, correct?
15 A Yes.
16 THE COURT: Can we ask the witness if that's
17 the agreement that was referenced, because I don't
18 recall her identifying the exhibit.
19 MR. JONNA: Okay.
20 Q Do you -- take a look at the last page, Page
21 9. See some signatures there towards the end? That's
22 your signature, correct, ma'am?
23 A Yes, it is.
24 Q And the signature above is -- is your son
25 Sheldon's, correct?

1 A Yes.
2 Q You read this document before you signed it,
3 didn't you?
4 A I skimmed it.
5 MR. JONNA: Permission to play Page 62, Lines
6 3 to 5.
7 THE COURT: Page 62, Lines 3 to 5?
8 Any objection?
9 MR. WOLFE: No.
10 THE COURT: Okay.
11 (Portion of videotaped deposition of J. Bruck
12 played from 10:08:35 to 10:08:41)
13 Q You didn't say you skimmed it, right?
14 A No.
15 Q You also felt you understood the document
16 before you signed it. Did you not?
17 A Then or now?
18 Q When -- at the time that you signed it you
19 felt you understood it.
20 A Yeah. I figured it was just a standard, you know,
21 we're not responsible in case something happens kind of
22 form.
23 Q Well, so did you or did you not feel as
24 though you understood the entire document before you
25 signed it?

1 A Most of it.
2 MR. JONNA: Permission to play Page 62, Lines
3 14 to 18.
4 MR. WOLFE: No objection.
5 THE COURT: Okay.
6 (Portion of videotaped deposition of J. Bruck
7 played from 10:09:28 to 10:09:34)
8 Q Okay. Take a look at the third paragraph on
9 Page 1 starting with the sentence, "Our work calls for"
10 -- it says, "Our work calls for a very active effort on
11 the client's part. The processes need your active
12 involvement in order to be successful. In order for
13 the counseling to be most successful, the client needs
14 to work on his or her issues both during the counseling
15 sessions and at home."
16 You son only attended four sessions by phone
17 and Skype, correct, ma'am?
18 A I believe just phone. Yes.
19 Q Next paragraph states, "Because our services
20 often involve discussing and dealing directly with
21 unpleasant aspects of one's life, the client may
22 experience uncomfortable feelings such as sadness,
23 guilt, anger, frustration, loneliness, and
24 helplessness." And you've testified in this case that
25 that's the reason why your son wanted to stop therapy.

1 He felt some of those feelings, correct?
2 A He said he was uncomfortable and wanted to stop.
3 Q Right. The next sentence reads, "Please be
4 aware that experiencing these emotions, counter
5 emotions, and defenses are a normal part of the
6 process. Significantly, however, after experiencing
7 such feelings, our services have been shown to provide
8 benefits for those who want to go through it and lead
9 to better relationships, solutions to specific
10 problems, and significant reductions in feelings of
11 distress. But there are no guarantees of what the
12 client will experience."
13 You were well aware, were you not, Mrs.
14 Bruck, that there were no guarantees.
15 A True.
16 Q At the top of Page 2, the first full sentence
17 reads, "If you have a question about the fit between
18 you and the counselor, please speak to the institute's
19 co-director, Arthur Goldberg."
20 You read that as well, didn't you?
21 A Yes.
22 Q But you never raised any concerns to Mr.
23 Goldberg at the time, correct?
24 A No. I didn't speak to him after that time.
25 Q Page 2, Section 3 reads, "Some of the

1 treatment offered by the JONAH Institute is with the
2 goal of decreasing homosexual attractions and
3 increasing heterosexual responsiveness. This is a
4 controversial form of treatment because there are those
5 in the mental health professions that contend that
6 sexual orientation cannot and/or should not be changed
7 and that homosexuality is normal, healthy, and need not
8 be changed."

9 You were aware, weren't you, Mrs. Bruck, even
10 before reading this document, there are people in
11 mental healthcare professions that contend that sexual
12 orientation cannot or should not be changed.

13 A Yes, I was aware.

14 Q You were also aware before reading this
15 document that there are those that believe
16 homosexuality is normal and -- and healthy and need not
17 be changed. Weren't you?

18 A Yes.

19 Q And you happened to agree at the time, did
20 you not, that homosexuality was not normal and healthy,
21 and you, ma'am, were hoping that there were other
22 options for your son, weren't you?

23 A No. I didn't agree with that.

24 MR. JONNA: Permission to play Page 69, Line
25 6 to 10.

1 MR. WOLFE: No objection.

2 THE COURT: Okay.

3 (Portion of videotaped deposition of J. Bruck
4 played from 10:12:50 to 10:13:00)

5 Q In fact, Page 2, Section 3 of the consent
6 form even directs clients to Mr. Goldberg's book, Torah
7 Light in the Closet, doesn't it?

8 A Can you repeat the question?

9 Q The section we're looking at directs --
10 directs clients to Mr. Goldberg's -- Mr. Goldberg's
11 book, Torah, Light in the Closet.

12 A Yeah. I see that.

13 Q And it states this information is being
14 provided so that clients can inform themselves about
15 JONAH's differing point of view. You read that as
16 well, didn't you?

17 MR. WOLFE: Objection. Calls for
18 speculation.

19 THE COURT: Can you rephrase -- rephrase the
20 question for the witness.

21 Q Did you read this provision in the contract
22 which says, "If you have entered counseling for
23 treatment of sexual orientation distress, please inform
24 yourselves about the differing point of view of our
25 institute." You were aware as a Torah-based

1 organization, ma'am, that -- that JONAH had a differing
2 point of view on homosexuality, but it was made clear
3 to you, was it not, that there were others who had
4 different views?
5 A I knew there were other -- there -- knew there
6 were different views. I never read the book.
7 Q And the different view that JONAH espoused
8 you happened to agree with at the time, right?
9 A No, I didn't. I was hoping that he knew what he
10 was talking about.
11 Q Well, we just saw a clip from your deposition
12 where you said you didn't think it was normal and
13 healthy, and you were hoping there were other options.
14 Didn't we just see that?
15 A I said I was hoping there were other options.
16 Q And you also said you agreed that you didn't
17 think it was normal and healthy at the time.
18 A Well --
19 Q We just saw that clip, ma'am.
20 A Okay.
21 Q And you filed a lawsuit now, haven't you?
22 THE COURT: Counsel, can we get an answer to
23 the question?
24 MR. JONNA: Sure.
25 A Can you repeat the question?

1 Q Did we just see a clip where you said you
2 agreed that at the time you thought homosexuality was
3 not normal and healthy?
4 A Where I was coming from I didn't see anything that
5 would say that it was healthy. But I always kept an
6 open mind because I had the feeling that my son was, in
7 fact, homosexual.
8 Q All right. And you filed a lawsuit now which
9 alleges that the point of view you once shared is a
10 misrepresentation. Haven't you?
11 A No, I didn't share his point of view.
12 MR. WOLFE: Objection. Misstates testimony.
13 THE COURT: All right. Can we ask the
14 question, please, and let me hear the question.
15 MR. JONNA: I can move on. I can move on.
16 Q Given the name JONAH --
17 THE COURT: You're -- you're withdrawing the
18 question? Are you withdrawing the question?
19 MR. JONNA: Sure.
20 THE COURT: Okay.
21 Q Given the name JONAH and the title of Mr.
22 Goldberg's book, you understood this differing point of
23 view was Torah-based, as we already established, right?
24 A No, I didn't know it was Torah-based. He told me
25 it was Torah-based.

1 Q Okay. And at the bottom of Page 2, the
2 document states, "During the course of your time with
3 our counselors, it is possible that you may change your
4 mind and decide to accept a homosexual outcome."

5 You read that as well, of course. Didn't
6 you?

7 A Yes.

8 Q Page 3 contains three sets of initials.
9 Those are your initials, aren't they?

10 A They are.

11 Q The first paragraph on the top of Page 3
12 states, "There's no guarantee of successful change,
13 although most clients do experience benefit from the
14 process. Most clients typically find that growth in
15 heterosexuality is an ongoing lifetime process. It is
16 also necessary to be aware that for many people some
17 homosexual attractions may remain."

18 You read this statement at the time you
19 signed the document. Didn't you?

20 A Yes.

21 Q Next paragraph reads, "Sometimes the gender-
22 affirming process can bring up uncomfortable feelings
23 such as anxiety, sadness, anger, and so on. Please be
24 aware this is a normal response to talking about
25 unresolved life experiences."

1 You initialed that paragraph. Didn't you?

2 A Yes, I did.

3 Q Paragraph starting with the word note, "We do
4 not provide gay affirmative treatment, therapy which
5 affirms a homosexual condition. Such treatment is
6 readily available at most other clinics. If you are
7 not in agreement with our point of view, you most
8 likely would be better served by seeking therapy from a
9 gay affirmative psychotherapist."

10 You initialed that paragraph as well.

11 A Yes, I did.

12 Q Next paragraph, possible treatment outcomes.
13 "The JONAH Institute takes the position that even in
14 cases where sexual orientation cannot be changed,
15 sexual behavior and sexual self-identity can often be
16 altered sufficiently by the client to assist him or her
17 to stop leading a sexual lifestyle with which he or she
18 is uncomfortable or is incongruent with their basic
19 value structure."

20 You read that as well, right, ma'am?

21 A Yes.

22 Q And that value structure would be the one
23 that we talked about earlier, the Torah-based value
24 structure?

25 A I don't understand the question.

1 Q Okay. You mentioned that as an Orthodox
2 Jewish person your views on homosexuality was that you
3 were hoping there were other options for your son,
4 right?

5 A Not -- okay. Yes.

6 Q On the bottom of Page 3 the last paragraph
7 states, "By signing at the bottom of this agreement and
8 initialing this specific paragraph, the client
9 expresses his or her understanding of the nature of the
10 treatment and the fact that success is not guaranteed."

11 You read that as well. Didn't you?

12 A Yes, I did.

13 Q Turn to Page 4, client responsibilities,
14 results states, "In order for counseling to be most
15 effective, the client must make a commitment to take an
16 active part in the process, which" -- "process, which
17 may include participating in setting goals or doing
18 homework assignments and research on your own time
19 between sessions." It continues, "The counselor will
20 assist you in realizing your own potential and respect
21 your right to make your own informed and responsible
22 decisions. Thus, you need to be aware that results
23 cannot be guaranteed and that you are entering into
24 counseling with the understanding that you are largely
25 responsible for your own results."

1 You read that before signing as well. Didn't
2 you, Mrs. Bruck?

3 A Yes. And I'm not the one that was being
4 counseled. My son Sheldon was.

5 Q Right. Turning to Page 8, the hold harmless
6 clause. It's the last provision. "Client agrees to
7 utilize a particular counselor/service provider for the
8 JONAH Institute with the full understanding that the
9 JONAH Institute and its employees and independent
10 contractors are in no way responsible or liable for
11 your decisions, actions, and their outcomes. You also
12 agree to hold the JONAH Institute and its employees and
13 independent contractors free of all liability and
14 responsibility for any adverse situations created as a
15 direct or indirect result of a specific referral,
16 advice given, or any actions taken while working with
17 or as a result of working with the JONAH Institute."

18 You read and understood that provision as
19 well. Didn't you, Mrs. Bruck?

20 A Yes.

21 MR. WOLFE: Objection, calls for a legal
22 conclusion.

23 THE COURT: I'm going to overrule the
24 objection. They're asking what her knowledge is.

25 Q You saw that the consent form has multiple

1 provisions making it clear that your son's services
2 with the defendants were not guaranteed. And you don't
3 think it would have been reasonable for him to expect a
4 guarantee, do you?

5 A I signed everything I signed because my son wanted
6 to enter treatment, and I don't think he was honest
7 with me.

8 Q Ma'am -- my question, ma'am, was do you think
9 it would have been reasonable for him to expect a
10 guarantee?

11 MR. WOLFE: Objection. Calls for
12 speculation.

13 THE COURT: Sustained.

14 Q Do you think it would be reasonable for you
15 to expect a guarantee?

16 A No. But it's typical in something that you sign
17 that nobody's liable.

18 MR. JONNA: Permission to show Defendant's
19 Exhibit 4?

20 THE COURT: Defendant's 4?

21 MR. JONNA: Yes.

22 MR. WOLFE: No objection.

23 THE COURT: Okay.

24 Q Let's take a look at the second paragraph,
25 please? Now this is a letter --

1 MR. JONNA: I'm sorry, let's minimize that
2 for a second.

3 Q This is a letter from your son Sheldon and it
4 starts, "Dear Mommy." It's dated December 3rd -- I
5 mean, sorry. November 3rd, 2009. You recognize this?

6 A Sure.

7 Q Okay. Let's take a look at the second
8 paragraph. "I know in your mind keeping me in the
9 yeshiva is a good idea, but, Mommy, I think we should
10 discuss other options because" -- "because otherwise I
11 don't know where I'll be by the end of the year."
12 Later in that paragraph it goes on, "Mommy, I know you
13 want what's best for me, but I think we need to discuss
14 an alternative to the yeshiva."

15 And then finally on the second page, the two
16 last sentences of the first paragraph, "If I do this
17 JONAH thing" --

18 MR. WOLFE: What was the question?

19 MR. JONNA: Well, I'm --

20 THE COURT: I don't know. I'm waiting to see
21 if there's going to be a question.

22 MR. JONNA: I'm getting to the question.

23 Q "If I do this JONAH thing, they want me to
24 fly in at least once a month to meet with my counselor
25 besides the shabbatons. This yeshiva won't let me

1 leave, and I'm definitely not explaining the situation
2 to them."

3 So it seems clear that your son Sheldon's
4 main concern was leaving yeshiva. Is that accurate?

5 MR. WOLFE: Objection. Calls for
6 speculation.

7 Q Based on your knowledge of your son at the
8 time and based on your understanding of -- as you re-
9 read this letter, do you remember if him wanting to
10 leave the yeshiva was a big concern at the time?

11 A He was in high school. That's what the yeshiva
12 was.

13 Q Yeah. And do you remember him wanting to
14 leave the yeshiva?

15 A He mentioned it. He didn't like his rabbi there.

16 Q And he used JONAH to convince you to let him
17 leave the yeshiva. Didn't he?

18 MR. WOLFE: Objection.

19 Q He wasn't really interested in attending
20 JONAH, was he?

21 THE COURT: Counsel, could we have one
22 question?

23 A I didn't hear --

24 THE COURT: Wait. You don't have to answer
25 anything.

1 THE WITNESS: I'm sorry.

2 THE COURT: We're going to ask for one
3 question at a time. And if you hear the word
4 objection, you don't have to say anything until -- I'll
5 let you know whether you have to answer it.

6 Q He wanted to leave the yeshiva, correct?

7 A Yes.

8 Q And he mentioned that there's this JONAH
9 thing he gets -- he won't be able to go if he's still
10 in the yeshiva because he'll have to fly out here once
11 in a while, right?

12 A Right. That's what he said.

13 Q Would you agree that Sheldon was never really
14 serious about JONAH? He just wanted to leave the
15 yeshiva.

16 A No.

17 Q You don't think it was an excuse.

18 A I would not agree with that.

19 Q Okay. Okay. You spoke to Mr. Heffner by
20 phone. Mr. Heffner is the JONAH referral counselor,
21 right?

22 A Yes.

23 Q Thaddeus Heffner, the licensed referral
24 counselor. You spoke to him on one occasion for about
25 20 minutes, correct?

1 MR. WOLFE: Objection. Outside of the scope
2 of direct examination.
3 THE COURT: No. I'm -- I'm going to allow
4 that. That's not right.
5 Go ahead. You can ask the question.
6 Q Spoke to --
7 THE COURT: That's -- objection's overruled.
8 Q Spoke to him by phone for about 20 minutes,
9 correct?
10 A I think I spoke to him for longer than that.
11 Q On -- only one occasion.
12 A Right.
13 Q And it's true, isn't it, that Mr. Heffner
14 explained that addressing unwanted same sex attraction
15 is often a lifelong process.
16 A He did say for the people that it works for they
17 still struggle with it for the rest of their lives.
18 Q Before you spoke to Mr. Heffner, your son
19 Sheldon had already told you about the one-third
20 success rate. Didn't he?
21 A Yes, he did.
22 Q And during Sheldon's therapy with Mr.
23 Heffner, he was also, as you said earlier, seeing a
24 psychiatrist for his depression, correct?
25 A He was seeing a psychiatrist at that point. A

1 psychologist.
2 Q And it's true, isn't it, Mrs. Bruck, that
3 Sheldon never expressed anything to you about Mr.
4 Heffner's personality that made him untrustworthy.
5 A No.
6 Q It's also a fact, isn't it, that Sheldon
7 never told you that Mr. Heffner was mean or
8 disrespectful with him.
9 A No.
10 Q And you agree, don't you, that it's not
11 Thaddeus Heffner's fault that your son didn't get the
12 results he was seeking.
13 A No. He only spoke to him four times. He was just
14 uncomfortable.
15 Q So you would agree that it wasn't Mr.
16 Heffner's fault that your son didn't get the results he
17 was seeking, correct?
18 A I didn't -- I wasn't there when he was speaking to
19 Mr. Heffner.
20 MR. JONNA: Okay. Permission to play Page
21 114, Line 17 to 20.
22 THE COURT: Page 114, 17 to 20?
23 MR. WOLFE: Objection. Not impeaching.
24 THE COURT: Somebody want to give me a
25 transcript so I don't have to keep going to sidebar,

1 please?

2 I'll allow it. The objection's overruled.

3 This is just Line 17 to 20. One question, one answer.

4 (Portion of videotaped deposition of J. Bruck
5 played from 10:26:40 to 10:26:49)

6 Q And you're not aware of any
7 misrepresentations that Mr. Heffner made to Sheldon.
8 Are you?

9 A Not Mr. Heffner. No.

10 Q You've also testified that you think Sheldon
11 ended therapy before anything bad happened. Didn't
12 you?

13 A Did I testify to that? I didn't hear what you
14 said.

15 Q That -- that your son ended therapy before
16 anything that -- that you considered bad happened.

17 A Do I think that now or did I -- I don't -- I
18 didn't hear the first part of your question.

19 Q Well -- well, let's ask you if you think that
20 now. Do you think he ended therapy before anything bad
21 happened?

22 A Yeah. I think that's a possibility.

23 Q Okay. Your son has claimed in this case that
24 Mr. Heffner told him to wear a rubber band on his wrist
25 and to snap himself. You're aware of that allegation,

1 correct?

2 A He told me about that.

3 Q But it's a fact, isn't it, that you never
4 actually saw Sheldon with a rubber band on his wrist.

5 A Not that I can recall. No.

6 MR. JONNA: Permission to show Defendant's
7 Exhibit 8.

8 THE COURT: Exhibit --

9 MR. JONNA: Defendant's Exhibit Number 8.

10 THE COURT: Eight?

11 MR. WOLFE: Objection. Hearsay.

12 MR. JONNA: These are the same letters we've
13 been talking about, Your Honor. This is a different
14 date. It's a statement by a party affiliate to a -- to
15 a party. Sheldon wasn't --

16 MR. WOLFE: Sheldon Bruck is not a -- a
17 plaintiff in the lawsuit.

18 MR. JONNA: And Sheldon was a party. And --
19 he'll testify these are reliable.

20 THE COURT: Well, let's ask the witness if
21 she knows --

22 Do -- it's kind of small. Do you recall
23 seeing that -- receiving that letter from your son?

24 THE WITNESS: Yeah, I recall that.

25 THE COURT: What section do you want to refer

1 to?

2 MR. JONNA: Page 2. Just -- I have questions
3 on the first two paragraphs.

4 THE COURT: Page 2. All right. Let me just
5 see here.

6 MR. WOLFE: Your Honor, this is still
7 hearsay.

8 THE COURT: No, I'm going to allow it. It's
9 -- it's -- it's a letter. I'm going to allow it. It
10 may be hearsay, but we've had letters from Mr. Bruck
11 that both sides have used here during the -- during the
12 discussion. And the witness recognizes it as a letter
13 from her son. Mr. Bruck was a party.

14 Was he not a party?

15 MR. JONNA: He was.

16 MR. WOLFE: He was, Your Honor.

17 THE COURT: He was a party. So it's an
18 admission by a -- by a party.

19 Go ahead.

20 Q Okay. First -- by the top paragraph, "It's
21 hard putting trust in someone I don't" -- "in someone I
22 don't know, someone that I've never met, someone that I
23 can't get guaranteed results from. I love speaking
24 with" -- "with David because he understands my
25 situation and helps me cope. That's what I'm doing

1 right now. But I don't want to spend countless years
2 working with JONAH not knowing if I'll ever get
3 results."

4 Would you agree that it seems pretty clear
5 your son was focused on guaranteed results?

6 A He's 17.

7 Q He wanted guaranteed results, correct, ma'am?

8 A Everybody wants guaranteed results.

9 Q Thank you. Next paragraph. "I know you love
10 me and support me, but I also" --

11 THE COURT: Counsel, what -- what are we
12 reading this paragraph for?

13 MR. JONNA: I'm not going to read the whole
14 paragraph. I just have a question on the first line.

15 THE COURT: Okay.

16 MR. JONNA: Second line.

17 Q "I also know as much as you say you want me
18 to be happy, you're pushing this JONAH thing on me."

19 Do you recall your son believing that you
20 were pushing JONAH on him?

21 A The next sentence is quite --

22 THE COURT: Why don't -- why don't you read
23 the last --

24 A -- clear.

25 THE COURT: Yes. Why don't you --

1 Q "At least that's how I feel."
2 Do you recall --
3 A That's how he felt.
4 Q Do you recall -- so you do recall him feeling
5 you were pushing him.
6 A When I read this letter, I -- I see that.
7 Q Now, of course, Mrs. Bruck, you love your son
8 Sheldon. Do you not?
9 A Of course I do.
10 Q You feel bad that you recommended JONAH to
11 him, don't you?
12 A Yes, I do.
13 Q In fact, Sheldon had the impression, as we
14 just saw, that you were pushing it on him.
15 A That's what he says in the letter. Yes.
16 Q And this case is important to your son.
17 Isn't it?
18 A What's important to my son?
19 Q This case.
20 A You'd have to ask him.
21 Q You'd like to win this case for him, wouldn't
22 you?
23 A I would like other people not to be lied to.
24 Q And as we just discussed, your son's claims
25 were dismissed by the Court, were they not?

1 A What claims?
2 Q Your son's claims in this case were
3 dismissed.
4 A Okay.
5 Q Correct?
6 A Yes.
7 Q And it's a fact, as we established earlier,
8 that your husband, who isn't a plaintiff in this case
9 is the one who paid for Sheldon's four therapy sessions
10 with Mr. Heffner, correct?
11 A It's joint money.
12 Q Thank you. And he paid a total amount of
13 \$500, correct?
14 A Yes. I believe that's correct.
15 Q Before you filed this lawsuit over two-and-a-
16 half years ago, you never asked Mr. Heffner for a
17 refund of \$500, did you?
18 A No. It was never about the money.
19 MR. JONNA: No further questions.
20 THE COURT: Any redirect?
21 MR. WOLFE: Yes, Your Honor.
22 THE COURT: Are you okay?
23 THE WITNESS: Yeah. I'm good.
24 THE COURT: Okay.
25 THE WITNESS: Thank you.

1 MR. WOLFE: Just a few more questions.
2 REDIRECT EXAMINATION BY MR. WOLFE:
3 Q Ms. Bruck, are you suing Mr. Heffner?
4 A No, I'm not.
5 Q Did Arthur Goldberg ever call homosexuality a
6 religious disorder?
7 A No, he never said that.
8 MR. WOLFE: I'd like to show the witness
9 Plaintiffs' 20.
10 THE COURT: Plaintiffs' 20?
11 MR. WOLFE: Yes. And this is going to be
12 towards the end of the document.
13 THE COURT: Wait. I don't know whether they
14 object or not.
15 UNIDENTIFIED: I'm sorry, Your Honor.
16 (Indiscernible).
17 MR. JONNA: No objection.
18 Q First let's look at the first page. Do you
19 recognize who's writing this letter and to whom?
20 A Yeah. Sheldon wrote it to my husband.
21 Q And let's go to the second page, the first
22 full paragraph, which states, "After telling Mom, she
23 looked online and found an organization called JONAH.
24 JONAH is an organization for gay Jews who are
25 struggling. They believe that being gay is a

1 psychological disorder, and they have helped many
2 people overcome this disorder. The psychologist, a man
3 who runs this, Arthur Goldberg told me many reasons
4 that could cause this disorder, and they all fit me
5 perfectly."
6 Is this consistent with your conversation
7 with Dr. -- Mr. Goldberg?
8 A Yes.
9 Q During your conversation with Mr. Goldberg,
10 he shared his views with you about homosexuality?
11 A Yes.
12 Q Did he ever tell you the larger scientific
13 community's consensus about homosexuality?
14 A No.
15 Q That it's a natural variation of human
16 sexuality?
17 A No. He just told me that there were plenty of
18 studies done, and his opinion coincided with those.
19 Q In your telephone conversation with Mr.
20 Goldberg, did he ever tell you that there were other
21 options apart from JONAH for your son?
22 A No.
23 Q Did he tell you that there were people who
24 disagreed with him?
25 A I don't recall.

1 Q Do you -- did you at the time or do you have
2 any doubt that your son Sheldon is gay?

3 A No.

4 MR. WOLFE: No further questions.

5 THE COURT: Any recross on P-20? That's the
6 only thing that was new.

7 RE-CROSS-EXAMINATION BY MR. JONNA: JONNA: :

8 Q Mr. Goldberg never used the term disorder
9 with you, correct, ma'am?

10 A I don't recall.

11 Q Okay.

12 MR. JONNA: Thank you.

13 THE COURT: All right. Ms. Bruck, you may
14 step down. Thank you very much. Please be careful.

15 (Witness excused)

16 THE COURT: You ready for a break? Okay.
17 Why don't we take our morning break then now rather
18 than start a witness and then stop, all right? So
19 we'll take our 15-minute break now, and if you could be
20 back here looks like five to 11, and I'll ask you to be
21 prompt, as you have been so far since we started this
22 trial, so we can move on.

23 And, again, please do not talk about the
24 case. Thank you very much, and I'll see you in 15
25 minutes. And I would just ask if you would go out the

1 other door because I'm just going to be doing something
2 with the attorneys. Thank you very much.

3 (Jury not present in the courtroom)

4 THE COURT: Just two -- two things. On the
5 depositions.

6 Did you get court -- copies from the court
7 reporter for depositions?

8 MR. LI MANDRI: I thought that we did, Your
9 Honor. I'm sorry.

10 THE COURT: Okay.

11 MR. DINIELLI: Your Honor, we can have them
12 loaded onto your iPad quite easily.

13 THE COURT: Well, I mean, just -- it would
14 make things easier because when there's an objection to
15 a reading, I've got to go to sidebar every time.

16 MR. LI MANDRI: We -- we generally do have
17 them, Judge. For this particular witness there was a
18 screw up on my part.

19 THE COURT: Okay. So if we have them for the
20 other ones --

21 MR. LI MANDRI: We do.

22 THE COURT: -- if you would give me the court
23 copy before the witness starts, and then I'll -- I'll
24 try to make the rulings if I can without having
25 everybody come over to sidebar.

1 MR. LI MANDRI: Thank you.

2 THE COURT: On the objections to the
3 videotaped depositions, it is -- it's an awkward
4 situation because in reading some of the questions, I
5 -- I, you know, again, I don't know your trial strategy
6 and -- and -- and what you're trying to do, but some of
7 the questions asked made me wonder why those questions
8 would be asked.

9 So, you know, there does not seem to be a
10 consensus on how these videotaped depositions were
11 taken, which -- which creates problems for me on how
12 I'm supposed to rule and edit the tapes.

13 MR. LI MANDRI: We think there might be an
14 email exchange. Because, again, I -- I know what
15 happened. I remember telling the witness I'm surprised
16 they're doing this, it's not to their advantage.
17 There's no doubt in my mind it happened. And counsel
18 thinks that there's an email exchange. Maybe it wasn't
19 just --

20 THE COURT: Well, I'll allow counsel to
21 provide me with additional information, and I'll rule
22 on these as quickly as possible, but the difficulty
23 that I'm having is I gave you an example of -- I'm --
24 like, I don't know why the question would be asked.
25 And I think the problem is that both of you were at the

1 same deposition but conducted it under different rules.
2 But I'll allow you to submit whatever you think you can
3 submit that will help me try to understand that, but
4 it's a very difficult situation because there are other
5 areas that I can address and -- and I, you know, again
6 let's, as an example, we can go --

7 You can sit down. You don't have to stand.
8 I'm sorry.

9 On Mr. Staley (phonetic). I'm not even going
10 to -- I don't want to -- I'm going to say Jedikiah? I
11 don't know if that's correct.

12 MR. WOLFE: Jedikiah.

13 THE COURT: Jedikiah Staley (phonetic)?

14 MR. LI MANDRI: Jedikiah.

15 THE COURT: Jedikiah, Page 106. The question
16 that I, again, this is asked, I assume by plaintiffs'
17 counsel? Am I correct?

18 MR. KESSLER: One second, Your Honor.

19 THE COURT: As I'm looking at the transcript
20 it says that --

21 (Plaintiffs' counsel confer)

22 MR. KESSLER: Yes, Your Honor. That's
23 correct.

24 THE COURT: Okay. So the question, "How did
25 your exercises during the JIM (phonetic) weekends

1 unwire your brain towards same sex attraction?"

2 Again, I don't know the capability of all the
3 attorneys here, but certainly that's not a question
4 that one would expect the plaintiffs' attorney to ask
5 if the witness was on the witness stand. So that's the
6 difficulty I'm having in ruling on the objections.

7 Certainly had this been set up properly as a
8 videotaped deposition in lieu of trial testimony and
9 that question was asked, the objection would carry no
10 weight because that's the question that was asked. But
11 I'm in a difficult situation because as I read this,
12 you know, I said why would someone object when they
13 asked that question, and now I'm getting an explanation
14 why. So I'll allow counsel to submit whatever they
15 think they can submit that will assist me in trying to
16 make rulings on these objections. But I just want
17 counsel to understand the difficulty for me.

18 Normally that's an easy call. If you ask
19 that question of the witness on the stand, I wouldn't
20 stop him from answering. So whatever can be submitted
21 to assist me I'll take a look at.

22 MR. LI MANDRI: Two other quick matters, if
23 we might, Your Honor. One, we're still getting new
24 exhibits from the other side, five this -- this morning
25 as we were coming into court. When we submitted the

1 defense exhibits several weeks ago, I don't believe
2 we've added one since. We saw that deadline as
3 something we should take fairly seriously.

4 We're getting new exhibits from the
5 opposition almost every day, and it's very hard for us
6 to keep track. Because that was a blow up I haven't
7 even seen before, and I think that that's very unfair
8 that they're doing it. I could see one or two
9 exhibits, but -- but not, you know, five while I'm
10 walking into court. And I don't know if it's a zip
11 drive. We can't even open it up on our -- our
12 computers.

13 THE COURT: Why -- why are we doing that?

14 MR. KESSLER: Your Honor, there are a few
15 reasons.

16 THE COURT: I didn't realize that. I didn't
17 realize that. Exhibits were supposed to be premarked.

18 MR. LI MANDRI: And we did it, and I don't
19 think I've added one since we met the deadline.

20 THE COURT: Counsel, let me get an answer.

21 MR. KESSLER: There are a few reasons. There
22 are various categories of documents. In some cases
23 we've been redacting documents that contain irrelevant
24 information. For instance, information related to Mr.
25 Goldberg's -- the -- the facts and circumstances of his

1 criminal conviction. We've filed corrected versions of
2 documents that have already been exhibits. So, for
3 example, many times in -- in communications the
4 defendants will comment in color.

5 The third category, this morning, there are
6 several documents related to the American Psychiatric
7 Association's ethics opinions. As Mr. LiMandri stated
8 in his opening, he said that there was nothing that the
9 big book of the APA had to say about what the
10 defendants do, and in response to that testimony -- or
11 to that opening we intend to ask certain of our
12 witnesses what the APA has to say about what the
13 defendants do in order to give the jury context for
14 that testimony -- or that opinion in the opening.

15 THE COURT: And when was that given?

16 MR. KESSLER: This morning.

17 THE COURT: When do we intend to use that?

18 MR. KESSLER: It's our intention that Dr.
19 Bernstein will testify tomorrow. And these are, of
20 course, all exhibits that were attached to her report.

21 THE COURT: Oh.

22 MR. KESSLER: None of this is -- is new or
23 surprising.

24 THE COURT: These are exhibits to her report.

25 MR. KESSLER: That's right.

1 THE COURT: Okay. All right.

2 MR. LI MANDRI: It's my understanding she'll
3 testify about its -- there is no ethical rule against
4 this, and I'll -- I could find that reference, so --

5 THE COURT: Well, Counsel, I don't know what
6 she's going to say.

7 MR. LI MANDRI: Yeah.

8 THE COURT: I'll find out when she takes the
9 witness stand. But what's been identified as the
10 exhibit was already provided as an attachment to her
11 report.

12 MR. LI MANDRI: That may well be. I --

13 THE COURT: If not, then we'll address it.

14 MR. LI MANDRI: I can't even -- even open
15 then, which still should have been identified as an
16 exhibit for trial. Your Honor, there were 25,000
17 documents produced by my office alone in discovery. So
18 just saying this was one document that was available in
19 discovery doesn't help me prepare adequately for trial.
20 Whether -- there was lots of documents attached to
21 expert reports.

22 THE COURT: Well, I agree, but if the experts
23 are testifying, they're going to reference what
24 documents are attached to their report. So if it's not
25 attached to the report and it's a new document, we'll

1 raise that before the expert testifies and I'll address
2 it.

3 MR. LI MANDRI: You know, I -- it would help
4 me a lot with regard to some of it, plaintiffs'
5 experts, they reference numerous reports, studies in
6 their reports. I have not listed them as exhibits
7 because if I ask about a particular report they cited,
8 I assume it's impeachment, and I'm not obligated to
9 produce impeaching documents as exhibits. These are
10 things they've cited in their reports.

11 THE COURT: In their report.

12 MR. LI MANDRI: Right.

13 THE COURT: You're going to question on what
14 they cited.

15 MR. LI MANDRI: Right.

16 THE COURT: Okay.

17 MR. LI MANDRI: Okay. That's fine. I didn't
18 want that to be a problem when it arises.

19 THE COURT: No. That's not a -- that's not a
20 new document that they're unaware of.

21 MR. LI MANDRI: I -- right. I'm just -- I
22 didn't attach them as exhibits because if I do it it's
23 for impeachment.

24 THE COURT: Okay.

25 MR. LI MANDRI: And one last quick thing. I

1 learned yesterday that apparently the plaintiffs intend
2 to call Dr. Phillipson. We have a written stipulation
3 that they offered that if he were to testify this is
4 what he would say regarding the amount that was paid by
5 Mr. Unger. I wrote back and said fine. Just put in
6 there that you only have records for one visit, and I'm
7 going to call Dr. Burger to still contest that any of
8 that had anything to do with what happened at JONAH. I
9 made it clear I wasn't stipulating that the information
10 was accurate, only that, and I've got it right here,
11 only that this is what he would say. They wrote back
12 and said fine, we'll have what you wanted. They had 63
13 visits, but I only got records for one of them and did
14 not dispute the fact that I had the right to call Dr.
15 Burger and challenge it.

16 So we entered into this stipulation, and I
17 have it here in writing. There is no basis for the
18 plaintiffs to now say they want to call Dr. Phillipson
19 as a live witness. There is no -- nothing new.
20 They're saying well, before a hearing I learned that
21 now that you're going to challenge what he had to say.
22 No, they -- they didn't, and I've got it right here in
23 writing. I said I'm only agreeing that's what he would
24 say. I'm not agreeing that even if he came here and
25 said it that we would not dispute it. So I don't think

1 they should be able to call Dr. Phillipson live when we
2 entered into this stipulation back in March.

3 MR. BROMLEY: Your Honor, you may recall that
4 we actually had a discussion about this, an argument on
5 April 23rd when we were dealing with the motions in
6 limine. Mr. LiMandri is incorrect in terms of his
7 recitation of the background with respect to the
8 stipulation.

9 We did have a stipulation, and there are
10 emails that go back and forth about it. And there was
11 an email that Mr. LiMandri sent on the 29th of March,
12 which said yes, I'm in agreement with the stipulation.
13 Your Honor will recall, though, on the 23rd of April we
14 had an argument with respect to motions in limine. And
15 during the argument with respect to motions in limine,
16 Mr. Phillipson or Dr. Phillipson's testimony came up
17 and specifically the stipulation.

18 On the record, Mr. LiMandri disagreed with
19 our description of the stipulation, and there was a
20 colloquy between the Court, Mr. LiMandri, and myself
21 during which I specifically stated that if Mr. LiMandri
22 didn't agree with the formulation of the stipulation
23 that we will bring Dr. Phillipson to testify.

24 We had that argument here, and I -- I can
25 read it, Your Honor. It's on Page 167 of the

1 transcript from that day. I said, "Your Honor, we'll
2 talk to Mr. LiMandri after the hearing, but if
3 necessary we'll add Dr. Phillipson to the witness
4 list," which is what we did. "He'll be a short
5 witness, and there's no problem with that. He's in New
6 York City. We don't have a problem."

7 "The Court: If they're not stipulating to it,
8 you should know that now."

9 And I said, "We don't think it's a big deal
10 either. He will absolutely come in and tell us that."

11 And the Court said, "Okay."

12 We specifically discussed that Dr. Phillipson
13 would appear at trial on the 23rd. Now if Mr. LiMandri
14 is now saying that he hasn't had any notice of that,
15 that's completely belied by the transcript of over a
16 month ago.

17 THE COURT: What, is he coming today?

18 MR. BROMLEY: Dr. Phillipson is a -- a very
19 short witness, Your Honor. And we were going to raise
20 it anyway because from a procedural perspective --

21 THE COURT: Counsel, answer my question.
22 What is he going to say?

23 MR. BROMLEY: He is going to say that he
24 treated Benji Unger over a long period of time. He's
25 going to tell the Court and the jury that what he did

1 was that a certain percentage of the amount of work
2 that he did with Benji was with respect to JONAH and
3 that Benji paid him for those services.

4 MR. LI MANDRI: That's all well and good.
5 But when we entered into the stipulation --

6 THE COURT: Well, does the stipulation say
7 that?

8 MR. LI MANDRI: Yeah, it does. And I said of
9 course we still plan to have Dr. Burger testify
10 concerning whether the records or lack of them support
11 what is represented in the stipulation.

12 Before we entered into the stipulation, the
13 condition I had was I'm going to challenge what is
14 represented in the stipulation. Then we proceeded to
15 -- I've got it in writing -- confirm the stipulation.

16 THE COURT: Well, if you -- if you're going
17 to challenge what's in the stipulation, then they need
18 to bring him in.

19 MR. LI MANDRI: They knew before we entered
20 into the stipulation.

21 THE COURT: Well, they just put him on the
22 witness list.

23 MR. BROMLEY: We told him --

24 We told you a month ago that we were going to
25 bring him into court. I will --

1 MR. LI MANDRI: Well, that's not the point.
2 The point is we entered into an agreement that all they
3 -- if he was going to come here, all he would say is a
4 certain percent of it -- percentage of the work he did
5 had to deal with JONAH. And I said fine. Read the
6 stipulation, and I'm still going to have Dr. Burger
7 come in and say that's nowhere supported in the record.

8 Now part of the problem is he's produced a
9 record of one visit out of 63 visits.

10 THE COURT: Well, he -- well, he's not going
11 to show up in court with any other paper that he hasn't
12 produced in discovery.

13 MR. LI MANDRI: Yeah, and I'm going to be
14 handicapped because I don't have anything. There's no
15 deposition because I didn't know who they were going to
16 call if anyone, and there's no records.

17 THE COURT: Counsel --

18 MR. LI MANDRI: So --

19 THE COURT: He's going to -- he's going to
20 come in and say what you have on the stipulation,
21 right?

22 MR. LI MANDRI: I don't know. I'll -- I want
23 --

24 THE COURT: He -- I just asked him what he's
25 going to say. He's going to come in and say he treated

1 this young man. He saw him 63 times. He has one
2 office record, and he -- and some of it's related to
3 JONAH, and he paid him for those services.

4 MR. LI MANDRI: Fine. Then why don't they
5 just read the stipulation like we agreed?

6 THE COURT: I don't know why. You ask him
7 that.

8 MR. LI MANDRI: Well --

9 THE COURT: I'm going to the bathroom. I'll
10 see you in one minute.

11 Off the record.

12 (Off the record. Back on the record)

13 (Jury present in the courtroom)

14 THE COURT: All right. All of our eight
15 jurors are present and accounted for. We'll be back on
16 the record in Ferguson v. JONAH.

17 Thank you very much for your promptness, and
18 I apologize for my lack of promptness. I had forgotten
19 that I had to swear in judiciary volunteers, and I told
20 them I would do it during the morning break so they
21 didn't have to stay around during their lunch hour
22 since as volunteers they don't get paid. I felt
23 terrible taking it away. So my apologies to you.

24 At this time we will now have plaintiff
25 continue with the presentation of their case.

1 Please call your next witness.

2 MR. DINIELLI: Plaintiffs call Bella Levin,
3 Your Honor. Scott McCoy will question the witness.

4 THE COURT: Okay.

5 Remain standing and raise your right hand for
6 the officer.

7 THE COURT OFFICER: Please raise your right
8 hand.

9 MS. B E L L A L E V I N, PLAINTIFFS' WITNESS, SWORN.

10 THE COURT OFFICER: State your name for the
11 record, please.

12 THE WITNESS: Bella Levin.

13 THE COURT OFFICER: Thank you. You can have
14 a seat.

15 DIRECT EXAMINATION BY MR. MC COY:

16 Q Good morning, Bella.

17 A Hi.

18 Q I know that you're a little soft-spoken, so
19 do me a favor. That microphone right in front of you,
20 I want the jury to be able to hear your testimony, and
21 so please speak up and speak into the microphone for
22 me.

23 A Oh, okay.

24 Q Thank you. Appreciate it. Bella, where do
25 you live?

1 A Crown Heights, Brooklyn.
2 Q And how long have you lived there?
3 A Forty-two years.
4 Q And what type of people live in that
5 neighborhood?
6 A Orthodox Jews.
7 Q And what's your religious affiliation?
8 A Orthodox.
9 Q Are you married?
10 A Yes.
11 Q Do you have children?
12 A Yes.
13 Q How many children do you have?
14 A We have six children.
15 Q How many boys?
16 A Four boys.
17 Q How many girls?
18 A Two.
19 Q And what is your relationship with the
20 plaintiff in this case, Chaim Levin?
21 A Chaim is my son.
22 Q And where does Chaim fall in the range of
23 your six children?
24 A He's my fourth son.
25 Q What was Chaim like growing up?

1 A Chaim was probably my most charismatic child. He
2 was my most lovable child, probably the cutest --
3 cutest boy.
4 Q We promise we won't share this with your
5 other children.
6 A They always heard me say that.
7 Q Okay. When Chaim was growing up, what were
8 your hopes for his future?
9 A Like all my children, I wanted him to get married,
10 have children, and just have a happy life.
11 Q When Chaim was a teenager what was your
12 relationship with him like?
13 A We had some issues with, I mean, he had a -- he
14 was molested when he was a little boy, and as a
15 teenager he went through a very rough time. He went
16 through therapy. And he went through a very rough
17 period.
18 Q Where did Chaim go to school growing up?
19 A He went to yeshiva in our neighborhood, and then
20 he went to -- to Paris. He was in Israel. He went
21 through the system, yeshiva.
22 Q How old was he when he went to yeshiva
23 abroad?
24 A He -- he left home when he was 14.
25 Q Did Chaim ever go to public school?

1 A No.
2 Q And why did he not go there?
3 A Because in our community we -- we never sent the
4 children to public school. They went through the
5 system -- the yeshiva system.
6 Q What subjects did Chaim study at the yeshiva?
7 A They studied Talmud, Hebrew language, Jewish
8 history, anything pertaining to the Jewish studies.
9 Q And what if any education did Chaim have
10 growing up that dealt with human sexuality?
11 A Just what he learned from his friends. Not --
12 nothing formal.
13 Q When you were raising Chaim in your
14 community, did you know any openly gay people?
15 A No.
16 Q Bella, I'd like to now ask you a -- a little
17 bit about another subject. At some point in time did
18 you have a telephone conversation with Arthur Goldberg
19 around the time that Chaim started the JONAH program?
20 A Yes.
21 Q On that phone call, how did you address Mr.
22 Goldberg?
23 A Dr. Goldberg.
24 Q All right. Did he correct you when you
25 addressed him as Dr. Goldberg?

1 A No.
2 Q What kind of doctor did you think he was?
3 A I thought he was a psychiatrist or at least a
4 psychologist.
5 Q What did Dr. Goldberg tell you about himself
6 on that call?
7 A He told me that he was -- he had started an
8 organization called JONAH. That he had had a son that
9 was gay and that he would be able to fix Chaim, that he
10 wouldn't be gay anymore, that he would be straight.
11 That he had sort of invented some kind of therapy that
12 by the time Chaim would be 20, 21 that he would not be
13 gay anymore. That he would -- that he would be
14 straight.
15 Q How old was Chaim at the time you had that
16 conversation with Arthur Goldberg?
17 A I think he was around 17 or 18.
18 Q How did Mr. Goldberg describe homosexuality
19 on that call?
20 A That it was like a sickness. It was not a -- not
21 a healthy thing. That it was --
22 Q Did he -- did he describe it as a religious
23 disorder?
24 A No.
25 Q What did Mr. Goldberg tell you about the

1 JONAH program on that call?

2 A He told me that they -- they had therapists, that
3 they had some kind of a way that they dealt with these
4 kids that would turn him around. That he would not be
5 gay. He did not go too much into how they did it. It
6 was a mistake on my part that I did not question him
7 too much. I mean, he was just really a good salesman.
8 He-- he just knew how to tell me that -- that he had
9 therapies that would work, that -- that would change
10 him.

11 Q What did Dr. -- oh, I'm sorry -- what did Mr.
12 Goldberg say was the basis of the JONAH program?

13 A He didn't really go into the basis. He told me
14 that he was writing a book. He even pitched me for
15 some fund raising, too, that he needed money to raise
16 -- to write the book. And if I would read -- if I
17 would later on read the book and it -- it would explain
18 more of the therapy about how his therapy worked. But
19 he really didn't go much into the -- the therapy of how
20 it worked. I really didn't -- probably really didn't
21 care at the time. I just wanted something to work
22 because I did not want Chaim to be gay. I wanted him
23 to be straight.

24 Q Did Mr. Goldberg tell you about what kinds of
25 techniques would be used during the program?

1 A No.

2 Q Did he describe to you what types of therapy?

3 A No.

4 Q Did he describe to you what kinds of sessions
5 that Chaim would go to?

6 A No.

7 Q Before your conversation with Mr. Goldberg,
8 what did you know about homosexuality?

9 A It was something I didn't want my son to be.

10 Q As a result of that conversation with Arthur
11 Goldberg, what effect did you think the JONAH program
12 would have on Chaim?

13 A I was very excited about it. I -- I thought he --
14 they would change Chaim. I thought that they would fix
15 Chaim. I was ecstatic when I hung up the phone from
16 Mr. Goldberg.

17 Q After your call, what was your impression of
18 Mr. Goldberg?

19 A I was in the car with my husband. We had come
20 home from shopping for groceries, and it was over a
21 half hour. It was close to 45 minutes and I -- I
22 remember hanging up from him and I told my husband this
23 is amazing. This -- this guy is going to save Chaim.
24 This guy is -- is -- this is -- this is just great.
25 And I remember, like, saying whatever it costs,

1 whatever we have to do, he has to go to this program
2 because he -- he has it.

3 Q What made you decide to pay for Chaim to go
4 to JONAH's program?

5 A Because I was his mother, and I would do anything
6 to help my son.

7 Q How much money did you pay for Chaim's
8 participation in the JONAH program?

9 A About \$4,000.

10 Q And how do you know that you paid that much?

11 A Well, when I was at the deposition last year, they
12 showed me -- the other lawyers -- they showed me a
13 paper that we paid \$1,400 for private sessions, and I
14 wasn't sure how much more we had paid. But when I came
15 home, I spoke to my husband, and I said do you remember
16 how much more we paid? And we talked about it, and he
17 said, well, I remember that he went to group sessions,
18 so I remember that he had gone to like 25 or 30 more
19 sessions, and those were like \$60. And then he had
20 gone to two or three weekends, they were like warrior
21 weekends, and those were around \$600. So it came to
22 about \$4,000 all in all.

23 Q Okay. And is that something that you
24 remembered after viewing that document --

25 A Yes. Yes.

1 Q -- and speaking with your husband?

2 MR. MC COY: Permission to show Defense 74,
3 please.

4 MR. LI MANDRI: Seventy-four?

5 MR. MC COY: D-74 is what I have.

6 MR. LI MANDRI: D-74. I'm sorry. Okay.
7 Okay. No objection.

8 MR. MC COY: Can we put D-74 up, please?

9 Q Bella, take a look at -- at this. Does -- is
10 this the document -- do you remember this document as
11 the document that was shown to you at your deposition?

12 A I think so.

13 Q And do you see at the top does it say a name?

14 A Yes.

15 Q What name is that?

16 A Levin.

17 Q All right. And do you see at the bottom
18 there is a -- a total amount? Not the balance. There
19 you go. Do you see that?

20 A It says \$2,100.

21 Q Then what's the number next to it?

22 A Eighteen-twenty-five.

23 Q Right. And does that refresh your
24 recollection as to how much you paid for individual
25 sessions?

1 A I guess about that.
2 Q Yeah. How much did you pay for individual
3 sessions, Bella?
4 A A hundred dollars.
5 Q And how much did you pay for each group
6 session?
7 A Sixty dollars.
8 Q And how much did you pay for the JIM
9 weekends, I think you already said. I'm sorry if you
10 did.
11 A Around 600 or 650.
12 Q And who did you pay for the JONAH group
13 counseling sessions?
14 A Group? JONAH.
15 Q Okay. And who did you pay for the individual
16 sessions?
17 A Alan Downing.
18 Q And who did you pay for the -- the JIM
19 weekends?
20 A I think they were warrior weekend or change
21 something? I -- I -- I don't recall exactly. Good --
22 Good to Change? I don't remember exactly.
23 Q While Chaim was in the program, where was he
24 living?
25 A At home.

1 Q And what And what did Chaim's behavior or --
2 what was Chaim's behavior like while he was living in
3 your home during the JONAH program?
4 A It was a roller coaster because he would be all
5 excited about going on these weekends, and he would
6 come home and usually it would be very, very late when
7 he would come home because they were very far away. He
8 could come into my room. I would be half asleep, and
9 he would hug me and kiss me and tell me, Mommy, thank
10 you so much for letting me go.
11 And then, like, for a day or two he would be
12 happy, and then he would crash, and he would be
13 depressed, and he would be crying. And then he would
14 be yelling. And he would be angry. And he would be
15 fighting with everybody in the house. And we didn't
16 know what to do with him. And I would say, Chaim, you
17 came back. You were so happy and you were so excited
18 and you -- you said that they're going to help you and
19 -- and they are helping you. And -- and I was, like,
20 happy that things were working out. And then what
21 happened? It's like three or four days later and
22 everything is just going downhill. What -- and it
23 would happen a few times like that. And --
24 Q Did Chaim share with you the details of what
25 happened when he was at the sessions or --

1 A No.
2 Q -- or on the weekends?
3 A No.
4 Q Why did you decide to pay for Chaim to go to
5 the JONAH program?
6 A I thought that they would help my son, and Arthur
7 Goldberg told me that they would help my son.
8 Q And when you say help your son, what did you
9 understand that to mean?
10 A That he would not be gay anymore. That he would
11 be straight.
12 Q Why are you bringing this lawsuit, Bella?
13 A He lied to me. He lied. Promised me something
14 that was just so far from the truth.
15 MR. MC COY: Thank you, Your Honor. That's
16 all I have.
17 THE COURT: Cross-examine.
18 CROSS-EXAMINATION BY MR. LAFFEY:
19 Q Hello, Mrs. Levin.
20 A Hi.
21 Q Do you remember having your deposition taken?
22 A Yeah.
23 Q And you understood at the time you took that
24 -- your deposition was taken that that testimony was
25 under oath, correct?

1 A Yes.
2 Q Okay. Did you pay for all of Chaim's
3 services with JONAH and the therapists?
4 A I'm -- was given to understand that Chaim paid for
5 some of it.
6 Q Was that your testimony at your deposition?
7 A No. Because I found out at the deposition Chaim
8 paid some.
9 Q Now you said you paid for some weekends, and
10 you mentioned New Warrior.
11 A I don't know the exact name.
12 Q Well, if I said New Warriors, does that
13 refresh your recollection at all?
14 A I don't know the exact name.
15 Q Okay. Where did you come up with the term
16 New Warriors?
17 A I just remember the name warrior.
18 MR. MC COY: Objection, Your Honor. She said
19 she didn't remember the name New Warriors.
20 THE COURT: Right. But I'm going to allow
21 the question counsel is asking her where did she first
22 hear it. How did she come up with the term New
23 Warrior? She used the term on direct.
24 I'll allow the question.
25 MR. LAFFEY: Thank you, Your Honor.

1 Q Do you know where that term came from?
2 A I remember the -- the name --
3 Q The name.
4 A -- when -- when Chaim told me about the weekend.
5 But I don't recall exactly the name.
6 Q So you remember Chaim telling you that he
7 attended a New Warrior weekend?
8 A Something warrior it was. I -- I'm not sure
9 exactly what -- what he called it.
10 Q Okay. Did he give you any details about that
11 weekend?
12 A Something about sitting in circles. I heard him
13 talking about it with his friends. Not -- not great
14 details. If you want to hear, I can tell you. Naked.
15 Q Naked.
16 A I could tell you more.
17 Q There's no question pending. Did Mr.
18 Goldberg tell you that his services were scientifically
19 proven to be effective?
20 A He told me so many things, I don't remember
21 everything he said.
22 Q So you have no clear recollection of that.
23 A There was one thing that was clear, that he was
24 going to change my son.
25 Q Did he make any other representations to you

1 that you think are false?
2 A He came across, the way he spoke to me, as being a
3 religious Jew. He used a lot of Jewish words in the
4 conversations. I thought he was a religious rabbi as
5 well as a doctor.
6 Q And is it your testimony today or are you of
7 the opinion that he's not religious?
8 A He doesn't look religious to me.
9 Q You testified that your son was molested as a
10 child?
11 A Yes.
12 Q Who was he molested by?
13 A A family member.
14 MR. MC COY: Objection, Your Honor.
15 Relevance.
16 THE COURT: I'm going -- I'm going to allow
17 it. It was discussed. It was brought out on direct.
18 And it can go -- it can be relevant to the claims in
19 the case. I'll allow it.
20 Q What type of family member?
21 A My nephew.
22 Q You said you -- you recalled speaking to Mr.
23 Goldberg on the phone.
24 A Yes.
25 Q Do you recall what year that was?

1 A Chaim was 17 or 18. Chaim is 26 now. So that's
2 like nine years ago.

3 Q You testified that your son was -- while he
4 was going through this he'd come home and it was --
5 your term you used was a roller coaster. Is that
6 correct?

7 A Yes.

8 Q Did you have an issue with your son using
9 drugs at that time?

10 MR. MC COY: Objection, Your Honor.
11 Relevance.

12 THE COURT: I'm going to allow it, Counsel,
13 because I don't know what the basis is for the roller
14 coaster. The implication was that it was JONAH, but
15 I'm going to allow counsel to explore this area.

16 MR. LAFFEY: Thank you, Your Honor.

17 A I wasn't aware that he was using drugs at that
18 time.

19 Q Did you later become aware that he was using
20 drugs at that time?

21 A Maybe a few years later, but not at that time.

22 Q You became aware of it a few years later, or
23 he was using them a few years later?

24 A I don't know.

25 Q Was there a time when you complained to him

1 about using marijuana and not doing it in the home?

2 A Years later. Yes.

3 Q Were there -- is there any other basis for
4 your claim against JONAH and the other defendants other
5 than the misrepresentation you allege Mr. Goldberg made
6 that he would cure your son by the time he was 21?

7 A Just that he -- they lied to -- to me. Yeah.
8 Fraud.

9 Q Well, at your deposition, do you remember
10 giving me another reason?

11 A I didn't like the fact that Alan Downing made my
12 son undress in front of him and told him to touch
13 himself. I -- I -- I didn't -- I didn't like that.

14 Q Well, didn't you at first testify that that
15 was Mr. Goldberg?

16 A Well, you mixed up the names when you introduced
17 -- somebody mixed up the names. They said Alan
18 Goldberg and Arthur Downing, so I got confused. You
19 guys --

20 Q Well --

21 A -- mixed up the names.

22 Q Well, let -- let's explore that. Let's look
23 at your deposition testimony.

24 MR. LAFFEY: I'd like, Your Honor, Page 30,
25 Line 4 through Page 31, Line 8.

1 MR. MC COY: Sorry, once again, Counsel, what
2 was it?
3 MR. LAFFEY: Thirty, Line 4 through 31 Line
4 8.
5 MR. MC COY: Object, Your Honor. I don't
6 think he's impeaching.
7 MR. LAFFEY: Judge, may we approach sidebar?
8 THE COURT: Yes.
9 (Sidebar)
10 MR. LAFFEY: Judge, at her deposition
11 testimony, she testified at great length about how
12 Arthur Goldberg molested her son. Then she came back
13 from break and had a revelation that all her testimony
14 was wrong. I think it directly affects her
15 credibility, and I think the jury deserves to see it.
16 MR. MC COY: Your Honor, can I show you --
17 THE COURT: Well, I think -- I think you can
18 ask her that question without reading all of this
19 first. You can ask her what you just said. Did you
20 testify about Arthur Goldberg being the molester and
21 then after the break come back and change your
22 testimony and see what her answer is.
23 MR. LAFFEY: Well, Your Honor, I think the
24 impact of seeing it to the jury is -- is much more
25 important. And I -- I don't think there's anything in

1 the rules that prohibit me from --
2 THE COURT: No.
3 MR. LAFFEY: -- showing that to impeach her.
4 THE COURT: Well, I don't know if you're
5 impeaching her because you didn't ask her the question
6 yet. If she says to you no, that didn't happen.
7 MR. LAFFEY: Well, she -- she -- well --
8 MR. MC COY: She's actually said that it did
9 happen.
10 MR. LAFFEY: She said that it did happen, and
11 she was confused.
12 MR. MC COY: Right. Your Honor, if you look
13 at Page 3 of the transcript, Mr. Laffey says -- he
14 introduces himself, Mr. Michael Laffey from Messina Law
15 Firm on behalf of defendants, (indiscernible) today are
16 defendants Alan Goldberg and Alan Downing. That's what
17 confused her, and that's what she testified to when she
18 came back after a break.
19 MR. LAFFEY: And, Judge, at the same time
20 she testified to me that it was Arthur Goldberg who she
21 spoke to on the phone. So she didn't have any
22 confusion as to the names for that. So, I mean, I
23 think the only way the jury can understand is -- is in
24 seeing the testimony and then see her come back and
25 quite frankly, in my opinion lie that no one coached

1 her during break. And I think it's obvious when seeing
2 it. I think the jury deserves to see it.

3 THE COURT: She uses the word Arthur Goldberg
4 in her answer. She doesn't use the word Alan Goldberg.

5 MR. MC COY: Right. And she also says or --
6 or -- or -- look at the answer. I think it -- or
7 Robert Downing.

8 THE COURT: Or Robert Downing.

9 MR. MC COY: Right. She was obviously
10 confused about the names, Your Honor.

11 MR. LAFFEY: Yeah, well, that's --

12 MR. MC COY: She's testified that she was
13 confused about the names.

14 MR. LAFFEY: Yeah, that's an explanation --

15 MR. MC COY: That's not a --

16 MR. LAFFEY: -- that she can make to the
17 jury.

18 MR. MC COY: That's not impeaching.

19 THE COURT: But she hasn't -- well, I'm going
20 to say what I said to -- to you on the last one. Yes,
21 you can read a party's deposition transcript to a jury,
22 but you do that as part of your case. If you're cross-
23 examining her now on impeachment, you have to impeach
24 her first, and you didn't ask her the question yet.
25 I've been saying, and I'll say the same thing, you're

1 right, the rules allow you to read the transcript, but
2 you do that on your case.

3 MR. LAFFEY: Okay.

4 THE COURT: You can't just say it's
5 impeachment. I don't -- I don't know what she said
6 that you're impeaching her on.

7 MR. LAFFEY: What I -- what I'm trying to get
8 to, Judge, okay, is the point where she -- she comes
9 back and changes her testimony.

10 THE COURT: Well, you can do that.

11 MR. LAFFEY: Okay.

12 THE COURT: I think you can do that, but
13 you've got to ask her the questions. And then if she
14 denies it --

15 MR. MC COY: He already asked her, and she
16 hasn't denied it.

17 THE COURT: Well --

18 MR. MC COY: He asked her did you get
19 confused, and she said yes.

20 THE COURT: Yes, but he's going to ask her
21 did she say that Arthur Goldberg touched her son. He
22 didn't ask her that question yet.

23 MR. MC COY: Okay.

24 THE COURT: So I don't know what she's going
25 to say.

1 MR. MC COY: Okay. All right.
2 (Sidebar concluded)
3 THE COURT: Let's rephrase the questions.
4 Q Ms. Levin, did you testify at your deposition
5 that Arthur Goldberg molested your son?
6 MR. MC COY: Objection. Misstates the
7 testimony. Molestation was not a word that was used in
8 the transcript.
9 THE COURT: Objection's overruled. The word
10 is used on Page 30.
11 Q Did -- did you testify to that?
12 MR. MC COY: Objection. Could you rephrase
13 the question to what?
14 MR. LAFFEY: Sure.
15 THE COURT: Why don't read -- why don't you
16 ask her the question. Read the question from the
17 deposition.
18 MR. LAFFEY: Okay.
19 THE COURT: Why don't you read Question 10
20 through 19 and ask her if that refreshes her
21 recollection. Line 10 through Line 19. I'll allow you
22 to do that because the witness is confused.
23 MR. LAFFEY: Thank you, Your Honor.
24 "Q Are you claiming someone else touched your
25 son's private parts?

1 A Yeah."
2 "Q Who would that be?
3 A I think he told you who did that."
4 "Q I'm asking what your understanding is.
5 A I think it was Arthur Goldberg or Down -- Robert
6 Downing, whoever it was that was doing the session with
7 him."
8 Q Was that your testimony at your deposition?
9 A Yes.
10 MR. LAFFEY: Judge --
11 THE COURT: Yes, you can -- you can --
12 MR. LAFFEY: I can keep going?
13 THE COURT: No. You can ask her the question
14 and see if she recalls giving that testimony.
15 Q Did you further testify in your deposition
16 that you think Arthur Goldberg should be arrested for
17 being a molester because that's what molesters do, they
18 touch boys in their private parts?
19 A Yes.
20 Q So at that point when you testified it was
21 your understanding that Arthur Goldberg touched your
22 son in his private parts?
23 A Yes.
24 Q And you felt that that was one of the reasons
25 they should be shut down.

1 A Yes.
2 Q Now you said a moment ago you were confused.
3 A Yes, I was.
4 Q Okay. And what was the cause of that
5 confusion?
6 A Okay. Number one I never met Arthur Goldberg, and
7 I never met Alan Downing. Okay. Number two, when you
8 -- someone in the room introduced them, they mixed up
9 their names. They said Alan Goldberg and Arthur
10 Downing. So that further confused me.
11 Q But you also at the same time testified that
12 it was Arthur Goldberg who you spoke to on the phone,
13 correct?
14 A Yes. And I did speak to Arthur Goldberg on the
15 phone.
16 Q So you weren't confused about who you spoke
17 to on the phone because somebody had mixed up the
18 names. Is that true?
19 A Yeah.
20 Q Okay.
21 A Yes.
22 Q But you were confused about who it was who
23 molested your son.
24 A Yes.
25 Q Okay. Now when you came back from the break,

1 we had -- remember we had a little break at your
2 deposition. And you came back from the break and you
3 changed your testimony, correct?
4 MR. MC COY: Objection.
5 THE COURT: Why don't we -- can we rephrase
6 that question?
7 Q After you came back from the break, did you
8 change the testimony?
9 MR. MC COY: Objection.
10 THE COURT: No, that's -- that's permitted.
11 I mean, that's the proffer that was made.
12 Did you change your testimony after the
13 break?
14 THE WITNESS: I changed the names.
15 THE COURT: She changed the names.
16 Go ahead.
17 Q Okay. Is that the only thing you changed?
18 A Well, what did I say afterwards? I don't remember
19 what I said.
20 Q Okay.
21 MR. LAFFEY: Judge, I'd ask permission to
22 show this part of the --
23 THE COURT: Yes, where -- where are we?
24 MR. LAFFEY: We are on Page 65, Line 7
25 through Page 69, Line 16.

1 THE COURT: Okay.
2 MR. MC COY: Sixty-five -- I'm sorry, again?
3 MR. LAFFEY: Line 7.
4 MR. MC COY: Line 7?
5 MR. LAFFEY: Yes.
6 MR. MC COY: Your Honor, I would object to
7 the attorney portions of the --
8 THE COURT: Why don't we --
9 Ladies and gentlemen, I wasn't asked to do
10 this, so I'm going to do it on my own. You've heard
11 the word deposition, and probably some of you are
12 wondering what a deposition is. A deposition is -- is
13 part of what's called pre-trial discovery. In the
14 State of New Jersey we permit discovery. So both sides
15 have been doing discovery on this case for two years or
16 more. So they have what's called transcripts. You've
17 heard me say can I get a transcript.
18 A deposition is just like trial testimony.
19 You've heard the attorneys ask the witness do you
20 recall being sworn in. In this case there was a break
21 in the deposition. When they came back from the break,
22 there was a colloquy between counsel, which I don't
23 think needs to be heard. However, I do agree, and I
24 will allow counsel now to refer to the witness, what
25 occurred from lines -- at least right now from Line

1 17to 23.
2 This is what the witness said --
3 MR. MC COY: Your Honor, I have an objection
4 on the record, and I would make that objection now to
5 that portion of the transcript, that question.
6 THE COURT: Objection to her statement from
7 17 --
8 MR. MC COY: No. Mr. Laffey, the -- the line
9 you said through twenty -- through 23 --
10 THE COURT: That's just what she says, 17 to
11 23 is only her answer.
12 MR. MC COY: Sorry, Your Honor. In the
13 portion that I am looking at --
14 MR. LAFFEY: Mr. McCoy (indiscernible) 22.
15 MR. MC COY: -- there was a -- a -- another
16 question and an objection after.
17 THE COURT: Right now all I said was I'm
18 going to allow counsel to let the witness, either he'll
19 read it to her or she can read 17 to 23, and see if
20 that -- that that refreshes her recollection as to what
21 she said after the break.
22 MR. MC COY: I understand. I think the --
23 THE COURT: That's all we're doing right now.
24 MR. MC COY: -- transcript -- the transcript
25 that I had I think was -- was paginated wrong. So --

1 THE COURT: Okay.
2 MR. MC COY: -- I see what you're saying now.
3 THE COURT: Just her answer.
4 MR. MC COY: Yes, sir.
5 THE COURT: Do you want to -- you want to
6 play it? Do you want to read it to her?
7 MR. LAFFEY: I would like --
8 THE COURT: Do you want her to read it?
9 MR. LAFFEY: I would like to play it, Your
10 Honor.
11 THE COURT: Okay. See if this refreshes Ms.
12 Bella's recollection.
13 MR. LAFFEY: Sixty-five, Line 17 through
14 actually 22.
15 THE COURT: No. I have 23. There's a word
16 on Line 23.
17 MR. LAFFEY: I have Line 23 as being Mr.
18 McCoy's objection.
19 MR. MC COY: No. No. No. You're on the
20 wrong page, Mr. Laffey. It's 65.
21 THE COURT: It's Page 65 --
22 MR. LAFFEY: Oh.
23 THE COURT: -- Line 17 to 23.
24 MR. LAFFEY: I see.
25 THE COURT: I have a word on Line 23.

1 MR. LAFFEY: Yeah. Yeah. Yeah. I see. I
2 see. I'm sorry. Yes. Through 23.
3 THE COURT: Okay. So we're going to play Ms.
4 Levin's answer after the -- after there was a break in
5 the deposition, Line 17 through 23 and see if this
6 refreshes --
7 I'll come up here, Ms. Levin.
8 THE WITNESS: Oh.
9 THE COURT: It should. Mrs. Levin. I'm
10 sorry.
11 THE WITNESS: It's okay.
12 (Portion of videotaped deposition of B. Levin
13 played from 11:34:33 to 11:34:57)
14 THE COURT: Do you recall giving that
15 testimony at the deposition, ma'am? Is that yes?
16 THE WITNESS: Yes.
17 THE COURT: Okay.
18 Go ahead, Counsel.
19 Q So then I -- I asked you a little bit further
20 on if it was your testimony that Alan Downing touched
21 your son inappropriately. Do you remember me asking
22 you that?
23 A Yes.
24 Q And do you remember what your answer was?
25 A No.

1 MR. LAFFEY: Okay. If we could play -- I
2 would like to play Line 66 --

3 THE COURT: Page 66.

4 MR. LAFFEY: Page -- I'm sorry, Page 66, Line
5 14 through 67 -- I'm sorry. Page 68, Line 18.

6 MR. MC COY: Your Honor, I'm going to object
7 to that as not impeaching. And also the actual
8 transcript includes an objection from me.

9 THE COURT: I'm -- I'm going to sustain the
10 objection for that length at this time. I will permit
11 Lines -- Page 66, Line 14 through Line 19 right now.
12 That's impeachment. Well, not impeachment. This will
13 refresh her recollection. She doesn't recall what her
14 answer was.

15 MR. MC COY: Well, we'll see if it refreshes
16 her recollection.

17 THE COURT: So we'll see -- Page 66, Line 14
18 through 19. Let's start with that.

19 (Portion of videotaped deposition of B. Levin
20 played from 11:36:48 to 11:37:06)

21 Q Do you recall that testimony now?

22 A Yes.

23 Q Okay. That was quite different from the
24 testimony you gave in the morning what -- before the
25 break, wasn't it?

1 MR. MC COY: Objection. Argumentative.

2 THE COURT: No, I'm going to allow it.

3 A Chaim -- Chaim --

4 THE COURT: Do you -- do you recall whether
5 that testimony was different than the testimony you
6 gave before the break at the deposition?

7 A Yes.

8 Q In fact, you had testified before the break
9 that someone had touched your son's private parts.
10 Wasn't that correct?

11 A Yes.

12 MR. MC COY: Objection. It misstates the
13 testimony.

14 THE COURT: No. I'll overrule. That doesn't
15 -- no. Overruled.

16 Q So just so we can be clear, before the break
17 you testified that Arthur Goldberg inappropriately
18 touched your son's genitals. Is that correct?

19 A Yes.

20 Q Okay. After the break, you testified that it
21 was Alan Downing and that he didn't touch his genitals.
22 He asked your son to touch himself.

23 A Right.

24 Q Okay. How did you come to realize after the
25 break that your testimony you had given just a little

1 while before was wrong?
2 A I spoke to Chaim.
3 Q But isn't it true at your deposition that you
4 told me you didn't speak to anyone during the break?
5 A I spoke to Chaim.
6 Q But my question was at your deposition did I
7 ask you if you had spoken to anyone on the break about
8 your testimony.
9 A I don't remember that.
10 Q Okay.
11 MR. LAFFEY: Give me just a moment, Your
12 Honor. I'm sorry.
13 I'd like to play Page 69, Line 13 through --
14 I'm sorry. Yes, Line 13 through Line 16, Your Honor.
15 THE COURT: Sixty-nine, Line 13 through 16?
16 MR. LAFFEY: Yes, sir.
17 THE COURT: Okay.
18 (Portion of videotaped deposition of B. Levin
19 played from 11:40:32 to 11:40:41)
20 MR. LAFFEY: No further questions, Your
21 Honor.
22 THE COURT: Okay.
23 Redirect?
24 MR. MC COY: Thank you, Your Honor.
25 REDIRECT EXAMINATION BY MR. MC COY:

1 Q Mrs. Levin, just to be clear, who was it that
2 asked Chaim to take his clothes off and touch his
3 genitals in an individual session with Alan Downing?
4 A Alan Downing.
5 MR. MC COY: Thank you. Nothing further,
6 Your Honor.
7 THE COURT: Okay. Thank you very much, Mrs.
8 Levin. You may step down.
9 (Witness excused)
10 THE COURT: Okay. Who's your next witness?
11 MR. DINIELLI: Thank you, Your Honor. The
12 plaintiffs call Chaim Levin.
13 THE COURT OFFICER: Please raise your right
14 hand.
15 MR. C H A I M L E V I N, PLAINTIFFS' WITNESS, SWORN.
16 THE COURT OFFICER: State your name for the
17 record.
18 THE WITNESS: Chaim Levin.
19 THE COURT OFFICER: Thank you.
20 DIRECT EXAMINATION BY MR. MC COY:
21 Q Good afternoon, Chaim. I think it's -- good
22 morning, Chaim.
23 A Good morning.
24 Q Chaim, where do you currently reside?
25 A Crown Heights, Brooklyn, New York.

1 Q And how old are you?
2 A Twenty-six.
3 Q What's the highest level of education that
4 you've attained?
5 A Some college courses.
6 Q What's your relationship to plaintiff Bella
7 Chaim -- I'm sorry -- Bella Levin, that we just heard
8 from?
9 A She's my mother.
10 Q Where do your parents live now?
11 A Crown Heights.
12 Q Okay. And how would you describe your
13 relationship with your parents growing up?
14 A It was mostly okay. Pretty large family, and it
15 was I'd say normal for the most part.
16 Q Were there any times when it was harder than
17 others?
18 A There were, as I started becoming a teenager, it
19 (indiscernible) difficult.
20 THE COURT: Mr. Levin, I'm going to ask you
21 to either keep your voice up or try to speak into the
22 microphone because --
23 MR. MC COY: Thank you, Your Honor.
24 THE COURT: -- the jurors are leaning over
25 trying to hear what you're saying.

1 MR. MC COY: Thank you, Your Honor.
2 Q How would you describe your relationship with
3 your parents now?
4 A A lot better.
5 Q And where did you grow up, Chaim?
6 A In Crown Heights.
7 Q What religious faith were you raised in?
8 A Orthodox Judaism.
9 Q To what extent was Orthodox Judaism practiced
10 in your home growing up?
11 A To the fullest extent. Kept it kosher, kept the
12 Sabbath.
13 Q Growing up, what exposure to the outside
14 world did you have?
15 A Besides for some -- some television, very little.
16 Q How did -- at that time, how did you imagine
17 your life was going to be growing up?
18 A I couldn't imagine living any differently than
19 like -- like my brothers were, they were getting
20 married. My sister got married. It was just kind of
21 -- that was the -- it was like a road map for your life
22 that we were basically finish the yeshiva system, you
23 end up getting married, you have kids, and you stay in
24 the community and you start the next generation.
25 Q Did you know anyone who was openly gay in

1 your community?
2 A No.
3 Q When you were growing up, where did you go to
4 school?
5 A In Crown Heights.
6 Q What types of schools did you go to?
7 A A yeshiva, an Orthodox school.
8 Q Was your -- were you in court when you --
9 when Benji Unger testified?
10 A Yes.
11 Q And do you remember what you (sic) testified
12 about his yeshiva upbringing?
13 A Vaguely.
14 Q Was your educational experience similar to
15 the one that Benji described?
16 A It might have been a little bit more intense, I
17 guess you could say. We didn't have any formal secular
18 studies, no reading, no writing, no spelling, no math,
19 no science, no history. Only, like, religious text,
20 and Torah, and stuff like that.
21 Q And did you study abroad like Benji did?
22 A Yes.
23 Q Where did you study abroad?
24 A I studied for one year in yeshiva in Israel. Then
25 the year after that in a yeshiva in France. And then

1 for about a month after that in another yeshiva in
2 Israel.
3 Q And who were your teachers while you were at
4 those yeshivas?
5 A They were rabbis.
6 Q And who else was attending these yeshivas
7 with you?
8 A Other -- other male students.
9 Q How old were they?
10 A They were my age, a little bit older, a little bit
11 younger.
12 Q And how old were you?
13 A When I went abroad I was turning 15 and 16 and 17.
14 Q And what if anything were you taught about
15 homosexuality?
16 A Very little.
17 Q What if anything were you taught about human
18 sexuality in general?
19 A Nothing.
20 Q Did you ever attend public schools?
21 A No.
22 Q How long were you in the yeshiva system?
23 A Until I was 17.
24 Q And while you were in the yeshivas in Israel,
25 how were you treated by your fellow classmates?

1 A Okay until -- until I was outed or when people
2 started finding out.

3 Q How did people find out?

4 A I confided in a friend of mine who told another
5 friend who then took it upon himself to tell the whole
6 school.

7 Q And when you say that you were outed or you
8 found out (sic), what do you mean?

9 A Well, I mean, people found out that I was gay. I
10 mean, I didn't call it that at the time, but that's --
11 that's what it -- that's what it was.

12 Q How did it make you feel when people found
13 out that you were gay?

14 A I mean, I was terribly ashamed. I was -- there
15 wasn't anyone else like me. People weren't very kind,
16 and it was -- it was just hard being an outcast. And I
17 spent eight months at a point in -- in France where I
18 basically never spoke to anyone.

19 Q And how was your experience when you were
20 studying in Israel?

21 A Israel was -- the big -- the big outing, if you
22 will, happened in France. So the year before in Israel
23 it wasn't as bad, but I was -- I was really trying to
24 -- I wasn't sure -- I was trying to figure out what
25 happened to me and -- and how that made me -- how that

1 affected my life. And I was talking to some people and
2 it -- it was getting around, but it wasn't -- it wasn't
3 as extreme as what happened the year after in France.

4 Q So just so I understand, you went to France
5 first?

6 A No. I went to Israel first, then France, and then
7 a month after -- a month after a year in France I did a
8 month in Israel.

9 Q And why did you come home from the month in
10 Israel?

11 A Well, after France, the community is kind of --
12 it's relatively small, and everyone kind of
13 communicates with each other. And after France I found
14 that I wouldn't -- I wasn't able to get into any of the
15 mainstream schools that were part of our community that
16 my classmates were going to. So I ended up at -- at a
17 program that I didn't belong in, but it was the only
18 place that I could go to in Israel. And at one point a
19 month in someone came into my room and tried making a
20 pass at me. And I complained about that, and I was --
21 I was dismissed after. I was asked to leave.

22 Q Earlier you said that your community was
23 small and word got around. What community were you
24 referring to?

25 A The Chabad Orthodox community of Crown Heights.

1 Q Were there other students from your community
2 in Crown Heights who were at this yeshiva?
3 A Yes.
4 Q Had you grown up with those kids?
5 A Yes.
6 Q At the yeshivas, what was your exposure or
7 experience with the outside world?
8 A Nothing.
9 Q Were you allowed to watch television?
10 A No.
11 Q Were you allowed to go to the movies?
12 A No.
13 Q Given your attraction to other boys while you
14 were in the school, how did you feel at the yeshiva?
15 A It was -- it wasn't easy. It was -- it was pretty
16 confusing and distressing. I just couldn't understand
17 what -- what was happening to me and -- and how --
18 basically even how -- how to get rid of it.
19 Q At some point did you return home from
20 studying abroad?
21 A Yes.
22 Q Had you finished your studies at that point?
23 A No.
24 Q Did you end up finishing your studies?
25 A Not the yeshiva studies.

1 Q Why didn't you finish?
2 A Well, after -- after I was asked to leave that
3 school, I mean, practically speaking that school was
4 very low on the chain of respected schools in our
5 community, and once I was kicked out of that school,
6 there was no -- it was pretty clear that I was done
7 with the yeshiva system at that point.
8 Q Chaim, now I'd like to ask you some questions
9 about your sexual orientation and how your community
10 views that. And what is your sexual orientation,
11 Chaim?
12 A I'm gay.
13 Q And what do you mean when you say that you're
14 gay?
15 A I'm attracted to people of the same sex.
16 Q When did you first know that you were gay?
17 A At some point in my younger years before -- before
18 I started becoming a teenager.
19 Q And how did you come to understand what being
20 gay was?
21 A I'm not sure exactly how. It just it kind of -- I
22 -- I called it different things over the years, but it
23 was all the same thing.
24 Q What did you think when you realized that you
25 were sexually attracted to other boys?

1 A Well, I honestly as, you know, as my mother said,
2 I -- because of being sexually abused as a child for
3 four years, I really believed that that was the cause
4 of it. And I thought that I just needed to overcome it
5 and that it would go away.

6 Q What if anything did you do to try and deal
7 with the fact that you thought you were gay?

8 A When?

9 Q At that time.

10 A When I was -- when I was like 18?

11 Q Yeah. When you were in the yeshivas.

12 A Well, in the yeshivas I -- I, you know, I tried
13 talking to some of my rabbis and asking them for
14 advice. It was only after when I left and before I
15 turned 18 that I contacted JONAH.

16 Q At the time before you went to JONAH, who did
17 you tell that you were attracted to other guys growing
18 up?

19 A There was this -- this couple in France and whose
20 husband was a rabbi and I was very close to them.
21 They're actually relatives also. And I told him about
22 it, and he recommended JONAH.

23 Q At that time, how did you think -- before you
24 contacted JONAH, how did you think being attracted to
25 other persons of the same sex would affect your life?

1 A Well, as far as I was concerned it was -- it
2 wasn't something that I could continue living with. It
3 was something that had to be dealt with because until I
4 actually left the community years later, there was no
5 possibility of leaving the community. There was no
6 possibility of existing outside the community. So, I
7 mean, I was -- I was -- I was very distressed about it
8 all the time.

9 Q How was being gay viewed in your community at
10 that time?

11 A Not -- not very good.

12 Q What do you mean by not very good?

13 A I mean, there's different ways that it's
14 described, sickness, disease, disgusting, disgraceful,
15 not something we condone or accept, stuff like that.

16 Q Why were you conflicted about your sexuality?

17 A Well, there was no room for gay people in the
18 community that I lived in. It -- it just -- there was
19 no such thing.

20 Q How did the -- the conflict over your
21 sexuality affect your school?

22 A Well, I mean, I was kicked out of school. And
23 that was basically, for me, the end of my tenure at,
24 you know, the yeshiva.

25 Q All right. Now I want to ask you some

1 questions about how you first came into contact with
2 the defendants, Arthur Goldberg and JONAH. When did
3 you first learn about JONAH?

4 A Well, I had -- I had seen their ads in the Jewish
5 Press at -- at different points, but I -- I didn't
6 really pay attention to them until Rabbi Bloom
7 (phonetic) suggested that I contact them. Rabbi Bloom
8 was the rabbi from France.

9 Q And where had you seen ads for JONAH?

10 A In a newspaper, the Jewish Press. It's an
11 Orthodox publication.

12 Q Does that circulate in your community in
13 Crown Heights?

14 A Yes.

15 Q Did you ever respond to the Alan Downing?

16 A Not -- not at that time when I had seen it that I
17 was younger. But when Rabbi Bloom suggested that I
18 contact them, that was when I reached out.

19 Q Did you ever visit JONAH's website before
20 reaching out, as you said?

21 A I'm not sure. It's possible that I reached out to
22 get their email address, but I didn't really look at it
23 in depth.

24 Q How did you get their email address?

25 A I believe it was through their website.

1 MR. MC COY: Your Honor, permission to show
2 Plaintiffs' 85, please.

3 THE COURT: Eighty-five?

4 MR. MC COY: Eight-five.

5 MR. LI MANDRI: Yeah, that's fine.

6 THE COURT: Okay.

7 MR. MC COY: Thank you.

8 Q Chaim, if you would take a look at this
9 document for me, I want to -- so there are two emails
10 here, correct?

11 A Yes.

12 Q Do you recognize the email that's on the
13 bottom of the page?

14 A Yes.

15 Q When was this email sent?

16 A April 15th, 2007.

17 Q And from whom was it sent?

18 A It was sent from an old email address that I used
19 to use.

20 Q And that's your email address at the time?

21 A Yeah. Yes, it was.

22 Q All right. And how old were you when you
23 sent this email?

24 A Seventeen.

25 Q From the third line from the bottom it

1 mentions, "Please reply back with options possible."
2 A Right.
3 Q Going to highlight it for you. When you
4 wrote this email to JONAH, what possible options were
5 you seeking?
6 A Options to not be gay anymore.
7 Q Now the top email, do you recognize that
8 email?
9 A Yes, I do.
10 Q And what is that email?
11 A That was the first response that I got from JONAH
12 from Elaine Berk.
13 Q And in the second paragraph, the first full
14 line, it says, "The first step will be for you and
15 hopefully your therapist to call my co-director, Arthur
16 Goldberg." Do you see that?
17 A Yes.
18 Q At some point in time after receiving this
19 email did you in fact call Arthur Goldberg?
20 A Yes, I did.
21 Q Okay. I want to ask you about that
22 conversation in a moment, but I want to ask you a
23 couple more questions if I could about this email. In
24 the fourth paragraph, the last sentence reads, "Please
25 read the article in the JONAH" -- I'm sorry -- "please

1 read the article in the library of www.jonahweb.org
2 entitled JONAH's Psychoeducational Model for Healing
3 Homosexuality so you will understand the comprehensive
4 and multi-faceted program we recommend." At some point
5 in time did you read the JONAH Psychoeducational Model
6 for Healing Homosexuality?
7 A Yes, I did.
8 Q And the website, www.jonahweb.org, do you
9 recognize that website?
10 A Yes, I do.
11 Q Whose website is that?
12 A That's JONAH's website.
13 Q What -- what impression if any did you take
14 away from the title JONAH's Psychoeducational Model for
15 Healing Homosexuality?
16 A That it was about healing homosexuality, as in not
17 being gay anymore.
18 Q The next paragraph of the email it says,
19 "Then go to www.peoplecanchange.com, a website written
20 entirely by ex-gay men that JONAH works with. People
21 Can Change is a secular website that expresses JONAH's
22 philosophy about the necessary steps someone needs to
23 take in order to grow out of homosexuality into their
24 God-given heterosexuality." Do you see that?
25 A Yes.

1 Q What did you understand it to mean that the
2 People Can Change website was written entirely by ex-
3 gay men?

4 A That is written by men who used to be gay but are
5 no longer gay.

6 Q What did you understand it to mean that
7 People Can Change is a secular website the expresses
8 JONAH's philosophy?

9 A That it wasn't a religious website.

10 Q What did you understand it to mean when
11 Elaine Berk wrote, "JONAH's philosophy about the
12 necessary steps someone needs to take in order to grow
13 out of homosexuality into their God-given
14 heterosexuality"?

15 A JONAH's philosophy about the necessary steps that
16 people need to do in order to grow out of homosexuality
17 into their God-given heterosexuality, as in the
18 necessary steps that anyone would have to take,
19 according to them, to not be gay anymore and to be
20 straight.

21 Q What if anything did you do in response to
22 Ms. Berk's email?

23 A I contacted Arthur Goldberg.

24 Q How did Mrs. Berk's email make you feel?

25 A I started feeling pretty relieved at that point.

1 It was -- it was really the first time that I -- I
2 talked to anyone outside of my community. It just felt
3 like it was -- there was more hope than I thought there
4 was.

5 Q What was your expectation based on this email
6 about what JONAH could do for you?

7 A That they could help me grow out of homosexuality
8 into my God-given heterosexuality.

9 Q And what did you understand that to mean?

10 A That I would no longer be gay.

11 Q At that time when you received that email,
12 did you have any idea what JONAH's program consisted
13 of?

14 A No.

15 Q When did you first speak with Arthur
16 Goldberg?

17 A A couple of weeks later.

18 MR. MC COY: Thank you.

19 Q I'm sorry, a couple of weeks after --

20 A Maybe less even. Maybe a few days after.

21 Q And where did you speak with him?

22 A I met him here in Jersey City at JONAH's office.

23 Q How did Arthur Goldberg present himself to
24 you at that meeting?

25 A He was -- he was wearing a yarmulke like I'm

1 wearing today, which, you know, first made me think
2 that was one of the first reasons that I thought he was
3 an Orthodox Jew. He -- he seemed very knowledgeable
4 over -- with these things. He knew a lot about my
5 community. He knew a lot about the stuff that I had
6 been learning in yeshiva. He was very charismatic. It
7 was easy to talk to him. We spoke for like an hour.

8 Q During that conversation, what if anything
9 did Arthur tell you about homosexuality?

10 A That it's a disease and that it can be cured.

11 Q Did he make any recommendations to you during
12 that --

13 A Yes.

14 Q -- conversation?

15 A Yes.

16 Q What did he recommend to you?

17 A He strongly recommended that I contact People Can
18 Change and sign up for the Journey Into Manhood weekend
19 that was happening about a month later. He was pretty
20 adamant about it and, more importantly, that they only
21 had like one or two spaces left so I would have to do
22 it as quickly as possible.

23 Q And, Chaim, what's your birthday?

24 A May 13th.

25 Q And how old were you during this

1 conversation?

2 A I was 17.

3 Q What if anything did Arthur Goldberg tell you
4 during that conversation about what causes a person to
5 be gay?

6 A He -- he talked about that, you know, that it
7 could be caused by a few things, a distant father, an
8 overbearing mother, peer wounds from childhood if you
9 didn't feel like you fit in or, like in my case,
10 because it was one of the first things I told him, that
11 I was abused, you know, he said that definitely -- he
12 -- he confirmed what I thought I knew, which was that I
13 was gay because of what happened to me as a child.

14 Q What if anything did Arthur Goldberg tell
15 you during that conversation about the possibility of
16 changing your sexual orientation from gay to straight?

17 A He said that change is possible for anyone.

18 Q Did he mention any time frame?

19 A I think he said a couple of years.

20 Q What if anything during that conversation did
21 Arthur Goldberg tell you about JONAH's services?

22 A He told me that JONAH offers individual counseling
23 and group counseling and -- and a Listserv and that
24 they sometimes have shabbatons.

25 Q So what if anything did Arthur Goldberg tell

1 you about the Listserv?

2 A He -- well, he highly recommended it and said that
3 it's something that I should look into, and he gave me
4 an email address of someone to contact to join. He --
5 he basically said that it was a -- a support group, an
6 online support group via email.

7 Q What did Arthur Goldberg say was the basis of
8 JONAH's program?

9 A He said that it was based on science.

10 Q What did he explain during that conversation
11 were the religious aspects of the JONAH program?

12 A There were no religious aspects of the JONAH
13 program.

14 Q What religious studies were part of the JONAH
15 program?

16 A There weren't any religious studies as part of the
17 program.

18 Q Did you study the Torah as part of the JONAH
19 program?

20 A No. Never.

21 Q Did you study the Talmud as part of the JONAH
22 program?

23 A No.

24 Q Did you study the Bible as part of the JONAH
25 program?

1 A No.

2 Q Was prayer ever a part of the JONAH program
3 that you participated in?

4 A No.

5 Q After that first conversation with Arthur
6 Goldberg, what if any impressions did you have about
7 him and his qualifications?

8 A He just seemed like a -- like a guy who knew what
9 he was talking about. He seemed like an expert to me,
10 and he -- he really knew -- he knew where I was coming
11 from, and that was very comforting to me.

12 Q What if anything did Arthur Goldberg tell you
13 during that conversation about how many people JONAH
14 had changed from gay to straight?

15 A He said that JONAH has helped thousands of men
16 overcome same sex attraction.

17 Q And what did you understand him to mean when
18 he said overcome same sex attraction?

19 A That they were no longer gay.

20 Q Now when you say that they were no longer
21 gay, what did you understand that to mean?

22 A That they were straight.

23 Q What if anything during that conversation did
24 Arthur Goldberg tell you about JONAH's group counseling
25 sessions?

1 A He just recommended it to me.
2 Q After this meeting with Arthur Goldberg, how
3 did you feel?
4 A At that point I -- I really -- that was when the,
5 I guess it was one of the highs started kicking in. I
6 was very -- I was really relieved. Even though I knew
7 I had a long journey ahead of me, someone finally told
8 me that this -- this problem that I'd been worrying
9 about for so long would finally be -- I would deal with
10 it and it would go away, and I would be able to live
11 that life that was kind of molded out from me. That I
12 wouldn't have to be different than my brothers and my
13 friends who were getting married and doing that.
14 Q Was there anyone else that you spoke with
15 other than Arthur Goldberg at that first meeting?
16 A Yeah. He -- he got Jonathan Hoffman on the phone.
17 He told me he wanted him to be a mentor to me.
18 Q Who's Jonathan Hoffman?
19 A In what context are you asking that?
20 Q Was -- I mean, how was -- well, let me ask
21 you this. Did Arthur Goldberg tell you why he wanted
22 you to talk to Jonathan Hoffman?
23 A Yes. He said that Jonathan was also newer --
24 new-ish to the program and that we could be friends and
25 talk about it and learn about it together.

1 Q Chaim, what made you want to purchase JONAH's
2 services and enter their program?
3 A Whatever they told me made me want to purchase it.
4 Q And when you say they, who's they?
5 A Arthur Goldberg and even Elaine's email at first.
6 Q How soon after that conversation with Arthur
7 Goldberg did you apply the application to the Journey
8 Into Manhood weekend?
9 A Very soon after.
10 Q Prior to your meeting with Arthur Goldberg
11 what if anything had you read about conversion therapy?
12 A Nothing.
13 Q What if anything had you read about gender
14 affirming processes?
15 A Never heard of it.
16 Q I want to ask you some questions about the
17 Journey Into Manhood weekend that you attended first.
18 First, did you attend the Journey Into Manhood weekend?
19 A Yes, I did.
20 Q And what if anything did Arthur Goldberg tell
21 you about the Journey Into Manhood weekend?
22 A He didn't speak in detail at all. He just -- he
23 said that it was very important that I sign up, that it
24 would be a good jump start to the program.
25 Q Did he tell you anything about what would go

1 on on the weekend?
2 A No.
3 Q Did he tell you why he wasn't telling you
4 what would go on in the weekend?
5 A They claim that if -- if people knew what was
6 happening then it wouldn't be as effective.
7 Q What did Arthur Goldberg tell you was the
8 purpose of the Journey Into Manhood weekend?
9 A To go from gay to straight.
10 Q Why did you decide to attend the Journey Into
11 Manhood weekend?
12 A Because I really didn't want to be gay.
13 Q Other than what Arthur Goldberg told you
14 about Journey Into Manhood weekend, what did you know
15 about it before you attended it?
16 A Nothing.
17 MR. MC COY: Your Honor, I'd like permission
18 to show Joint Exhibit 18.
19 THE COURT: Okay.
20 Q Chaim, do you recognize this document?
21 A Yes.
22 Q What is it?
23 A It's the consent form that I signed to attend the
24 weekend.
25 Q At the top you see it says Journey Into

1 Manhood?
2 A Yes.
3 Q That would be the weekend that you attended?
4 A Yes.
5 Q And what dates did you attend this weekend?
6 A June 1st through June 3rd of 2007.
7 Q Okay. And in this questionnaire, the first
8 line it says name. And that's you, right?
9 A Yes.
10 Q How old were you when you filled out this
11 form?
12 A I -- I filled it out twice. I did it once when I
13 was 17 and then when I got to the weekend I filled it
14 out again, and then at that point I was already 18.
15 Q Okay. So again, Chaim, you said your
16 birthday was May --
17 A May 13th.
18 Q May 13th. So when did you first receive
19 these forms to go on the weekend?
20 A Before my birthday.
21 Q Okay. And then the weekend was June 1st
22 through 3rd. How long were -- how long had you been 18
23 when you attended the weekend?
24 A Just two weeks.
25 Q If you turn to Page 5 of the document,

1 Question 28 asks how did you find out about the Journey
2 Into Manhood weekend? Do you see that question?
3 A Yes.
4 Q And could you read your answer to the jury,
5 please?
6 A "JONAH, Arthur Goldberg."
7 Q And is that how you found out about the
8 Journey Into Manhood weekend?
9 A Yes.
10 Q Question 29, the next question asks, "Why
11 have you chosen to attend the weekend at this time?"
12 Do you see that?
13 A Yes.
14 Q Could you please read your answer for the
15 jury?
16 A "Because I feel that it is the right thing to do
17 to start my journey into a happy, healthy life."
18 Q What did you mean when you wrote, "My journey
19 to a happy, healthy life"?
20 A To a -- a happy, healthy life as a heterosexual
21 person.
22 Q Moving down to Question 32, it asks, "What do
23 you most want to get out of the weekend?" You see
24 that?
25 A Yes.

1 Q Could you please read your response to that
2 question for the jury?
3 A "To understand where all these desires come from
4 and to fix those problems."
5 Q What were you referring to when you wrote,
6 "all these desires"?
7 A Same sex desires.
8 Q And what problems did you think the weekend
9 would fix?
10 A Those problems. Those desires, gay desires.
11 Q Why did you use the term fix?
12 A That was what my understanding of the program was,
13 that it was meant to fix me.
14 Q And what was that understanding based upon?
15 A Based on what Arthur Goldberg had told me.
16 Q Further down on the next page in Question 39,
17 it asks how you currently feel about your progress and
18 prospects of change. Do you see that?
19 A Yes.
20 Q First of all, I'd like to ask you what change
21 did you think this question was asking about.
22 A Change from gay to straight.
23 Q And you answered, "I feel that this weekend
24 and with JONAH and with therapy that I am on the right
25 track." You see that?

1 A Yes.
2 Q Did I read that correctly?
3 A Yes.
4 Q And at this point why did you feel you were
5 on the right track?
6 A Well, I mean, Arthur Goldberg couldn't be more
7 adamant that going on this weekend was getting on the
8 right track, and so going to this weekend really, you
9 know, made me feel like I was on the right track.
10 Q And the right track to what?
11 A To changing from gay to straight.
12 Q How soon after meeting with Arthur Goldberg
13 did you fill these forms out?
14 A Relatively soon. I don't know of the exact time.
15 Q What were your expectations for the Journey
16 Into Manhood weekend prior to attending it?
17 A I mean, I didn't -- I didn't know much, but I knew
18 that it would be a significant step to starting the
19 process of changing.
20 Q Where was the Journey Into Manhood weekend
21 that you attended held?
22 A In Pennsylvania.
23 Q How much did it cost to attend the Journey
24 Into Manhood weekend?
25 A Around \$650.

1 Q Who paid for you to attend this Journey Into
2 Manhood weekend?
3 A I believe my parents paid for that one.
4 Q Prior to attending the Journey Into Manhood
5 weekend, what did you know about the causes of
6 homosexuality?
7 A Only what Arthur Goldberg had told me and what I
8 suspected for my own.
9 Q Okay. Now I'd like to ask you about two
10 things that happened to you during your Journey Into
11 Manhood weekend. Chaim, you were -- you remember Benji
12 Unger testifying, and I think others, about healthy
13 touch, right?
14 A Yes.
15 Q Was healthy touch a part of your Journey Into
16 Manhood weekend?
17 A Yes.
18 Q What role if any -- first of all, I forgot to
19 ask you. Were there any of the defendants in this case
20 that were in attendance at your Journey Into Manhood
21 weekend?
22 A Yes.
23 Q And who were they?
24 A Alan Downing and Arthur Goldberg.
25 Q And why were they attending the Journey Into

1 Manhood weekend?
2 A They were staff members.
3 Q Okay. What role, if any, did Alan Downing
4 play in the healthy touch exercise at your Journey Into
5 Manhood weekend?
6 A We were split up into smaller groups on Friday
7 night, and everyone in each small group was to supposed
8 to have a chance to experience healthy touch, holding.
9 But when it came my turn -- and -- and it happened to
10 be that my small group was Alan Downing's group.
11 Q So how many people were in your small group?
12 A Four or five.
13 Q And did everyone participate -- well, did
14 everyone -- was the idea that everyone would do the
15 healthy touch exercise?
16 A Yes.
17 Q And where in the order of people did you
18 fall?
19 A I think I ended up being last.
20 Q So did you see other people engage in healthy
21 touch before?
22 A Yes.
23 Q Okay. And did you ultimately engage in the
24 healthy touch exercise?
25 A I went to the side with Alan and I expressed

1 discomfort with the idea of what I was seeing. And he
2 said that it's his job to challenge me, so he asked if
3 I'd be comfortable if he just put his arm around my
4 shoulder.
5 Q And is that something that you did?
6 A Yes, I agreed to that.
7 Q How did the other participants before you
8 participate in the healthy touch exercise?
9 A They were being held in, like, a -- a fetal
10 position, like a -- like a baby.
11 Q What was explained to be the purpose of the
12 healthy touch exercise?
13 A To heal childhood wounds, golden boy energy,
14 something like that.
15 Q How did the healthy touch exercise make you
16 feel?
17 A It just didn't seem like -- I know for me it
18 didn't feel right.
19 Q Why did you agree to participate?
20 A I was willing to be a little bit uncomfortable if
21 that's what it meant to change from gay to straight. I
22 was pretty adamant about that.
23 Q What did Alan Downing say to you that caused
24 you to participate with the healthy touch exercise?
25 A Well, he said that it's part of the work, that's

1 part of the process. And -- and that, you know, it was
2 his -- he had to challenge me because that's what they
3 do on this weekend.

4 Q Okay.

5 A So I agreed.

6 Q What effect did the healthy touch have on
7 your sexual attraction towards men?

8 A None.

9 Q What effect did the healthy touch have on
10 your sexual attractions towards women?

11 A None.

12 Q How old were you at the time that you engaged
13 in this healthy touch exercise?

14 A Eighteen.

15 Q How long had you been 18?

16 A Two weeks.

17 Q Chaim, now I'd like to ask you some questions
18 about something else that happened on your Journey Into
19 Manhood weekend. Did you participate in guts work or
20 psychodrama during your first Journey Into Manhood
21 weekend?

22 A Yes.

23 Q What guts work or psychodrama did you do?

24 A They reenacted a scene from my childhood abuse
25 where basically they told me to pick someone to

1 represent my -- my cousin, my abuser, and someone to
2 represent the child version of me. And they instructed
3 me to give those people lines. What -- what were you
4 saying, what was he saying, and it was mostly the
5 person representing my cousin who was speaking and he
6 started just saying over and over again, "If you don't
7 give me a blow job, I'm not going to love you anymore."
8 And it just kind of was being repeated more and more
9 until people on the sidelines started kind of chiming
10 in. They're like, what are you going to do about it?
11 Are you going to stop this? Are you going to let this
12 abuse continue for the rest of your life? Are you
13 going to tell him how you feel?

14 Q And where was Alan Downing while this was
15 going on?

16 A He was there.

17 Q What was he doing?

18 A He was part of the group cheering me on until he
19 -- until he told me, "Where was your father?" Which
20 basically started, you know, created this idea where --
21 as we continued to explore, then he said was your
22 father there to protect you from your cousin? Did he
23 -- did he stop it? Now, you know, I've had issues with
24 how my parents handled my disclosure of the abuse, but
25 I never ever blamed them for what had happened. They

1 had no way of knowing what was going on, but that --
2 until this day I don't understand how that was, like,
3 connected to my father.

4 The only thing I could think of was the whole
5 distant father thing, but, again, my father had no hand
6 in continuing that abuse. He had no way of knowing.

7 Q Who suggested to you that this childhood
8 trauma was connected with your sexual attraction to
9 men?

10 A It started with my rabbis, and it continued to
11 Arthur Goldberg and Elaine Berk and Alan Downing.

12 Q During the weekend, who suggested to you that
13 the childhood trauma was connected to your sexual
14 attraction to men?

15 A It came up a few times by Alan's other staff
16 members. I don't remember their names.

17 Q How was it explained that the process of
18 reenacting your childhood sexual abuse would change
19 your sexual orientation from gay to straight?

20 A Something about getting in touch with my real
21 emotions.

22 Q How did reenacting your childhood sexual
23 abuse make you feel?

24 A Not good.

25 Q What -- what if any effect did reenacting

1 your childhood sexual abuse have on your sexual
2 attraction to men?

3 A It had no effect.

4 Q What -- oh, I'm sorry. I think I just asked
5 that question. What reservations did you have about
6 participating in the reenactment of your childhood
7 sexual abuse?

8 A I -- I didn't -- I didn't want to relive it, even
9 if it was not in the literal sense, but, once again, I
10 was -- I was told that this is part of the work that
11 you have to do, and I -- and I -- in the back of my
12 head I always remembered what Arthur Goldberg said,
13 that the people who don't change don't change because
14 they didn't do the work. And I didn't want to fall
15 under that category. But at the same time, reliving or
16 that being reenacted right in front of me couldn't have
17 been a -- didn't seem like a smart idea at the time.
18 And it definitely doesn't seem like that today.

19 Q How many people were in the group that did
20 those kind of guts work that you were involved in?

21 A Like 10 people.

22 Q And were there other people that had done
23 guts work before you?

24 A Yes.

25 Q Did you see anyone else sit out of any of the

1 activities?
2 A No.
3 Q What if any pressure did you feel from your
4 peers and staff to participate in reenacting your
5 childhood sexual abuse?
6 A First the -- the implication of not doing the work
7 that you won't change, and that's what everyone else
8 was doing, and why wouldn't I do it either?
9 Q What effect if any did the Journey Into
10 Manhood weekend generally have on your sexual
11 attractions to men?
12 A It had no effect.
13 Q What effect if any, in general, did the
14 Journey Into Manhood weekend have on your sexual
15 attraction to women?
16 A It didn't have any effect.
17 Q During the Journey Into Manhood weekend, did
18 Alan Downing say anything to you about what causes
19 homosexuality?
20 A I -- I don't recall specifically.
21 MR. MC COY: Your Honor?
22 THE COURT: Yes.
23 MR. MC COY: This might be a logical breaking
24 point for lunch.
25 THE COURT: Yes, I was just going to say. We

1 --
2 MR. MC COY: I -- I finished a subject. So I
3 just --
4 THE COURT: Okay. Yes.
5 MR. MC COY: -- thought I would offer.
6 THE COURT: It's perfect timing.
7 MR. MC COY: Okay.
8 THE COURT: It's -- we'll take our lunch
9 break now, ladies and gentlemen. You can leave your
10 pads on the -- on the chairs. And we will resume at
11 1:30, and I'll ask you to be prompt, and I'll try to do
12 the same thing this time.
13 Thank you very much. Enjoy your lunch. We
14 have so many wonderful establishments here to eat.
15 (Jury not present in the courtroom)
16 THE COURT: Okay. You -- you may step down,
17 Mr. Levin.
18 (Witness excused)
19 THE COURT: All right. So we will resume at
20 1:30.
21 Just a note of caution. Since the jurors are
22 going to be using the employee/attorney only entrance
23 in the back, I would just ask the attorneys if you're
24 coming back at the same time, you should allow the
25 jurors to proceed through security and get on the

1 elevator first so there's no -- no issues of any --
2 because you may be having an innocent discussion and
3 not realize it. That's one of the -- that's why we
4 normally don't let the jurors do that, but I just think
5 in this case it'll get them up here quicker,
6 particularly on Monday and Tuesday. So just be mindful
7 if you see one, just ask you to stay back a little bit.
8 All right?

9 I'll see you at 1:30. Thank you.

10 (Luncheon recess)

11 (Jury present in the courtroom)

12 THE COURT: All right. All of our eight
13 jurors are present and accounted for. We will continue
14 with the trial in Ferguson v. JONAH. As you recall,
15 when we took our break Mr. Levin was on the stand, so
16 we're going to resume Mr. Levin's direct examination.

17 And you're still under oath, Mr. Levin. And,
18 again, thank you for your promptness.

19 Counsel?

20 MR. MC COY: Thank you, Your Honor.

21 MR. C H A I M L E V I N, PLAINTIFFS' WITNESS,
22 PREVIOUSLY SWORN.

23 DIRECT EXAMINATION BY MR. MC COY:

24 Q Good afternoon, Mr. Levin. Before when we
25 left off, we were finishing up talking about your

1 experience at the Journey Into Manhood weekend?

2 A Right.

3 Q And I don't know if I asked you, and I wanted
4 to just finish up with this subject by asking you what
5 religious practices were part of the processes at the
6 Journey Into Manhood weekend?

7 A There were no religious practices on that weekend.

8 Q Chaim, now I'd like to ask you some questions
9 about how you felt after the Journey Into Manhood
10 weekend. Did you stay in contact with the people that
11 were on the Journey Into Manhood weekend with you?

12 A With some of them.

13 Q Okay. And -- and was that something that you
14 were encouraged to do?

15 A Yes.

16 Q And how did you stay in touch with the people
17 from the weekend?

18 A By phone, by email. There was a -- a conference
19 call, a weekly conference call for people who were on
20 the weekend. Then there was a group at JONAH after
21 that.

22 Q Was it an email group?

23 A There was a -- there was an actual physical group
24 for people who went on the JIM weekend.

25 Q Was there also an email group?

1 A Yes. Yes. There was a -- an email Listserv for
2 people who were on that weekend.
3 Q And did you send emails to this Yahoo group?
4 A Yes.
5 Q And did you participate in the conference
6 calls?
7 A I think the first one.
8 Q After the Journey Into Manhood weekend, what
9 did you think was the cause of your sexual attraction
10 to men?
11 A Seeing the -- like I said before, like my
12 relationship with my parents. I was -- wasn't sure if
13 maybe -- maybe I had a masculinity problem and
14 obviously the sexual abuse.
15 Q And did you learn those things on the Journey
16 Into Manhood weekend?
17 A Some -- the masculinity stuff and the not fitting
18 in part definitely. There was stuff before.
19 Q After the Journey Into Manhood weekend was
20 over, how did you feel?
21 A I think the -- the word intense is good way to
22 start describing it. I was very -- at first I was
23 feeling very good, very, like on a high, and then --
24 and then I crashed. I was very -- I remember coming
25 home and I just -- I -- I started crying. I couldn't

1 stop crying. Like, I was -- I felt lost. It was just
2 kind of a lot of ups and downs after that.
3 Q How long did that feeling last?
4 A It went on for a few weeks.
5 Q How soon after your Journey Into Manhood
6 weekend did you start purchasing and attending JONAH's
7 group sessions?
8 A Within -- within a week or two.
9 Q And how soon after that Journey Into Manhood
10 weekend did you start purchasing and attending
11 individual counseling sessions with Alan Downing?
12 A Four days later.
13 MR. MC COY: Your Honor, permission to show
14 Defense-87.
15 MR. LI MANDRI: No objection, Your Honor.
16 THE COURT: Okay.
17 MR. MC COY: Thank you. Can we put that up,
18 please?
19 Q Chaim, is this an email that you sent to the
20 JONAH Listserv?
21 A Yes.
22 Q And did you send it on August 5th, 2007?
23 A Yes.
24 Q In the third line, there's a sentence that
25 says, "I'm on the way back from the one-day guts

1 workshop" -- well, I'm sorry, not guts -- "one-day
2 workshop at JONAH." Do you see that?

3 A Yes.

4 Q To what one-day workshop were you referring
5 to here?

6 A JONAH was having a one-day guts workshop at their
7 offices in Jersey City.

8 Q What's a guts workshop?

9 A It was basically a chance to do more psychodrama
10 like the one described on the weekend.

11 Q And who led that workshop?

12 A I believe it was Alan Downing and Arthur Goldberg.

13 Q And how much did you pay to participate in
14 that JONAH guts workshop?

15 A Two-hundred-and-fifty dollars.

16 Q What do you remember about that guts day?

17 A It -- it started becoming painfully clear that I
18 really didn't respond well to the -- the screams of
19 people, the -- the violence that was taking place, and
20 I actually expressed that to Alan Downing. And he --
21 he tried, like, protecting me from it by standing in
22 front of me when things would get crazy.

23 And then there was someone who was trying to
24 describe a very painful childhood memory. He couldn't
25 even talk. He just kept breaking down in tears. And

1 they -- I think it was decided that they would do
2 something called a rebirthing exercise. And they --
3 they let us know that there would be nudity in that
4 exercise. So I -- I stepped out of the room. And by
5 the -- once it was over, I -- I was told that it was
6 over, and I came back into my room, and everyone was
7 getting dressed. I recall Arthur Goldberg putting his
8 pants back on.

9 Q What part of the guts day was religious?

10 A There -- there was none.

11 Q Is the guts day workshop that you just
12 described different than the weekly JONAH group
13 sessions?

14 A Yes.

15 Q Further in this email you write, "I'm
16 checking in with joy and gratitude and fullness. I'm
17 very grateful to Arthur and Elaine for everything that
18 they have been doing thus far and I'm grateful to all
19 of you men for all the constant support that you offer.
20 It means a great deal to me." And then a little
21 further down it describes Journey Into Manhood, and you
22 say that this is the most incredible experience of my
23 life.

24 What were you feeling when you wrote that?

25 A I was -- I was elated. I had a lot of energy. I

1 was still somewhat on a high from the weekend, and
2 there was nothing more important than getting people to
3 go on the JIM weekend.

4 Q Were there other emails like this that you
5 sent to the JONAH Listserv while you were in the JONAH
6 program?

7 A Yes. Absolutely.

8 Q Chaim, I'd like to --

9 MR. MC COY: Well, Your Honor, permission to
10 show Joint Exhibit 16.

11 THE COURT: Joint exhibit? Yes.

12 Q So, Chaim, this is a -- there's two emails,
13 and you'll see that the email at the bottom, is that an
14 email that you sent to someone named James Parker?

15 A Yes.

16 Q Who's James Parker?

17 A He was a staff member on the -- the first Journey
18 Into Manhood weekend that I was on.

19 Q And what was the date that you sent this to
20 him?

21 A September 16th, 2007.

22 Q All right. And the third line, it starts,
23 "I'm doing okay. I started dating my ex-girlfriend
24 three weeks back. Thank God I'm very happy and she
25 makes me very happy. She knows about my SSA and is

1 very interested in the whole thing. She's reading up
2 on it and is keeping herself busy with it." Did I read
3 that correctly?

4 A Yes.

5 Q At the time that you wrote that, what did you
6 mean when you said you had starting -- started dating
7 her again?

8 A Her and I, we were sort of on and off for a few
9 years. And I guess in my mind dating her meant, like,
10 I had started talking to her again.

11 Q And how would you describe your attraction to
12 her at that time?

13 A Didn't have any.

14 Q Did you have any sexual attraction to her?

15 A No.

16 Q The email then goes on, and it says, "My SSA
17 is crazy these days. I can't get this crap out of my
18 head. I feel like I'm drowning under all of it. I'm
19 really considering doing JIM again. I think it will be
20 very helpful. I have all of the resources in the
21 world, but I'm just kind of not interested in" -- "in
22 all of it. I feel like I want to hide in my little
23 closet of darkness and fantasize all day. I can't take
24 it anymore." What were you writing -- why were you
25 writing that?

1 A I was writing it for -- for support from Mr.
2 Parker.
3 Q Despite feeling that way, what parts of the
4 JONAH program were you participating in at that time?
5 A I was seeing Alan Downing, I was part of the
6 Listserv, and I -- and there was a new group starting
7 around that time --
8 Q And had you --
9 A -- that I was participating in.
10 Q And had you been to the JIM weekend?
11 A Yes.
12 Q What was your feeling about the JONAH program
13 at the time?
14 A I was feeling good about it. I was optimistic.
15 MR. MC COY: You can put that away. Thank
16 you.
17 Q Chaim, now I want to ask you some questions
18 about your individual sessions with Alan Downing. You
19 testified earlier that you first met Alan Downing when
20 he staffed your Journey Into Manhood weekend in June
21 2007? During the Journey Into Manhood weekend, what
22 did Alan Downing say to you about individual counseling
23 sessions with him?
24 A He recommended that I consider seeing him for
25 individual counseling.

1 Q What did he say would be the purpose of
2 counseling sessions with him?
3 A To change from gay to straight.
4 And when did you begin individual sessions
5 with Alan?
6 A Four days after my first JIM weekend.
7 Q And what made you decide to purchase
8 individual sessions from Alan Downing?
9 A On the weekend he seemed very knowledgeable. It
10 seemed like he tried to pay attention to the sensitive
11 parts of -- that I was dealing with. And he also came
12 highly recommended by Arthur Goldberg.
13 Q What did Arthur Goldberg tell you about Alan
14 Downing?
15 A He said that he's a great -- he's a great guy, and
16 he's -- works with a lot of our guys, and he comes
17 highly recommended.
18 Q Did Arthur Goldberg tell you anything about
19 his credentials?
20 A I don't remember.
21 MR. MC COY: I'd like, Your -- Your Honor to
22 show Joint-15 if I could, please.
23 THE COURT: Go ahead.
24 Q Chaim, do you recognize this document?
25 A Yes.

1 Q What is it?
2 A It's a life coaching client service agreement that
3 I signed for Alan Downing.
4 Q And when did you sign this agreement?
5 A On June 8th, 2007.
6 Q And is that the day that you started your
7 individual counseling with him?
8 A Yes.
9 Q How old were you when you signed this
10 document?
11 A Eighteen.
12 Q And how long had you been 18 when you signed
13 it?
14 A Three weeks.
15 Q What did you understand the purpose of this
16 document to be?
17 A A standard agreement that -- that people sign when
18 they purchase services from someone.
19 Q What does this document disclose about what
20 would happen during the individual sessions with Alan
21 Downing?
22 A Nothing of substance.
23 Q What was your goal in purchasing individual
24 counseling sessions from Alan Downing?
25 A To go from gay to straight.

1 Q How much did you pay for individual
2 counseling sessions?
3 A A hundred dollars a session.
4 Q And were there some of those sessions that
5 you paid for yourself?
6 A Yes.
7 Q How many roughly?
8 A Two or three.
9 Q And how did you pay for those?
10 A Usually cash. I think there were a couple of
11 checks.
12 Q How many individual sessions -- actually,
13 real quick. On this document flip to the last page,
14 please. Chaim, at the bottom of this document there's
15 some handwriting. Do you recognize whose handwriting
16 that is?
17 A That's my handwriting.
18 Q And whose signature is that?
19 A That's my signature.
20 Q And would you read that for us, please?
21 A "I give Alan Downing permission to share
22 information about my therapy with Arthur Goldberg of
23 JONAH."
24 Q Why does that language appear at the back of
25 this form?

1 A Arthur Goldberg recommended that I do that.
2 Q Was it explained to you why he recommended
3 you do that?
4 A So that he could talk to Alan about my progress.
5 Q Do you know if that's something that
6 happened?
7 A I would assume that it did, but I don't know for
8 sure.
9 Q Who paid for the other sessions with Alan
10 Downing that you didn't pay for?
11 A My parents.
12 Q How much did you and your mother pay total
13 for the individual sessions with Alan Downing?
14 A I think somewhere between two and \$3,000.
15 Q Where were the individual sessions with Alan
16 Downing held?
17 A At JONAH's offices in Jersey City.
18 Q How long did a usual session with Alan
19 Downing last?
20 A About an hour.
21 Q And what did those sessions usually consist
22 of?
23 A Different -- different things we talked about. We
24 -- one time we talked about quitting smoking
25 cigarettes. It -- it varied.

1 Q For how long did you see Alan Downing for
2 individual sessions?
3 A About a year-and-a-half.
4 Q And how often did you have individual
5 sessions with Alan Downing?
6 A I tried to do it every week, but it ended up being
7 once every other week or something like that.
8 Q Were you told how many individual sessions
9 you were expected to attend?
10 A Not that I recall.
11 Q Chaim, I want to ask you some questions about
12 one particular session with Alan Downing, but first I
13 want to ask you about the JONAH group sessions quickly.
14 MR. MC COY: Permission to show Plaintiffs'-
15 405.
16 MR. JONNA: No objection.
17 Q Chaim, take a look at this document, and tell
18 me what you recognize it to be.
19 A It looks like it's the -- my participation
20 agreement for the group.
21 Q All right. And on the second page, did you
22 sign this agreement?
23 A Yes.
24 Q All right. And what does it say is the cost
25 of JONAH's group sessions?

- 1 A It says \$60 per session.
2 Q And how does it say that you may pay for
3 JONAH's group sessions?
4 A Payments may be made by either cash, check made
5 payable to the JONAH Institute or by donation on the
6 JONAH website.
7 Q And did you -- did you pay for any of the
8 JONAH group sessions that you attended?
9 A Yes.
10 Q How many?
11 A Two or three.
12 Q And how much did you pay for them?
13 A Sixty-dollars each.
14 Q Who gave you this document?
15 A Alan Downing.
16 Q And what was Alan Downing's role in the group
17 sessions?
18 A He was running them.
19 Q Where did those group sessions take place?
20 A In JONAH's offices.
21 Q And this form on the front page, what -- who
22 is it from?
23 MR. MC COY: Can we go to the first page?
24 A The JONAH Institute for Gender Affirmation.
25 Q The date of this document is October 8th.

- 1 When did you first purchase JONAH group counseling
2 sessions?
3 A At some point in June.
4 Q All right. Do you know why this document was
5 given to you to sign in October?
6 A This was for a new group. I think it was called
7 the Young Men's Group. The other group is for JIM
8 grads , people who were on JIM. I mean, there -- it
9 wasn't restricted to a certain age.
10 Q And what was the difference between that
11 first set of JONAH group sessions and this set of JONAH
12 group sessions?
13 A There wasn't much of a difference, besides for the
14 age of the participants I guess.
15 Q They did the same kind of work.
16 A Yeah.
17 Q About how many JONAH group sessions did you
18 attend in total when you were in the program?
19 A Twenty, 30.
20 Q And, again, how many did you pay for
21 yourself?
22 A Two or three.
23 Q And how many did your mother pay for?
24 A The rest.
25 MR. MC COY: Your Honor, permission to show

1 Plaintiffs'-142.
2 MR. LI MANDRI: No objection.
3 THE COURT: Okay.
4 Q Chaim, take a look at this document for me,
5 and could you tell me what it is?
6 A It's a check.
7 Q And who is the check from?
8 A From my bank account.
9 Q And who is the check written to?
10 A JONAH.
11 Q For how much?
12 A Sixty-dollars.
13 Q Okay. When was this check written?
14 A July 4th, 2008.
15 Q And I assume that's your signature?
16 A Yes.
17 Q Why did you write this check to JONAH for
18 \$60?
19 A It was for a group session.
20 MR. MC COY: Thank you. You can put that
21 away.
22 Q How often were the JONAH group sessions held?
23 A Usually weekly.
24 Q What -- for what period of time did you
25 attend in JONAH group sessions?

1 A During the year-and-a-half that I was part of
2 JONAH.
3 Q Did you attend those sessions at the same
4 time that you were attending individual sessions with
5 Alan Downing?
6 A Yes.
7 Q How did you become aware of the JONAH group
8 sessions?
9 A Through Arthur Goldberg.
10 Q And why did you participate in the JONAH
11 group sessions?
12 A I was told that that was part of the work that I
13 needed to do in order to change.
14 Q Were you told how many group sessions that
15 you were expected to attend?
16 A I don't think so.
17 Q What effect did participating in the JONAH
18 group sessions have on your sexual attractions to men?
19 A None.
20 Q What effect did participating in the JONAH
21 group sessions have on your attractions to women?
22 A None.
23 Q Chaim. Thank you. I -- I want to move onto
24 another subject now, and I just want to ask you a few
25 questions about your participation in the Listserv.

1 Were you a member of the Listserv?
2 A Yes.
3 Q When did you become a member of the Listserv?
4 A Right around the time I went on my first JIM
5 weekend.
6 Q To what extent did you participate in the
7 JONAH Listserv?
8 A Occasionally I wrote an email or two or responded
9 to something, but I was usually more of a listener and
10 read the emails.
11 Q And as a member of the Listserv, how are you
12 able to access the Listserv emails?
13 A There were two ways. One was that it came
14 directly in our inbox, and also if we went to the host
15 website, which was shamash.org, we could log in and
16 look back or look through at -- from any time period.
17 Q Did you ever go back and look at emails to
18 the Listserv that predated the time that you started
19 JONAH's program?
20 A Yes.
21 Q How often did you do that?
22 A A few times.
23 Q And how long were you a member of the JONAH
24 Listserv?
25 A A few years.

1 Q Why did you participate in the JONAH
2 Listserv?
3 A That was another part of the program.
4 Q What was Elaine Berk's role with respect to
5 the Listserv?
6 A She was kind of -- she was keeping people engaged.
7 She was constantly posting articles or stuff. I
8 remember one time she posted an article about Hillel,
9 which is a campus organization that was expanding to --
10 to have -- have save space for LGBT people, Jewish LGBT
11 people, and she emailed us kind of in a rage, you know,
12 how this is unacceptable and asking us to contact
13 Hillel to tell them not to do this program.
14 Q What other types of things did Elaine Berk
15 post on the Listserv?
16 A Different articles, statistics.
17 Q What did Elaine Berk post about homosexuality
18 on the Listserv?
19 A Not -- not positive stuff.
20 Q Were there any discussions on the Listserv
21 about JONAH's services?
22 A All the time. That -- that's actually how I found
23 out about the guts day workshop.
24 Q You found out about it by reading about it on
25 the Listserv. Is that --

1 A (No verbal response)
2 Q Was Journey Into Manhood ever discussed on
3 the JONAH Listserv?
4 A Absolutely.
5 Q Chaim, I want to ask you a few questions now
6 about your participation in something that we heard
7 about in your mother's testimony called the New
8 Warriors Weekend that you attended. When did you
9 attend the New Warriors Weekend?
10 A Some point at the end of 2007, early 2008.
11 Q How did you learn about the New Warriors
12 Weekend?
13 A Through Alan Downing.
14 Q What did Alan Downing tell you about the New
15 Warriors Weekend?
16 A He said it would be a very good step for me to
17 take as part of the program.
18 Q Did Alan explain to you how he was familiar
19 with the New Warriors Weekend?
20 A He said that he was going to be staffing that
21 weekend that he recommended that I go to.
22 Q What made you decide to attend the New
23 Warriors Weekend?
24 A It was part of what I needed to do in order to
25 become straight.

1 Q And who told you that?
2 A Alan Downing.
3 Q Prior to attending a New Warriors Weekend,
4 did Alan Downing explain the techniques used during the
5 New Warriors Weekend?
6 A No.
7 Q How old were you when you attended the New
8 Warriors Weekend?
9 A Eighteen.
10 Q Did any of the activities during the New
11 Warriors Weekend involve nudity?
12 A Yes.
13 Q How many?
14 A Three.
15 Q Chaim, could you please describe the first
16 exercise that you participated in in the New Warriors
17 Weekend that involved nudity?
18 A It was Saturday night, and we were in a room.
19 Someone came into the room and started handing out
20 garbage bags and said that this next process is going
21 to be done without clothes on. So we took our clothes
22 off, and then they blindfolded us. And we were
23 instructed to link arms and we walked through the woods
24 into another room. Once we got into the room, we were
25 able to take our blindfolds off, and there were a bunch

1 of people standing around. It was like a -- there were
2 some -- there were candles on the table, and it was --
3 I think they called it an initiation ceremony. There
4 was people dancing. There was a lot going on.

5 Q And did Alan Downing participate in this
6 exercise as a staff member?

7 A Yes, he did.

8 Q What was he wearing?

9 A He wasn't wearing anything.

10 Q What were you wearing?

11 A Nothing.

12 Q Were any of the participants clothed?

13 A No.

14 Q About how many people were participating?

15 A Thirty? Forty?

16 Q Chaim, what was the -- the next exercise?

17 A The next one was the next morning. There was kind
18 of a -- a theme throughout the weekend. They were
19 telling a story, and at some point it became story
20 time. And we were again instructed to take our clothes
21 off and what was happening was that they were telling
22 us a story. Everyone was just standing in different
23 spots around the room, and it was kind of guided
24 visualizations. So, like, we were supposed to envision
25 that we were part of the story.

1 Q And where was Alan Downing during this part
2 of the exercise?

3 A He was in the room.

4 Q And what was he wearing?

5 A He wasn't wearing anything.

6 Q What were you wearing?

7 A Nothing.

8 Q Were any of the participants clothed?

9 A No.

10 Q What was the third exercise?

11 A The one right after that was -- I don't remember
12 the exact phrase, but it was about talking about sexual
13 problems. So we were split up into three groups. We
14 all sat in a circle on the floor. There was a -- a
15 dildo in the middle of the circle, and it was shaped
16 like a penis, and that was supposed to represent a
17 microphone, so whoever was holding it was -- that was
18 their turn to talk.

19 Q And where was Alan Downing during this
20 exercise?

21 A He was in a group right near me.

22 Q What was he wearing?

23 A He wasn't wearing anything.

24 Q And what were you wearing?

25 A Nothing.

1 Q Were any of the participants clothed?

2 A No.

3 Q Did Alan Downing say anything to the
4 participants as the exercise was breaking up?

5 A Right at the end he -- people were getting ready
6 to get dressed and he said hold on, everyone take a
7 look around. It's okay to look.

8 Q How did the nudity exercise at the New
9 Warriors Weekend make you feel?

10 A Horrible.

11 Q Did you tell anyone that you felt that when
12 you were at the weekend?

13 A No.

14 Q Why not?

15 A It was -- the weekend didn't really have a lot of
16 room for non-participation. I didn't want to be that
17 person. It was part of the program, so I just accepted
18 it after the weekend and just kind of put it out of my
19 mind.

20 Q Did you witness anyone at the weekend sit out
21 of any of the exercises?

22 A No.

23 Q Was it explained to you why nudity was a part
24 of the New Warriors Weekend?

25 A I don't remember.

1 Q What effect did participating in the New
2 Warriors Weekend have on your sexual attraction to men?

3 A It didn't have any effect.

4 Q What effect did participating in New Warriors
5 Weekend have on your sexual attraction to women?

6 A None.

7 Q What were the religious aspects of the New
8 Warriors Weekend?

9 A There weren't -- there weren't any.

10 Q How much did the New Warriors Weekend cost?

11 A Around \$600.

12 Q And who paid for the New Warriors Weekend?

13 A I think me and my parents split it.

14 Q Chaim, now I'd like to ask you quickly about
15 the second JIM weekend you attended. Did you attend
16 the second JIM weekend as well?

17 A Yes.

18 Q When did you do so?

19 A In September or early October of 2008.

20 Q And why did you attend a second Journey Into
21 Manhood weekend?

22 A I recall Arthur Goldberg one time describing
23 someone who went on a couple of JIM weekends and
24 couldn't open up, couldn't get in touch with his
25 emotions, and he needed a few. And at that point I was

1 -- I was still struggling, and I -- and I thought maybe
2 if I went on another one I could get back in the game
3 and get closer to my destination.
4 Q Did you discuss going on the second Journey
5 Into Manhood weekend with any of the defendants?
6 A I think so.
7 Q Who?
8 A Alan Downing. I -- I mean I spoke to Arthur
9 Goldberg very often, so --
10 Q Which if any of the defendants staffed that
11 second weekend?
12 A I don't recall. I'm not sure any of them did.
13 Q Chaim, now I'd like to come back to your
14 individual sessions with Alan Downing and ask you a few
15 questions about that. What if anything was religious
16 about your individual sessions with Alan Downing?
17 A There was no religious aspect to those sessions.
18 Q Did you study the Torah together?
19 A No.
20 Q Did you pray together?
21 A No.
22 Q During your individual session with Alan
23 Downing, what if anything did he tell you about
24 homosexuality?
25 A That it was -- it was part of our journey. That

1 we can cure it.
2 Q When was your last individual session with
3 Alan Downing?
4 A October of 2008.
5 Q When was that in relation to the New Warriors
6 Weekend that you had been on with Alan Downing?
7 A Like eight months later.
8 Q So your individual session was after the New
9 Warriors Weekend. Is that right?
10 A Exactly. Yes.
11 Q Just want to make sure I understood you.
12 Where was this last individual session held?
13 A At JONAH's offices in Jersey City.
14 Q Chaim, what happened during the individual
15 session with Alan?
16 A At that point, time -- I had recently had a sexual
17 encounter with someone, and I was particularly anxious
18 about where I was holding. I felt like I had just done
19 another JIM weekend, and I was pretty frustrated that I
20 was still feeling attracted to men to the same level.
21 And we started talking about, I don't
22 remember exactly what we -- we were talking about,
23 body-image stuff.
24 Q And what exercise did he ask you to engage in
25 because of that conversation?

1 A He had me stand in front of a mirror holding a
2 large staff. He was sitting five feet to my right. It
3 was in the, you know, room where he conducted sessions.
4 Door was locked. And he -- he told me to say a
5 negative message that I felt about myself and my body
6 and to look in the mirror as I said it. Once I started
7 that, he told me to shed a layer of clothing, as I'm,
8 like, shedding that message. I immediately indicated
9 pretty clearly that I wasn't comfortable with that
10 idea, but he challenged me. He said that this is part
11 of the work that you need to do in order to change, so
12 if you don't do it, you're not going to be doing the
13 work. He also said that if you're that uncomfortable
14 with -- with -- with this exercise, there must be a
15 good reason for it. And it's all the more reason for
16 you to proceed.

17 He -- so first I took off my shoes and my socks.
18 I tried to make it benign. But he, you know, we
19 continued. And then it was my shirt, and then my
20 pants. I recall standing there without -- with just my
21 undershirt and my underwear and again telling him that
22 I was uncomfortable. But he was pretty adamant about
23 it, and he didn't physically force me, but whatever he
24 was saying to me was enough. And I continued. I took
25 off my own shirt. And then I took off my underwear. I

1 just stood there for a couple of minutes.

2 He told me to look -- look at my body,
3 appreciate my body. And then he asked me, well,
4 where's your -- where's your masculinity on your body?
5 Why don't you -- you should -- he -- he told me to feel
6 it, physically feel it. So I touched my penis. Then
7 -- and then he instructed me to touch my -- my
8 buttocks, which I did. And there were moments that I,
9 you know, was indicating that I wasn't comfortable, but
10 it was that same thing over and over again, it's a
11 challenge, this is part of the work.

12 And I -- I remember standing there for quite a few
13 minutes without my clothes on, and then the session
14 started coming to end, so there was a positive message
15 that he started -- he told me to create positive
16 messages, the opposite of those other messages. And
17 with each positive message I should reapply a layer of
18 clothing. And I -- I -- I started getting dressed.
19 Ironically, it took much faster to get dressed than it
20 did to get undressed.

21 Q Chaim, how old were you during that session?

22 A Nine -- Nineteen.

23 Q How old was Alan Downing? Alan Downing?

24 A In his forties?

25 Q What was Alan doing while you were standing

1 in front of the mirror naked?
2 A He was just standing to the side, like five feet
3 away. I'm sorry. He was sitting -- sitting on a -- a
4 bar stool.
5 Q And what was he doing?
6 A He was just watching.
7 Q How did you feel after that session?
8 A I don't know if -- I don't know how to describe it
9 but pretty terrible. I -- I told myself that I
10 wouldn't speak about it ever. I thought that maybe if
11 I pretended that never happened maybe -- maybe that
12 would be real for me. I just resolved to never speak
13 about it or acknowledge it.
14 Q After that session, what further involvement
15 did you have with the JONAH program?
16 A I went on -- I went to one more group a few weeks
17 later, and that was about it.
18 Q Okay. And in that group how many
19 participants were present?
20 A Five or 10.
21 Q And where was that group held?
22 A In the same place.
23 Q At JONAH's offices?
24 A Yes.
25 Q When was the first time after that session

1 that you told anyone what had happened to you?
2 A About a year-and-a-half later.
3 Q And what were the circumstances in which that
4 came out?
5 A I had gone with a few friends who were part of the
6 Jewish Queer Youth that they were doing a weekend
7 seminar at University of Pennsylvania. We were
8 discussing growing up in the Orthodox Jewish community
9 and being gay. And we -- me and Erez Harari were
10 preparing to do a smaller workshop about conversion
11 therapy, and it was while we were preparing for it that
12 I -- I -- basically I accidentally blurted it out.
13 Q Between the time that that individual session
14 happened and you told the friends that you just told
15 about -- told us about, did you ever tell your parents
16 what happened to you?
17 A Absolutely not. I didn't want them to know any of
18 that.
19 Q Chaim, after you left the JONAH program, did
20 you do anything to publicize what happened to you
21 during the JONAH program?
22 A Yes.
23 Q What did you do?
24 A I made a YouTube video with Benji Unger. We
25 talked about our experiences. After that we started

1 speaking to the media.

2 Q Why did you do that?

3 A I observed that what was happening at these --
4 these events was that there were these -- these things
5 that were going on that were kept in such heightened
6 secrecy, and I know that had I known what would happen
7 I would have never participated. And I felt that it
8 was important that people know that some of the things
9 that happened and people also realize that they can
10 also hurt certain people.

11 Q Chaim, why did you bring this lawsuit?

12 A I believe that what had happened to me and my co-
13 plaintiffs was very wrong. And I also think that -- I
14 think that the world needs to understand what
15 conversion therapy actually is. And I think that the
16 defendants need to be held accountable for what they're
17 -- what they're doing to people.

18 Q Do you now believe it's possible to change
19 your sexual orientation from gay to straight?

20 A No, I do not.

21 MR. MC COY: That's all I have, Your Honor.

22 THE COURT: Cross-examine?

23 MR. LI MANDRI: Thank you, Your Honor.

24 CROSS-EXAMINATION BY MR. LI MANDRI:

25 Q Good afternoon, Mr. Levin. Sir, I believe I

1 just heard you say that if you knew what was going on
2 on these weekends you never would have gone. Is that
3 correct?

4 A Yes.

5 Q The fact is that you had gone to a JIM
6 weekend and a New Warriors Weekend, so you certainly
7 knew what was going on before you applied not only to
8 attend but serve to staff a second JIM weekend. Isn't
9 that true?

10 A Yes.

11 Q Okay.

12 THE COURT: Could we just --

13 Excuse me one second, Counsel.

14 Is that feedback my speakers or yours?

15 MR. MC COY: Not mine.

16 THE COURT: Am I the only one that hears
17 that? Can you hear it? Okay? Thank you.

18 MR. LI MANDRI: Shall I continue?

19 THE COURT: Yes. It's coming back on.

20 MR. LI MANDRI: Is that a yes?

21 MR. MC COY: It's a little bit of a warble.

22 THE COURT: Is that all right? Can you --
23 it's coming from there, right? Yes. It is -- it's
24 coming from those speakers.

25 MR. LI MANDRI: If it's a problem and you

1 can't hear me, Mr. Levin, please let me know. Thank
2 you, sir.

3 Q You had a -- a quick look at Plaintiffs'
4 Exhibit Number 85.

5 MR. LI MANDRI: Can we put that up again,
6 please?

7 Q Okay. This, again, was your first contact
8 with JONAH, Mr. Levin?

9 A Yes.

10 Q Focus, you know, to the second half of the
11 page.

12 MR. LI MANDRI: Can you enlarge that?

13 Q You talked about that you grew up in a
14 religious family, and you talked about how
15 unfortunately you were molested at age six for four
16 years, so ages six through 10, sir?

17 A Yes.

18 Q And that you didn't open up about that. And
19 so you had been in therapy. So when you went to JONAH,
20 you were already seeing a psychologist, sir?

21 A Yes.

22 Q And you continued to do so for some time,
23 right?

24 A Yes.
25

1 Q Okay. And then going on you say that
2 unfortunately you have a few stories. Is that what you
3 meant to say, or you have different words? Stories
4 with other guys, and every time it happened you felt
5 terrible afterwards. Is that correct?

6 A Yes.

7 Q So you're talking about you've had homosexual
8 encounters with -- with other men. What was it then in
9 your teens?

10 A Yes.

11 Q Okay. And in your most recent story, by
12 story you mean a sexual encounter?

13 A Yes.

14 Q Okay. So it was -- was last week -- so just
15 before you came to JONAH you said, "But this time I
16 went over the line. I used craigslist to find someone,
17 and he came to my house and picked me up in his car."
18 I take it was this someone who was basically a
19 stranger?

20 A Yes.

21 Q Okay. Well, "Luckily he turned out to be a
22 fun guy that was 21 years old." So you were a minor,
23 17 at this time?

24 A Yes.

25 Q Okay. And obviously he's an adult. He's 21,

1 right?
2 A Yes.
3 Q "He was unfortunately struggling with the
4 same problem, and so it happened." By happening I
5 assume it means you had homosexual sex. Is that
6 correct?
7 A Yes.
8 Q Okay. "Every time I had a story, it was with
9 someone I knew, but this time it was a total stranger
10 to me. I saw my psychologist that day, and she told me
11 that this is the end of the line. And she told me how"
12 -- "how dangerous it was." And that was accurate
13 information that you were conveying when you contacted
14 my client for help, right?
15 A Accurate as in that's what she said to me or
16 accurate that it was dangerous?
17 Q Well, okay. That's a good point. Let's take
18 them one at a time. Is it true that she said that to
19 you?
20 A Yes.
21 Q And don't you agree that having a stranger
22 come pick you up at your house to have random sex is
23 probably not the safest thing to do?
24 A Not anymore.
25 Q You don't agree with that now.

1 A No.
2 Q Okay. So that's something you feel that
3 would be comfortable telling any 17-year-old boy, go
4 ahead, to use craigslist and see if you can get some
5 21-year-old man to come to your house and pick you up
6 and have sex with him. You -- you'd be comfortable
7 telling that to another 17-year-old boy.
8 A That's not what I said.
9 Q That's what I heard.
10 THE COURT: Counsel --
11 MR. MC COY: Well, Your Honor. He's not
12 testifying.
13 MR. LI MANDRI: All right. I'm sorry.
14 THE COURT: The jury will disregard counsel's
15 remark.
16 MR. LI MANDRI: I'm sorry.
17 THE COURT: It's what the jury hears that
18 matters.
19 MR. LI MANDRI: I apologize for that.
20 Q Okay. So you were working hard every day,
21 and you're now seeing a psychologist twice a week. So
22 when you went to JONAH, you very much wanted help to
23 deal with what you thought was a significant problem.
24 A Yes.
25 Q Okay. And then you spoke to Arthur Goldberg,

1 and he recommended that you read -- look at the JONAH
2 website and read the psychoeducational model for
3 homosexual healing. Is that right?

4 MR. MC COY: Objection. Misstates the
5 testimony.

6 THE COURT: I'm going to overrule the
7 objection. The witness can answer it if that's not
8 correct.

9 A I'm sorry. What was the question?

10 Q Well, we can pull the -- the exhibit up, and
11 I -- I don't want to --

12 MR. MC COY: You said Arthur Goldberg. It's
13 Elaine Berk.

14 MR. LI MANDRI: Thank you, Counsel.

15 Q I'm sorry. The email you received from
16 Elaine Berk, do you recall it said you should look at
17 the psychosocial model?

18 A Yes.

19 Q Okay. And you did that.

20 A Yes.

21 Q And you certainly noticed -- we looked at
22 that -- you were here in court yesterday, right?

23 A Yes.

24 Q Okay. You certainly noticed that it had a
25 section on the spiritual aspect of the healing process,

1 correct?

2 A Okay.

3 Q Do you remember that?

4 A I don't remember the document today as I --

5 Q Okay.

6 A -- got it many years ago.

7 Q Okay. All right. But do you remember the
8 document talking about JONAH's holistic approach of
9 using a spiritual context and having the experiential
10 weekends and having therapy with a counselor? Do you
11 remember those types of things being discussed in the
12 psychosocial model?

13 A Vaguely.

14 Q The psychoeducational model. Excuse me.

15 A Vaguely.

16 Q Okay. Did you ever see any advertisements
17 for a JONAH Shabbaton?

18 A Yes.

19 MR. LI MANDRI: Can we take a look at exhibit
20 -- Defense Exhibit-two-sixty -- no -- yes. Defense
21 Exhibit-264. D-264.

22 MR. MC COY: Objection, Your Honor. This
23 document is well after the date that Mr. Levin
24 participated in the program.

25 MR. LI MANDRI: Well, it's a sample. I'm

1 going to ask him if it's the type of exhibit he's seen.
2 THE COURT: I'll -- I'll allow it if he
3 recognizes it. You can show him, see if he recognizes
4 it.
5 Q Do you recognize this as a substantially
6 similar or even identical, possibly, advertisement to
7 which you had previously seen advertising a JONAH
8 Shabbaton?
9 A No.
10 Q Okay. Well, what was it you saw?
11 THE COURT: We can take that down. He
12 doesn't recognize it.
13 A Mentions of the JONAH Shabbaton on the Listserv.
14 I don't recall exactly what the advertisement looked
15 like.
16 Q Well, what is a Shabbaton, Mr. Levin?
17 A It -- well, it's a weekend.
18 Q Okay. Is it -- that -- that a Hebrew word?
19 You went to yeshiva school. Can you tell us non-Jewish
20 --
21 A Well --
22 Q -- people what you understand?
23 A Well, it originates from the word Shabbat. So it
24 -- it means a weekend.
25 Q All right. And it's basically like a retreat

1 that, you know, people of other faiths might call a --
2 a religious retreat?
3 A I don't know that it's a religious retreat.
4 Q Well, did you ever go on one?
5 A No, I didn't.
6 Q Did you ever ask to go on one?
7 A I considered it.
8 Q All right. Certainly no one from JONAH, Mr.
9 Goldberg, Elaine Berk, told you you shouldn't go on
10 one, right?
11 A No.
12 Q Okay. So that was an option you chose not to
13 exercise, correct?
14 A Correct.
15 Q All right. Now you eventually decided after
16 having an email exchange with Elaine Berk that you were
17 going to sign up for counseling with Mr. Downing,
18 correct?
19 A It was after the -- it was on the Journey Into
20 Manhood weekend, so it wasn't right after Elaine's
21 email.
22 Q Okay. And by that time you were 18. You
23 were a legal adult, correct?
24 (Continuation of the day's proceedings in Volume 2
25 at 2:26:54)

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CERTIFICATION

I, Kelly Ford, the assigned transcriber, do hereby certify that the foregoing transcript of proceedings in the Hudson County Superior Court, Law Division, on June 9, 2015 on CD 6/9/15, Index No. 9:11:24 to 10:50:17, 11:00:45 to 12:26:09, 1:37:35 to 2:44:33, and 2:58:50 to 3:08:44 is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate compressed transcript of the proceedings as recorded.

Kelly Ford AD/T #561
METRO TRANSCRIPTS, L.L.C.

Date: