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Audio Recorded by: C. Ortiz

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**METRO TRANSCRIPTS, L.L.C.**

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1 (Jury not present in court)  
2 THE COURT: Okay. We are on the record in  
3 Ferguson v. JONAH, L-5473-12.  
4 May I have counsels' appearances, please?  
5 MR. GREENBERG: Good morning, Your Honor.  
6 Bruce Greenberg from Lite, DePalma, Greenberg, L.L.C.  
7 in Newark, that's G-r-e-e-n-b-e-r-g, on behalf of the  
8 plaintiffs.  
9 THE COURT: Good morning.  
10 MR. MC COY: Good morning, Your Honor. Scott  
11 McCoy, M-c-C-o-y, the Southern Poverty Law Center, for  
12 the plaintiffs.  
13 THE COURT: Good morning.  
14 MR. MC COY: Mr. Dinielli is -- just ran to  
15 the bathroom.  
16 THE COURT: That's all right.  
17 MR. MC COY: He'll be joining us as well.  
18 THE COURT: This is going to be very quick.  
19 MR. MC COY: Okay.  
20 MR. LI MANDRI: Good morning, Your Honor.  
21 Charles LiMandri of the Freedom of Conscience Defense  
22 Fund on behalf of the defendants.  
23 THE COURT: Good morning.  
24 MR. JONNA: Good morning, Your Honor. Paul  
25 Jonna, J-o-n-n-a, Freedom of Conscience Defense Fund,

1 on behalf of the defendants.  
2 THE COURT: Good morning.  
3 MR. LAFFEY: Michael Laffey from the Messina  
4 Law Firm, on behalf of the defendants.  
5 THE COURT: Good morning.  
6 Please be seated.  
7 I wanted to just come out before we started  
8 to let you know that at 7:15, I received a phone call  
9 from Mr. Rose. Mr. Rose is very sick, is currently  
10 taking antibiotics, and was advised by his doctor that  
11 he must remain home for at least the next two days. So  
12 I advised Mr. Rose and thanked him on behalf of  
13 everyone for his willingness to serve. I advised him  
14 that we could not carry the case until Monday. And,  
15 therefore, Mr. Rose will no longer be participating as  
16 a juror. He's been excused by the Court. He's on  
17 antibiotics. And I just wanted all counsel to know  
18 that.  
19 So we're down to seven. So Juror No. 2 has  
20 been excused by the Court due to illness.  
21 And, for the record, I barely understood what  
22 he was saying. But he has a throat infection is what I  
23 understood he's -- his voice was very, very low this  
24 morning. Okay?  
25 MR. LI MANDRI: Yes, Your Honor.

1 MR. DINIELLI: Yes, Your Honor.

2 THE COURT: All right. Off the record, Cat.  
3 (Off the record. Back on the record)  
4 (Jury not present in court)

5 THE COURT: Mr. Laffey, you want to make your  
6 application, please?

7 MR. LAFFEY: Sure, Judge. Judge, my  
8 application is that, in light of the emails that were  
9 received yesterday, which the Court is aware of, that  
10 the photographs of the defense witnesses be prohibited  
11 in the courtroom. Thank you.

12 THE COURT: Counsel.

13 MR. DINIELLI: For the record, Your Honor, we  
14 do object. Your Honor made his ruling with respect to  
15 press access earlier in this trial. I don't believe  
16 that the email which we discussed in chambers yesterday  
17 constituted any sort of specific threat that would  
18 justify restricting full press access in accordance  
19 with Your Honor's previous ruling.

20 It's important for the public to know what is  
21 happening in this courtroom and who is saying what.  
22 And on that basis, we object.

23 THE COURT: All right. I reviewed the email,  
24 and that reminded me of something. The email did not  
25 go through. Can you resend the email to Undersheriff

1 Lamparello?

2 MR. LI MANDRI: I will endeavor to do that.  
3 Unfortunately --

4 THE COURT: Did he give you his card? He  
5 said he was going to give you his card.

6 MR. LI MANDRI: No. I believe I have his  
7 email address, Your Honor. But for some reason, our  
8 emails are down this morning. I don't know why.

9 THE COURT: All right. Well, I would ask  
10 you, because they did not receive it, so they have not  
11 been able to follow up on it. So if you can email it  
12 and ask your client to email it to Mr. Lamparello,  
13 Undersheriff Lamparello, so they can try and see what  
14 they can determine.

15 MR. LAFFEY: I should be able to do that.

16 THE COURT: If you -- yeah.

17 MR. LAFFEY: And I'll get his email and I'll  
18 -- I'll do it from my phone. I believe I can do it  
19 from my phone, Your Honor.

20 MR. DINIELLI: Your Honor, Officer Lamparello  
21 yesterday gave me his card because he missed them while  
22 they were leaving --

23 MR. LI MANDRI: Oh, good.

24 MR. DINIELLI: -- the courthouse.

25 THE COURT: All right.

1 MR. DINIELLI: I have it for them.

2 I also would not that, again, for the record,  
3 I believe security concerns have been adequately  
4 addressed by the fact that the Court has extended  
5 security to the defendants in connection with their  
6 departure from the courthouse.

7 That's for the record. But I understand Your  
8 Honor's inclination and also --

9 THE COURT: When is the -- when is the next  
10 defense witness scheduled to testify?

11 MR. DINIELLI: Your Honor, the next defense  
12 witness likely will be Alan Downing, and then Elaine  
13 Berk tomorrow.

14 THE COURT: All right. You know what, Mr.  
15 Laffey? Can you forward the email to me?

16 MR. LAFFEY: Yes, sir.

17 THE COURT: You have the email address for  
18 the judiciary? It's --

19 MR. LAFFEY: I don't.

20 THE COURT: All right. I'll give it to you.  
21 It's Peter.bariso@judiciary.state.nj.us. If you could  
22 send that to me, I'll review it. We can mark it as a  
23 court exhibit and I'll discuss this further with the  
24 captain and the undersheriff before I make a decision.  
25 It doesn't have to be made until the end of today.

1 MR. LAFFEY: Very good, Your Honor. Thank  
2 you.

3 MR. JONNA: Thank you, Your Honor.

4 THE COURT: All right. Thank you.

5 All right. Off the record.

6 (Off the record. Back on the record)

7 (Jury present in court)

8 THE COURT: All right. Good morning, ladies  
9 and gentlemen. All eight (sic) jurors are present and  
10 accounted for. Thank you again very much for your  
11 promptness. I notice you will see that Seat No. 2 is  
12 empty. Unfortunately, Mr. Rose called me early this  
13 morning and under -- he is under doctor's care and he  
14 is not able to come out for a couple of days. So,  
15 unfortunately, given the length of the trial and the  
16 commitments that have been made, I advised Mr. Rose  
17 that I could not carry the trial until Monday. Because  
18 his doctor wanted him to rest until Friday. So,  
19 unfortunately, Mr. Rose has now been excused and the  
20 trial will continue with seven jurors.

21 And thank you again very much for your  
22 promptness. And, hopefully, none of you will catch  
23 what Mr. Rose had. And we'll be able to continue, as  
24 we are doing here today.

25 I believe we're going to continue with the --

1 UNIDENTIFIED: (Indiscernible) cough.  
2 THE COURT: Oh, I thought you were going to  
3 cough.  
4 Oh, you don't have a pencil? Sorry about  
5 that.  
6 All right. We're going to continue with the  
7 cross-examination of Mr. Levin.  
8 Mr. Levin, could you come forward, please?  
9 And just a reminder, you're still under oath,  
10 Mr. Levin.  
11 And we'll continue with the cross-  
12 examination. Mr. LiMandri.  
13 MR. LI MANDRI: Thank you, Your Honor.  
14 C H A I M L E V I N , PLAINTIFF'S WITNESS, PREVIOUSLY  
15 SWORN.  
16 CROSS-EXAMINATION BY MR. LI MANDRI: (Cont'd)  
17 Q Good morning, Mr. Levin.  
18 A Good morning.  
19 Q I wanted to begin by asking you, if you  
20 would, please, to take a look at exhibit your attorneys  
21 displayed yesterday, which is P-142.  
22 Now as I understand your testimony, Mr.  
23 Levin, that this was a check for services that you paid  
24 to JONAH out of your own checking account. Is that  
25 correct?

1 A Yes.  
2 Q Okay. And, in fact, that's the only document  
3 you've been able to produce that reflects that you've  
4 made any payment out of your own account as opposed to  
5 your parents paying for you. Is that true?  
6 MR. MC COY: Object, Your Honor. This was  
7 not produced by Mr. Levin. It was produced by the  
8 defendants.  
9 MR. LI MANDRI: That's fine.  
10 THE COURT: Okay.  
11 Q Other than this document, which we produced  
12 to you, do you have any documents that would reflect  
13 that you made any payments out of your own account to  
14 JONAH?  
15 A I do not.  
16 Q Okay. You're aware, aren't you, that this  
17 check bounced; it was returned for lack of insufficient  
18 funds in the bank?  
19 A It's possible.  
20 Q Okay. But you realize if you didn't pay any  
21 money out of your own account, that you can't show that  
22 you ascertained any monetary loss, that you cannot  
23 present your claim, right?  
24 MR. DINIELLI: Objection. Calls for a legal  
25 conclusion.

1 THE COURT: Can you rephrase the question,  
2 Counsel?

3 MR. LI MANDRI: Sure.

4 Q You realize, though, it's important that  
5 you're able to document your monetary loss, don't you?

6 A I guess.

7 Q All right.

8 A But --

9 Q Fair enough. Let's take a look at another  
10 document, D-74. Your counsel showed you this yesterday  
11 as well. Going down to the very bottom where it says  
12 "Balanced owed." You see where it reflects that you  
13 left JONAH owing \$275?

14 A Yes.

15 Q Okay. And you don't dispute that you left  
16 with that account due, correct?

17 A No, I do not.

18 Q Okay. Fine. Matter of fact, I think you  
19 even had some discussions with Mr. Goldberg well after  
20 you left JONAH stating your intent to pay that amount,  
21 didn't you?

22 A I did.

23 Q Okay. But for -- you still never did pay it?

24 A No.

25 Q Okay. No meaning you didn't pay it, right?

1 A I did not.

2 Q Okay. Thank you.

3 All right. Let's move on, if we could,  
4 please. Yesterday, we were talking about your  
5 situation when you first came to JONAH. And I wanted  
6 to confirm that even before you came to JONAH, you  
7 began discussing your concerns regarding same sex  
8 attraction with a psychologist, Charna Shapiro, as  
9 early as age 15. Is that correct?

10 A Yes.

11 Q Okay. And you recall, Mr. Levin, telling Dr.  
12 Shapiro that you started to engage in a romantic  
13 relationship with a girl in the hopes that you could  
14 develop more of an opposite sex attraction?

15 A I don't recall if I gave her the intent. I think  
16 that we just discussed the fact that I was speaking to  
17 her.

18 Q Okay. And you also told her about your abuse  
19 by your cousin, correct?

20 A Yes.

21 Q And you felt -- sorry for touching on  
22 delicate matters, sir -- shame and remorse because of  
23 that abuse. And I don't mean to suggest in any way it  
24 was your fault, but that is something you expressed to  
25 her, correct?

1 A I don't remember if those were the exact things  
2 that I expressed to her, but there were a lot of  
3 things, yeah.

4 Q And this is -- this unfortunate event in your  
5 life, you had kept a secret until you were -- it  
6 happened from ages six to ten, and you kept it a secret  
7 until age 14?

8 A Yes.

9 Q And you discussed with Ms. Shapiro, after the  
10 incident with meeting up with a guy from Craigslist,  
11 that you were going to be going to JONAH, correct?

12 A Yes.

13 Q And she did not express any concerns about  
14 you're getting that type of assistance from someone  
15 while she was still treating you, correct?

16 A She was concerned about the nature of the secrecy  
17 of the program.

18 Q Okay. But she didn't express any concerns  
19 about JONAH itself, right?

20 A Those were here concerns about JONAH.

21 MR. LI MANDRI: Can we take a look at Page  
22 16, Line 7 of Mr. Levin's deposition, to Page 17, Line  
23 9?

24 MR. MC COY: 16, Line 7 --

25 MR. LI MANDRI: To 17, Line 9.

1 MR. MC COY: No objection, Your Honor.

2 THE COURT: Okay.

3 Q Page 16, Line -- before we show this, Mr.  
4 Levin, I guess I should --

5 (Videotaped deposition being played)

6 MR. LI MANDRI: Excuse me. Can we stop one  
7 second?

8 Q I think you've seen this exercise with the  
9 other witnesses. Do you recall giving a deposition in  
10 this case? I don't have the exact date right now.

11 A Yes, I do.

12 Q Okay.

13 THE COURT: January 29, 2014.

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

15 Q And at that time, you were told your  
16 testimony was under oath, if you didn't understand the  
17 questions, you need to ask them to be repeated,  
18 correct?

19 A Yes.

20 Q All right. And there was no reason why you  
21 could not give your best testimony? Is that right?

22 A Yes.

23 Q Okay. Thank you, sir.

24 MR. LI MANDRI: Why don't we go ahead and  
25 show the clip?

1 (Portion of videotaped deposition of C. Levin  
2 played from 9:11:31 to 9:12:17)

3 Q Now you kept seeing Ms. Shapiro for at least  
4 several months after you started seeing Mr. Downing,  
5 right?

6 A Much -- much less. Not very often, the way I was  
7 before I started attending JONAH.

8 Q All right. Now when you were seeing Mr.  
9 Downing, isn't it true that you found yourself easily  
10 distracted during the sessions due to what you believed  
11 was an undiagnosed attention deficit disorder?

12 A I don't know that that was the case, that it was  
13 about an undiagnosed attention deficit disorder, but  
14 there were times when I was definitely distracted.

15 Q But you were, in fact, diagnosed with  
16 attention deficit disorder by a psychiatrist, Dr.  
17 Matalon?

18 A I do not believe Dr. Matalon diagnosed me with  
19 that.

20 MR. LI MANDRI: I need to show Page 123, Line  
21 5, to 124, Line 10.

22 MR. MC COY: Through what line?

23 MR. LI MANDRI: 124, Line 10.

24 MR. MC COY: Your Honor, the first portion of  
25 this is not impeaching. Mr. Levin testified he was

1 distracted at times.

2 THE COURT: Okay. I'll allow him to read  
3 from Line 17 on Page 123, just to give the testimony  
4 some context.

5 MR. MC COY: Yes. That's fine, Your Honor.  
6 We don't --

7 THE COURT: Why don't we start --

8 MR. MC COY: We don't have a problem with  
9 that.

10 THE COURT: Why don't we start at Line 17 on  
11 123, through Line 10 on 124, Counsel.

12 MR. LI MANDRI: Thank you. That's fine, Your  
13 Honor.

14 Do you have it? Oh, you don't have that  
15 clip? Here.

16 I could just read it since we didn't have  
17 that clip prepared.

18 THE COURT: All right. Well, I'll tell you  
19 what I'm going to do. I'm going to give my transcript  
20 to Mr. Levin so he can follow along with you as you  
21 read it.

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

23 Q 123, Line 17.

24 "Okay. At some point, did you have a  
25 diagnosis for ADD?

1 "Yes."  
2 "Approximately when was that, sir?"  
3 "A couple of years later when I was about  
4 19."  
5 "How old were you at this time in July, 2007?"  
6 "I was 18."  
7 We go on:  
8 "And who did the diagnosis of the ADD?"  
9 "My first psychiatrist, Dr. Matalon."  
10 You also --  
11 THE COURT: Well, are you going to ask him if  
12 he recalls giving that testimony?  
13 Q Do you recall giving that testimony at your  
14 deposition, sir?  
15 A I do.  
16 Q Okay. Do you recall that you also started  
17 experiencing depression at about age 15 or 16?  
18 A Yes.  
19 Q Okay. And were you also diagnosed with  
20 anxiety by Dr. Matalon about the same time you were  
21 diagnosed with depression?  
22 A Yes.  
23 Q And was this all prior to coming to see Mr.  
24 Downing?  
25 A No. It was all after.

1 Q Wasn't this about the same time frame, 15,  
2 16, 17?  
3 A No, sir.  
4 Q Okay. But you started experiencing  
5 depression at age 15 or 16?  
6 A It's possible.  
7 Q Wasn't that --  
8 A I --  
9 Q -- your testimony at your deposition here in  
10 court just now?  
11 A I don't know if it was depression at that time. I  
12 think I was struggling more with the fact that I didn't  
13 feel like I fit in anywhere in my community.  
14 Q Okay. Let's talk about the Alan Downing Life  
15 Coaching Services agreement, which is Defense Exhibit  
16 79, and Joint Exhibit 15, first page, second half of  
17 the page. And I believe you testified you did sign  
18 this agreement?  
19 A Huh?  
20 MR. LI MANDRI: It's a joint exhibit, so you  
21 can put it up.  
22 Q Do you recall signing it?  
23 A Yes.  
24 Q Okay.  
25 MR. MC COY: Your Honor, can we use the joint

1 exhibit? I'm not sure -- this is the defense exhibit.

2 THE COURT: Okay.

3 MR. MC COY: We showed before the joint  
4 exhibit. I just want to make sure that we're  
5 consistent.

6 THE COURT: Yeah, we can use J-15.

7 MR. LI MANDRI: Sure.

8 MR. MC COY: Thank you.

9 MR. LI MANDRI: Thank you.

10 Q Now looking at the top of it, you understood  
11 that Alan Downing was offering you life coaching  
12 services and not some other type of service, correct?

13 A I really don't know the difference at the time.

14 Q All right. But, certainly, you were capable  
15 and did read the title of the document, right?

16 A Yes, sir.

17 Q And then look under the "Coaching  
18 Relationship, Section 1" right there. Do you see it  
19 where it says,

20 "Your coach will serve as a mentor, teacher,  
21 accountability partner, advisor, and consultant. Life  
22 coaching focuses on training, goal setting,  
23 accountability, resources, and practical steps to help  
24 create and sustain change. Life coaching may be  
25 effective either as a precursor, complement, or follow

1 up to therapy. If you are currently in therapy, we  
2 strongly encourage to inform your therapist that we are  
3 also engaged in coaching. If you are not in therapy,  
4 it is possible, depending on individual circumstances,  
5 that your coach will recommend that you consult with an  
6 appropriate mental health professional before  
7 continuing with further coaching services."

8 So if you read this document before you  
9 signed it, you would be aware that Mr. Downing does  
10 something different than, say, the psychologist,  
11 correct?

12 A As I said before, I was raised in a very sheltered  
13 environment and I did not understand the difference  
14 between a psychologist or a life coach.

15 Q I understand. But the words I just read, you  
16 were capable of reading and understanding those,  
17 correct?

18 A Yes.

19 Q All right. And you had at this time, I take  
20 it, completed high school?

21 A No.

22 Q You were just finishing?

23 A I believe I got my GED some months later.

24 Q Oh, I see. But, in any event, you were  
25 certainly someone who was capable of reading words such

1 as are on this page, right?

2 A Yes.

3 Q Okay. Now looking at the second paragraph in  
4 Section 2 there, still on the first page. Did you see  
5 where the document stated,

6 "Although the coach may work from a basic  
7 program outline in providing coaching services, it is  
8 actually you the client who determines the overall  
9 direction of the coaching, its pace, and eventual  
10 outcomes based on your level of commitment and focus  
11 during the coaching process." Did you -- did I read  
12 that correctly? Did you read it with me?

13 A Yes.

14 Q Okay. So you understood, didn't you, that in  
15 order for the coaching process to be successful, that  
16 you'd have to show some commitment to the process, and  
17 you'd have to try to maintain some focus?

18 A Yes.

19 Q But, in fact, over -- what was it, and a year  
20 and a half or so you were with the coaching process?

21 A Yes.

22 Q Okay. And you tended to not come for weeks,  
23 and sometimes months at a time. Isn't that true?

24 A I don't know about months at a time, but maybe  
25 every other week or so.

1 Q All right. What is it, something like 36  
2 sessions and 18 months, something like that?

3 A I don't recall the exact number.

4 Q All right. But certainly something far less  
5 than what might be expected if you went every week over  
6 a year and a half, I assume that would be something  
7 along the lines of 75 coaching sessions; it would seem  
8 like you had maybe half that amount?

9 A Something like that.

10 Q Okay. And then the last thing I want to read  
11 is under "Client Responsibilities and Results, Section  
12 3."

13 Do you remember reading, Mr. Levin, that, "In  
14 order for coaching to be most effective, the client  
15 must make a commitment to take an active part in the  
16 process, which may include participating in setting  
17 goals or doing homework assignments and research on  
18 your own time between sessions. The coach will assist  
19 you to realize your own potential and respect your  
20 right to make your own informed and responsible  
21 decisions. Thus, you need to be aware that results  
22 cannot be guaranteed, and you are entering into  
23 coaching with the understanding that you are largely  
24 responsible for your own results."

25 So you understand the words that I just read?

1 A I do.

2 Q Okay. So you knew that there were no  
3 guaranteed results when you entered into coaching with  
4 Mr. Downing, correct?

5 A No, I did not.

6 Q Okay. There's something about the way it's  
7 worded here that you have a problem understanding, sir?

8 A No, but similar to the first paragraph that you  
9 read about the therapist and continuing to see a  
10 therapist, when in fact, your clients told me to stop  
11 seeing my therapist because she was female. I was told  
12 one thing, even though something else was written here,  
13 just like I was told that change is possible for  
14 anyone.

15 MR. LI MANDRI: Okay. Your Honor, I'm going  
16 to move to strike everything about my client supposedly  
17 telling him to stop seeing his therapist as completely  
18 nonresponsive to my question.

19 THE COURT: Yes. The response was not -- was  
20 not correct. Just try to listen to the question and  
21 just answer the question.

22 THE WITNESS: Okay.

23 THE COURT: Can we go back and have the  
24 question repeated? Do you recall, Mr. LiMandri, the  
25 question?

1 MR. LI MANDRI: I don't recall exact words.

2 Q But I believe I was asking you if you  
3 understood what it meant when the words here say there  
4 was no guarantee of any particular result?

5 A Yes, I did.

6 Q Okay. And even though you might have us  
7 believe that you were told not to stop seeing the  
8 psychologist, and we'll hear from Mr. Downing on that,  
9 you did continue seeing the psychologist, right?

10 A That's right.

11 Q Okay. And you did understand that Alan  
12 Downing was a life coach, right?

13 A Like I said before, I didn't know the difference.  
14 It was all the same to me.

15 MR. LI MANDRI: Can I please play Page 56,  
16 Lines 14 through 16?

17 THE COURT: Page 56 --

18 MR. LI MANDRI: Lines 14 through 16.

19 MR. MC COY: Your Honor, this is not  
20 impeaching. The first word in Line 14, I think, is  
21 determinative. And it's not --

22 THE COURT: I'm going to allow it. The  
23 witness can explain his answer.

24 MR. MC COY: Okay.

25 MR. LI MANDRI: Page 56, Line 14 through 16.

1 THE COURT: And I understand -- I understand  
2 the point.

3 Go ahead.

4 (Portion of videotaped deposition of C. Levin  
5 played from 9:24:10 to 9:24:18)

6 Q All right. I'm going to try to move along a  
7 little faster, Mr. Levin. We have a lot to --

8 THE COURT: Do you want to ask him whether he  
9 recalls that testimony?

10 Q Do you recall that test --

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

12 Q Do you recall that testimony?

13 A I do.

14 Q Okay. Thank you. And we saw from yesterday  
15 that, in addition to your signature on the last page,  
16 you gave to Mr. Downing permission to share information  
17 with Mr. Goldberg so that he could further assist you  
18 on your journey. Is that correct?

19 A Yes.

20 Q Thank you. Now your parents were not  
21 involved in your decision to seek Mr. Downing for  
22 coaching; rather, you merely presented it to your  
23 parents as: here's an organization that I'm going to  
24 because of this thing, this SSA, and I need you to pay  
25 for it, correct?

1 A Something along those lines.

2 Q And your parents did agree to pay for it?

3 A Yes.

4 Q And at the time of your deposition, do you  
5 recall saying that you were unable to recall how much  
6 was paid by your parents and how much you allegedly  
7 paid out of your own pocket?

8 A Yes.

9 Q And you still can't say even to this day,  
10 particularly in light of the check I just showed you,  
11 which I'll represent we'll bring in evidence that it  
12 was -- it bounced, you still can't say how much you  
13 paid out of your own pocket, can you?

14 A Well, for example, the Guts Day workshop  
15 (phonetic), I recall very distinctly someone at that  
16 workshop actually laid out the money for me, and I paid  
17 them back some months later. That was one example.

18 Q Can you identify that person?

19 A Yes. Shalom Torsky (phonetic).

20 Q Okay. And so it's your testimony that  
21 someone actually paid for you to go to that?

22 A Yes.

23 Q Okay. Anything else?

24 A Well, I paid him back.

25 Q You don't have, obviously, no -- no evidence

1 of that occurring, do you?

2 A No, but I'm sure he'll remember.

3 Q Now when you signed this agreement, Mr.  
4 Levin, you made a commitment at that point to be an  
5 active part in the process, correct?

6 A Yes.

7 Q And the fact that Mr. Downing was a life  
8 coach and not a licensed practitioner, once you started  
9 with him, that did not matter to you, you still wanted  
10 to work with Mr. Downing?

11 A I did not know the difference.

12 Q Well, once you became aware of the  
13 difference, this still did not deter you from wanting  
14 to work with him. Is that correct?

15 A I think that when I fully understood the  
16 difference, I was already finished counseling with Mr.  
17 Downing.

18 MR. LI MANDRI: We'll look at Page 93, Line  
19 16 to Page 94, Line 11.

20 MR. MC COY: 93, 16?

21 MR. LI MANDRI: Yes. Page 94, Line 11.

22 MR. MC COY: No objection.

23 (Portion of videotaped deposition of C. Levin  
24 played from 9:27:52 to 9:28:29)

25 Q Isn't it -- okay. Do you recall that

1 testimony?

2 A I do.

3 Q Okay. Thank you. Now Mr. Downing never told  
4 you, sir, that he could, quote/unquote, "cure you" with  
5 any particular type of time frame such as a matter of a  
6 week, or months, or that it would be a quick fix, did  
7 he?

8 A No, he did not.

9 Q And during this time period when you were  
10 working with Mr. Downing, you did correspond with the -  
11 - the Listserv, correct?

12 A Yes.

13 Q Okay. And that was a Shamash Listserv; you  
14 heard it called by that name?

15 A Yes.

16 Q Okay. And that's a Jewish Listserv; we  
17 talked about that yesterday, right?

18 A Yes.

19 Q Okay. And do you recall sending an email to  
20 the Listserv on or about August 20, 2007?

21 MR. LI MANDRI: I'd like to show it. It's D-  
22 90, Your Honor.

23 THE COURT: D-90?

24 MR. LI MANDRI: Yes, Your Honor.

25 THE COURT: And this is Mr. Levin's email to

1 the Listserv?

2 MR. LI MANDRI: Yes, Your Honor.

3 MR. MC COY: No objection, Your Honor.

4 THE COURT: Okay.

5 Q Okay. Let's take a look at the second --

6 MR. LI MANDRI: Well, the middle of the first  
7 paragraph that starts, "This journey is not." There  
8 you go. If we could enlarge that, please.

9 Q Do you recall writing to other members of the  
10 Listserv at that time, Mr. Levin: "This journey is not  
11 an easy one. And I can imagine that some of you are  
12 trying to figure out what this 'journey' is. So let me  
13 try to explain what it's like for me.

14 "In the past, my SSA has been there, pushing  
15 me and keeping me unhappy. When it happened once in a  
16 while that I was attracted to a woman, I got so excited  
17 and I thought my SSA is gone. Unfortunately, I learned  
18 the hard way 'the journey' means when I started facing  
19 my SSA, actually talking about its essence and not just  
20 saying I have it, but actually delving into it, trying  
21 to figure out why I would be attracted to someone."

22 So but, nonetheless, you did write at that  
23 time, you were sometimes attracted to women?

24 A Yes.

25 MR. LI MANDRI: And then the last paragraph,

1 please, of that same email. Go down to: "However,  
2 lately," please. Beginning at the middle of the  
3 paragraph, and just enlarge that part so we can get a  
4 bigger screen here. Okay.

5 Q "However, lately I am starting to feel it a  
6 lot less than before." You're talking about the SSA,  
7 right?

8 A I guess.

9 Q Yeah.

10 A I can't say for sure.

11 Q Well, the prior sentence is: "Same as when I  
12 deal with SSA. Since I started it's grand boiling and  
13 it was really hard. However, lately I am starting to  
14 feel it a lot less than before. It's just a different  
15 feeling. I still have work to do, but thank God, I  
16 feel like I'm moving forward in a positive direction,  
17 as well as all are. And I am proud to be doing this  
18 together with all of you. I wish you much luck."

19 So those were your words in August 2007,  
20 having been in the program a little over three, three  
21 and a half months?

22 A Those were my words.

23 Q Actually, you started early June, I guess it  
24 would be two, two and a half months, something like  
25 that.

1 MR. MC COY: Is there a question there, Your  
2 Honor?  
3 MR. LI MANDRI: I just wanted to see if I had  
4 the timing correct.  
5 Q Is that right?  
6 A Those were my words in August 2007.  
7 Q Okay. Thank you.  
8 Isn't it true that in your sessions with Mr.  
9 Downing, you found him supportive and sympathetic, and  
10 not critical of you?  
11 A Yes.  
12 Q Thank you. And even when you were not in  
13 sessions with Mr. Downing, Mr. Levin, isn't it true  
14 that he was responsive to your emails that you would  
15 send to him, and he didn't even charge you for those  
16 emails, right?  
17 A Like most of my therapists, yes.  
18 MR. LI MANDRI: And then if we could take a  
19 look at J-16, please, Your Honor.  
20 Q The email that you sent --  
21 A Oh, yeah.  
22 Q -- at the bottom of the page, please.  
23 THE COURT: This email is --  
24 MR. LI MANDRI: This is an email from Chaim  
25 Levin --

1 THE COURT: Okay.  
2 MR. LI MANDRI: -- dated --  
3 MR. MC COY: Your Honor, I used this in my  
4 examination.  
5 THE COURT: No. I'm just trying to get --  
6 MR. MC COY: Oh, I'm sorry.  
7 THE COURT: -- the date so that --  
8 MR. MC COY: I thought you were wondering if  
9 we had just --  
10 THE COURT: September 16, 2007.  
11 MR. LI MANDRI: Correct, Your Honor. Thank  
12 you.  
13 Q And you may have been asked this yesterday,  
14 but referring to the sentence beginning, "I am doing  
15 okay. I started dating my girlfriend three weeks back.  
16 Thank God, I'm very happy and she makes me very happy.  
17 She knows about my SSA and is very interested in the  
18 whole thing. She is reading it up on it and keeping  
19 herself busy with it."  
20 And this was your girlfriend, you're  
21 referring to Rosie Markowitz (phonetic). Is that  
22 right?  
23 A Yes.  
24 Q And she's someone who lived in Brooklyn,  
25 correct?

1 A Yes.

2 Q But then down in the middle of the same  
3 paragraph, you state, "I have all the resources in the  
4 world, but I'm just kind of not interested in all of  
5 it. I feel like I want to hide in my little closet of  
6 darkness and fantasize all day." I'll stop there.

7 Do you remember writing those words?

8 A I do.

9 Q So did you seem to have a lack of enthusiasm  
10 about the work? Was it just getting too hard, or what  
11 was the reason why you wrote that?

12 A I've struggled with the urge to isolate myself.

13 Q Okay. Then you actually recommended, I  
14 believe, if you want to look at J-17, the JONAH program  
15 --

16 MR. MC COY: I'm sorry, Your Honor. J-17 is  
17 not in yet. What is this?

18 THE COURT: J-17?

19 MR. LI MANDRI: Yes. This is an email from  
20 Chaim Levin dated October 23, 2007 --

21 THE COURT: Okay.

22 MR. LI MANDRI: -- to someone named Larry.

23 THE COURT: All right.

24 MR. DINIELLI: Yes, Your Honor. That's fine.

25 MR. LI MANDRI: Thank you.

1 Q Go to the middle of that page of that  
2 document where it says, "I started seeing their  
3 therapist" -- "I started seeing their therapist" --  
4 right there. Their therapist you're referring to there  
5 is Alan Downing, sir?

6 A Yes.

7 Q Okay. "And I went to a weekend, a weekend  
8 called Journey Into Manhood. One of the most profound  
9 experiences in my life."

10 Now you went on that Journey Into Manhood  
11 weekend early June, correct?

12 A Yes.

13 Q So we have all of June, July, August,  
14 September, now almost the end of October. And five  
15 months later, you're still writing about your  
16 experience with the JIM weekend as one of the most  
17 profound experiences in your life, correct?

18 A Yes.

19 Q All right. So it wasn't something where it  
20 was a high that just lasted for a few days or a couple  
21 of weeks, and then you crashed and you felt miserable  
22 about the entire experience from then on. You continue  
23 to speak well of the experience for months later,  
24 right?

25 A Yes.

1 Q Thank you. And then at the very end of that  
2 paragraph, you tell Larry, you say: "Larry" -- the last  
3 couple of sentences -- "I urge you to think about this  
4 and consider contacting them. I can write on about  
5 this forever. I gained a lot of knowledge regarding  
6 all this and all of it's available" -- "and it's all  
7 available on their website. The director's name is  
8 Arthur Goldberg, very knowledgeable and very  
9 compassionate. He was the first person I spoke to and  
10 directed me from there."

11 So you're actually referring Larry to JONAH  
12 some five months into the program?

13 A Yes. I wrote this email with the help of Mr.  
14 Goldberg.

15 Q I see. But you had certainly no reservations  
16 about doing it at the time, did you?

17 A No. I did that a few times for Mr. Goldberg.

18 Q Well, weren't you doing it for Larry too?

19 A I wrote this email to Larry, yes.

20 Q Yes. And, in fact, he is someone you had had  
21 a sexual encounter with, correct?

22 A Yes.

23 Q Now during this time you were having an  
24 issue, you were concerned about regarding trying to  
25 stop smoking?

1 A There was a time at that -- yes.

2 Q And Mr. Downing also, in addition to these  
3 other issues, was trying to support you in your  
4 efforts, your own desire to stop smoking?

5 A Yes.

6 Q So it wasn't all just about the SSA, was it?

7 A I didn't go to see Mr. Downing to quit smoking.

8 Q Understood entirely. But, nonetheless, he  
9 endeavored to help you with whatever problems and  
10 issues you presented to him, and one of them was  
11 smoking, correct?

12 A I went to see Mr. Downing to change from gay to  
13 straight.

14 Q Okay. Well, first of all, that wasn't my  
15 question. My question was regardless of why you went  
16 to him, you brought other issues to his attention and  
17 he tried to be supportive and help you with those,  
18 correct?

19 A Of course. That's kind of usually what happens in  
20 therapy.

21 Q Yeah. Exactly. And Mr. Downing was  
22 perfectly fine with you that. He didn't say, hey, I'm  
23 not going to help you with something, that's not why  
24 you came; right?

25 A Right.

1 Q Okay. And, in fact, you keep saying gay to  
2 straight. But, sir, you did not present yourself as  
3 someone who was gay when you came to JONAH and Mr.  
4 Downing, did you?

5 A I may have not used those words, but that's  
6 exactly how I presented myself.

7 Q Okay. You did not use those words. And,  
8 instead, you used words as, though, I'm an Orthodox  
9 Jewish man who wants to eventually have a wife and  
10 family. Those were the words that you used, correct?

11 A I'll accept your representation --

12 Q Okay.

13 A -- of those words.

14 Q Certainly, nobody dragged you there, kicking  
15 and screaming, and said, hey, you know, you got to go  
16 to this place, we are going to make you do that. Even  
17 your parents didn't say you had to go or we're going to  
18 cut you off. It was nothing like that, right?

19 A No.

20 Q Thank you. As a matter of fact, with regard  
21 to the smoking issue, you told Mr. Downing that after  
22 smoking a pack a day for more than two years, you felt  
23 the withdrawal symptoms of the trying to stop smoking  
24 were driving you crazy, right?

25 A Yes.

1 Q And then you had discussions with Mr. Downing  
2 about how your family was not supporting you in wanting  
3 to go public about the sexual abuse with your cousin,  
4 correct?

5 A I don't believe I was contemplating going public  
6 at that time.

7 Q Understood. You did speak to Mr. Downing  
8 and, I believe, Ms. Berk about wanting to confront your  
9 abuser, though, did you not?

10 A Yes.

11 Q Okay. And they were supportive of you in  
12 saying, if that's what you feel you need to do, that  
13 they would support you, correct?

14 A Yes.

15 Q All right. Ms. Berk suggested that you might  
16 want to go with someone else, though, and not confront  
17 him by yourself. Do you remember that?

18 A Not particularly.

19 Q All right. But, in any event, you decided to  
20 go confront him by yourself and it actually worked out  
21 pretty well, right?

22 A I can't say that it did.

23 Q Well, didn't the guy 'fess up and say, yes, I  
24 did it; yes, I shouldn't have done it; yes, I'm sorry  
25 for doing it?

1 A If I can explain?

2 Q Go ahead.

3 A The nature of my relationship with him was that he  
4 was the aggressor and the one in charge. And the  
5 nature of our meeting was very similar where it was  
6 done at night at the water in Brooklyn. He refused to  
7 allow anyone else to be there. And even though at the  
8 time, I felt like it was a positive outcome, I later  
9 realized that it was actually a mistake.

10 Q I see. But on the Listserv, you told  
11 everybody what a wonderful breakthrough it was,  
12 correct?

13 A Yes.

14 Q And, nonetheless, you had a major problem at  
15 home when you decided to confront your cousin during  
16 this time frame, and you even had to move out of your  
17 parents' house. They were very unhappy with you?

18 A No. That's not -- that's not correct.

19 Q Well, we are going to have to take a look at  
20 Exhibit 99 and see what I'm getting wrong here.

21 THE COURT: Which?

22 MR. LI MANDRI: It's D-99. It's an email  
23 from Mr. Levin to the Listserv. It says from John Doe,  
24 but it's from Mr. Levin. And it's dated January 29,  
25 2008.

1 MR. MC COY: No objection, Your Honor.

2 THE COURT: Okay.

3 Q So the first paragraph to the Listserv from  
4 Mr. Levin, you said: "Okay. Number one, as I  
5 mentioned in my previous post, I was sexually abused  
6 for four years as a child. This person was my first  
7 cousin. Five years after it was over, I told my  
8 parents about it. For the sake of keeping peace, they  
9 did not tell his parents. They believed it would only  
10 create an unnecessary fight in the family.

11 "Being that I was finally able to talk about  
12 it, I started telling more people about it. Being that  
13 I didn't feel enough was done to him, I felt like I  
14 needed to protect myself. My parents warned me that  
15 his family shouldn't find out. They were very worried  
16 that this person wouldn't ever be able to get married."

17 So those were all concerns that you expressed  
18 to Mr. Downing and other people on the Listserv, right?

19 A Yes.

20 Q All right. And then further down on Sunday  
21 afternoon, so it would be all the way to the second  
22 paragraph on the bottom, you write: "I came home" --  
23 "On Sunday afternoon, I came home from work and another  
24 argument broke out. And in plain and simple words,  
25 they wanted me out of their house. This is not the

1 first time they have said it to me, but this time I  
2 took it seriously because, like my dad said, you are 18  
3 now and I don't owe you" -- I'll delete the expletive.  
4 "I packed up some stuff I needed for the next few days  
5 and moved into a friend's house."

6 So in the same email, you talk about  
7 confronting your cousin and then your parents asking  
8 you to leave the house, correct?

9 A Yes.

10 Q And D-100, take a look at that, D-as-in-  
11 David-100, this is a whole chain. And I'm only  
12 interested in the first email, the very beginning of  
13 the page, which is the last page of the chain --

14 MR. MC COY: Yeah. Your Honor, this -- the  
15 last email on the chain, on the --

16 MR. LI MANDRI: Yeah, it looks like that's to  
17 him, not from him.

18 MR. MC COY: -- same page? No, it's --

19 MR. LI MANDRI: But --

20 MR. MC COY: Or the last page that I have is  
21 the Dear List -- it's the email you just went over with  
22 him.

23 MR. LI MANDRI: Oh, I'm sorry. My last page  
24 is Bates stamped 822.

25 MR. MC COY: You don't have the second page

1 as 823?

2 MR. LI MANDRI: I do. And then the one  
3 behind that is 822.

4 MR. MC COY: Your Honor, I don't have an  
5 objection. I was just confused --

6 THE COURT: What are we --

7 MR. MC COY: Because he said the last email.  
8 And that's all I'm trying to figure out.

9 So which one, Mr. LiMandri, are you asking  
10 about?

11 MR. LI MANDRI: If I could show you --

12 MR. MC COY: So, yeah, I'm sorry.

13 MR. LI MANDRI: That's my fault.

14 MR. MC COY: Right. Okay. That -- yeah.

15 MR. LI MANDRI: You have that?

16 MR. DINIELLI: Yeah, I do. There's no  
17 objection.

18 MR. LI MANDRI: Okay.

19 THE COURT: Which one is it?

20 MR. LI MANDRI: It would be the very last  
21 page, which would be marked as D-100, the last  
22 paragraph. There's actually two emails on the page,  
23 one from Chaim Levin --

24 THE COURT: All right. Are we talking about  
25 the one Mr. Levin sent on January 29, 2008?

1 MR. LI MANDRI: Correct. And then I wanted  
2 to ask him about the one he received from Elaine Berk.

3 MR. MC COY: Your Honor, the email from Ms.  
4 Berk is hearsay. He can ask about Mr. Levin's  
5 statements, but not Ms. Berk's.

6 MR. LI MANDRI: Well, then I'll -- we'll just  
7 ask him to look at it in front of him on the screen, if  
8 we can isolate it, and refresh his recollection. If  
9 not, I'll just ask questions.

10 Q Do you recall during this time frame, Mr.  
11 Levin, that Ms. Berk was trying to be supportive and  
12 even wrote you on January 29, 2008, saying, "Chaim,  
13 please" -

14 MR. MC COY: Your Honor, he's not going to  
15 read hearsay into the record.

16 MR. LI MANDRI: I'm asking if he remembers.

17 THE COURT: Do you remember receiving an  
18 email from Ms. Berk on January 29, 2008 regarding --  
19 what's it regarding, Counsel? Just --

20 MR. LI MANDRI: This whole issue of the  
21 cousin.

22 THE COURT: Okay.

23 THE WITNESS: Am I supposed to be seeing  
24 something in front of me?

25 THE COURT: No.

1 MR. MC COY: No.

2 THE COURT: I just want to know right now, do  
3 you recall an email exchange that you had with Elaine  
4 Berk regarding the issue with your cousin?

5 THE WITNESS: Vaguely, yes.

6 THE COURT: Okay.

7 Q Okay. And do you recall Elaine Berk saying  
8 that people at JONAH will be --

9 MR. MC COY: Your Honor --

10 THE COURT: Counsel, what are we going to do  
11 here? Why -- why are we reading her email?

12 MR. MC COY: Yeah, it's hearsay.

13 THE COURT: He acknowledges getting the  
14 email. So you can now refer to his response to Elaine  
15 if you want.

16 MR. MC COY: Right. We don't have a problem  
17 with that, Your Honor.

18 Q All right. Let's go to your email to Elaine  
19 and the Listserv, which is the same document, the same  
20 page, D-100. I believe it's still the last page. It  
21 says, "Dear Elaine, and the Listserv members. Let's  
22 talk about regarding doing a clearing with my parents",  
23 which is the second to the last paragraph.

24 Do you recall writing to the group and  
25 Elaine, "Regarding doing a clearing with my parents, I

1 have tried many things, and then I've gone to therapy  
2 sessions with them, and I have tried many forms of  
3 communication with them. They didn't all work. They  
4 did understand better the whole healing process, but  
5 they're still very unhappy with many aspects of my  
6 life."

7 So much of the problems you were having at  
8 this time concerned your relationship with your parents  
9 and not just the SSA, correct?

10 A Yes.

11 Q Now you also had emails with someone named  
12 Jonathan Hoffman, correct?

13 A Yes.

14 Q And he's someone that you knew even before  
15 the Journey Into Manhood weekend. You met him through  
16 Arthur Goldberg?

17 A Yes.

18 Q I think it was mentioned Mr. Goldberg thought  
19 that maybe he could be a mentor for you?

20 A Correct.

21 Q Okay. And you became friends with him during  
22 the period of April 2007 and summer of 2010?

23 A You're asking me if it ended --

24 Q Yeah. Roughly that time frame?

25 A I'll accept that.

1 Q Okay. And was that -- the reason why the  
2 friendship kind of ended was largely because Mr.  
3 Hoffman did not agree with the claims you were making  
4 against JONAH?

5 A No. He agreed with them. He just didn't want me  
6 to make them public.

7 Q Okay. But he's someone that went through the  
8 program with you, correct?

9 A Yes.

10 Q And he stayed with the program?

11 A I guess if you want to characterize it that way.

12 Q Well, he's back in Israel. He's married, he  
13 has children, right?

14 A Yes.

15 Q And he's expressed to you he's happy?

16 A Yes.

17 Q Thank you. Now while you were seeing Mr.  
18 Downing, you expressed that you were angry because this  
19 person Jonathan Hoffman, and one of the other  
20 plaintiffs, Michael Ferguson, started working as  
21 apartment rental agents together. Is that correct?

22 A I don't recall anything about apartment rentals.

23 Q Well, do you recall being angry because they  
24 were working together?

25 A I don't think that was the reason I was angry.

1 Q Well, you were angry because they were  
2 working together and because they had a sexual affair.  
3 You said you were jealous of their sexual affair.  
4 A I was angry at the fact that they were sexually  
5 involved, yes.  
6 Q And you said you were jealous too.  
7 A I don't recall using that word.  
8 Q Well, you don't dispute it; you just don't  
9 remember it?  
10 A I do --  
11 MR. MC COY: Your Honor --  
12 A -- dispute it actually.  
13 Q Okay. Now when I asked you at your  
14 deposition if you could admit that people like Jonathan  
15 Hoffman, Michael Ferguson could make mistakes and  
16 overcome them and learn from them, and do better in the  
17 future, you'll agree that that's sometimes the case,  
18 correct?  
19 A That people make mistakes and can overcome them?  
20 Q Right. And learn from them.  
21 A I hope so.  
22 Q Okay. But, nonetheless, you said you were  
23 not willing to give Mr. Hoffman the benefit of the  
24 doubt that he made a mistake and grew out of it and was  
25 sorry for it, right?

1 A I cannot do that in good conscience, no.  
2 Q Okay. But you're willing to forgive Mr.  
3 Ferguson for having made a mistake?  
4 A Mr. Ferguson isn't treating people.  
5 Q Neither was Mr. Hoffman at the time, right?  
6 A Right, but he is now.  
7 Q Okay. And Mr. Ferguson was three years older  
8 than Mr. Hoffman when that --  
9 MR. MC COY: Objection.  
10 Q -- incident occurred?  
11 MR. MC COY: Assumes facts not in evidence.  
12 THE COURT: You can ask him the question,  
13 Counsel.  
14 Q Isn't that what you testified to in your  
15 deposition, that Mr. Ferguson was three years older  
16 than Mr. Hoffman?  
17 A Yes. And that Mr. Hoffman was his counselor on  
18 the weekend.  
19 Q Okay. You're talking about volunteer staff,  
20 the kind of position that you wanted to fulfill  
21 yourself, an unpaid volunteer staff, right?  
22 A Still a position power, yes.  
23 Q Okay. The unpaid volunteer staff, people who  
24 have gone on one other weekend, thought it was so good,  
25 wanted to participate in another one, is a position of

1 power?  
2 A That's how I viewed them --  
3 Q Okay.  
4 A -- when I was on the weekend.  
5 Q And you realize nothing happened on that  
6 weekend; this was much later when they became friends,  
7 right?  
8 A Yes.  
9 Q Okay. And you think that Hoffman, who was  
10 younger than Mr. Ferguson, months later because he was  
11 on a volunteer staff for one weekend, had a position of  
12 power over Mr. Ferguson?  
13 A I do.  
14 Q Okay. Isn't it true, Mr. Levin, that you  
15 never asked Mr. Downing to help you affirm a gay  
16 identity? Isn't that true; yes or no?  
17 A Yes.  
18 Q Okay. And, again, during this time frame  
19 that you -- when you were seeing Mr. Downing, as late  
20 as October 2008, do you recall telling him that you had  
21 forgiven your ex-girlfriend Markowitz (phonetic) and  
22 was back in love with her? Do you recall telling him  
23 that?  
24 A I don't recall specifically.  
25 Q You don't deny saying that in that time

1 frame, correct?  
2 A I don't recall saying that.  
3 Q Well, were you, in fact, seeing her in  
4 October 2008?  
5 A As I stated yesterday, we were on and off for a  
6 long time, so it's possible.  
7 Q In October 2008, unfortunately, you were  
8 still feeling shame, guilt, fear, and remorse, correct?  
9 A I honestly don't know how to answer that. I don't  
10 remember exactly how I felt at that time.  
11 Q That's fair enough.  
12 MR. LI MANDRI: Can we look at Defendant's  
13 Exhibit 109, D-109?  
14 MR. MC COY: No objection, Your Honor.  
15 THE COURT: Okay.  
16 Q It's a very, very short -- I think the  
17 shortest one we get to look at. Email from you dated  
18 October 16, 2008 to Alan Downing. "The shadow inside  
19 of me feels shame, guilt, fear, and remorse. Please  
20 help me." Did you send that to Mr. Downing?  
21 A Yes.  
22 Q Okay. And he did try to help you overcome  
23 shame, guilt, fear, and remorse, didn't he?  
24 A I don't believe I can call what happened after  
25 that help.

1 Q Okay. But up until then?  
2 A I can't say.  
3 Q But you did report on the Listserv that you  
4 thought you were making progress, right? You saw some  
5 --  
6 A Yes, I did.  
7 Q And during the time frame that you also write  
8 on the Listserv that you were almost addicted to pot,  
9 and Mr. Downing was trying to help you with that  
10 addiction as well?  
11 A I'll accept that I wrote that.  
12 Q And weren't you smoking pot, like, every day?  
13 A I don't recall how much.  
14 Q All right. But in any event, that's  
15 something that you brought to Mr. Downing's attention  
16 and he tried to help you overcome your problems with  
17 smoking marijuana, correct?  
18 A I don't think that marijuana was a big issue in  
19 our sessions. It may have come up at a point.  
20 Q Do you recall writing to the Listserv in  
21 October 2008, "I will never, ever smoke pot again, for  
22 I know the effect that it has had on my well being. It  
23 impairs me from making right decisions." Do you  
24 remember that?  
25 A Yes.

1 Q All right. And one of the things you're  
2 writing about, you were concerned, is that you had  
3 fallen and had a sexual encounter with a man, not  
4 somebody from the JONAH group, but from your community,  
5 correct?  
6 A Yes.  
7 Q And you regretted it at the time, didn't you?  
8 A Yes, I did.  
9 Q And you still wanted help from Mr. Downing  
10 and JONAH because that was not the life that you saw  
11 yourself as wanting to lead at that time, correct?  
12 A Yes.  
13 Q And you didn't blame at your deposition, and  
14 still don't, Mr. Downing, Mr. Goldberg, or Ms. Berk,  
15 the fact that you were having a problem with marijuana?  
16 A No.  
17 Q Now you did -- when you left JONAH, was what,  
18 that October 2008 time frame, correct?  
19 A Yes.  
20 Q You did write them and tell them that you  
21 were leaving mainly for financial reasons, correct?  
22 A Yes.  
23 Q You didn't tell them you were leaving because  
24 you were unhappy with their services, that either Mr.  
25 Downing or Mr. Berk -- Ms. Berk or Mr. Goldberg had

1 provided, correct?

2 A Yes.

3 Q And when you said you were leaving for those  
4 reasons, you recall Alan Downing writing you and  
5 saying, look, I think you need help, and if not from  
6 me, let me try to help you find someone else to get  
7 help for you; do you recall that response?

8 A Yes.

9 Q So he wasn't just looking to line his own  
10 pockets. He wanted to make sure you got help, if not  
11 from you (sic), from someone, right?

12 A Okay.

13 Q And in fact, when you wrote to Ms. Berk and  
14 said you were leaving, she wrote back and said, "Chaim,  
15 I'm very concerned for you. If it's about the money,  
16 let me see if we can help you get a scholarship that we  
17 can help pay for some of your continued treatment  
18 because we want you to get this help." Do you remember  
19 that?

20 A Yes.

21 Q Okay. So if my clients are trying to line  
22 their pockets, they were sleazy, they were salesmen,  
23 they were slick, do you think they'd be trying to go  
24 out and find someone to pay for you to get the  
25 treatment that you needed?

1 A So you're asking me if your clients are sleazy,  
2 slick salesmen, would they still be --

3 Q Yes.

4 A -- trying to help me?

5 Q Yeah, I mean, it's not really a very good  
6 sleazy, slick salesperson to be losing money to help  
7 someone come work with them for free, is it?

8 A Well, as you pointed out, I became somewhat of a  
9 spokesman for them. So it must have been worth it for  
10 them to keep me in their program.

11 Q I see. Isn't it true that they told you that  
12 they didn't think that it a was good role for you to  
13 come out as a spokesperson, that you weren't going to  
14 be out there making public speeches for them?

15 A No, that's absolutely not true.

16 Q Okay. So you're out making speeches for  
17 JONAH?

18 A They had emailed the Listserv and told us about  
19 they were attending some meeting at a place in Brooklyn  
20 that happened to be near where I was working, and they  
21 asked people to come support them. And at that  
22 meeting, I stood up and spoke in support of them.

23 Q You did. But you did that on your own?

24 A They had asked for people to come join them.

25 Q I see.

1 A And I did that.  
2 Q So once there, you decided you wanted to get  
3 up and speak on behalf of JONAH?  
4 A Correct.  
5 Q Okay. 'Cause you were pretty pleased with  
6 the services?  
7 A At the time, yes.  
8 Q And after that, they didn't say, you did such  
9 a good job, we want you to go to this place or that  
10 place or another place and do speaking engagements;  
11 they didn't do that, did they?  
12 A No, they didn't.  
13 Q Thank you. Do you recall Ms. Berk saying to  
14 you when you said you were going to leave that we're  
15 very concerned about you?  
16 MR. MC COY: Objection, Your Honor. This is  
17 hearsay.  
18 THE COURT: Well, I'm going to allow it.  
19 He's asking if he recalls hearing that. Not all --  
20 MR. MC COY: By saying what her statement  
21 was, which is hearsay.  
22 THE COURT: Do you want to rephrase the  
23 question?  
24 MR. LI MANDRI: All right.  
25 Q Well, my clients expressed concern and said

1 they were behind you 100 percent, didn't they?  
2 MR. MC COY: Same objection.  
3 THE COURT: I'll overrule it.  
4 Do you recall them saying that to you?  
5 THE WITNESS: Yes.  
6 Q All right. And they said come back at any  
7 time, I am here for you, right?  
8 A I'll accept that.  
9 Q Yeah. They always showed you kindness and  
10 concern, didn't they?  
11 A Yes.  
12 Q But even after Ms. Berk said, we will try to  
13 find you some scholarship money so you can continue,  
14 you never wrote her back again, right?  
15 A Because that wasn't the reason I actually left.  
16 Q All right. That wasn't my question.  
17 A I --  
18 Q You never wrote her back after she expressed  
19 these concerns and said they were there for you 100  
20 percent, and we can try to find money so you can  
21 continue, they never -- you never wrote her back?  
22 A I don't think so. I don't think I did.  
23 Q And shortly after that, you joined up with a  
24 group called Jewish Queer Youth. Is that correct?  
25 A A few months later, yes.

1 Q All right. And those people don't like the  
2 fact that JONAH is willing to help young Jewish men  
3 overcome same sex attraction if they want that kind of  
4 help, do they?  
5 A I disagree with that characterization.  
6 Q Okay. So they'll send people to JONAH, they  
7 like what JONAH does?  
8 A No. They don't like the fact that JONAH is using  
9 unlicensed therapists to do what they do.  
10 Q Oh, I see. So they don't have a problem if  
11 they use people like Thaddeus Heffner that Sheldon  
12 Bruck worked with, right? They don't mind if they are  
13 using licensed social workers or psychiatrists or  
14 psychologists; they don't mind that, right?  
15 A I don't know.  
16 Q Well, you do know. You do know --  
17 THE COURT: Counsel.  
18 Q -- because they --  
19 THE COURT: Counsel.  
20 MR. LI MANDRI: Yeah. All right.  
21 Q Isn't it true in your conversations with the  
22 people from Jewish Queer Youth, including Mr. Harari  
23 and being on panels with them, that they want to shut  
24 down what they call conversion therapy completely,  
25 right?

1 A You would have to ask them that.  
2 Q Well, you've been on the panels, you've heard  
3 what they say, you've discussed it with them, making  
4 presentations in public, correct?  
5 A We didn't talk about shutting down JONAH.  
6 Q No, you didn't. And that's the point I want  
7 to make. You want to it shut down, the whole thing for  
8 everyone, everywhere, right?  
9 A No. We didn't discuss that either.  
10 Q Then you proceeded to write articles,  
11 including "Surviving Bullying, Silencing, and Torment  
12 for Being Gay in the Frum Community," right?  
13 A Yes.  
14 Q And you wrote that article that you spent  
15 "two years attending every group meeting at JONAH,  
16 every weekend, and every individual life coaching  
17 session they offered." You wrote that, didn't you?  
18 A Yes, I did.  
19 Q That wasn't true. Because we've now  
20 established that you didn't go to more than half of the  
21 individual group counseling sessions; you never went to  
22 a Shabbaton; you went to a couple of JIM weekends, but  
23 you missed a lot of sessions, right?  
24 A Yes.  
25 Q Matter of fact, you remember you wrote the

1 group on the Listserv saying, "I'm sorry. I know I" --  
2 before you left -- "I haven't been attending, I want to  
3 come back, I want to make a commitment to you guys, I  
4 want to make every group session from here on out." Do  
5 you remember that?

6 A Yes.

7 Q And then shortly after that, you left for  
8 good?

9 A Yes.

10 Q Okay. I wanted to ask you some questions  
11 about your first JIM weekend. You were 18 when you  
12 attended that, correct? You had been --

13 A Yes.

14 Q Okay. And you realize JIM was run by an  
15 organization called People Can Change?

16 A Yes.

17 Q All right. Even though Alan and Arthur may  
18 help staff, volunteer without pay some JIM weekends,  
19 they're not running JIM, right? You realize that's a  
20 different organization?

21 A What do you mean by running JIM?

22 Q It's run by a group called People Can Change  
23 and Rich Wyler; you're aware of that?

24 A I'm not sure I understand what you mean by running  
25 JIM. Do you mean actually running the weekend?

1 Q Oh, no. I mean, it's a separate  
2 organization, separate from JONAH?

3 MR. MC COY: Objection. Calls for a legal  
4 conclusion.

5 THE COURT: If you know, you can answer the  
6 question.

7 A Mr. Downing was the leader of the weekend.

8 Q Do you know what organization runs the JIM  
9 weekends?

10 A People Can Change.

11 Q Okay. Have you been to their website?

12 A Yes.

13 Q Okay. Now before I get into JIM, I wanted to  
14 ask you about Exhibit D-84, which I believe your  
15 counsel showed you yesterday, but I'm not sure.

16 MR. MC COY: No, I did not.

17 MR. LI MANDRI: I'm sorry.

18 MR. MC COY: But this is an email from Mr.  
19 Levin, so I don't have an objection to you showing it.

20 MR. LI MANDRI: Thank you, Counsel.

21 THE COURT: D-84.

22 Q Now after -- let's see, the JIM weekend, we  
23 established, was June '87 --

24 THE COURT: June of '07?

25 MR. MC COY: Yes, sir.

1 MR. LI MANDRI: '07. I'm sorry. Thank you,  
2 Your Honor.

3 Q So this was -- it's two months later,  
4 correct, you're sending this email?

5 A Yes.

6 Q And you're sending it to someone named Lynn.  
7 Is that -- yeah, that's someone with People Can Change,  
8 correct?

9 A Yes.

10 Q And you wrote, "I was at the Guts Day today  
11 in Jersey City." That was an event at the JONAH  
12 headquarters?

13 A Yes.

14 Q Okay. And Guts Day, is that -- what is that?  
15 Is that where they do something called psychodrama, do  
16 you know?

17 A Yes.

18 Q Okay. And they do that at the JIM weekends,  
19 too?

20 A Yes.

21 Q Okay. "And I really had a great time. It  
22 came to me that I believe I have great potential.  
23 Therefore, I would like to apply to staff the JIM  
24 weekend in October." So at this point, August 2007  
25 when you were still in the JONAH program, and after

1 you'd gone to one JIM weekend and to the Guts Day that  
2 you talked about on direct exam at JONAH, you wrote to  
3 People Can Change and said you wanted to help staff the  
4 JIM weekend coming up in October, a couple of months  
5 later, correct?

6 A Yes.

7 Q You weren't selected for that, though, were  
8 you?

9 A I don't think I actually applied.

10 Q I see. But you did -- did you go to it?

11 A Did I go --

12 Q To the JIM weekend?

13 A In October?

14 Q Yeah.

15 A No.

16 Q Okay. You went to a later one?

17 A A year later.

18 Q I see. Now you mentioned when you went to  
19 your first JIM weekend, this is back now in June '07,  
20 about the healthy touch experience, and you mentioned  
21 Alan put his arm around you?

22 A Yes.

23 Q Okay. And he asked permission before he did  
24 that?

25 A Yes.

1 Q Okay. And that was not a disturbing  
2 experience for you, was it?  
3 A No.  
4 Q No, it was not a disturbing experience?  
5 A No, it was not.  
6 Q Thank you. You didn't get a lot of touching  
7 from your father growing up, did you?  
8 A No.  
9 Q And you felt after that JIM weekend that your  
10 overall experience was a positive one, correct?  
11 A Yes.  
12 Q You felt it was a relief to speak with other  
13 people. And when you were asked to describe your  
14 experiences with the JIM weekend, you said it was a  
15 positive experience, correct?  
16 A Yes, I did.  
17 Q Thank you. In fact, you wrote on the  
18 Listserv that the JIM experience was a very positive  
19 experience, correct?  
20 A Yes.  
21 Q Okay. I need to ask you some questions --  
22 and before I do that, about the JIM questionnaire, you  
23 not only spoke positively about it, but you never  
24 complained to anyone, either with People Can Change or  
25 Mr. Downing, or Mr. Goldberg, Ms. Berk about anything

1 that happened at the JIM weekend, did you?  
2 A No, I did not.  
3 Q Okay. Let's look at your questionnaire for  
4 the JIM weekend, which is Joint Exhibit 18. You may  
5 have seen this yesterday, I'm not sure. But --  
6 MR. MC COY: Yes, Your Honor, we did show  
7 this yesterday, so --  
8 THE COURT: Okay.  
9 MR. LI MANDRI: Thank you, Mr. McCoy.  
10 Q Would you look at the title of the document.  
11 It's June 1 through 3. And that's your name right  
12 underneath the title. And you filled this out in your  
13 hand, correct?  
14 A Yes.  
15 Q You wrote that -- in response to Question 18  
16 --  
17 MR. LI MANDRI: We don't need to flip through  
18 it just yet, unless you want -- well, let's not. I  
19 don't want to take time.  
20 Q But you wrote in response to Question 18, "Do  
21 you have a history of suicide attempts or taking" --  
22 "or making suicide threats?" The answer was "No."  
23 But you had prior to coming to JONAH  
24 expressed to Ms. Shapiro you had some thoughts of  
25 suicide?

1 A I don't recall expressing that at that time.  
2 Q And the response to the question, you could  
3 take a look at Number 24 on Page 3 of the document.  
4 "In the past year, have you experienced other  
5 types of addictive or compulsive cycles of sexual  
6 behavior not involving other partners, such as use of  
7 habitual" -- "such as habitual use of pornography with  
8 an apparent inability to stop?" You put "Yes." Then  
9 you put: "Gay pornography, bad sobriety for months at a  
10 time. Now in sobriety for over a month."  
11 By sobriety, you're talking about -- not like  
12 drinking alcohol; you're talking about sexual  
13 experiences?  
14 A Yes.  
15 Q Okay. And so you felt you had a problem with  
16 gay pornography and you wanted to work through that,  
17 correct?  
18 A Yes.  
19 Q Okay. And was that pornography addiction  
20 something that you brought to Mr. Downing's attention  
21 as well?  
22 A It's possible. I don't recall specifically.  
23 Q You did state in that questionnaire that  
24 nobody was pressuring to change against your will,  
25 didn't you?

1 A I'll accept that.  
2 Q Okay. And that's how you felt at the time;  
3 you weren't being pressured to try to change?  
4 A Well, I -- yes.  
5 Q And you also wrote on the form that you were  
6 motivated to change to a more heterosexual orientation  
7 because "I feel that's the only way to have a happy  
8 life." Didn't you write that?  
9 A Yes, I did.  
10 Q Okay. So if my clients took you at your word  
11 that you wanted their help because you wanted for  
12 yourself a happier life, you don't fault them for  
13 wanting to try to help you achieve your goal of a  
14 happier life, do you, sir?  
15 A No. I fault them for lying about the possibility.  
16 Q Okay. We'll get to that.  
17 And after the first JIM weekend, you went to  
18 the second JIM weekend about a year and a half later?  
19 A Yes.  
20 Q You did that because you wanted to get back  
21 into what you called the healing spirit, right?  
22 A Yes.  
23 Q And you freely chose not to participate in  
24 certain events at that second JIM weekend, correct?  
25 A Yes.

1 Q Okay. So nobody was coercing you or forcing  
2 you to do any particular process or exercise, whatever  
3 they call that, at the second weekend, at least not to  
4 the extent that you're saying, hey, I'm not going to do  
5 it, and you walked away, right?

6 A Yes.

7 Q And the reason why you wanted to go to the  
8 second JIM weekend was because you got enough out of  
9 the first one that you wanted to continue the work a  
10 second time, correct?

11 A No.

12 Q Well, isn't that what you wrote, that you  
13 thought one JIM wasn't enough and that you got enough  
14 out of it to justify doing it a second time?

15 A No. As I stated yesterday, Mr. Goldberg described  
16 someone who had to go on three weekends in order to  
17 fully break himself, and I believed that the first one  
18 wasn't enough, and that I would need to go a second  
19 time.

20 Q And but you did feel you got enough out of it  
21 to justify a second time, right?

22 A Yes.

23 Q Thank you. Now this which you recounted was  
24 supposedly a horrible experience of, the reenactment of  
25 the sexual abuse to help you get past this, in your own

1 mind and to -- was it explained to you they wanted to  
2 put you in a position of strength where you were not  
3 the victim, you were not actually participating in the  
4 event when they reenacted it, but you were directing  
5 people so that you could not a position of power.  
6 Wasn't that explained to you?

7 A I don't recall it being explained to me, but  
8 witnessing it being played out in front of me was not  
9 an experience of strength.

10 Q But you did -- you were not a participant.  
11 You directed the participants and you told them what  
12 had happened and what was said, right?

13 A Yes.

14 Q Thank you. By the way, at the JIM weekends,  
15 were you aware they make accommodations for people of  
16 faith, like Jewish people can have Kosher meals, they  
17 can have special time for prayer; they'll have masses  
18 for people who are Catholics on the Sunday; are you  
19 aware they make those kinds of accommodations? Wasn't  
20 that explained to you as a Jewish man?

21 A I'm aware that there was Kosher food on the first  
22 weekend, but only on that one because there was quite a  
23 large number of Orthodox Jews.

24 Q Okay. So they're somewhat sensitive to  
25 people's religious concerns in that regard, right?

1 A Well, they also have non-Jewish people scribing  
2 for Jewish people, which is, by Orthodox standard is  
3 not acceptable, so I can't say that.

4 Q You don't have a problem, though, if they  
5 have special prayer time set aside for Jews on the  
6 Sabbath, or they have a Catholic mass; you don't have a  
7 problem with those kinds of things, right?

8 A No.

9 Q Okay. And, indeed, during the time, you  
10 observed a Jewish day of atonement, of fasting and  
11 prayer, and going to the synagogue, right?

12 A During which time?

13 Q Well, let me see.

14 THE COURT: October. Is that the time we're  
15 talking about, the --

16 MR. LI MANDRI: I think so, yes.

17 A Yes.

18 Q Okay. Thank you.

19 MR. LI MANDRI: I wanted to show D-88,  
20 please.

21 MR. MC COY: Which part, Mr. LiMandri?

22 MR. LI MANDRI: Just the first paragraph.  
23 Did I show this yesterday, Counsel, do you know? It  
24 looks familiar now.

25 MR. MC COY: No, I don't believe so.

1 MR. LI MANDRI: Thank you. Just the first  
2 paragraph page.

3 MR. MC COY: First paragraph on the first  
4 page. The email from John Doe?

5 MR. LI MANDRI: Who I understand is signed  
6 Chaim Levin on the second page.

7 MR. MC COY: Right. That's fine. If you  
8 want to just -- can constrict it to that paragraph, I  
9 don't have a problem.

10 MR. LI MANDRI: Thank you, Counsel.

11 Just the first paragraph on the first page of  
12 D-88, please.

13 Q All right. Do you recall writing after this  
14 JIM weekend, a couple of months later now, to the  
15 people on the Listserv, "After a long and wonderful  
16 weekend, I am checking in with a lot of joy and a lot  
17 of gratitude. I hope you are all doing well. In  
18 response to Chaim Larkin's (phonetic) question, I  
19 constantly find myself in fear of being judged by other  
20 men, whether it is on the street or shul, synagogue" --

21 MR. LI MANDRI: Are you with me?

22 (Counsel confer)

23 Q "However, after doing some of this incredible  
24 work, I learned that it is not about what they think.  
25 It's about the story I am making up about them, that

1 they're judging me. In reality, the word we live in is  
2 a very tough one. People are people and we have to  
3 learn to accept the fact that people can be judgmental.  
4 There's nothing we can do about it."

5 So is that one of the lessons you took away  
6 from the JIM weekend?

7 A I don't know if I attribute it directly.

8 Q All right. But two months after the fact,  
9 you're still very grateful for the experience and  
10 you're telling other people on the Listserv that it had  
11 a positive impact on your life, right?

12 A Yes.

13 Q Are you now saying that you were under some  
14 type of Stockholm syndrome at that point, or some type  
15 of evil influence, that you really weren't in control  
16 of yourself?

17 MR. MC COY: Objection. Calls for an expert  
18 conclusion.

19 THE COURT: Yeah. I'm going to sustain the  
20 objection, Counsel.

21 MR. LI MANDRI: Okay. You can --

22 Q Do you believe at that point that you were  
23 capable of expressing yourself of your own free will  
24 and volition?

25 A With the inaccurate information I was given at the

1 time, I was expressing myself based on that  
2 information.

3 Q Okay. But you felt that you were still a  
4 person capable of making decisions as an adult and  
5 expressing yourself as such, correct?

6 A Yes.

7 Q Thank you.

8 MR. LI MANDRI: And then Exhibit D-106.

9 Q This is October 2008, shortly before, I  
10 believe, you left JONAH for good.

11 MR. MC COY: No objection.

12 THE COURT: Okay.

13 Q You wrote: "Dear Brothers." And this is to  
14 the people from your JIM group, correct?

15 A Yes.

16 Q "I can't even tell you all how much I miss  
17 you guys. I had to get straight into the flow of  
18 things right away when I got back, so the feeling sort  
19 of died down. But the strength I got from the weekend  
20 will never leave me. Today is the day of atonement as  
21 we know it in our Jewish calendar, and the closer it is  
22 approaching, I am feeling more and more emotional. I'm  
23 feeling some fear of coming before God.

24 "You are all in my prayers, and I wish you  
25 all only happy, healthy, and joyful healing on the road

1 ahead. Much love, Chaim Levin." And then within a  
2 month, you were gone from JONAH, correct?

3 A Yes.

4 Q All right. But, you know, you said yesterday  
5 how secular the whole thing is. You're on this  
6 Listserv, which is being administered by Elaine Berk,  
7 writing to other Jewish people talking about your  
8 religious feelings and how the whole JIM experience has  
9 been positive for you, even in coming before God,  
10 correct?

11 MR. MC COY: Objection, Your Honor. This is  
12 the JIM weekend Listserv, not the JONAH Listserv.

13 MR. LI MANDRI: Oh, right, Counsel. Thank  
14 you. Let me rephrase it.

15 Q You're writing to the people you went on the  
16 JIM weekend with, correct?

17 A Yes.

18 Q All right. And you're writing the weekend  
19 was positive, even in terms of your own sense of  
20 religious experience?

21 A I don't see the connection to religious  
22 experience.

23 Q Oh, okay.

24 A It's timing that is the connection, that it was  
25 around the time of the day of atonement.

1 Q And the fact you were taking strength away  
2 from the weekend that would never leave you, you don't  
3 think that that would -- was helping you and the other  
4 feelings you were experiencing of a religious nature?

5 A No. Those weekends were not religious. In  
6 fact, the first weekend was the first time I didn't  
7 keep the Sabbath, partially because of what Arthur  
8 Goldberg told me and a few others, that this is "a  
9 different kind of Sabbath."

10 So, again, those weekends were not religious in  
11 nature.

12 MR. LI MANDRI: Okay. I'm going to move to  
13 strike the comment about what the --

14 THE COURT: No, Counsel. You asked -- that's  
15 the --

16 MR. LI MANDRI: Okay.

17 THE COURT: -- way you phrased the question.

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

19 THE COURT: You asked him and he answered it.  
20 I'm not going to strike that response.

21 Q And the participants of the JIM weekend,  
22 while you were writing after you left it, they were  
23 generally supportive of the issues that you expressed  
24 to them, correct?

25 A I'll accept that.

1 Q Okay. And were these guys Jewish guys or not  
2 Jewish guys that you're writing to? Because you're  
3 saying the whole thing's secular, but you're expressing  
4 yourself in a very devotional sort of way. So,  
5 apparently, it wasn't so secular that you could not  
6 share these feelings with them without feeling as if  
7 they wouldn't understand.

8 MR. MC COY: What's the question?

9 THE COURT: Counsel, what's the --

10 MR. LI MANDRI: The question is --

11 THE COURT: Is the question are all of them  
12 Jewish?

13 MR. LI MANDRI: Yes, sir.

14 THE COURT: That's the question.

15 A No. Most of them were Jewish.

16 Q Okay. I want to ask you about the  
17 questionnaire you filled out for the second JIM  
18 weekend.

19 THE COURT: All right. We're going -- how  
20 much longer is this cross going to be?

21 MR. LI MANDRI: About 30 minutes.

22 THE COURT: Because it's an hour and a half  
23 already?

24 MR. LI MANDRI: Thirty minutes. I'd say two  
25 hours.

1 THE COURT: All right. Ladies and gentlemen,  
2 we're gong to take our morning break. Because it's  
3 been a while because we started at nine. So why don't  
4 resume at 10:45? All right?

5 And, again, please do not discuss the case.

6 (Jury not present in court)

7 THE COURT: All right. We'll be back at  
8 10:45. Thank you.

9 (Off the record. Back on the record)

10 (Jury present in court)

11 THE COURT: All right. All seven jurors are  
12 back. And, once again, ladies and gentlemen, thank you  
13 very much for your promptness. It really does make a  
14 major difference in how we're able to move this trial  
15 along. Thank you again very much.

16 Mr. Levin, you're still under oath.

17 And we will continue with the cross-  
18 examination by Mr. LiMandri.

19 Counsel.

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

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

23 CROSS-EXAMINATION BY MR. LI MANDRI: (Cont'd)

24 Q Good afternoon -- I guess it's still good  
25 morning, Mr. Levin. I'm going to try to pick up the

1 pace a bit.

2 When you applied for the second JIM weekend,  
3 do you recall putting in the forms that you thought  
4 your same sex attraction was at a level four, but you  
5 also had significant opposite sex attraction?

6 A I'll accept that.

7 Q And you agreed that when you went to both JIM  
8 weekends, you would keep everything that happened there  
9 confidential, correct?

10 A Yes.

11 Q All right. But you haven't done that, right?  
12 You've released many details about what goes on at the  
13 JIM weekends to the press since you left. Isn't that  
14 true?

15 A Yes.

16 Q Okay. In fact, you even sent documents from  
17 the JIM weekend that were supposed to be confidential  
18 to a Melia Patria at ABC, right?

19 A I do not know which documents you're talking  
20 about.

21 Q Well, didn't you send her information about  
22 what goes on at the JIM weekends?

23 A I didn't send her documents, as far as I recall.

24 Q Did you interview with her?

25 A Yes, I did.

1 Q Okay. And you told her what goes on there,  
2 exchanged emails?

3 A Yes.

4 Q Okay. You also knew when you went to JIM  
5 that the instructors were not professional therapists  
6 and counselors at those weekends, but that didn't deter  
7 you from wanting to participate, correct?

8 A I did not know that.

9 MR. LI MANDRI: Page 481 of his deposition,  
10 Line 14, Your Honor, to Page 482, Line 2.

11 THE COURT: Page 41 --

12 MR. MC COY: 41?

13 MR. LI MANDRI: 481. Line 14.

14 THE COURT: Oh, wait a minute. I'm sorry.  
15 I'm confused. 481?

16 MR. LI MANDRI: Yes, Your Honor.

17 THE COURT: This now is from the deposition  
18 that was taken on January 31, 2014.

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

20 THE COURT: It's a different date.

21 MR. LI MANDRI: I didn't realize that.

22 MR. MC COY: Sorry. 481 --

23 THE COURT: 481.

24 MR. LI MANDRI: Line 14, to 482, Line 2.

25 THE COURT: Okay. I'll allow it.

1 MR. LI MANDRI: Thank you.

2 MR. MC COY: I have no problem. That's fine,  
3 Your Honor.

4 (Portion of videotaped deposition of C. Levin  
5 played from 10:50:27 to 10:50:54)

6 Q You kept a journal when you went to the JIM  
7 weekend?

8 A I'm sorry?

9 Q You kept a journal?

10 A Yes.

11 Q Okay. And do you recall writing in the  
12 journal that you saw women as hot and sexy people with  
13 incredible personalities?

14 MR. MC COY: Objection, Your Honor. Hearsay.

15 MR. LI MANDRI: It's his journal, Your Honor.

16 MR. MC COY: Yes, Your Honor. And it's an  
17 out-of-court statement.

18 MR. LI MANDRI: It's an admission.

19 THE COURT: I'll allow it. It is an  
20 admission, if that's what's said there. Are you read -  
21 - do you want to show it to the witness first?

22 MR. LI MANDRI: Well, I'm trying to get  
23 through this. I do have it and I can show it to the  
24 witness if he denies it.

25 THE COURT: Do you recall --

1 THE WITNESS: Yes, I do.

2 THE COURT: -- writing that in your journal?

3 Q Okay. And you did say that?

4 A Yes, I did.

5 Q Okay. And you still women as hot and sexy?

6 A Yes, I do.

7 Q Thank you. And you learned that as -- from  
8 the JIM weekend, as a man among women, I can set my  
9 boundaries, and that's something you feel you can still  
10 do, correct?

11 A Yes.

12 Q And you wrote that you -- afterwards, you saw  
13 Arthur after the weekend and, "It was amazing. He is  
14 so special, it's incredible. My day just got so much  
15 better after meeting him. He really helped me work out  
16 some of my issues." Do you remember saying that about  
17 Arthur Goldberg?

18 A Yes.

19 Q Thank you. And you stopped in to see Mr.  
20 Goldberg occasionally; he never discouraged you from  
21 doing that, right?

22 A From doing?

23 Q Coming in to see him, talk to him anytime?

24 A No, he didn't.

25 Q He was very friendly and open and tried to

1 help, as far as you could tell?

2 A Yes.

3 Q And, Mr. Levin, Mr. Downing told you that  
4 they were trying to help you heal some of these old  
5 wounds you expressed to them. And the fact that they  
6 helped you do that, you thought was a good thing,  
7 correct?

8 A Yes.

9 Q In fact, you feel even today that you've made  
10 progress caused by this sexual abuse done to you by  
11 your cousin, right?

12 A I don't think I understand the question.

13 Q Well, you've made progress healing some of  
14 your wound up 'til now, correct?

15 A Yes.

16 Q And that includes the abuse by your cousin,  
17 it includes bullying you experienced, unfortunately, in  
18 school, right?

19 A Yes.

20 Q It includes making progress towards healing  
21 some of the wounds caused by hurtful things said or  
22 done to you by your father as well, right?

23 A Are attributing that progress to your clients?

24 Q I'm asking you if you've made healing up to  
25 this point in time through various things, various

1 people you've seen?

2 A Yes.

3 Q You mentioned the New Warriors weekend, and  
4 you've written about that weekend, even since you've  
5 left JONAH, correct?

6 A I don't recall.

7 Q Well, you've never written anything harmful  
8 about it. And when you've talked about bad things you  
9 think happened at JONAH or the People Can Change  
10 weekends, you never have said or written anything bad  
11 about the New Warriors weekend prior to court here  
12 yesterday?

13 A Yes.

14 Q That is true, correct?

15 A Yes. I didn't write anything negative --

16 Q Okay.

17 A -- about the New Warrior weekend.

18 Q And the New Warrior weekend had at least a  
19 couple of nudity exercises, right?

20 A Yes.

21 Q Okay. And the difference is New Warrior  
22 weekend is not about trying to help men overcome same  
23 sex attraction; they'll be gay men that go there trying  
24 to overcome issues of shame and humiliation as well,  
25 right?

1 A Exactly.  
2 Q Okay. And you don't have a problem with  
3 that?  
4 A Uhh --  
5 Q Using nudity for that purpose?  
6 A I -- I don't know.  
7 Q Well, you agree, though, and you said in your  
8 deposition, that you can have -- that can be a positive  
9 experience in some cases?  
10 A If people claim that, then I'll accept it.  
11 Q And you also agree that healthy, physical,  
12 nonsexual interactions with other men can be a good  
13 thing?  
14 A Yes.  
15 Q Okay. Now during this nudity exercise you  
16 mentioned with Mr. Downing, he was five feet away and  
17 he never touched you?  
18 A Yes.  
19 Q And he was, as far as you know, taking notes  
20 during that period?  
21 A Yes.  
22 Q And up until that time, you had told him that  
23 you had issues regarding body shame and being envious  
24 of other men?  
25 A Yes.

1 Q Okay. And while you took off an article of  
2 clothing, you cast off a negative thought about  
3 yourself or about your experiences, correct?  
4 A Yes.  
5 Q That total session with Mr. Downing that day  
6 was an hour, but that one exercise was -- lasted about  
7 30 minutes or less?  
8 A About 30 minutes.  
9 Q And then when you put clothing back on, it  
10 was with a positive affirmation, that you're beautiful  
11 powerful, strong, capable, those kinds of things,  
12 right?  
13 A Yes.  
14 Q And Mr. Downing did not say to touch your  
15 genitals; he said, touch a part of your body that  
16 represents your masculinity. So it could have been  
17 your chest, right?  
18 A I don't recall that.  
19 Q Well, you did say on direct, he said, touch a  
20 part of your body that represents your masculinity.  
21 A And we explored what that meant.  
22 Q Okay. He did not say and you did not testify  
23 on direct that you should touch your genitals?  
24 A When we established what I believe represented my  
25 masculinity, which was my genitals, he did say that.

1 MR. LI MANDRI: Can I play Page 536, Line 25  
2 to Page 537, Line 6?  
3 MR. MC COY: I'm sorry. Five --  
4 MR. LI MANDRI: 536 --  
5 MR. MC COY: Uh-huh.  
6 MR. LI MANDRI: -- Line 25, to 537, Line 6.  
7 Is that --  
8 THE COURT: I stop at 503.  
9 MR. MC COY: You should have another book.  
10 THE COURT: There's another book?  
11 MR. MC COY: Yeah.  
12 MR. MC COY: There was a third day of  
13 deposition.  
14 THE COURT: Do you have a third book for Mr.  
15 Levin?  
16 MR. LI MANDRI: I thought I gave you three  
17 books, Judge, yesterday.  
18 THE COURT: Did you? Oh, wait a minute.  
19 Yes, you did.  
20 MR. LI MANDRI: Oh, thank God.  
21 THE COURT: This was -- no. No. This was  
22 under Ms. Levin. I'm sorry.  
23 Oh, this is March 27, 2014.  
24 MR. LI MANDRI: Must be.  
25 THE COURT: There are three days. Okay.

1 MR. LI MANDRI: Could you believe it? Yeah.  
2 That's why there's so much.  
3 THE COURT: All right. I got it. I got it,  
4 Counsel.  
5 MR. LI MANDRI: You got it?  
6 THE COURT: Yeah.  
7 MR. LI MANDRI: All right.  
8 THE COURT: It was underneath the other one  
9 that --  
10 MR. LI MANDRI: Okay.  
11 THE COURT: All right. So 538?  
12 MR. MC COY: Sorry. 536.  
13 THE COURT: Oh, 536?  
14 MR. LI MANDRI: Line 25.  
15 MR. MC COY: 25.  
16 MR. LI MANDRI: 537 --  
17 MR. MC COY: Your Honor, I don't --  
18 MR. LI MANDRI: Well, now --  
19 MR. MC COY: -- see this as impeaching at  
20 all.  
21 THE COURT: Yeah, I don't either.  
22 MR. LI MANDRI: Okay. We'll move past it.  
23 Q This exercise that you now talked about was  
24 traumatic, the first time you ever mentioned it to  
25 anybody was a year and a half after it had occurred?

1 A Yes.  
2 Q So you didn't complain to Mr. Downing or Mr.  
3 Goldberg or anyone at the time?  
4 A No, I did not.  
5 Q Okay. And you did come back for another  
6 group exercise, correct?  
7 A Yes.  
8 Q And you expressed to Mr. Downing a desire to  
9 continue your work after that point?  
10 A I don't recall doing that.  
11 Q Do you recall within two days recommending  
12 Mr. Downing to someone else, speaking highly of him?  
13 A Yes.  
14 Q Within two days of that exercise, right?  
15 Afterwards.  
16 A Yes.  
17 Q Thank you. And then after you got involved  
18 giving presentations against the work that JONAH does  
19 with Mr. Harari of Jewish Queer Youth, you began doing  
20 media interviews, correct?  
21 A Yes.  
22 Q All right. And you felt like you were -- did  
23 you feel like you were sabotaging the efforts of people  
24 who were trying to change?  
25 A No. I felt like I was telling horror stories of

1 people who tried and didn't successfully change.  
2 Q Okay. We'll come back to that.  
3 You've said that you're aware of five other  
4 people that went through these same type of exercise  
5 with Mr. Downing that you described?  
6 A Yes.  
7 Q But you don't recall any of the other five  
8 participants describing it as sexual abuse, do you?  
9 A I can't say that, no.  
10 MR. LI MANDRI: Okay. The deposition  
11 testimony that I wanted to read was Page 557, Line 19  
12 through 21, just three lines.  
13 MR. MC COY: Sorry, again, 557?  
14 MR. LI MANDRI: Yeah. Lines 19 through 21.  
15 MR. MC COY: That's just a question.  
16 MR. LI MANDRI: And answer.  
17 MR. MC COY: 557, 19 through 21?  
18 MR. LI MANDRI: That's what I have.  
19 THE COURT: Through 23 if you want the  
20 answer.  
21 MR. MC COY: The answer is 23.  
22 And, Your Honor, in any event, this is not  
23 impeaching.  
24 MR. LI MANDRI: Well --  
25 THE COURT: Yeah, I don't --

1 MR. LI MANDRI: Maybe we have some -- "Do you  
2 feel you're sabotaging the efforts of people trying to  
3 change?"

4 MR. MC COY: You know --

5 THE COURT: No, wait. Are we --

6 MR. MC COY: -- Mr. LiMandri, stop reading.

7 THE COURT: Are we on the same -- are we  
8 reading the same thing? Because I don't see -- I don't  
9 see that word anywhere. Maybe you're looking at a  
10 different page.

11 MR. LI MANDRI: That's --

12 MR. JONNA: 557.

13 THE COURT: 557, Lines 19 through 21 talk  
14 about five other people.

15 MR. LI MANDRI: Our --

16 THE COURT: It doesn't mention word,  
17 sabotage.

18 MR. LI MANDRI: Apparently, our transcript is  
19 not matching up for some reason. And I don't know why.  
20 We're looking at 19 through 21.

21 THE COURT: No. I mean, on 557, 19 through  
22 21 is just a question and it's not impeaching.

23 MR. LI MANDRI: We'll move on.

24 THE COURT: I mean, I have -- this is what I  
25 was given. It says original.

1 MR. LI MANDRI: Okay. I don't know ours  
2 doesn't match. I'm sorry, Your Honor.

3 THE COURT: All right.

4 Q You never told Mr. Downing after that  
5 exercise that you didn't want to come back to work with  
6 him, did you?

7 A No.

8 Q And although you've claimed that JONAH  
9 neither fired nor distanced themselves from Mr.  
10 Downing, you never even complained to Mr. Goldberg  
11 about anything Mr. Downing did, right?

12 A Correct.

13 Q And do you recall telling Jonathan Hoffman  
14 within two days after that particular exercise, the  
15 nudity exercise, that you found the experience  
16 empowering and positive?

17 A I don't recall discussing it with Mr. Hoffman.

18 Q You say that you accidentally brought it up  
19 to Mr. Harari a year and a half later and that's when  
20 you were on a panel with him discussing what you guys  
21 call conversion therapy, correct?

22 A Yes.

23 Q Okay. And I don't think you used to term  
24 before, but yesterday, you said you just kind of  
25 blurted it out that no, you found you were unhappy with

1 it?  
2 MR. MC COY: Objection. Misstates his  
3 testimony. But he can answer.  
4 THE COURT: You can answer it if you -- if  
5 you understand it.  
6 A I don't understand.  
7 Q Well, was yesterday the first time you  
8 mentioned that you blurted it out?  
9 A No, it was not.  
10 Q Okay. You didn't say that at your  
11 deposition, though, did you?  
12 A It was a long deposition. I really don't  
13 remember.  
14 Q And you're using this term conversion  
15 therapy. You never heard Mr. Downing use that term,  
16 correct?  
17 A Correct.  
18 Q You never heard Mr. Goldberg use that term,  
19 correct?  
20 A Correct.  
21 Q And you never Ms. Berk use that term, right?  
22 A Yes.  
23 Q They talked about gender affirming processes,  
24 right?  
25 A Reparative therapy would be more --

1 Q Or gender affirming?  
2 A Reparative therapy.  
3 Q Well, you've been to their website, right?  
4 A Yes.  
5 Q What do they -- on the psycho-educational  
6 model, they talk about gender affirming processes,  
7 right?  
8 A Yes.  
9 Q They don't have reparative therapy on the  
10 gender affirming -- the psycho-educational model, do  
11 they?  
12 A I'll accept that.  
13 Q Now after this session with Mr. Levin (sic),  
14 where he asked you about JONAH and you told him about  
15 this exercise --  
16 MR. MC COY: Mr. Harari.  
17 THE COURT: Counsel, your question started  
18 off "session with Mr. Levin."  
19 MR. LI MANDRI: I screwed --  
20 THE COURT: Yeah.  
21 MR. LI MANDRI: I made a mistake.  
22 THE COURT: So why don't we rephrase the  
23 question?  
24 MR. LI MANDRI: Thanks Your Honor.  
25 THE COURT: That's all right.

1 Q After your sessions with Mr. Harari, where  
2 you told him about this exercise, he then put you in  
3 touch with Mr. Wayne Bessen, right?

4 A Yes.

5 Q And it was Mr. Bessen who encouraged you to  
6 go public about this nudity exercise?

7 A Yes.

8 Q By the way, you've also gone public about  
9 what you call this healthy touch and hugging, right?

10 A I've talked about it, yes.

11 Q Yeah. But you never felt that when Mr.  
12 Downing gave you a hug, there was nothing sexual about  
13 it that you thought at the time, correct?

14 A I don't know what Mr. Downing was thinking.

15 Q But you didn't feel it was that way at the  
16 time?

17 A I can't say.

18 Q And you never did any cuddling; you've heard  
19 that before? You didn't do any of those experiences,  
20 certainly not with Mr. Downing?

21 A I don't think so.

22 Q And then after that exercise, that's when you  
23 wrote to the group in November 2008, to the group you  
24 had been attending group sessions with, and requested  
25 forgiveness and that you wanted to come back to the

1 group and stop hiding, right?

2 A Yes.

3 Q And you never heard any specifications on how  
4 long it would take you to finish this work so that you  
5 could overcome your same sex attraction. Isn't that  
6 true?

7 A No, that's not true.

8 MR. LI MANDRI: Page 37, 4 through 23,  
9 please.

10 MR. MC COY: I'm sorry?

11 MR. LI MANDRI: 327. Page 327, 4 through 23.

12 MR. MC COY: 327 --

13 THE COURT: 327?

14 MR. LI MANDRI: 4 through 23.

15 MR. MC COY: Yeah, that's fine, Your Honor.

16 THE COURT: Okay. No objection

17 (Portion of videotaped deposition of C. Levin  
18 played from 11:05:51 to 11:06:43)

19 Q Now before you met with Mr. Harari and told  
20 him a year and a half later that, for the first time,  
21 you thought this was a bad experience, you actually  
22 called Mr. Downing -- this was more than a year after  
23 you left the program -- in order to check in and update  
24 with him, correct? Do you recall calling Mr. Downing  
25 long after you left the program to check in and update

1 with him?

2 A I believe it was only a few months after.

3 Q Few months? Okay. But you didn't mention  
4 the nudity exercise being an issue at that time, did  
5 you?

6 A No, I did not mention the nudity exercise at that  
7 time.

8 Q And in your deposition, you surmised that  
9 maybe you were suffering from something you called  
10 Stockholm syndrome. Is that right?

11 A Yes.

12 Q And then you said, when I asked you where you  
13 got that term, that you just made it up -- or not made  
14 it up; it came to you at the time of your deposition,  
15 correct?

16 A Yes.

17 Q And then we showed you, in fact, it was Wayne  
18 Bessen who had sent you an email suggesting that maybe  
19 you were experiencing Stockholm syndrome and that's why  
20 you still felt favorable towards the defendants. Is  
21 that right?

22 A Yes.

23 Q So mental healthcare practitioner told you  
24 that the reason you felt favorable towards the  
25 defendants was because you were under some type of

1 influence or Stockholm syndrome; in fact, it was Wayne  
2 Bessen, this gay activist, who said, that must be why  
3 that you still felt favorable towards them. Is that  
4 right?

5 A Mr. Bessen did suggest that I was suffering from  
6 Stockholm syndrome when I wanted to write an email to  
7 the JONAH members almost to apologize for the YouTube  
8 video.

9 Q Yeah. He had you do a YouTube video with  
10 Benjamin Unger?

11 A Yes.

12 Q And that's the first time you came out  
13 publically, basically blasting people who do the kind  
14 of work JONAH does?

15 A We came out publically talking about our  
16 experiences with the work that JONAH does.

17 Q Okay. And that was at the suggestion of Mr.  
18 Wayne Bessen?

19 A Yes.

20 Q Stockholm syndrome, by the way you explained  
21 it, your understanding is when you view someone who  
22 abused you favorably, as opposed to someone who harmed  
23 you. You think they did good for you, correct? That  
24 was your understanding of Stockholm syndrome? Be like  
25 someone who's kidnaped or something?

1 A My understanding of Stockholm syndrome, in this  
2 case, especially, was that I was feeling pity for the  
3 defendants. And it was suggested that that was  
4 Stockholm syndrome.

5 Q And that's why this thing that Mr. Bessen  
6 told you, you feel that you never saw it as abusive,  
7 correct?

8 A I'm sorry. What?

9 Q You never saw it as abusive or told my  
10 clients the nudity exercise or anything about their  
11 work was abusive because you felt pity on them?

12 A I'm going to disagree with the first half of your  
13 characterization. I did eventually come to see it as  
14 extremely abusive.

15 Q But not for -- until you spoke to Mr. Harari?

16 A Not until I had enough time and information to  
17 process what had happened to me as being abusive.

18 Q And that was by talking to someone who you  
19 know speaks out against the work JONAH does, correct?

20 A That was after speaking out about my experiences  
21 with various people, including Mr. Harari.

22 Q And that's when you first saw it as abusive,  
23 correct?

24 A I think it still took me some time.

25 Q It took you some time between when you told

1 Mr. Harari and he referred you to Mr. Bessen, and then  
2 you figured it out that it was abusive?

3 A Over those few months.

4 Q And then you start getting a lot of  
5 publicity, doing newspaper interviews and soliciting  
6 reporters and writing to The New York Times, writing to  
7 ABC, trying to get on Dateline, trying to get on  
8 Nightline, doing all those things, correct?

9 A Yes.

10 Q And you liked the publicity and you told Mr.  
11 Bessen, thanks for making me a celebrity, right?

12 A With all due respect, Mr. LiMandri, I do not like  
13 this. I do not like being known as the guy who  
14 undressed in front of his life coach. I do not like my  
15 very personal details of my life being so public.

16 Q The question was, didn't you write to Mr.  
17 Bessen and say, thank you for making me a celebrity?

18 A Yes.

19 Q Okay.

20 A I did.

21 Q And with regard to the lawsuit, you told Mr.  
22 Bessen you get at least half the credit for the work  
23 that went in in preparing to bring the lawsuit, right?

24 A Yes.

25 Q And even though you say you don't like the

1 publicity, after -- you actually brought a lawsuit  
2 against your cousin and spoke out publically against  
3 that, correct?

4 A Yes, I did.

5 Q Okay. You did interviews and said you want  
6 to be a spokesperson for other victims of sexual abuse,  
7 right?

8 A Yes.

9 Q So you haven't tried to keep yourself out of  
10 the limelight at all, correct?

11 A That doesn't mean I like it. Correct.

12 Q Okay. Well, when the Southern Poverty Law  
13 Center asked you to be the face of their campaign  
14 against conversion therapy, and to be featured as a key  
15 person in their campaign on their website, you didn't  
16 have any problem with that either, did you?

17 A No, I did not.

18 Q And then you were part of a discussion with  
19 Wayne Bessen and Mr. Harari and others to try to  
20 infiltrate JONAH and send people into JONAH to try to  
21 set them up before you filed the lawsuit, correct?

22 MR. MC COY: Objection, Your Honor.  
23 Relevance.

24 MR. LI MANDRI: Well, it goes to bias, Your  
25 Honor, and --

1 THE COURT: I'm going to allow it.

2 You can answer the question.

3 A I'm not sure which discussion you're referring to.

4 Q I could show you the --

5 THE COURT: The question was conspiracy to  
6 infiltrate JONAH. Did you participate in a conspiracy  
7 to infiltrate JONAH.

8 THE WITNESS: I didn't --

9 THE COURT: That's the question as I  
10 understand it.

11 Counsel, is that correct?

12 MR. LI MANDRI: Yes, Your Honor.

13 A I believe I was privy to a discussion about that.

14 Q Okay. And as far as you know, someone did go  
15 in, pretending to want this kind of help, with a  
16 camera, and trying to catch my clients doing something  
17 they could use against them, right?

18 A As far as I know, yes.

19 Q But nothing ever came of that, did it?

20 A Not that I know of.

21 Q While you're doing all this stuff, trying to  
22 bring my client down, did you feel you were still  
23 suffering from the effects of Stockholm syndrome?

24 MR. MC COY: Objection, Your Honor.  
25 Argumentative.

1 THE COURT: No. I'm going to allow it. It's  
2 cross-examination. He can answer the question.  
3 A I still pity your clients today in this courtroom,  
4 so maybe.  
5 Q You pity all the people that you know say  
6 they've been helped by my clients as well?  
7 A I can't speak for them.  
8 Q The processes you're complaining of at the  
9 JIM weekend, many of those you went through at the  
10 Mankind New Warriors weekend, correct?  
11 A Only one. That was the Guts Work.  
12 Q Guts Work. They did psychodrama, they did  
13 nudity, they did a lot of the same things, right?  
14 A Only the Guts Work was the same.  
15 Q And you haven't complained about the New  
16 Warriors. And, in fact, you found that JIM was less  
17 pushy than New Warriors, right?  
18 A Yes.  
19 Q And there was more nudity at the New Warriors  
20 weekend, correct?  
21 A Yes.  
22 Q And you did that, those nudity exercises  
23 eight months before that exercise with Mr. Downing at  
24 the office?  
25 A Yes.

1 Q You never told Mr. Downing that you were  
2 uncomfortable participating in those nudity exercises  
3 at the New Warriors weekend, did you?  
4 A It's very possible that I did.  
5 Q You have no recollection of that now?  
6 A I recall discussing the New Warrior weekend with  
7 Mr. Downing.  
8 Q But you didn't complain about the nudity  
9 exercise, and you didn't express any reluctance before  
10 you started the nudity exercise with him in his office?  
11 A Before we started the nudity exercise?  
12 Q Right.  
13 A As it was starting, I expressed reluctance, yes.  
14 Q And nobody twisted your arm?  
15 A If by twisting your arm, you mean telling me that  
16 this was the work I needed to do in order to change  
17 from heterosexual, then your client definitely twisted  
18 my arm.  
19 Q Okay. Just like he twisted the arm of  
20 Benjamin Unger and Mr. Ferguson, both plaintiffs in the  
21 case, who only took their shirts off?  
22 A That's right. I believe I was in a more  
23 vulnerable position than they were.  
24 Q After being at the New Warriors nudity  
25 exercises and saying how much it was helpful, going to

1 the JIM weekend, saying how much it was helpful, you  
2 felt you were still more vulnerable?  
3 A Yes.  
4 Q Okay. At the New Warriors weekend, 40 to 50  
5 people participated in the nudity exercise?  
6 A As far as I recall, yes.  
7 Q And you're okay with it because it was not  
8 about same sex attraction?  
9 A The nudity exercise?  
10 Q Right.  
11 A Well, there was also a roomful of people, not just  
12 me and one other person.  
13 Q And that made it easier for you?  
14 A It was not as disturbing.  
15 Q Okay. And you participated in both of the  
16 New Warriors; you didn't ask to sit out the second one  
17 after the disturbing first one, did you?  
18 A No. I didn't feel like it was an option.  
19 Q Did you ask?  
20 A No.  
21 Q Okay. So isn't it true at your deposition,  
22 you admitted you never talked with Downing about the  
23 unpleasantness of the New Warriors nudity exercise? I  
24 can play the clip, if you'd like.  
25 A I'll accept that I said that, but I --

1 Q Thank you. Now you also did the exercise at  
2 JONAH where you would hit a pillow with a --  
3 A I believe I did, yes.  
4 Q And you also observed Mr. Unger do it one  
5 time?  
6 A Yes.  
7 Q At the time, you didn't think it was  
8 traumatic for yourself, did you?  
9 A I did.  
10 MR. LI MANDRI: Page 470, Line 3 through 6,  
11 Your Honor.  
12 THE COURT: Four seven oh?  
13 MR. LI MANDRI: Lines 3 -- that's what I  
14 have. I hope they match up.  
15 MR. MC COY: Four seven oh?  
16 MR. LI MANDRI: Lines 3 through 6.  
17 THE COURT: 3 through 6?  
18 MR. LI MANDRI: That's what I have.  
19 THE COURT: Yeah.  
20 MR. LI MANDRI: It's not a lot of content.  
21 THE COURT: NO.  
22 MR. LI MANDRI: But I can back it up.  
23 THE COURT: I mean, go ahead. You can read  
24 it. I don't have any problem with it.  
25 MR. LI MANDRI: I could go -- I could back

1 up. I just --

2 THE COURT: Well, that's fine. Read -- let -  
3 - play it.

4 MR. LI MANDRI: Go ahead. 470, 3 through 6.  
5 Four seven zero.

6 (Portion of videotaped deposition of C. Levin  
7 played from 11:18:12 to 11:18:22)

8 Q And Mr. Unger never told you prior to your  
9 getting together with him to do the YouTube video, that  
10 he thought it was a traumatic event either, did he?

11 A I do not recall him telling me that.

12 Q And you didn't have any type of bleeding or  
13 bruising on your hands after you did the event, did  
14 you?

15 A No, I did not. But he used a tennis racket and I  
16 used a bat.

17 Q Okay. Do you recall writing to various  
18 members of the media, complaining that they weren't  
19 giving you the coverage you thought you should get and  
20 they were being too fair to my clients?

21 A One member of the media, yes.

22 Q Wasn't it more than one person you wrote to,  
23 and said -- there was, I think, a TV show you didn't  
24 like; there was an article you didn't like; do you  
25 remember that?

1 A I published a letter that I had sent to that one  
2 reporter, who gave your clients 20 minutes of their  
3 time and me and Benjamin Unger 30 seconds. So, yes, I  
4 was displeased.

5 Q Okay. And then someone else, you actually --  
6 there was a correspondence going back with Rosalyn  
7 someone, I think, Rosalyn someone who was a reporter.  
8 And you were saying you were so unhappy with her that  
9 there was even talk of someone suing someone over the  
10 article?

11 A I expressed to Ms. Saltzman that by endorsing your  
12 clients, she was essentially endorsing abuse. And she  
13 threatened me with a lawsuit.

14 Q Now isn't it true that no one associated with  
15 my clients, not Mr. Goldberg, not Ms. Berk, and not Mr.  
16 Downing ever used the term mental disorder or mental  
17 disease or mental illness? They didn't use those  
18 terms, referring to mental in front of it, when  
19 describing homosexuality?

20 A I recall Ms. Berk using that term multiple times  
21 on the Listserv.

22 MR. LI MANDRI: I need to show 153, Line 22.  
23 She -- wait a second.

24 Q She used the term disorder. Not mental  
25 disorder. Can we be clear on that?

1 MR. MC COY: Is there a question?

2 MR. LI MANDRI: That's my question before I  
3 have to go through this exercise of showing video  
4 testimony, Judge.

5 THE COURT: What is the question? Did she  
6 ever use --

7 MR. LI MANDRI: She used the term disorder,  
8 not mental disorder.

9 A I'll accept that.

10 Q Okay. Good. Thank you. And you don't  
11 recall Mr. Downing ever blaming you for not working  
12 hard enough and that's why you weren't getting the  
13 progress you wanted?

14 A No, I do not.

15 Q And that's even though you didn't show up for  
16 weeks at a time, he never said, it's really your fault  
17 if you're not getting progress, right?

18 MR. MC COY: Objection. Misstates the  
19 testimony.

20 THE COURT: I'll allow the question. The  
21 witness can answer it.

22 Q That's correct?

23 A Yes.

24 Q Okay. And although Mr. Goldberg encouraged  
25 you and said you needed to do the work if you want to

1 progress, he never said that it's your fault that  
2 you're not progressing, or he never blamed you for  
3 progressing (sic), did he?

4 A No. He already set up that implication  
5 previously.

6 Q Okay. So if a coach or a teacher or someone  
7 says, you got to put in the work if you want to get the  
8 good grade or if you want to get the better time on the  
9 mile, or something like that, you feel they're blaming  
10 you if you don't do the work and you don't get the good  
11 grade or can't get the better time. Is that what  
12 you're saying?

13 A If they said that people don't change because they  
14 don't try hard enough, yes, that's what they're saying.

15 Q Okay. But that's the implication you're  
16 drawing, correct?

17 A That's what they're saying --

18 Q Okay.

19 A -- Mr. LiMandri.

20 Q All right. So you're -- would you be  
21 against, then, giving awards for the fastest track  
22 runner or something like that because the other guys  
23 are going to feel bad?

24 MR. MC COY: Objection. Relevance.

25 THE COURT: Yeah.

1 MR. LI MANDRI: Never mind.

2 THE COURT: Okay. You're withdrawing the  
3 question?

4 MR. LI MANDRI: I'll withdraw it.

5 THE COURT: All right.

6 Q You admit that you did not follow all of the  
7 defendants' recommendations regarding certain types of  
8 persons or activities if you wanted to progress, right?

9 A I'll accept that.

10 Q You also wrote after you left that you did a  
11 lot of the group work and you did a lot of individual  
12 counseling, and that you know that Arthur Goldberg  
13 means well, but you just gave up; do you remember  
14 writing that?

15 A Yes, I do.

16 Q Do you recall Ms. Berk saying, it's okay if  
17 you fall because sometimes the process is two steps  
18 forward, one step back? Do you recall her saying that?

19 A I'll accept that she said that.

20 Q Okay. Then do you recall you wrote Mr.  
21 Goldberg in December 2009, more than a year after you  
22 left the program, and that would be at a time when  
23 someone named Mordechai Levovitz helped you draft this  
24 email you wrote to Mr. Goldberg?

25 A Yes.

1 Q Okay. And he's associated with Jewish Queer  
2 Youth, correct?

3 A Yes.

4 Q And you were writing to Mr. Goldberg at that  
5 time for what purpose?

6 A I was expressing concern over his use of the  
7 number 80 to 85 percent success rate.

8 Q Okay. That's a number you used, you had Mr.  
9 Levovitz review it, and then you wrote to Mr. Goldberg.  
10 And he wrote back. Do you recall?

11 A Yes.

12 Q Okay. And do you recall him saying, we don't  
13 use 85 percent; it's 70, 75 percent for those who  
14 finish the program, correct?

15 A Yes.

16 Q Okay. And he also said, we don't call it a  
17 sickness. Do you remember that?

18 A I actually do not.

19 Q Okay. We'll get to that. Did you also write  
20 -- now did you also monitor the Listserv communications  
21 at that time? You were -- even though you left JONAH,  
22 you were still getting Listserv communications?

23 A I had already lost access to that email account at  
24 that time.

25 Q Well, for some time after you left JONAH, do

1 you remember sending Listserv communications, or  
2 sharing contents with Jewish Queer Youth people?  
3 A It's possible, but I don't recall specifically.  
4 Q Well, you realize the JONAH Listserv  
5 communications are supposed to be confidential,  
6 correct?  
7 A Yes.  
8 Q Okay. And you were reporting JONAH Listserv  
9 communications to JQY because they bothered you, and  
10 you hoped by bringing attention to others, something  
11 might be done about it, right?  
12 A Yes.  
13 Q Weren't you concerned that if people on the  
14 Listserv, like you were on the Listserv, realized that  
15 the contents of what they were saying were being shared  
16 with outsiders hostile to their purpose, they wouldn't  
17 want to use the Listserv anymore?  
18 A Assuming that that's what I did, then yes.  
19 Q But you didn't mind you were going to deprive  
20 other people who felt they were benefitting from the  
21 Listserv, as you once did, from having the opportunity  
22 to use it because of you're violating the terms; you  
23 weren't concerned about that?  
24 A No.  
25 Q And, by the way, during this time while you

1 were writing these articles, Wayne Bessen was actually  
2 paying you money to write articles and post things on  
3 his website and house sit for him, doing things like  
4 that, wasn't he?  
5 A He paid me for two articles.  
6 Q And to house sit and watch his dog and that  
7 type of stuff, right?  
8 A That had nothing to do with any article.  
9 Q I'm sure it didn't.  
10 MR. MC COY: Your Honor, objection.  
11 THE COURT: Counsel.  
12 MR. LI MANDRI: Okay. I'm sorry, Your Honor.  
13 THE COURT: Save it for your summation,  
14 please.  
15 MR. LI MANDRI: Thank you, Your Honor.  
16 Sorry.  
17 Q Do you recall writing to Arthur and Elaine  
18 before you left, saying, "Thank you, Arthur and Elaine,  
19 for all the love and time you invest in each and every  
20 one of us every day. And thank you for all the time  
21 you invested in me. I will be forever grateful." Do  
22 you remember writing that to them?  
23 A Yes.  
24 Q Okay. You also wrote that: "I truly strive  
25 to love and respect every human being as they are. And

1 I know I have no right to take away someone's hope or  
2 belief that change is possible." Do you remember  
3 writing that after you left JONAH?

4 A Yes.

5 Q You don't believe that anymore, though, do  
6 you?

7 A No, I do not.

8 Q So you're okay with taking someone else's  
9 hope or belief that change is possible?

10 A I'm okay with letting them know that change is not  
11 necessarily possible.

12 Q You also wrote to people that, "The choice to  
13 heal and attempt to change your SSA is something you  
14 and others have the right to choose to do. It's a  
15 choice that you and anyone is entitled to." Do you  
16 remember writing that as well?

17 A Yes.

18 Q And then the email from -- to Mr. Goldberg,  
19 where you said you still intended to pay for what you  
20 owed JONAH, that was all the way as late as December  
21 20, 2009? Does that sound right?

22 A Yes.

23 Q Do you recall asking Mr. Goldberg for the  
24 science that supports -- in that email where you wrote,  
25 that Mr. Levovitz reviewed, the science that supports

1 the work JONAH does?

2 A I'll accept that.

3 Q Okay. And he wrote back and said, a lot of  
4 stuff is posted on the JONAH website and on the PCC  
5 website, and on the PATH website. Do you remember  
6 getting that email?

7 A I'll accept your representation of that.

8 Q Well, did you look at the -- for example, the  
9 PATH website to see what information was listed that  
10 supported JONAH's representations regarding the science  
11 that supported their work?

12 A I do not recall doing that.

13 Q Were you serious in asking them to provide  
14 information to you regarding the science that supports  
15 this work?

16 A Yes, I would like them to actually cite something,  
17 not direct me to a website.

18 Q Well, the -- if you look at the website, did  
19 you see it listed dozens and dozens of studies?

20 MR. MC COY: Objection. Assumes facts not in  
21 evidence.

22 Q Well, you -- you said --

23 THE COURT: He said he didn't look at the  
24 website, Counsel.

25 Q You said you looked at the PCC website

1 previously, though, earlier today on my question --  
2 A Two --  
3 Q -- did you not?  
4 A Two years previously, yes.  
5 Q Okay. Did you check and see the information  
6 on it regarding studies at that time?  
7 MR. MC COY: Objection, Your Honor. There's  
8 no testimony that there are studies or anything listed  
9 on the PCC website.  
10 THE COURT: I am --  
11 MR. MC COY: These are facts not in evidence.  
12 THE COURT: All right. I'm going to allow  
13 the witness to answer the question. He can answer the  
14 question. It's cross-examination.  
15 Did you see anything on the PCC website about  
16 articles with science?  
17 THE WITNESS: It's possible. I don't  
18 remember.  
19 Q Well, did you share the information with Mr.  
20 Levovitz, that websites Mr. Goldberg cited you to, so  
21 that he could look for himself as well?  
22 A I believe I shared Mr. Goldberg's responses with  
23 Mr. Levovitz.  
24 Q Did you write that after you left JONAH, you  
25 were working with Mr. Bessen and Mr. Harari and Mr.

1 Levovitz, that you considered the techniques at JONAH  
2 experimental?  
3 A That's what I was told that they were.  
4 Q You don't know why, though, you used that  
5 term? Just someone else told you they were?  
6 A Yes. Your clients did.  
7 Q Experimental?  
8 A Yes.  
9 Q Didn't they tell you that these techniques  
10 have been used by other people long before them?  
11 A The term experimental was used many times for the  
12 purposes of weekend. And I believe that's why I  
13 attributed it.  
14 MR. LI MANDRI: I'd like to read Page 572,  
15 Lines 5 through 11, please.  
16 THE COURT: 572.  
17 MR. LI MANDRI: 5 through 11.  
18 MR. MC COY: I'm sorry, Your Honor. 572 --  
19 THE COURT: No. It's not --  
20 MR. LI MANDRI: It doesn't match?  
21 THE COURT: Not -- not --  
22 MR. MC COY: No. That doesn't --  
23 THE COURT: Doesn't match at all.  
24 MR. MC COY: Doesn't match at all.  
25 MR. LI MANDRI: Pretty frustrating.

1 (Counsel confer)

2 MR. LI MANDRI: Doesn't matter. I'll move  
3 on.

4 Q Do you recall stating in your deposition that  
5 you've been diagnosed with borderline personality  
6 disorder?

7 A I don't recall saying that.

8 Q Is that true, though?

9 A I have never been diagnosed with borderline  
10 personality disorder.

11 Q Well, you said you had BPD symptoms. And I  
12 asked you what that was. And you said borderline  
13 personality disorder. Do you remember that testimony  
14 in your deposition?

15 A Borderline personality disorder symptoms.

16 Q I see.

17 A I did not say that there was a diagnosis.

18 Q And you were taking four different  
19 medications at that time of your deposition, including  
20 Adderall --

21 MR. MC COY: Your Honor, relevance?

22 MR. LI MANDRI: Well, it goes to his ability  
23 to --

24 MR. MC COY: And we --

25 THE COURT: His ability what? Do you want to

1 establish that he was under medication and didn't know  
2 what he was saying at his deposition?

3 MR. LI MANDRI: I want to see if he is under  
4 medication now and --

5 MR. MC COY: Your Honor, that --

6 THE COURT: Well, then ask him -- then ask  
7 him that question.

8 MR. MC COY: Your Honor, we had a motion in  
9 limine about --

10 THE COURT: He can ask the question, Counsel.  
11 I didn't say -- let him ask the --

12 You want to ask him if he's under medication  
13 now?

14 MR. LI MANDRI: Yes.

15 THE COURT: Are you under any medication now?

16 THE WITNESS: No.

17 MR. LI MANDRI: And D -- Look at D-128,  
18 please. We're getting to the very end fortunately. D-  
19 128.

20 MR. MC COY: One two eight, Counsel?

21 MR. LI MANDRI: Yes. D-128.

22 MR. MC COY: Which part of this email would  
23 you like to ask about?

24 MR. LI MANDRI: Both.

25 MR. MC COY: Which?

1 MR. LI MANDRI: The -- Mr. Goldberg's email  
2 and Mr. Levin's response.

3 MR. MC COY: All right. Well, Mr. Goldberg's  
4 email is hearsay, Your Honor.

5 MR. LI MANDRI: Well, it goes to Mr. --

6 THE COURT: Where -- I'm just looking here.  
7 I --

8 MR. LI MANDRI: Mr. Goldberg's responding to  
9 Mr. Levin's email and it --

10 MR. MC COY: Yes. And --

11 MR. LI MANDRI: -- goes to his mental state.

12 MR. MC COY: It's still --

13 THE COURT: All right. Wait. Before we go  
14 any further, I'm trying to figure out what I have here.

15 MR. MC COY: Your Honor, I think the chain  
16 starts on the back page, the last page. You'll see  
17 there's an email from Mr. Levin. We don't have a  
18 problem with asking about that.

19 Then there's a response from Mr. Goldberg,  
20 which is hearsay. And then a forward from Mr. Levin,  
21 which we don't have a problem with.

22 MR. LI MANDRI: Mr. Goldberg's statement is a  
23 prior consistent statement, Your Honor, under Rule 803.

24 MR. MC COY: Prior -- prior --

25 THE COURT: All right. Let me just -- let me

1 read the email, please.

2 No, I agree. I don't -- I think it's  
3 hearsay. That's an email that could have been taken on  
4 Mr. Goldberg's direct. It's his email.

5 Q Did you take --

6 THE COURT: You've established -- you've  
7 established the substance that he wrote an email to Mr.  
8 Goldberg and solicited a response. He's admitted all  
9 that. And he admits that he forwarded the email to --  
10 I don't remember all of the names. I'm going to use it  
11 as Jewish Queer Youth. He's already admitted that.

12 MR. LI MANDRI: All right. Thank you.

13 MR. MC COY: Well, Your Honor, this one is  
14 not forwarded to Jewish Queer Youth, but it's another  
15 individual. But he admits that he had forwarded it to  
16 another individual.

17 THE COURT: Well, he admits that he informed  
18 other people.

19 MR. MC COY: Right. Yeah. Absolutely.

20 Q In fact, you forwarded Mr. Goldberg's email -  
21 - was it to a Jason Littman? Who's Mr. Littman?

22 THE COURT: No. The email -- which one are  
23 we talking about?

24 MR. MC COY: The very -- well, not the very  
25 top one, but the second to the top one is Mr. Littman's

1 forward.  
2 Q Is he with Jewish Queer Youth as well? Mr.  
3 Littman?  
4 A I do not know that he represents Jewish Queer  
5 Youth.  
6 Q Is he a member?  
7 A If that's how you want to define member, yes.  
8 Q Okay. And you also forwarded your  
9 correspondence with Mr. Goldberg where you asked him to  
10 supply scientific evidence to Mr. Unger?  
11 MR. MC COY: Objection. Your Honor, he's  
12 going into the contents of Mr. --  
13 THE COURT: Well, but I'm going to allow  
14 that. Because the witness admitted that he wrote that  
15 email to Mr. Goldberg, asking him about -- he's already  
16 admitted that.  
17 Who did you forward the email to?  
18 Why don't you show him his email? It says --  
19 it says to B-e-n-j-I-y, U-n-g-e-r. Is that Mr. Unger?  
20 MR. LI MANDRI: Yes.  
21 THE WITNESS: Yes.  
22 THE COURT: Do you recall forwarding Mr.  
23 Goldberg's response to your inquiry to Mr. Yunger --  
24 Unger?  
25 THE WITNESS: I'll accept that I did.

1 THE COURT: Okay.  
2 Q Were you two planning to sue JONAH at that  
3 time when you were writing Mr. Goldberg, asking for  
4 this information?  
5 A What time was that?  
6 THE COURT: February 15, 2010 is your email  
7 to Mr. Unger.  
8 A I do not think we were planning to sue at that  
9 time.  
10 Q Do you recall Mr. Goldberg telling you that  
11 he had no problem with you wanting to identify as gay,  
12 and he said to go in good health?  
13 A I do not recall him saying that he doesn't have a  
14 problem. In fact, that term is used very offensively  
15 by your client.  
16 Q Go in good health is offensive to you, sir?  
17 A "Gay ga zinta hate" is Yiddish for go in good  
18 health, but --  
19 Q Okay.  
20 A -- it's a joke, and it's not -- it's not something  
21 that's kind.  
22 Q Really? Are you the only one that has that  
23 opinion in the Jewish community?  
24 A Your client's statement "gay ga zinta hate" is not  
25 used as something kind.

1 Q Did you tell him that?

2 THE COURT: The question -- the question is,  
3 are you the only one in the Jewish community that feels  
4 that way.

5 THE WITNESS: I don't know. You would have  
6 to ask the Jewish community.

7 THE COURT: Okay.

8 Q Well, we'll have people from the Jewish  
9 community who can answer that.

10 You didn't write him back, saying, you know,  
11 it's really mean, you're saying that you've got no  
12 problem with my being gay and that you fully accept it,  
13 but you're using an offensive term. You didn't write  
14 him back and that, did you?

15 A No, I did not write him back.

16 Q And Mr. Goldberg, didn't he tell you that all  
17 people have the right to exercise their free will and  
18 do what they think is best for them, and he mentioned  
19 teshuvah. Do you recall him doing that?

20 A I will accept that he said that.

21 Q And you understood teshuvah being a term  
22 regarding healing?

23 A I understand that to mean repentance.

24 Q And Mr. Goldberg wrote you he still viewed  
25 you as a person with whom he would hope to have a solid

1 and --

2 MR. MC COY: Objection. Your Honor, is he  
3 reading from the--

4 THE COURT: I don't know, Counsel.

5 MR. MC COY: -- document that he excluded?

6 MR. LI MANDRI: It's a question.

7 MR. MC COY: What are you reading from?

8 MR. LI MANDRI: I have the right to ask the  
9 question.

10 MR. MC COY: Are you reading --

11 THE COURT: Well, you can't ask him --

12 MR. MC COY: -- from something quoted in  
13 hearsay.

14 THE COURT: -- saying, did Mr. Goldberg write  
15 this to you. Ask him do you recall ever hearing or  
16 seeing Mr. Goldberg represent the following. That's  
17 the question. Not reading the email that we said you  
18 couldn't read.

19 MR. LI MANDRI: I --

20 THE COURT: And you have five minutes left  
21 and I'm going to hold you to it.

22 MR. LI MANDRI: Okay.

23 Q Do you recall Mr. Goldberg saying to you that  
24 he hoped you two could still have a meaningful and  
25 solid relationship?

1 MR. MC COY: Objection, Your Honor. That's  
2 from this email.

3 THE COURT: All right. Counsel, this has  
4 been asked 40 times.

5 Do you remember Mr. Goldberg saying something  
6 of that substance to you during the time you were at  
7 JONAH or after you left JONAH?

8 THE WITNESS: I'll accept that he said that.

9 THE COURT: Thank you.

10 MR. LI MANDRI: Just skipping.

11 Q And you said you weren't crazy about  
12 publicity, but do you remember writing to people,  
13 asking them to nominate you for something called  
14 Inclusion, and a list of 36 people under age 36 who  
15 were doing important and meaningful things, and using  
16 this lawsuit as example?

17 MR. MC COY: Objection. Relevance.

18 THE COURT: I'm going to allow it. Only  
19 because the witness did comment about not wanting  
20 publicity. I'll allow it on cross.

21 A I recall asking people to nominate me for that  
22 award, but not -- not to be known as the person who  
23 undressed in front of his life coach while undergoing  
24 conversion therapy.

25 Q No. You didn't talk about that exercise.

1 But the fact that you were taking on JONAH and trying  
2 to stop conversion therapy, that's one of the important  
3 things you thought you were doing at the time, correct?

4 A Yes.

5 Q Okay. And you also wrote the dean of Duke  
6 Law School and wanted to establish a connection and  
7 talked about you being someone that was involved in  
8 this campaign to stop conversion therapy, right?

9 A I was introduced to him via a friend.

10 Q But you wrote him about what you were doing  
11 with this campaign because you thought that would be a  
12 good connection for you, right?

13 A Yes.

14 Q And you thought you might want to go to law  
15 school eventually, and that was a good connection for  
16 you?

17 A Yes.

18 Q And you were using your involvement in this  
19 lawsuit for that purpose as well, correct?

20 A If I was using this lawsuit to get into law  
21 school?

22 Q Sure. To make connections.

23 A To make connections, yes.

24 Q Sure.

25 A But not to get into law school.

1 Q And you also had indicated you were thinking  
2 of writing a book about this experience and making  
3 money from the book as well, right?

4 A I don't --

5 MR. MC COY: Objection.

6 A -- recall talking about --

7 THE COURT: I'm going to overrule it.

8 You can answer it.

9 A I don't recall talking about money, but, yes,  
10 there was discussion about a book.

11 MR. LI MANDRI: Okay. That's all the  
12 questions I have for Mr. Levin at this time. Thank  
13 you, Your Honor.

14 THE COURT: Thank you.

15 Redirect?

16 MR. MC COY: Thank you, Your Honor. I'll be  
17 quick on redirect.

18 REDIRECT EXAMINATION BY MR. MC COY:

19 Q Mr. Levin, Mr. LiMandri asked you several  
20 questions about your on-again/off-again dating of  
21 Rosie. Were you ever sexually attracted to her?

22 A No.

23 Q And he also went through some emails that I  
24 believe he said referenced, you know, at a time that  
25 you had been attracted to women. Have you ever been

1 sexually attracted to women?

2 A No. My understanding of attraction at that time  
3 was different.

4 Q Okay. What did you mean?

5 A More like drawn to them, as in wanting to be  
6 associated with them, but never sexually attracted to  
7 them.

8 Q And Mr. LiMandri referenced a statement, I  
9 think, that you said women, at one point, you said --  
10 referred to them as hot and sexy. What did you mean by  
11 that?

12 A Exactly what I said.

13 Q So were you referring to that as you wanted  
14 to have sex with them?

15 A No.

16 Q Mr. LiMandri asked you a series of questions  
17 also about whether or not you were forced or coerced  
18 into these practices. Would you remind us again why it  
19 was that it was so important for you to go from gay to  
20 straight?

21 A That was the -- what was expected of me. And  
22 there was just no place for a gay person in my  
23 community.

24 Q How important was it for you to succeed at  
25 that?

1 A It was my life.  
2 Q Mr. LiMandri asked you about a check that I  
3 showed you that you had written. Do you have any doubt  
4 in your mind whether you paid out of your own money for  
5 any of the services that you paid for?  
6 A No, I do not.  
7 Q Now Mr. LiMandri also asked you some  
8 questions about your commitment. And you heard from  
9 Mr. LiMandri about how you either did or didn't go to  
10 sessions or parts of the JONAH program. Do you  
11 remember him asking you about that?  
12 A Yes.  
13 Q Approximately how many individual sessions  
14 did you go to?  
15 A Twenty or 30.  
16 Q And approximately how many group sessions did  
17 you go to?  
18 A Similar number.  
19 Q How many weekends did you go to?  
20 A Three.  
21 Q And how many Guts Days did you go to?  
22 A One.  
23 Q And were you ever told how often you should  
24 attend groups or individual sessions to change from gay  
25 to straight?

1 A Not how often, no.  
2 Q Now you were also asked, and we went through  
3 a bunch of emails from the Listserv. Who was on the  
4 Listserv?  
5 A Other JONAH members.  
6 Q And were negative comments or criticisms ever  
7 allowed on the Listserv?  
8 A Yes.  
9 Q About what?  
10 A Like the example I gave yesterday about the Hillel  
11 organization establishing an LGBTQ chapter. There was  
12 some negative comments there. And there were many  
13 negative comments about Wayne Bessen.  
14 Q Were any negative comments allowed about the  
15 JONAH program or any of its parts?  
16 A If anyone expressed negative comments, they  
17 usually faced a lot of resistance from other people on  
18 the Listserv.  
19 Q Did you want to be accepted by the people on  
20 the Listserv?  
21 A Yes, I did.  
22 Q Was that important to you?  
23 A Very much so.  
24 Q Did you want them to think you were doing the  
25 work?

1 A Yes, I did.  
2 Q And did you want them to think that you were  
3 all in terms of the program?  
4 A Yes, I did.  
5 Q Was that also true of the JIM weekend Yahoo  
6 groups that you attended or posted to after your JIM  
7 weekends?  
8 A Yes, it was.  
9 Q Now, Mr. Levin, there was --  
10 MR. MC COY: I'm sorry. Let me just find my  
11 notebook.  
12 Q But before I do this, actually, Mr. Levin, I  
13 think you were asked whether or not you remembered  
14 whether reparative therapy was referenced in the  
15 JONAH's "Psycho-Educational Model for Healing?"  
16 A Okay.  
17 Q Do you remember whether or not reparative  
18 therapy is mentioned in the JONAH's "Psycho-Educational  
19 Model for Healing?"  
20 A I'm pretty sure it does.  
21 Q But are you certain?  
22 A I would have to see it.  
23 Q Okay.  
24 A It was a long time ago.  
25 MR. MC COY: Your Honor, I'd like to show Mr.

1 Levin the "Psycho-Educational Model for Healing" and  
2 see if it refreshes his recollection.  
3 THE COURT: What? Is it an exhibit?  
4 MR. MC COY: It is. It's Exhibit -- Joint  
5 Exhibit 49.  
6 THE COURT: Okay.  
7 Q Please take a look through that document and  
8 tell me if -- well, first of all, take a look through  
9 it. And tell me if it refreshes your recollection that  
10 reparative therapy is referenced in that document?  
11 A Yes, it does.  
12 Q All right. So, in fact, the JONAH's "Psycho-  
13 Sexual Model for Healing" (sic) does use the term  
14 reparative therapy?  
15 A Yes, it does.  
16 Q Now, Mr. Levin, there was an exhibit that Mr.  
17 LiMandri showed you, it's Joint Exhibit 17.  
18 MR. MC COY: Your Honor, I'd like to show Mr.  
19 Levin this exhibit again.  
20 THE COURT: Okay.  
21 Q Now Mr. LiMandri asked you questions about  
22 your email to this person named Larry. Do you remember  
23 that?  
24 A Yes.  
25 Q All right. Now right above the email from

1 you to Larry, there's an email from you. Do you see  
2 that?  
3 A Yes.  
4 Q All right. And it says, "Arthur, This is the  
5 email I sent him. Please send me some feedback on what  
6 you think about it." Do you see that?  
7 A Yes.  
8 Q And then above that, Mr. Goldberg writes back  
9 and he writes back, "Wonderful. Right on target.  
10 Hopefully, he will contact me."  
11 What was your purpose in writing the letter  
12 to this person Larry?  
13 A To convince him to purchase JONAH's services.  
14 Q And who told you to write this letter to  
15 Larry?  
16 A Arthur Goldberg.  
17 MR. MC COY: That's all I have, Your Honor.  
18 THE COURT: Thank you very much. You may  
19 step down, Mr. Levin.  
20 (Witness excused)  
21 THE COURT: Who are we planning to call next?  
22 MR. DINIELLI: Your Honor, the plaintiffs  
23 call Dr. Carol Bernstein.  
24 THE COURT: Okay. Do you want to start the  
25 expert now or do you want to break for lunch and start

1 at one o'clock?  
2 MR. DINIELLI: Your Honor, for efficiency's  
3 sake, we'd like to start it now.  
4 THE COURT: Okay. Dr. Bernstein, would you  
5 please come forward? Could I ask you to just come  
6 right up here, be careful with the steps. Remain  
7 standing and raise your right hand for the officer.  
8 DR. C A R O L B E R N S T E I N , PLAINTIFF'S  
9 WITNESS, SWORN.  
10 THE COURT OFFICER: State your name for the  
11 record, please.  
12 THE WITNESS: Carol Bernstein.  
13 THE COURT OFFICER: Thank you. You may be  
14 seated.  
15 THE COURT: Counsel, just give me one second.  
16 I just want to get something I left in my --  
17 MR. BROMLEY: Thank you, Your Honor.  
18 May I proceed, Your Honor?  
19 THE COURT: Yes, you may.  
20 DIRECT EXAMINATION BY MR. BROMLEY:  
21 Q Dr. Bernstein, could you please state your  
22 name and spell your last name for the record?  
23 A Yes. Dr. Carol A. Bernstein, B-e-r-n-s-t-e-I-n.  
24 Q And, Dr. Bernstein, could you please  
25 generally describe your areas of expertise?

1 A I'm a practicing psychiatrist. I'm also a vice  
2 chair for education and director of residency training  
3 in the Department of Psychiatry at the NYU School of  
4 Medicine.

5 Q And, Dr. Bernstein, could you please briefly  
6 describe your educational background for the jury?

7 A Well, I completed a bachelor's degree in political  
8 science at Bryn Mawr College. After that, I received a  
9 master of arts and teaching degree from the Antioch-  
10 Putney Graduate School of Education.

11 I worked for a few years. And I then decided that  
12 I was interested in going to medical school. So I  
13 attended a post-baccalaureate premedical program at  
14 Columbia University. And subsequently entered Columbia  
15 and completed my medical degree there.

16 Following graduation, I started a medicine --  
17 program in internal medicine at St. Luke's Roosevelt  
18 Medical Center in New York. And after a year in that  
19 program, I decided to switch into psychiatry and  
20 subsequently completed my psychiatric training at  
21 Columbia University and the New York State Psychiatric  
22 Institute.

23 Q So, Dr. Bernstein, just to summarize. How  
24 many years of education have you had?

25 A I think if I counted -- you're talking about post-

1 high school, correct?

2 Q Yes. Post-high school. I'm sorry.

3 A Four years of college; two years of a master's  
4 degree which is six; post-bacc eight; and then four  
5 medical school is 12; and then four of training makes  
6 it 16.

7 Q Dr. Bernstein, are you certified in any  
8 particular area of medicine?

9 A Yes. I'm certified by the American Board of  
10 Psychiatry and Neurology in psychiatry.

11 Q And I think you mentioned the words residency  
12 or resident. Can you explain what that means in the  
13 medical world?

14 A So in the medical world, after you complete your  
15 training in medical school, you decide to specialize in  
16 a particular area of medicine, internal medicine,  
17 obstetrics and gynecology, surgery, or psychiatry. And  
18 there is additional training that is required for  
19 people to have if they're going to specialize in an  
20 area of medicine.

21 Q And so your residency was in psychiatry?

22 A My residency was in psychiatry.

23 Q Now can you please briefly describe for the  
24 jury your professional background after you completed  
25 your residency?

1 A Yes, certainly. When I initially completed my  
2 training, I worked for a year in an outpatient  
3 psychiatry department affiliated with Columbia  
4 University. And in that role, I also supervised  
5 residents and medical students.

6 And at the end of that year, I became the  
7 assistant director of medical student education in  
8 psychiatry at Columbia. And that meant that I had the  
9 responsibility for overseeing the education and  
10 training of the medical students in psychiatry. So  
11 those weren't just the students who were ultimately  
12 going to become psychiatrists, but everybody who  
13 graduated from medical school has to spend some time  
14 learning about psychiatry.

15 I did that for four years. And then I spent four  
16 years as the associate director of the residency  
17 program in psychiatry at Columbia. And then left that  
18 position to become the director of training at NYU,  
19 where I am today. And I have been in medical education  
20 and training my entire career.

21 Q Dr. Bernstein, you mentioned both Columbia  
22 University Medical School and NYU Medical School. Are  
23 they well regarded medical schools?

24 A Yes. They're very well regarded. Columbia is  
25 certainly within the top ten, according to U.S. News &

1 World Report. I think NYU most recently is 14. But  
2 they are extremely well regarded medical schools.

3 Q And, Dr. Bernstein, have you published in the  
4 area of psychiatry?

5 A I have.

6 Q And how many, roughly, publications have you  
7 had?

8 A I probably have about 20 or 30 peer reviewed  
9 publications in the field. And I've probably given  
10 about 70 or 80 presentations throughout my career.

11 MR. BROMLEY: And, Your Honor, at this time,  
12 we'd like to qualify Professor -- Dr. Bernstein as an  
13 expert in the field of psychiatry.

14 MR. LI MANDRI: No objection.

15 THE COURT: Any objection?

16 MR. LI MANDRI: No.

17 THE COURT: Okay. Ladies and gentlemen, the  
18 reason we qualify a witness as an expert is that,  
19 normally in our courts, lay witnesses are not permitted  
20 to give opinion testimony. So Dr. Bernstein is  
21 qualified as an expert and her field of expert is  
22 psychiatry. So that allows under our court rules and  
23 our rules of evidence, permits Dr. Bernstein to give  
24 expert opinions in the field of psychiatry.

25 However, you are the judges of the fact, as I

1 told you initially in my pre-instructions. You make  
2 the determination whether the facts that the expert  
3 relies upon are accurate, which you can, if you find  
4 that, accept the opinions of an expert. And in this  
5 case, the expert's opinions will be in the area of  
6 psychiatry. Thank you.

7 Counsel, you may proceed.

8 MR. BROMLEY: Thank you, Your Honor. May I  
9 approach the witness?

10 THE COURT: Yes, you may.

11 MR. BROMLEY: I have a binder of materials  
12 that would help expedite.

13 THE COURT: Yes.

14 MR. BROMLEY: Thank you.

15 Q Dr. Bernstein, only open that when I ask you  
16 to, okay?

17 A Sure.

18 Q Thank you very much.

19 Dr. Bernstein, did you write an expert report  
20 as part of the work that you've done on this case?

21 A Yes, I did.

22 Q Dr. Bernstein, I'd like you to open the  
23 binder that you have and look at Tab 1.

24 A Yes.

25 Q And is that a copy of the expert report you

1 prepared in this case?

2 A It is.

3 Q Dr. Bernstein, did you review any materials  
4 in preparing your expert report?

5 A Yes. I reviewed multiple materials in preparing  
6 this report.

7 Q And do you recall as you sit here what  
8 materials you reviewed?

9 A There were a lot of them, but in general, I  
10 reviewed the practices in the field, position  
11 statements by the American Psychiatric Association,  
12 testimony of the defendants, information about the  
13 treatment offered by the defendants, and other  
14 materials.

15 Q Dr. Bernstein, I'd like to draw your  
16 attention in Tab 1 to Exhibit B. I believe there's a  
17 flag on that. If you could just turn your attention to  
18 that.

19 A Yes.

20 Q And does that refresh your recollection about  
21 the materials you reviewed in preparing our report?

22 A Yes. Sorry. There were a lot of them. I  
23 couldn't quite keep them all in my head at once.

24 But in addition to the position statements, I also  
25 reviewed APA Principles of Medical Ethics, which are

1 annotations that are provided by the American  
2 Psychiatric Association based on principles of the  
3 American Medical Association.

4 Q Thank you, Dr. Bernstein. Have you ever  
5 testified as an expert witness before?

6 A No, I have not.

7 Q And are you being compensated for the  
8 testimony that you're providing?

9 A Yes, I am.

10 Q And what's the rate of your compensation?

11 A Five hundred dollars an hour.

12 Q Is that a standard rate for your practice?

13 A It's a standard rate for private practice in New  
14 York for psychiatrists.

15 Q Now is your compensation in connection with  
16 your testimony dependent at all on the outcome of the  
17 case?

18 A No, it is not.

19 Q And is your compensation -- was your  
20 compensation dependent at all on the conclusions you  
21 reached in your expert report?

22 A No, they -- no, it was not.

23 Q Now, Dr. Bernstein, before being retained in  
24 this case as an expert, had you ever met any of the  
25 plaintiffs?

1 A Prior -- prior to this? No.

2 Q And have you ever worked with any of the  
3 lawyers that represent the plaintiffs before this case?

4 A No, I have not.

5 Q Now, Dr. Bernstein, what were you asked to do  
6 as an expert? What opinions were you asked to do?

7 A Well, I was basically asked to review the current  
8 thinking in the mental health community about  
9 homosexuality. And I was also asked to review the  
10 treatments provided by the defendants for the  
11 plaintiffs.

12 Q Dr. Bernstein, I'd like to focus a bit on  
13 what it means to be a doctor of medicine.

14 Now first off in connection with that, have  
15 you ever taken any oaths?

16 A Yes. Actually, one of the most experiences in all  
17 of my training was taking the Hippocratic oath at the  
18 end of medical school, where my entire medical school  
19 class was asked to stand up and take the Hippocratic  
20 oath.

21 Q And was there anything about that that stands  
22 out in your mind?

23 A The thing that I remember, and it was a while ago,  
24 is above all, to do no harm.

25 Q And why is that important to you?

1 A Because physicians are in the practice of healing  
2 and helping people get better and improve and feel good  
3 about themselves. And the last thing that we really  
4 want to do is to damage them in any way, if we can  
5 possibly avoid it.

6 Q Dr. Bernstein, is there a code of ethics that  
7 applies to your work in psychiatry?

8 A Yes. As I mentioned previously, the American  
9 Medical Association has a code, Principles of Medical  
10 Ethics. And the American Psychiatric Association has  
11 developed annotations to those principles that are  
12 specifically applicable to psychiatry.

13 MR. BROMLEY: I'd like to call up Plaintiff's  
14 430.

15 MR. LI MANDRI: We don't have 430.  
16 Apparently, it's a new exhibit that we were not given  
17 until the last couple of days.

18 MR. BROMLEY: It was attached to Dr.  
19 Bernstein's report. We discussed this in court  
20 yesterday, Your Honor.

21 MR. LI MANDRI: It's hearsay, Your Honor.

22 THE COURT: Well, we can ask the doctor what  
23 the principles are. I think she knows it. Why do we  
24 have to have this document?

25 Doctor, do you know what the Principles of

1 Medical Ethics are in the field of psychiatry?

2 THE WITNESS: I certainly know the general  
3 principles.

4 THE COURT: Okay.

5 THE WITNESS: It's a document. I would have  
6 to read all of it to know every detail, but, yes.

7 MR. BROMLEY: That's fine, Your Honor. Thank  
8 you.

9 Q So let's -- so this is the American  
10 Psychiatric Association. Is that right?

11 A Yes.

12 Q Can we pause here for a moment and can you  
13 just describe for the jury what is the American  
14 Psychiatric Association?

15 A The American Psychiatric Association is a  
16 professional organization whose mission really is to  
17 advocate and educate on behalf of all people suffering  
18 from psychiatric conditions. And also to provide an  
19 environment in which psychiatrists who practice in the  
20 field can learn the latest techniques and treatments  
21 and also how to behave in an ethically appropriate way.

22 There are about 35,000 psychiatrists who are  
23 currently members of the American Psychiatric  
24 Association.

25 Q And, Dr. Bernstein, are you a member of the

1 American --  
2 A I am.  
3 Q Okay. We'll come back to that in a minute.  
4 So the Code of Ethics that you described,  
5 does that apply to your practice today?  
6 A Yes, it does.  
7 Q And does that apply to your work at the NYU  
8 Medical School?  
9 A It most certainly does.  
10 Q And would that apply to the work of all  
11 psychiatrists in the United States?  
12 A I would certainly hope that it would.  
13 Q Is the Code of Ethics important to you?  
14 A Very important.  
15 Q And why is that?  
16 A Because, you know, as I was saying earlier, I  
17 mean, we -- the field of medicine has a social contract  
18 with the populace and our job is to really help people  
19 get better, to treat them from their -- from whatever  
20 they're suffering from, in an ethically and appropriate  
21 way.  
22 Q Now, Dr. Bernstein, in addition to the Code  
23 of Ethics, is there anything else that the APA does  
24 with respect to ethics?  
25 A Well, there is an ethics committee that is a

1 standing committee of the American Psychiatric  
2 Association that makes decisions regarding potential  
3 ethical violations, and also issues opinions about  
4 questions that might be raised by the psychiatric  
5 community.  
6 Q And is that -- do those opinions take a  
7 written form?  
8 A Yes, they do.  
9 Q And in your practice, do you rely on them?  
10 A I've certainly seen them, yes.  
11 Q And with your involvement with the APA, is it  
12 something that's carefully prepared?  
13 A Yes, very carefully prepared. And when necessary,  
14 reported to the Board of Trustees.  
15 Q And, Dr. Bernstein, just to be clear, we'll  
16 get to this in a minute. Were you a member of the  
17 Board of Trustees of the American Psychiatric  
18 Association?  
19 A Yes, I was.  
20 Q So you're familiar with the way that the  
21 ethics committee reports to the Board of Trustees?  
22 A Yes, I am.  
23 Q Thank you.  
24 MR. BROMLEY: I'd like to look at Plaintiff's  
25 429.

1 MR. LI MANDRI: We don't have it, Your Honor.  
2 These are new exhibits.

3 MR. BROMLEY: They were discussed yesterday,  
4 Your Honor. Mr. LiMandri has it.

5 THE COURT: These were the ones that were  
6 attached to Dr. Bernstein's report?

7 MR. BROMLEY: Yes, they were.

8 MR. LI MANDRI: They weren't attached to the  
9 report that I got, Your Honor.

10 MR. BROMLEY: They were referenced in Exhibit  
11 B as materials relied on in connection with the report.

12 MR. LI MANDRI: Dozens of things were  
13 referenced, Your Honor.

14 THE COURT: Okay. What do we want to use  
15 this for?

16 MR. BROMLEY: There are two -- at least --  
17 well, one thing, Your Honor, I'd like to reference with  
18 respect to the witness, it qualifies as a learned  
19 treatise. It's relied upon in the field.

20 THE COURT: All right. Well, why don't we  
21 ask her those questions and ask her if she relied upon  
22 -- if she relies upon them and if she relied upon them  
23 in the preparation of her report.

24 Q Did you rely upon these in the preparation of  
25 your report?

1 A I did.

2 THE COURT: Let's ask her if it's a learned  
3 treatise and it's accepted in the field of practice.

4 MR. BROMLEY: I thought I already did, but I  
5 will again.

6 THE COURT: I don't think you did, but --

7 Q Is this accepted in the field of practice as  
8 a --

9 A Yes, it is.

10 Q -- learned treatise?

11 THE COURT: Okay.

12 MR. BROMLEY: I would like to put up 429.

13 MR. LI MANDRI: I'm going to also object on  
14 relevance grounds as my clients are not bound by this  
15 document.

16 THE COURT: I'll let you address that on  
17 cross-examination, Counsel. I'm going to allow it  
18 because it formed some of the opinions that the doctor  
19 gave. And you certainly can explore that on cross-  
20 examination.

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

22 Q Dr. Bernstein, do you know whether the APA  
23 ethics committee has ever issued an opinion about  
24 whether it's ethical to engage in the therapy with the  
25 goal of changing sexual orientation?

1 A I believe it has.  
2 MR. BROMLEY: I'd like to take a look at 429.  
3 Q Do you know what they said, the ethics  
4 committee?  
5 A I'd have to see it to give you the exact wording.  
6 Q Do you know --  
7 THE COURT: Do you have a general idea of  
8 what --  
9 THE WITNESS: Yes. Generally, that it is  
10 unethical to engage in reparative or conversion  
11 therapies because of the potential for harm that they  
12 would cause.  
13 MR. BROMLEY: I would like to pull up Page 67  
14 of 429. Oh, it's up. Okay. Thank you.  
15 If I could -- and also at the top of the Page  
16 68.  
17 Q Do you see that, Dr. Bernstein?  
18 A Yes, I do.  
19 Q Can you read that out loud, the question and  
20 answer, please?  
21 A The question states: "Is it ethical to engage in a  
22 therapy such as reparative or conversion therapy, to  
23 change sexual orientation?"  
24 The answer: "No. Although successful and ethical  
25 treatments for legitimate psychiatric diagnoses may

1 sometimes lead to changes in sexual behavior, any  
2 treatment that is based on an assumption that  
3 homosexuality per se is a mental disorder, or is based  
4 on an assumption that the patient should change his or  
5 her sexual orientation, is by its nature unethical, as  
6 it violates numerous ethical principles. Such  
7 so-called treatment ignores established scientific  
8 evidence, demeans the dignity of the patient, succumbs  
9 to individual and social prejudice and stigma, and has  
10 been significantly harmful to patients, families,  
11 others, and their relationships."  
12 Q Dr. Bernstein, does that refresh your  
13 recollection of the position of the ethics committee?  
14 A Yes, it does.  
15 Q Thank you. Dr. Bernstein, let's get back to  
16 the American Psychiatric Association and the leadership  
17 positions that you had. You mentioned that you were  
18 recently on the Board of Trustees. Have you had any  
19 other positions with the APA?  
20 A Yes. I've actually been involved with the APA for  
21 most of my career. I originally began serving in the  
22 local capacity with the New York County district branch  
23 of the American Psychiatric Association.  
24 I was then involved in a group called the  
25 Assembly, which are representative psychiatrists from

1 all over the country.

2 And, subsequently, I served on the Board of  
3 Trustees as a trustee-at-large, as treasurer, vice  
4 president, and president.

5 Q Now these positions must take up a lot of  
6 time. Why have you devoted so much time to the  
7 American Psychiatric Association?

8 A I feel very passionate about the need to have  
9 effective good treaters for patients who suffer from  
10 psychiatric conditions. That has really been my life's  
11 work. It's why I've been so involved in medical  
12 education and training of the next generation.

13 One of the major things that the American  
14 Psychiatric Association does is that it educates both  
15 our members, so a psychiatrist, to make sure that they  
16 are up to date and practicing appropriately and  
17 ethically. And it also has a huge role in educating  
18 the general public, our legislators, and people who  
19 make the laws of our country.

20 Q And, Dr. Bernstein, does the American  
21 Psychiatric Association have a position statement with  
22 respect to issues on homosexuality?

23 A Yes, it does.

24 Q And when the APA takes positions, does it  
25 publish those in written form?

1 A Yes, they do.

2 Q And that publication would go through --  
3 approval for the publication go through the Board of  
4 Trustees?

5 A Yes. All position statements have to be approved.  
6 They come up through the organization. They have to be  
7 approved both by the Board of Trustees and the assembly  
8 that I referenced earlier.

9 Q And do you recall whether you took that  
10 position statement into account when you were preparing  
11 your expert report?

12 A I most certainly did.

13 Q And those positions statements, are they  
14 generally accepted in the field of psychiatry as  
15 learned treatises?

16 A Yes. And they're accepted as policy of the  
17 American Psychiatric Association.

18 MR. BROMLEY: Your Honor, we'd like call up  
19 Plaintiff's 431.

20 MR. LI MANDRI: No objection.

21 THE COURT: Okay.

22 Q Dr. Bernstein, can you see that on your  
23 screen?

24 A It's a little too small for me.

25 Q Sorry. We can --

1 A Much better. Thank you.  
2 Q Okay. Is that the position statement that  
3 you relied upon in your report?  
4 A Yes, that is the most recent position statement.  
5 Q And you say "most recent" --  
6 A Yes. There have been --  
7 Q -- "position statement"?  
8 A -- many. And if I could just draw everybody's  
9 attention to the note, it says -- this statement, by  
10 the way, was in 2013. And this statement combines into  
11 one document APA policies previously expressed in 12  
12 separate position statements adopted between 1973 and  
13 2011. So there is a process of renewal and review that  
14 the organization uses to update its positions.  
15 Q So this is -- this is the most current?  
16 A This is the most current.  
17 Q I'd like to draw your attention to the bottom  
18 of this first column, with the sentence that begins:  
19 "The American Psychiatric Association."  
20 A Yes.  
21 Q Okay. So can you read that out loud through  
22 the end of that paragraph?  
23 A Sure. "The American Psychiatric Association does  
24 not believe that same sex orientation should or needs  
25 to be changed, and efforts to do so represent a

1 significant risk of harm by subjecting individuals to  
2 forms of treatment which have not been scientifically  
3 validated and by undermining self esteem when sexual  
4 orientation fails to change.  
5 "No credible evidence exists that any mental  
6 health intervention can reliably and safely change  
7 sexual orientation; nor, from a mental health  
8 perspective, does sexual orientation need to be  
9 changed."  
10 Q And is that the current statement of the APA  
11 on homosexuality?  
12 A It is.  
13 Q Thank you, Dr. Bernstein. You can put that  
14 away.  
15 Dr. Bernstein, I'd like to now talk a little  
16 bit about homosexuality and, in particular, sexual  
17 orientation. Can you describe in layman's terms for  
18 the jury what sexual orientation means?  
19 A So sexual orientation in general has three  
20 components. I think as you can see up there --  
21 MR. BROMLEY: Okay. So put the slide up.  
22 THE WITNESS: Oh, I'm sorry.  
23 MR. BROMLEY: Very good.  
24 A Refers to attraction, identity, and behavior,  
25 three different things.

1 So attraction is who you're physically attracted  
2 to. Identity refers to how you choose to identify  
3 yourself. And behavior refers to what you actually do,  
4 what you act upon.

5 Q And then there's a line at the bottom. Can  
6 you just describe that for the jury?

7 A Yes. I think in our -- for many years, people  
8 have talked about attraction generically as being on a  
9 continuum from heterosexual attraction, which is  
10 straight, to homosexual attraction, which is gay, and  
11 bisexual attraction, which is in the middle, so people  
12 who are attracted to both sexes.

13 Q Thank you, Dr. Bernstein.

14 MR. BROMLEY: You can take that down.

15 Q Now, Dr. Bernstein, apart from your work on  
16 this case, have you ever heard of the term same sex  
17 attraction?

18 A I have not.

19 Q And how does the mental health field view  
20 homosexuality?

21 A That homosexuality is one normal approach to  
22 sexuality, essentially.

23 Q So it's normal?

24 A It's part of normal behavior, yes.

25 Q And is there currently a debate in the

1 medical community over whether homosexuality is a  
2 disorder of disease of any sort?

3 A No, there is not.

4 Q And would it be a big deal for you if someone  
5 under your supervision told a patient that  
6 homosexuality is a disorder?

7 A It most certainly would be a big deal.

8 MR. BROMLEY: Your Honor, I would like to  
9 introduce Plaintiff's 326, which is --

10 MR. LI MANDRI: I don't know what it is.

11 THE COURT: 326. No objection?

12 MR. LI MANDRI: No objection to introducing  
13 it.

14 THE COURT: Okay.

15 Q Dr. Bernstein, I'm holding a book in my hand.  
16 Can you see it?

17 A Yes.

18 Q Can you tell the jury what this book is?

19 A This book is called The Diagnostic and Statistical  
20 Manual of Mental Disorders, also known as DSM-5, sort  
21 of generally speaking, yes.

22 MR. BROMLEY: Your Honor, may I approach the  
23 witness with the DSM-5?

24 THE COURT: Yes.

25 Q Dr. Bernstein, what is the DSM-5?

1 A The DSM is the generally used manual to describe  
2 psychiatric disorders, and it's used by mental health  
3 practitioners throughout the United States and around  
4 the world. It's how we -- it's our current  
5 understanding of what these disorders are.

6 Q And who writes the DSM-5?

7 A The DSM-5 has been published by the American  
8 Psychiatric Association. I think it was probably 50 or  
9 60 years ago that the initial version was published.  
10 And this most recent version was brought out in 2013.

11 Q Is the DSM-5 a book that you would find in  
12 most psychiatrists' offices?

13 A Yes, I believe that this would be found. I think  
14 it would be found in the offices of most people in the  
15 mental health field. And it's certainly used in  
16 schools of psychology and in medical schools and in  
17 training programs.

18 Q Is it fair to say that it is the leading  
19 treatise in this field?

20 A There are people that refer to it as the Bible of  
21 the field.

22 Q Let's stay away from the Bible for this case.

23 A Sorry.

24 Q The -- have you had any involvement in  
25 creating the DSM-5?

1 A Yes. In an oversight capacity.

2 MR. BROMLEY: I'd like to bring up on the  
3 screen the cover page.

4 Q Do you see that?

5 A Yes.

6 Q Now on the lefthand side of the page, there's  
7 a list of the Board of Trustees. And the second name  
8 it's highlighted. Is that your name?

9 A That is my name.

10 Q Now so you were involved as a member of the  
11 Board of Trustees in the creation of the DSM-5?

12 A I was.

13 Q Dr. Bernstein, does the DSM-5 define a mental  
14 disorder?

15 A Yes, it does.

16 Q And how does it do that?

17 A Would you like me to read the definition or --

18 Q If you don't recall off the top of your head.

19 A Again, it's a long definition. I can also tell  
20 you exactly that it means. But I would appreciate the  
21 reference.

22 Q There is a tab. I believe it's on Page 20.  
23 If you can turn --

24 A Right.

25 Q -- your attention to that?

1 A Thank you. Would you like me to read it?  
2 Q I think you can read the first sentence.  
3 A Yes.  
4 Q And that would --  
5 A Just the first sentence.  
6 Q Yeah.  
7 A Probably give you the sense.  
8 "A mental disorder is a syndrome characterized by  
9 clinically significant disturbance in an individual's  
10 cognition, emotional regulation, or behavior that  
11 reflects a dysfunction in the psychological,  
12 biological, or developmental processes underlying  
13 mental function."  
14 So in simpler terms, it really refers to  
15 disturbances in how you think and how you feel that are  
16 related to underlying problems in psychology and  
17 biology and development. That's basically what that  
18 means.  
19 Q Thank you, Dr. Bernstein. Is homosexuality  
20 listed as disorder in the DSM?  
21 A It is not.  
22 Q And does the DSM include as disorders  
23 anything related to addiction?  
24 A Yes, it does.  
25 Q For instance -- well, what kind of addictions

1 are listed as disorders?  
2 A Certainly, alcoholism and substance abuse  
3 disorders of a variety of types are listed in the DSM.  
4 Q So substance abuse would be drug abuse, for  
5 instance?  
6 A Yes. Sorry. Drug abuse.  
7 Q Now so if alcoholism is a mental disorder  
8 under the DSM, is that the sort of thing that would  
9 require, say, a clinical diagnosis?  
10 A Yes.  
11 Q Okay. And the same would be true of drug  
12 abuse?  
13 A Yes.  
14 Q Now to your knowledge, Dr. Bernstein, are  
15 alcoholism or drug abuse religious terms in any way?  
16 A Not to my knowledge, no.  
17 Q Dr. Bernstein, is it -- is it possible for a  
18 typical person to pick up the DSM, somebody who doesn't  
19 have medical training, and be able to diagnose somebody  
20 with a mental disorder?  
21 A No. I think that would be very difficult. And as  
22 you can see, it's even a little bit challenging to read  
23 you all the terms. It's a very dense, appropriate --  
24 it's kind of like an encyclopedia that we refer to  
25 that's very important. But it does take training and

1 education to understand how to use it properly.

2 Q Dr. Bernstein, I -- I'd next like to ask you  
3 about therapy, the term therapy, and certain other  
4 things related to that. From a layman's perspective,  
5 what does therapy mean?

6 A Therapy -- well, you probably know terms of -- the  
7 term therapy when you're thinking about drug therapy or  
8 surgical therapy or cancer therapy.

9 In psychiatry, we use it generally to refer to the  
10 talking part of what we do, as opposed to the  
11 medication part of what we do.

12 Q So but isn't talk therapy just a  
13 conversation?

14 A No. It's definitely not. And that's one of the  
15 challenges that we have in trying to educate both our  
16 patients and the public about what it really is. And  
17 it's -- you know, if it were -- if it were just a  
18 conversation between friends, anybody could do it.

19 Q So what is the difference?

20 A The difference is that psychotherapies, as they're  
21 referred to, and there are a variety of different forms  
22 that have different philosophical and psychological  
23 bases and treatment techniques, are validated,  
24 appropriate treatments that have universal acceptance.  
25 They've been validated empirically, scientifically, and

1 by expert consensus to be useful in the treatment of a  
2 variety of psychiatric conditions.

3 Q So how important is it for a therapist, a  
4 talk therapist, to be trained?

5 A I think it's incredibly important. It really has  
6 been why I have been in education my entire life.

7 Q Is it possible for somebody engaging in talk  
8 therapy who's not trained to actually harm the patient?

9 A Yes. I mean, I think harm can come even from  
10 people who are trained.

11 Q And how would it compare to, say, if you go  
12 to a doctor for -- an internist or for surgery or  
13 something?

14 A Well, I would maintain that it is very similar. I  
15 think it's really important for people to understand  
16 that treatment for mental conditions is just the same  
17 as treatment that you need for any other condition that  
18 you have in medicine. If you have diabetes, if you  
19 have cancer, if you have depression, they all need to  
20 be treated appropriately.

21 Q Now earlier on when you were talking about  
22 the Hippocratic oath and doing no harm, you said that  
23 it was important because patients are vulnerable. Are  
24 patients in the mental health area particularly  
25 vulnerable?

1 A Well, because mental disorders affect how we  
2 behave, think, and feel about ourselves, I think that  
3 in many ways, patients suffering from mental disorders  
4 are extremely vulnerable.

5 But I also think that if you have cancer or heart  
6 disease or diabetes, that you're also vulnerable. And  
7 that when you go to a doctor and you're sick, you're  
8 frightened and you're scared.

9 Q Okay. So how does a doctor, and in  
10 particular, a therapist, determine what a patient's  
11 needs might be?

12 A Well, hopefully with appropriate training, you  
13 know how to do this. You have to interview the  
14 patient. You have to understand what the problems are.  
15 You have to explore with them the reasons for coming to  
16 treatment.

17 Q So why is all the training and education  
18 important for that kind of assessment?

19 A Well, it's just as important as it would be if I  
20 were going to perform surgery on a patient. You would  
21 really want someone who knows and understands what the  
22 causes and issues are with a particular diagnosis and  
23 what the appropriate treatments are for that condition.

24 Q And in your view, could you get proper  
25 training by reading things off the Internet or buying

1 books?

2 A No. Actually, that is something that I am  
3 particularly concerned about in my role as an educator.  
4 You know, I just have to say that the Internet, while  
5 it's a wonderful tool for all of us, can also be  
6 dangerous because it's very hard to know what to  
7 validate, what is appropriate and what isn't.

8 There's a lot of information there. And it's very  
9 difficult to know what of that information is  
10 information that you can depend upon and is real and  
11 appropriate.

12 Q Now, Dr. Bernstein, have you ever heard of  
13 the term therapeutic neutrality?

14 A Yes.

15 Q And can you explain that?

16 A Yeah, so therapeutic neutrality refers to the  
17 principle which is important in all forms of talk  
18 therapy that the treater, the mental health  
19 practitioner understands that he or she could have  
20 their own reactions, beliefs, ideas that should not  
21 interfere with their ability to appropriately and  
22 ethically treat the patient. And that awareness and  
23 understanding is a key piece of what we try to teach  
24 our trainees in psychiatry.

25 Q So is therapeutic neutrality about trying to

1 manage your own bias?

2 A I guess that's a fairly good way to put it, that  
3 really what you want to be -- we all have biases about  
4 everything. And it's -- and one of the tenets of good  
5 mental health treatment is to really be aware of your  
6 own. Because for us, our words are like our scalpels,  
7 if I want to make an analogy with surgeons.

8 So we help -- we come to understand what's going  
9 on with our patients by using our words and  
10 understanding their responses. I mean, that's part of  
11 it, that -- in the therapy world.

12 Q Thank you, Dr. Bernstein. Have you ever  
13 heard of the term informed consent?

14 A Yes, I have.

15 Q And what does that mean in your world?

16 A Well, I think most people have heard of the term  
17 informed consent. If you're going in to have some type  
18 of procedure, either in an outpatient facility or in a  
19 hospital, people are making you sign lots of things to  
20 say that you understand what the treatment's going to  
21 be, what the risks and benefits are, what the potential  
22 outcomes are.

23 Q Dr. Bernstein, are you aware of any mental  
24 health treatments that are more effective if they come  
25 as a surprise to the patient?

1 A No. I mean, in fact, that's quite antithetical to  
2 what we are supposed to do. It's very important that  
3 we inform the patient of everything that's going to  
4 happen.

5 Q So when you say antithetical, you mean it's  
6 the opposite of what you should do?

7 A Yes. I mean, in fact, I just took -- every year,  
8 I'm required to take a special course for malpractice  
9 coverage that specifically focuses on understanding the  
10 principles of informed consent. And I have to do that  
11 every year.

12 Q One question about notes. Therapists -- is  
13 it accurate to say that therapists often take notes  
14 during sessions?

15 A Yes, it is.

16 Q And is it -- is it appropriate to try to  
17 diagnose someone from just reading the therapy notes?

18 A No, I don't think it's possible to make any kind  
19 of diagnosis by -- unless you actually interview and  
20 examine the patient.

21 Q Dr. Bernstein, in terms of the mental health  
22 field, how are effective treatments identified?

23 A Well, effective treatments are identified by sort  
24 of with a combination of using the scientific  
25 literature and scientific studies, and expert consensus

1 about treatments that work. It's a long and  
2 complicated process. It's been long and complicated in  
3 psychiatry, as well as the rest of medicine. And I  
4 think we're making great progress.

5 Q Is a treatment effective if a patient enjoys  
6 it or believes it's effective?

7 A No, it is not.

8 Q And why is that?

9 A Because whether you like something or enjoy  
10 something, particularly in psychiatry, doesn't  
11 necessarily mean that it's an effective treatment.  
12 That's not something that we would use normally as a  
13 standard to say that something is scientifically based.

14 Q So you mentioned scientific research.

15 A Right.

16 Q Can you explain briefly the difference  
17 between a study on the one hand and a survey on the  
18 other hand?

19 A Well, studies are very important. I work in an  
20 academic medical center and we have these going on in  
21 many ways. And, in general, what's happening when  
22 you're investigating a potential treatment and its  
23 efficacy is that you try to have -- at least two groups  
24 of patients. One group of patients is getting the  
25 intervention. And another group of patients isn't.

1 And then you follow them over time and see what  
2 happens.

3 The more people you are able to do this with, the  
4 more valid the treatment is considered to be, or at  
5 least the -- I'm sorry, the conclusions of your  
6 treatment are seen to be.

7 And whenever we're conducting studies, there is  
8 something called an institutional review board that  
9 oversees the ethical practice of these studies to make  
10 sure that no harm is coming to patients when they're  
11 conducted. And there have been evidence -- there has  
12 been evidence of that, unfortunately, in our country's  
13 history.

14 Q Thank you, Dr. Bernstein. I just want to  
15 wrap up with a couple of questions specific to the  
16 modalities or therapies that have been used by the  
17 defendants in this case.

18 THE COURT: Well, you know what? Before we  
19 get to that, that's going to take a while. That's not  
20 a few minutes.

21 So we're going to break for lunch. Because  
22 we started at nine o'clock and you've been here for  
23 three and a half hours. And I know that you probably  
24 would like to take a break and eat something.

25 So we're going to break for lunch now. I'm

1 going to ask you to come back at 1:45, an hour and 15  
2 minutes. Because I need to take care of one other  
3 matter, all right?

4 So you've been very prompt. I'll ask you to  
5 do the same so we can start promptly at 1:45 and we'll  
6 resume with Dr. Bernstein's testimony. If you can just  
7 leave your pads on the chair and we'll collect them.  
8 Thank you very --

9 Yes, sir?

10 UNIDENTIFIED JUROR: (Indiscernible).

11 THE COURT: Yes. I will take care of that  
12 for you during the lunch break. Yes, I know, you need  
13 another pencil. Go ahead.

14 And just if you wouldn't mind going out the  
15 other door again, so just in case we're talking about  
16 something in here.

17 (Jury not present in court)

18 THE COURT: Since this is your first time  
19 testifying, you get an idea what attorneys mean by a  
20 few minutes.

21 All right. Just please be seated. Let's --  
22 you can step down, Dr. Bernstein.

23 Counsel had indicated they had additional  
24 information about the depositions, the objections to  
25 the deposition?

1 MR. LI MANDRI: Yes.

2 MR. KESSLER: Yes, Your Honor.

3 MR. LI MANDRI: Well, I found the emails I  
4 was looking for. But I understand that counsel may  
5 have a solution. So we may not need to trouble you  
6 with sorting through what the emails actually said.  
7 But they -- I'll tell you, they said what I said they  
8 would say.

9 THE COURT: All right. Well, why don't --  
10 then if you don't need me, then go to lunch. And when  
11 you need me, we'll talk about it.

12 MR. KESSLER: No, Your Honor. What the  
13 plaintiffs were going to say, well, I think we've  
14 reviewed all the correspondence. And it's clear to us  
15 that the defendants' characterization of our agreement  
16 is incorrect.

17 We understand the position the Court's in  
18 with the way that we've structured the depositions. So  
19 what we've done is gone through our objections and we  
20 have withdrawn every objection except the objections to  
21 the defendants' direct or redirect are objections we  
22 would have made at trial, for example, where a  
23 witness's answer is nonresponsive to a question. And  
24 I'm happy to hand up to the Court a substantially  
25 revised and reduced list of objections.

1 THE COURT: Okay. Then I will look at those.  
2 And counsel has a copy of this?

3 MR. LI MANDRI: No, no, I don't know. I  
4 don't think so.

5 MR. KESSLER: Here. We haven't changed any  
6 of the defendants' objections except where we've  
7 withdrawn some testimony. And that's mooted their  
8 objection.

9 THE COURT: Okay. So the only -- so there's  
10 only four objections left for the plaintiff and three  
11 for the defendant.

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

13 THE COURT: Okay. Then I'll take a look at  
14 those and this way, you'll be able to edit and have the  
15 tapes prepared for next week, I assume?

16 MR. KESSLER: Great.

17 THE COURT: All right. Thank you all very  
18 much.

19 MR. KESSLER: Thank you, Your Honor.

20 MR. LI MANDRI: Thank you.

21 MR. BROMLEY: Thank you, Your Honor.

22 THE COURT: Have a good lunch. It's nice  
23 out. Get some --

24 (Off the record. Back on the record)

25 (Jury present in court)

1 THE COURT: Okay. All seven jurors are  
2 present and accounted for. And, once again, ladies and  
3 gentlemen, thank you very much for your promptness. We  
4 will now continue with the direct examination of Dr.  
5 Bernstein.

6 And, Dr. Bernstein, you're still under oath.

7 THE WITNESS: Thank you.

8 THE COURT: Counsel.

9 MR. BROMLEY: Thank you, Your Honor.

10 DR. C A R O L B E R N S T E I N , PLAINTIFF'S  
11 WITNESS, PREVIOUSLY SWORN.

12 DIRECT EXAMINATION BY MR. BROMLEY: (Cont'd)

13 Q Dr. Bernstein, where we left off was we were  
14 going to talk about some of the specific practices  
15 employed by the defendants.

16 Is directing clients to reenact past trauma  
17 an acceptable therapeutic technique?

18 A No.

19 Q And does this practice have the potential to  
20 harm clients?

21 A Yes, it does.

22 Q Would it change your opinion if some of the  
23 clients said that they enjoyed it or felt a benefit  
24 from it?

25 A No, it would not.

1 Q And why is that?

2 A Because it is not uncommon for people to feel  
3 benefit or feeling good about a practice that isn't  
4 necessarily an appropriate treatment.

5 Q If you learned that someone under your  
6 supervision was engaged in this sort of technique,  
7 reenacting past trauma with clients, would that be a  
8 big deal to you?

9 A It would be a very big deal and of great concern  
10 to me.

11 Q And could that lead to disciplinary action  
12 being taken?

13 A It certainly could.

14 Q Now is directing clients to express anger in  
15 a physical manner, beating a pillow with a tennis  
16 racket, is that an acceptable therapeutic technique?

17 A Not in my experience.

18 Q And does that have the potential to harm the  
19 patient?

20 A Yes, it does.

21 Q Would it change your opinion if someone said  
22 that they felt some benefit from doing that?

23 A No, it would not.

24 Q And if you learned that someone under your  
25 supervision was employing that type of technique, would

1 that be a big deal for you?

2 A Yes. And I would actually be shocked.

3 Q And could it lead to disciplinary action?

4 A Most certainly.

5 Q Now directing clients to hurl homophobic  
6 insults at one another in a group session, is that  
7 something that's an acceptable therapeutic technique?

8 A Not in my experience.

9 Q And would that practice have the potential to  
10 harm clients?

11 A Absolutely.

12 Q And would it change your opinion if somebody  
13 said that they felt a benefit from that?

14 A No, it would not.

15 Q And if you learned that someone under your  
16 supervision was directing clients to hurl homophobic  
17 insults at another client, would you think that's a big  
18 deal?

19 A It would be a very big deal, and potentially  
20 grounds for immediate expulsion.

21 Q Dr. Bernstein, would directing clients to  
22 engage in a prolonged holding exercise, either holding  
23 each other or holding a therapist, for -- you know, for  
24 10, 20, 30 minutes, would that be something that's an  
25 appropriate therapeutic technique?

1 A Not in my experience.  
2 Q And would this practice have the potential to  
3 harm the clients?  
4 A Yes, it would.  
5 Q And would it change your opinion if someone  
6 said that they actually ended up enjoying that?  
7 A No, it would not.  
8 Q And if you learned that someone under your  
9 supervision was either holding their patients for a  
10 prolonged period of time or directing patients to hold  
11 each other for a long period of time, would that be a  
12 big deal for you?  
13 A Yes, it would.  
14 Q And could it lead to disciplinary action?  
15 A Yes, it could.  
16 Q Dr. Bernstein, have you ever, in a  
17 professional setting, ever asked any client to remove  
18 their clothing?  
19 A Never.  
20 Q Is directing the client to remove their  
21 clothing during an individual or a group session an  
22 acceptable therapeutic technique?  
23 A Most absolutely not.  
24 Q And would that have the potential to harm the  
25 clients?

1 A Yes, it would.  
2 Q And if you learned that someone under your  
3 supervision was directing that patients in their care  
4 disrobe in their presence or in the presence of others,  
5 would that be a big deal for you?  
6 A It would be a big deal and grounds for expulsion.  
7 Q Dr. Bernstein, now is it fair to say that  
8 some people do experience distress over their sexual  
9 orientation?  
10 A Absolutely.  
11 Q Are there legitimate treatment options in the  
12 mainstream medical community for those types of people?  
13 A There most certainly are.  
14 Q And what they would be?  
15 A Many forms of treatment, many forms of  
16 psychotherapy, potentially even some forms of  
17 medication, although I think probably in most cases  
18 they rely on psychotherapy. But, again, it would  
19 depend on the particular type of symptomatology that  
20 the patient was concerned about.  
21 Q And what would be the goal of that therapy?  
22 A The goal of the therapy would be to relieve the  
23 distress.  
24 Q The distress they feel about their --  
25 A Yes.

1 Q -- sexual orientation?

2 A Yes.

3 Q And, Dr. Bernstein, do you believe that all  
4 the training and education that you had -- you've had  
5 over your career would help you be able to advise  
6 people to seek out those legitimate therapies?

7 A Yes, I believe they would.

8 MR. BROMLEY: We have no further questions at  
9 this time, Your Honor.

10 THE COURT: Okay. Cross-examine.

11 MR. LI MANDRI: Yes, Your Honor. Thank you.

12 CROSS-EXAMINATION BY MR. LI MANDRI:

13 Q Good afternoon, Dr. Bernstein. I had the  
14 pleasure of meeting you at your deposition.

15 I'd like to ask you about a couple of the  
16 exhibits that you were asked about on direct  
17 examination, if I could, to start.

18 One was the "American Psychiatric Association  
19 Principles of Medical Ethics with Annotations", which  
20 has been marked as Plaintiff's 430. Now and that's a  
21 document that has that cover, the longer document?

22 A Yes.

23 Q That particular document, is that the actual  
24 -- I don't know if you called it the Bible or whatever,  
25 but the ethics guide for psychiatrists?

1 A Those are the principles, yes.

2 Q Okay. Now and this is the one that's binding  
3 on licensed psychiatrists in the United States?

4 A These are the Principles of Medical Ethics.

5 Q That particular volume that's binding on  
6 psychiatrists, those don't address specifically the  
7 issue of helping people with same sex attraction, you  
8 called it conversion therapy or it's been called  
9 reparative therapy; this guide does not specifically  
10 address that, does it?

11 A The Principles do not name reparative therapy or  
12 conversion therapy per se, no.

13 Q Thank you. And what did name it was a  
14 separate document called "Opinions of the Ethics  
15 Committee on the Principles of Medical Ethics,"  
16 correct?

17 A That is correct.

18 Q And, by the way, this document deals with  
19 licensed professional psychiatrists in the United  
20 States, correct?

21 A That is correct.

22 Q So if someone is an unlicensed counselor, say  
23 even a minister or a priest or a rabbi, they're not  
24 necessarily bound by this if they want to provide some  
25 type of counseling to their congregants, correct?

1 A No, but I would hope that they would be.  
2 Q Okay. Well, then let's take a look at it.  
3 It's P-429. We go to the second page, which is the  
4 forward.  
5 MR. LI MANDRI: I think we can display it,  
6 Your Honor. She relied on it.  
7 Q But the very last paragraph, the very last  
8 two sentences, this is the one where it had an actual  
9 opinion about providing conversion or reparative  
10 therapy, correct?  
11 A That is correct.  
12 Q And the last two sentences state: "Of note,  
13 these opinions are those of the APA Ethics Committee  
14 only. They do not represent official positions of the  
15 American Psychiatric Association."  
16 So let's see. "The Principles of Medical  
17 Ethics with Annotations especially applicable to  
18 psychiatry, 2013 edition," which I just called your  
19 attention, has been officially adopted by the American  
20 Psychiatric Association, and is binding on all members,  
21 correct?  
22 A That is correct.  
23 Q All right. So but you were asked about one  
24 question and answer in this nonbinding guide, as to  
25 whether it's ethical to engage in a therapy such as

1 reparative or conversion therapy to change sexual  
2 orientation. And the answer if we go to that, it's on  
3 Page 68 of P-429. If I can go to the top of that page,  
4 if you could -- well, if you could find it in there.  
5 But I can certainly read it.  
6 It says: "No. Although successful and  
7 ethical treatments for legitimate psychiatric diagnoses  
8 may sometimes lead to some changes in sexual behavior,  
9 any treatment that is based on an assumption that  
10 homosexuality per se is a mental disorder or is based  
11 on assumption that the patient should change his or her  
12 sexual orientation is, by its nature, unethical."  
13 My question to you, Dr. Bernstein, is have  
14 you seen anything in writing where my clients ever  
15 referred to homosexuality per se as a mental disorder?  
16 A I don't believe I have.  
17 Q Thank you. And did you actually review the  
18 depositions of any of my clients?  
19 A I reviewed them, yes.  
20 Q You kind of glanced at them?  
21 A I didn't review them in detail, no, because  
22 they're quite long.  
23 Q Sure. But you certainly don't remember my  
24 clients ever stating that they called homosexuality per  
25 se as a mental disorder, did they?

1 A I don't know for sure.  
2 Q Okay. But not that you remember seeing?  
3 A Not that I remember. That is correct.  
4 Q Thank you, Doctor. Now the same guide has  
5 another question and answer.  
6 MR. LI MANDRI: I don't know if you can find  
7 it on Page 66. Are you able to (indiscernible) to  
8 this? There you go. It's at the top. N-1-C. If you  
9 could highlight that, please, and enlarge it?  
10 Q This question says, "Is it proper for a  
11 psychiatrist to practice 'Christian psychotherapy',  
12 taking fundamentalist positions on such issues as  
13 homosexuality, sex outside of marriage, and failure of  
14 faith and prayer causing illness?"  
15 And the answer is: "If the patient is fully  
16 informed of the psychiatrist's views and seeks  
17 Christian psychotherapy, yes. Obviously, this does not  
18 absolve the psychiatrist from providing competent  
19 care." And it goes on.  
20 But do you agree with that position, that if  
21 the psychiatrist -- and I assume it's not limited to  
22 Christians, right? It could be Jewish or Muslim or  
23 some other faith, right?  
24 A I assume so, yes.  
25 Q Yeah. If they explain the perspective

1 they're coming from, and the patient has adequate  
2 informed consent, that's not unethical in the  
3 circumstance to help them with position on issues such  
4 as homosexuality?  
5 A I think actually there's more to this than you  
6 just read, and that it would be helpful to read the  
7 entire statement, rather than to take one sentence  
8 alone.  
9 Q All right. We can keep reading. "A  
10 potential ethical" --  
11 MR. LI MANDRI: What happened?  
12 Q "A potential ethical problem arises if the  
13 patient is unaware of the psychiatrist's orientation  
14 and the psychiatrist criticizes or diminishes the value  
15 of the patient's beliefs. This would violate Section  
16 1, Annotation A, which prohibits demeaning the dignity  
17 of a patient because of his creed."  
18 You don't have any reason to believe that any  
19 of the plaintiffs in this case were unaware of my  
20 clients' sexual orientation or religious position,  
21 correct?  
22 A I was not asked to review that, so I simply don't  
23 know.  
24 Q Okay. All right. But, in any event, there  
25 is no per se disqualification of someone who wants to

1 get and seeks out a religious approach to issues such  
2 as homosexuality, correct?

3 A I don't quite understand the question.

4 Q Well, given this particular even nonbinding  
5 opinion in this APA guide, it does leave open the  
6 possibility that someone can seek out a counselor,  
7 psychiatrist, that shares their religious views on an  
8 issue, and it wouldn't necessarily be violating any  
9 ethical rule if that counselor tried to help the person  
10 in that context, correct?

11 A I assume not, but I think there's the other  
12 provision about reparative and conversion therapy that  
13 is quite explicit.

14 Q Okay. And nonbinding?

15 A Well, nonbinding in that -- let me explain about  
16 binding and nonbinding. Would that be helpful?

17 Q Not really. Not if we're talking about life  
18 coaches and people that are not licensed psychiatrists,  
19 correct?

20 A Well, I -- I actually have opinions about that,  
21 but --

22 Q All right. But you don't practice in those  
23 areas, do you?

24 A No, I do not.

25 Q Okay.

1 A Most assuredly.

2 Q By the way, you're being paid \$500 an hour?

3 A That is correct.

4 Q And up until the time of your deposition, I  
5 think you had billed even before the deposition,  
6 something like \$7,500. Any idea how much you've billed  
7 or at least been paid to date in this case?

8 A That's probably in the ball park. Maybe seven to  
9 ten thousand, I think, over two years.

10 Q Okay. So 7,500 up to the time of your  
11 deposition and then through the deposition and then --

12 A Oh, I'm sorry. I misstated it.

13 Q Okay.

14 A I'm talking about the total, so --

15 Q Okay.

16 A I don't remember the numbers actually.

17 Q All right. But it's \$500 an hour for today?

18 A Yes, it is.

19 Q Okay. Thank you. And you did read the  
20 deposition transcripts of the plaintiffs, did you not?

21 A I did -- I reviewed them, yes.

22 Q All right. You didn't look at, for example,  
23 the transcript, though, of one of our witnesses who  
24 will be testifying by videotape, Jonathan Hoffman, did  
25 you?

1 A No, I did not.  
2 Q And you didn't look at any of the success  
3 story witnesses who will be testifying live and by  
4 videotape, their deposition, did you?  
5 A No, I did not.  
6 Q Okay. But you would agree that in order to  
7 be fair and objective, you want to have all the  
8 information on both sides of a particular issue?  
9 A I'm not sure I understand the question.  
10 Q Well, if you want to give expert opinion  
11 testimony about what my clients did and how it affected  
12 the plaintiffs, wouldn't you want to know both -- what  
13 my clients have to say about it, as well as what the  
14 plaintiffs have to say about it?  
15 A Well, I would want to -- I would want to know what  
16 the plaintiffs -- I mean, what I was asked to review is  
17 what the plaintiffs had to say about it.  
18 Q Right. Not what my clients had to say?  
19 A Primarily, yes.  
20 Q Okay.  
21 A That's correct.  
22 Q Thank you. By the way, you said the rates  
23 for private practice in New York are about \$500 an  
24 hour, but you really primarily are an academician and  
25 an administrator, correct? You don't do a lot of work

1 with actual clients, do you?  
2 A I do have a practice, yes.  
3 Q About ten percent of your practice is  
4 clients?  
5 A Probably -- that's a fair statement, yes.  
6 Q Okay. And the rest is administrative type  
7 work and academia?  
8 A And education, yes.  
9 Q Yes. Thank you, Doctor. You were also asked  
10 about another document which was marked and shown as  
11 Plaintiff's 431, P-431.  
12 MR. LI MANDRI: If we could display P-431.  
13 Q Okay. And you were asked about the second  
14 half of the paragraph, the long paragraph on the right.  
15 I want to ask you about the first half of that long  
16 paragraph on the right. It says: "The American" --  
17 A I can't quite see it.  
18 Q Yeah. We're going to enlarge it for you,  
19 Doctor. Thank you.  
20 "The American Psychiatric Association opposes  
21 discrimination against individuals with same sex  
22 attraction, whether it be in education, employment,  
23 military service, immigration, naturalization status,  
24 housing, income, government services, retirement  
25 benefits, ability to inherit," et cetera. I think we

1 all agree that those are good things to support, fair  
2 and equal treatment of people, correct?  
3 A Yes. I -- I'm sorry. I couldn't quite follow  
4 where you were reading from --  
5 Q Do you see it now?  
6 A -- so I just like to be sure I understand.  
7 Q All right. But that's not really a statement  
8 about psychiatry so much, just about good public  
9 policy, correct?  
10 A It's part of the position statement on  
11 homosexuality of the American --  
12 Q Yeah.  
13 A -- Psychiatric Association.  
14 Q I understand. And look at the first column  
15 on that page, if we could, please. The middle where it  
16 says, "The American Psychiatric Association," in the  
17 middle there.  
18 A Yes.  
19 Q "The American Psychiatric Association  
20 believes that the cause of the sexual orientation,  
21 whether homosexual or heterosexual, are not known at  
22 this time and likely are multi-factorial including  
23 biological and behavioral roots, which may vary between  
24 different individuals and may vary over time." Did I  
25 read that correctly?

1 A Yes, you did.  
2 Q Okay. And you agree with that, correct?  
3 A Yes. But I think you have to read the subsequent  
4 statement.  
5 Q I understand. And there will be an  
6 opportunity for other people to read other portions of  
7 documents. We don't have time to read every word in  
8 every document at this time.  
9 There was another APA document -- because you  
10 talked about harms and how certain types of treatment  
11 can harm people. Didn't the APA issue a statement  
12 specifically on therapies focused on attempts to change  
13 sexual orientation?  
14 A I'd like to see the document.  
15 MR. BROMLEY: We have it marked, 2392.  
16 MR. DINIELLI: 2392 --  
17 MR. LI MANDRI: Yeah, it's a depo exhibit  
18 from her deposition.  
19 I could show her her deposition, Your Honor.  
20 UNIDENTIFIED: Is it on the exhibit list?  
21 MR. LI MANDRI: No, it's impeachment exhibit.  
22 MR. BROMLEY: We don't have any objection,  
23 Your Honor. We should mark it as an exhibit, however.  
24 I don't know what the next exhibit number should be.  
25 THE COURT: Yeah. We're going to show it to

1 the witness?  
2 MR. LI MANDRI: Yes, I'd like to --  
3 THE COURT: What's the next number?  
4 MR. LI MANDRI: -- display it.  
5 THE COURT: What are you up to on Ds?  
6 MR. LI MANDRI: D-370? D-370 is my  
7 understanding, Your Honor.  
8 THE COURT: All right. There's 370? Because  
9 my only goes up to 368.  
10 MR. LI MANDRI: 369 would be fine, Your  
11 Honor, if that's --  
12 THE COURT: Well, I don't want to have two  
13 369s.  
14 MR. LI MANDRI: We have a 369, according to  
15 our records, Your Honor. I'm sorry.  
16 THE COURT: And you have a 370 as well?  
17 MR. LI MANDRI: No.  
18 THE COURT: All right. So then we'll mark  
19 this D-370. And what is it?  
20 MR. LI MANDRI: It's a position statement by  
21 the American Psychiatric Association.  
22 THE COURT: All right.  
23 MS. BENSMAN: You don't have a copy for us?  
24 MR. LI MANDRI: Yeah. I --  
25 THE COURT: Just let my court clerk mark it

1 as D --  
2 MR. LI MANDRI: Well, you can keep that. And  
3 then we can display it.  
4 Can you display it?  
5 THE COURT: All right. Well, I want my court  
6 clerk to mark a hard copy as 370.  
7 MR. LI MANDRI: Okay. You have a folder with  
8 copies of that in there. In your briefcase.  
9 THE COURT: Is in --  
10 MR. LI MANDRI: I have multiple copies.  
11 (Court and clerk confer)  
12 Q Okay. Doctor --  
13 MR. BROMLEY: We have it, Your Honor. We  
14 have it attached as an exhibit to the --  
15 THE COURT: All right. Hold on. Hold on.  
16 My court clerk only goes up to 368. And what  
17 I have on here only goes up to 368. So what's 369:  
18 MR. LI MANDRI: What did we have at 369? Do  
19 we know?  
20 I don't have that right now, Your Honor. I'm  
21 sorry. We will get that for you.  
22 THE COURT: All right. We'll mark this 379  
23 (sic), but right now, there's nothing in the record for  
24 369.  
25 MR. LI MANDRI: Okay. We'll correct that,

1 Your Honor.

2 THE COURT: When we get to it, we'll get to  
3 that.

4 MR. LI MANDRI: I apologize for that. We'll  
5 get right to that at the first opportunity.

6 THE COURT: Okay.

7 (P-370, APA position statement, marked for  
8 identification)

9 Q Do you have this document in front of you  
10 now, Doctor? I'm looking --

11 A It's a little hard for me to read. Yes.

12 Q Yeah. We're going to have to enlarge it for  
13 you. I'm sorry. The last paragraph in the first  
14 column, it states -- well, I'll read the whole thing.

15 "The validity, efficacy, and ethics of  
16 clinical attempts to change an individual's sexual  
17 orientation have been challenged. To date, there are  
18 no scientifically rigorous outcome studies to determine  
19 either the actual efficacy or harm of reparative  
20 therapies." Did I read that correctly?

21 A Yes. But I can't see what this document actually  
22 is or the date of it.

23 Q Okay. I've got a copy for you.

24 MR. LI MANDRI: May I approach the witness,  
25 Your Honor, please?

1 THE COURT: Yes. Please.

2 MR. LI MANDRI: Thank you.

3 THE COURT: Let's have the doctor see the  
4 hard copy.

5 MR. LI MANDRI: Thank you, Doctor.

6 Would you like a copy, Your Honor?

7 THE COURT: No, I can -- this is fine.

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

9 A Thank you. I understand the context now.

10 Q Okay. So you agree this is a position  
11 statement of the American Psychiatric Association much  
12 like the position statement we saw previously?

13 A Well, actually it's not the same. This is a  
14 position statement that was done in 2000. It is not  
15 the current statement of the American Psychiatric  
16 Association.

17 Q Is there a different one on this issue?

18 A Yes, there is. It's the 2013 one that was  
19 referenced a little bit earlier, I think.

20 Q Do you have that with you?

21 A I believe we -- it was already introduced.

22 Q Okay. In any event, this --

23 THE COURT: It's 431.

24 Q Would this have --

25 THE COURT: Are you referring to 431, the

1 exhibit that was just up there, the position --  
2 THE WITNESS: Yeah, I think it was the  
3 position statement --

4 MR. BROMLEY: Yes, Your Honor. The --

5 THE WITNESS: -- by David Scasta.

6 Q All right. In any event, if my clients were  
7 providing their services to the plaintiffs in the time  
8 frame of 2007, '08, '09, and '10, the position  
9 statement in front of you would have been the one at  
10 the time?

11 A Actually, I'm not sure about that.

12 Q Okay.

13 A Because the 2013 statement was a compilation of 12  
14 position statements over a period from 2000 to 2013.  
15 So I'm not exactly sure which one was in -- in effect  
16 at the exact time that the plaintiffs were involved  
17 with your clients.

18 Q All right. Well, let's move along. Doctor,  
19 do you believe that patients should have the right to  
20 self determination in what type of care and treatment  
21 they get?

22 A Certainly.

23 Q Okay. So if a patient were to come to you  
24 and say they wanted help overcome, say, some issues in  
25 their life because they have goals to get married and

1 have a family, you wouldn't try to deter them from  
2 those goals and say, no, marriage and a family is not  
3 for you?

4 A No, of course not.

5 Q Thank you, Doctor. And as to the efficacy of  
6 SOCE, sexual orientation change efforts, and by that,  
7 you understand they mean whatever type of efforts are  
8 being done, be it traditional talk therapy or other  
9 types of methods, you haven't done any research on the  
10 efficacy -- you know, how effective those types of  
11 sexual orientation change efforts are, have you?

12 A No, I have not.

13 Q And you haven't done any research into the  
14 potential harms of that type of treatment, have you,  
15 Doctor?

16 A No, I have not.

17 Q All right. Doctor, do you find that in your  
18 practice, and I'm sure you do the best you can to help  
19 people that come to see you, if they tell you that they  
20 feel they've been helped by you and they're grateful to  
21 you, you generally take them at their word, do you not?

22 A Well, I certainly hear that as part of the  
23 conversation, but I don't think that I would make that  
24 a determination of whether I felt that my treatment was  
25 effective or not.

1 MR. LI MANDRI: Your Honor, may I please play  
2 Page 56, Lines 3 through 8 of --  
3 THE COURT: Page -- Page 56?  
4 MR. LI MANDRI: Lines 3 through 8.  
5 THE COURT: 3 through 8.  
6 MR. LI MANDRI: But --  
7 THE COURT: Wait. Is --  
8 MR. BROMLEY: Wait. I'm sorry.  
9 No objection.  
10 THE COURT: Okay.  
11 Q Doctor, before I play this, I need to go  
12 through the routine that since you haven't been an  
13 expert witness before, I don't recall if your  
14 deposition was the first deposition you'd given or not?  
15 A I've given one prior deposition.  
16 Q All right. But in any event, you understood  
17 that the testimony was under oath and has the same  
18 force and effect as if you were testifying in a court  
19 of law the way you are doing now?  
20 A Yes, I did.  
21 Q Okay. Thank you, Doctor.  
22 MR. LI MANDRI: Can we please play that  
23 section, which is Page 56, Lines 3 through 8?  
24 I'm sorry. We have to turn it up. Can we  
25 start over?

1 We're going to -- we're going to replay it,  
2 Doctor. I'm sorry. I couldn't hear it.  
3 (Portion of videotaped deposition of Bernstein  
4 played from 2:11:38 to 2:11:52)  
5 Q Okay. And you remember giving that testimony  
6 at your deposition, Doctor?  
7 A Yes, I do.  
8 Q Thank you. Now in this particular case, you  
9 know my client is what's called a Torah-based  
10 organization, correct?  
11 MR. BROMLEY: Objection, Your Honor.  
12 Misstates --  
13 THE COURT: Well, she can answer the  
14 question. He's asking if she knows that.  
15 A I'm sorry? What was the question?  
16 Q Well, I'll rephrase it. Are you aware my  
17 client is based -- their business -- their nonprofit  
18 service is based on the Torah, the Jewish Bible?  
19 A I'm not an expert in that area, so I don't know.  
20 Q Okay. All right. Have you visited their  
21 website even to see what they're all about, who they  
22 are and what they try to do?  
23 A I have not visited their website.  
24 Q In any event, you're not opposed to my  
25 clients if they profess to help people according

1 beliefs that human sexuality is given by God to be  
2 expressed only in a male-female type of relationship,  
3 and open to life, you don't consider them being hateful  
4 or bigoted or anything like that? Just --

5 A I think that they are entitled to their beliefs,  
6 absolutely.

7 Q Thank you, Doctor. And you agree the fact  
8 that a particular type of condition or whatever one  
9 wants to call it, I don't mean to malign it, but  
10 anything someone comes to you with that has a  
11 biological and perhaps behavioral roots, it doesn't  
12 preclude treatment just because it might have some type  
13 of biological component, does it?

14 A I --

15 MR. BROMLEY: Objection.

16 A I don't understand the question, actually.

17 Q Okay. Well, let me rephrase it. Do you  
18 agree that a fact that a condition has a biological and  
19 behavioral roots, that fact does not preclude medical  
20 or psychological treatment?

21 A I'm sorry. I'm not getting this. If a -- if a  
22 condition has biological roots, it doesn't preclude  
23 treatment?

24 Q Right.

25 A Of course it doesn't preclude treatment.

1 Q Thank you, Doctor. Also, you would agree  
2 that it would be helpful -- in this particular case,  
3 you didn't review the deposition of Thaddeus Heffner  
4 either, one of the other JONAH counselors?

5 A No, I did not review that deposition.

6 Q Do you know if he's a licensed therapist or  
7 not?

8 A I do not know.

9 Q Okay. Now as far as psychodrama goes, you've  
10 never used it in your practice, you're not familiar  
11 with professional organizations that support the use of  
12 psychodrama, correct?

13 A That is correct.

14 Q And you don't know if licensed practitioners  
15 actually use psychodrama?

16 A I know about what practitioners do in my field. I  
17 am not familiar with psychodrama as a routine treatment  
18 for psychiatric disorders.

19 Q Okay. But how about for nonpsychiatric  
20 disorders? How about emotional disturbances or things  
21 of that nature? Do you know if it's used for that  
22 purpose?

23 A I have no idea.

24 (Continuation of day's proceedings in Volume  
25 2)

CERTIFICATION

I, Patrice Mezzacapo, assigned transcriber, do hereby certify that the foregoing transcript of proceedings in the Hudson County Superior Court, Law Division on June 10, 2015 on CD No. 6/10/15, Index Nos. 8:51:45 to 8:53:45, 8:55:25 to 8:58:33, 9:04:12 to 10:25:38, 10:47:55 to 12:30:26, 1:47:02 to 2:14:46, 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.

*/s/ Patrice Mezzacapo*

Patrice Mezzacapo, AD/T #214  
METRO TRANSCRIPTS, L.L.C.

Date: **6/17/15**