

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

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

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

Date: June 10, 2015  
Volume 2 of 2  
Pages 201 - 300

B E F O R E:

HONORABLE PETER F. BARISO, JR., A.J.S.C. and a Jury.

TRANSCRIPT ORDERED BY:

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

Audio Recorded by: C. Ortiz



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1 (Continuation of day's proceedings from  
2 Volume 1)

3 Q Okay. Are you aware that there's an American  
4 Board of Examiners in Psychodrama, Sociometry, and  
5 Group Psychotherapy?

6 A Maybe.

7 Q But you're -- you teach at NYU?

8 A I do.

9 Q Are you aware that --

10 A I teach at the School of Medicine, not the  
11 undergraduate campus.

12 Q Okay. But are you aware that NYU has a  
13 course in psychodrama where they teach students about  
14 treatment modalities for use?

15 A I'm not aware of that course.

16 Q You went to Columbia University?

17 A I did. To the medical school.

18 Q Okay. Good school. Did you -- do you know  
19 Marjorie Melnick, who is a lecturer in psychiatry at  
20 Columbia University and teaches psychodrama?

21 A I do not know her, no.

22 Q Would it matter to you if prestigious  
23 universities like NYU, Columbia, and Harvard University  
24 all teach psychodrama for helping people overcome  
25 issues in their lives?

1 MR. BROMLEY: Objection, Your Honor.  
2 Foundation.

3 THE COURT: No, I'm going to overrule it.  
4 She can answer the question.

5 A Could you repeat the question, please?

6 Q Sure. Would that be significant to you if a  
7 prestigious universities like NYU, Columbia, and  
8 Harvard all teach psychodrama?

9 A If prestigious universities like Columbia  
10 University, NYU, or Harvard had psychodrama as a  
11 routine regular fully accepted part of their  
12 instruction for mental health practitioners, yes, that  
13 would matter.

14 Q Okay. But you're not aware one way or the  
15 other how that's used at those universities?

16 A Not -- it's -- in my experience, psychodrama is  
17 not a routine, regularly accepted form of treatment.  
18 It may be used by some people, but I am not aware of  
19 its being used regularly, appropriately, and in  
20 mainstream circles for mental health treatment.

21 Q Okay. You're not prepared to say that it's  
22 unethical to use it in any context, are you?

23 A No.

24 Q Okay. So do you know, perchance, plaintiff's  
25 expert Lee Beckstead, who's a Ph.D. psychologist? Do

1 you know him?

2 A I've been told of him. I've never met him.

3 Q Have you read his deposition or report?

4 A No, I have not read his deposition.

5 Q Okay. Well, if he facilitates experiential  
6 weekends where they use psychodrama, would that be  
7 significant to you?

8 A I think that's a better question asked of Dr.  
9 Beckstead.

10 Q Okay. But you wouldn't say, per se, Dr.  
11 Beckstead would be acting unethically if they have male  
12 survivor weekends for sexual abuse victims, where they  
13 will reenact a sexual abuse situation?

14 MR. BROMLEY: Objection, Your Honor.  
15 Misstates the testimony.

16 MR. LI MANDRI: Well, I'm prepared --

17 THE COURT: Well, you know --

18 MR. LI MANDRI: -- to bring witnesses.

19 THE COURT: -- the jury will determine that  
20 when Dr. Beckstead comes in. The offer is that that's  
21 what Dr. Beckstead does.

22 Do you have an opinion on that, Doctor?

23 A Could you repeat the question, please?

24 Q If there's been, indeed, testimony that Dr.  
25 Beckstead facilitates experiential weekends for male

1 victims of child sexual abuse, and they'll do something  
2 called a living sculpture, where they'll reenact the  
3 sexual abuse situation to help the person get over it,  
4 in your view, would that always be, per se, unethical?

5 A I would have to know a lot more. I mean, I think  
6 that one of the problems is that statements like that,  
7 for me, I would really need to know the full  
8 circumstance and the -- the criteria by which the  
9 treatment was used and the environment.

10 So it's very difficult for me to say anything in a  
11 hypothetical situation like that.

12 Q I understand. Do you know if psychodrama is  
13 used to help people overcome behavioral issues by the  
14 National Criminal Justice Reference Service?

15 A I don't know of that organization and I'm not  
16 familiar with that, no.

17 Q One more. If the US Office of Personnel  
18 Management, a federal government agency, uses  
19 psychodrama activities to maintain physical and mental  
20 health, and to achieve physical and mental  
21 rehabilitation of patients, would that be significant  
22 to you?

23 A I'm not familiar with the organization.

24 Q Okay.

25 A So I really can't comment. It was not something

1 that I reviewed for my testimony.

2 Q All right. But the fact is, you're just not  
3 an expert on the use of psychodrama by various people  
4 in various settings, correct?

5 A That's true.

6 Q All right. Thank you. Now you're also not  
7 familiar with the use of healthy touch and experiential  
8 weekends, are you? That's not something you've ever  
9 seen done or experienced?

10 A That is correct.

11 Q Do you know who Dr. Struve is, one of Dr.  
12 Beckstead's colleagues, that wrote a book on healthy  
13 touch?

14 A I do not know. I'm not familiar with his work.

15 Q Okay. And I believe you testified on direct  
16 exam and in your deposition that there's potential  
17 harms associated with any treatments of therapies.  
18 There's always a risk of any potential treatment  
19 modality. Would you agree?

20 A Yes, I would agree.

21 Q In fact, you, yourself, obviously a qualified  
22 mental healthcare practitioner, has had patients who  
23 felt they were getting a negative response from a  
24 particular treatment?

25 A I'd have to sit and do a review of my patient

1 base.

2 MR. LI MANDRI: Can I play Page 80, Line 20,  
3 to Page 81, Line 3?

4 THE COURT: Page 80, Line 20?

5 MR. LI MANDRI: Page 81, Line 3.

6 Do you have that or do I have it? Page 80,  
7 Line 20, to Page 812, Line 3.

8 MR. BROMLEY: I don't see this as impeaching,  
9 Your Honor.

10 THE COURT: Counsel, there is something in  
11 that question that was not asked the doctor.

12 MR. LI MANDRI: Okay. I'll rephrase that,  
13 Your Honor. Thank you. I see it now.

14 THE COURT: Okay.

15 Q Have you ever had a patient feel they were  
16 getting a negative response from a particular treatment  
17 you were using with them, perhaps it was a medication,  
18 they had an adverse side effect they didn't like?

19 A Yes.

20 Q Okay. You agree, Dr. Bernstein, don't you, a  
21 therapist should, as a rule, not try to force their  
22 personal values on a patient?

23 A Absolutely.

24 Q And you talked about therapeutic neutrality  
25 and trying to understand the patient and where they're

1 coming from. And that's critical to a good therapeutic  
2 relationship?

3 A Yes, it is.

4 Q Were you able to form an opinion as to the  
5 plaintiffs, from reading their deposition, as to  
6 whether or not when they came to my clients seeking  
7 referrals for various issues, what those issues were?  
8 Were you able to determine what their issues were?

9 A I would -- it is completely inappropriate for me  
10 to make any determination about somebody's therapeutic  
11 issues without formally interviewing them as part of my  
12 practice.

13 Q I see. But you understand my clients'  
14 referral therapists did have a chance to interview the  
15 plaintiffs?

16 A I assume so, if those are the facts, yes.

17 Q Okay. And if the plaintiff provided them  
18 certain information about their history and where  
19 they're at and where they wanted to go, that would be  
20 the type of information you would want to know if you  
21 met with a patient, right?

22 A Absolutely.

23 Q And you're not giving any opinion, are you,  
24 Doctor, as to JONAH's world view regarding issues of  
25 religion and human sexuality or anything like that, are

1 you?

2 A No.

3 Q I'm going to skip through some of this. Bear  
4 with me, Doctor, please.

5 And you're not giving an opinion here, I  
6 didn't hear it this morning, that my clients ever used  
7 any type of scare tactics based on false information,  
8 are you?

9 A I'm not sure about that.

10 Q You didn't testify to it on direct, so I  
11 assume you're not planning to give that opinion?

12 A I didn't testify to it on direct, that is correct.

13 Q And if my clients were to have informed  
14 people with accurate information on certain types of  
15 risks of certain type of behavior, you wouldn't be  
16 critical of them for that, would you?

17 A I'm sorry. Could you rephrase the question?

18 Q If my clients were to tell people about  
19 certain types of risks of certain types of behavior,  
20 and they gave accurate information, you're not critical  
21 of them?

22 A If the information was accurate and appropriately  
23 in context, and not misleading in any way, yes.

24 Q Okay. And you're aware, are you not, that  
25 some of the plaintiffs who came to my clients because

1 they had unwanted same sex attraction also had other  
2 issues they wanted to have addressed?

3 A I believe that is the case, yes.

4 Q Okay. Are you aware that Mr. Downing  
5 referred Mr. Unger out to someone who was a licensed  
6 specialist that dealt with OCD issues?

7 A That's my recollection, yes.

8 Q Okay. And Mr. Heffner -- well, you didn't  
9 read his deposition. But assuming that he'll testify  
10 he suggested that Mr. Bruck see a psychiatrist for  
11 depression, that would be an appropriate thing to do if  
12 he was not qualified to treat depression and prescribe  
13 medication; you'd agree with that?

14 A If someone -- and I can't really comment because I  
15 don't know the situation exactly. But if someone that  
16 I was training felt that they were out of their depth  
17 in a particular circumstance and referred someone to  
18 someone they felt was more expert, I would certainly  
19 think that that was appropriate.

20 Q Thank you, Doctor. Are you aware of other  
21 type of work my client does other than helping people  
22 with unwanted same sex attraction, pornography  
23 addiction, heterosexual act -- compulsive disorders,  
24 anything like that, are you aware that they refer  
25 people for those types of issues as well?

1 A I'm not aware of the specifics. I do have a vague  
2 recollection that that might have been mentioned.

3 Q And you're aware that some of JONAH's  
4 referral counselors are licensed, are you not?

5 A That was my understanding, yes.

6 Q And some of the therapies you referenced in  
7 your deposition that you would endorse include analytic  
8 psychotherapy, supportive psychotherapy, cognitive  
9 behavioral psychotherapy, among many therapies that can  
10 help people with homosexual desires who wish to live in  
11 conformity with their religion. Do you recall doing  
12 that?

13 A I'm not sure those were the exact words. I think  
14 that those are types of therapies that are available to  
15 people who are suffering, yes.

16 Q Okay. And do you know if some JONAH's  
17 referral counselors do, in fact, use those types of  
18 therapies?

19 A I'm not familiar with whether they do or don't,  
20 no.

21 Q Certainly, you would agree that people should  
22 be capable of controlling their sexual desires, so if  
23 they're having an addictive compulsion as to  
24 pornography or seeking anonymous sex, it would be a  
25 good thing if someone tried to help them control that,

1 right?

2 A I'm not -- I wasn't asked to review that area  
3 specifically in preparation for this.

4 Q Okay. Well, are you aware --

5 MR. BROMLEY: Objection, Your Honor. This is  
6 outside the report. It's outside the scope of the  
7 direct.

8 THE COURT: Where are we going with this?

9 MR. LI MANDRI: Well, some of the plaintiffs  
10 came with addiction issues.

11 THE COURT: Okay. But she is not critical of  
12 that. I haven't heard her say she was critical of that  
13 at all.

14 Are you familiar with any of the treatment  
15 that was provided by JONAH in terms of any other  
16 addictions?

17 THE WITNESS: No. I think I was exclusively  
18 focused on their attempts to -- to deal with same sex  
19 attraction.

20 MR. LI MANDRI: That's fine.

21 THE COURT: So you have -- so you --

22 THE WITNESS: I was not focused on anything  
23 else.

24 MR. LI MANDRI: I'll limit myself to that.

25 THE COURT: Okay.

1 MR. LI MANDRI: Thank you, Your Honor, for  
2 clarifying.

3 Q Doctor, as to that issue, you agree that if  
4 someone wants to change their behavior, be it  
5 homosexual or heterosexual, they should have the right  
6 to do so?

7 A I believe that it is possible for people to change  
8 behavior, yes.

9 Q Matter of fact, as to the definition of  
10 sexual orientation, you mentioned there were three  
11 levels?

12 A That is correct.

13 Q There could be the attraction, the behavior,  
14 and the identity, correct?

15 A Correct.

16 Q And if someone wants to change their identity  
17 from heterosexual to homosexual or homosexual to  
18 heterosexual, they have the right to do that?

19 A I don't know that I would look at it as right so  
20 much as I would say that those things are possible,  
21 yes.

22 Q Okay. Those things are possible. And it  
23 certainly is possible for someone to change their  
24 behavior, correct?

25 A Absolutely.

1 Q And one of the other issues that people want  
2 to work on -- say someone's attracted to both sexes,  
3 there are -- you mentioned in your direct testimony,  
4 there are bisexuals out there, correct?  
5 A Uh-huh.  
6 Q You have to say yes.  
7 THE COURT: Is that a yes, Doctor?  
8 THE WITNESS: Sorry.  
9 THE COURT: That's all right.  
10 A Yes.  
11 Q That's okay.  
12 A Yes.  
13 Q It's not like ordinary conversation. So if  
14 someone, say, is attracted to both sexes, and they want  
15 to focus on -- say they're married to man, married to a  
16 woman, and they want to be faithful to their wife, but  
17 they have some sex attraction as well, you would not be  
18 opposed to them trying to get help so that they could  
19 deal with their unwanted same sex attractions and be  
20 more faithful, say, to their wife?  
21 A I think that's probably very similar to  
22 heterosexual people who are attracted to members of the  
23 opposite sex --  
24 Q That's right.  
25 A -- and want to stay faithful too. I think it --

1 Q That's right.  
2 A I think those very similar, so --  
3 Q That's right. And if someone is engaging in  
4 adulterous relationships and they feel bad about it an  
5 they feel like they're trapped in this type of  
6 relationship and they want to get -- get help so they  
7 can be faithful to their spouse, you would have no  
8 problem with that, would you?  
9 A No.  
10 Q And you agree that someone who engages  
11 exclusively in heterosexual behavior and identifies  
12 exclusively as a heterosexual can still have some same  
13 sex attraction, right?  
14 A Can they still be attracted to men? Absolutely.  
15 Yes.  
16 Q You don't know the full extent of Mr.  
17 Downing's educational training and work with issues  
18 regarding counseling, psychodrama, those types of  
19 things, do you?  
20 A No. I understood that he was perhaps working  
21 towards a master's degree. That was my understanding.  
22 Q Okay. Thank you. Now when I asked you in  
23 your deposition that because homosexuality is not a  
24 mental disorder, nobody should ever seek any help  
25 overcoming unwanted same sex attraction, you said, no,

1 not necessarily. So just because it's not a mental  
2 disorder doesn't mean that someone should not be in a  
3 position to ask for help overcoming unwanted same sex  
4 attraction, do you agree?

5 A I would agree.

6 Q And to your knowledge, even as to licensed  
7 professionals who are members of the American  
8 Psychiatric Association, it's not ethically prohibited  
9 for them to help people with unwanted same sex  
10 attraction, right?

11 MR. BROMLEY: Objection, Your Honor.  
12 Misstates the testimony.

13 THE COURT: Well, the doctor can answer it,  
14 if she can.

15 A Could -- just please repeat it? Just the  
16 interruptions, it's a little disconcerting.

17 Q Sure. It's not ethically prohibited for  
18 members of the APA to provide services to people for  
19 unwanted same sex attraction?

20 A No, but it's pretty much ethically prohibited to  
21 engage in practices that purport to change sexual  
22 orientation and attraction, such as conversion therapy  
23 and reparative therapy.

24 Q Sure. That assumes someone has an  
25 identifiable sexual attraction -- sexual orientation

1 they've adopted, correct?

2 A I think it's really helpful to make a distinction  
3 between attraction, sort of how we feel sexually  
4 towards a member of the same sex or the opposite sex,  
5 and how someone identifies or behaves. Those are very,  
6 very different things.

7 MR. LI MANDRI: Can I play, Your Honor, Page  
8 110, Lines 5 through 15?

9 THE COURT: 110 --

10 MR. LI MANDRI: Lines 5 through 15.

11 MR. BROMLEY: No objection, Your Honor.

12 THE COURT: He doesn't object. Go ahead.

13 MR. LI MANDRI: Okay.

14 (Portion of videotaped deposition of Bernstein  
15 played from 2:32:26 to 2:33:38)

16 Q Doctor, there is a difference between the  
17 American Psychiatric Association and the American  
18 Psychological Association, correct?

19 A Yes, there is.

20 Q One's psychiatrist, one's psychologist?

21 A That's correct.

22 Q Okay. Have you read any of the writings of  
23 past presidents of the American Psychological  
24 Association as to the ethics of providing this type of  
25 therapy; for example, Dr. Nicholas Cummings, a part

1 president in the American Psychological Association,  
2 have you read any of his writings on the ethics of  
3 providing this type of therapy?

4 A My recollection is that I don't recall the  
5 specific writings, no. I mean, I think he did write on  
6 this, but --

7 Q Do you know -- do you consider him reliable,  
8 qualified, and authoritative?

9 A I'm not a member of the American Psychological  
10 Association and I'm not a psychologist, so it would be  
11 difficult for me to comment.

12 Q Fair enough. Thank you, Doctor.

13 And we may have covered this, but I want to  
14 make sure. If a person with a fluid -- well, you agree  
15 -- you agree with the statement that some people's  
16 sexual orientation is fluid and flexible?

17 A I think that some people are attracted to men,  
18 some people are attracted to women, and some people are  
19 attracted to both. And I'm talking now about the  
20 physical attraction, yes.

21 Q Okay. But it can actually change for some  
22 people over their life too, right?

23 A Perhaps. I don't know.

24 Q All right. Do you if the American  
25 Psychiatric Association has taken a position on whether

1 or not it's -- sexual orientation can be fluid and  
2 flexible for some people?

3 A I think there is a statement to that effect.

4 Q Okay. And you would not disagree with that?

5 A No, I would not disagree.

6 Q And you would agree that a person with a  
7 fluid and flexible sexual orientation could seek  
8 professional help to direct their sexual orientation a  
9 particular way if they wanted to?

10 A Well, again, I think I want to distinguish between  
11 the attraction, the identity, and the behavior. And I  
12 certainly think that people have an opportunity to  
13 change behavior. I think that that's completely true.

14 Q Okay. And you could certainly conceive of a  
15 situation where it would be ethical for my client JONAH  
16 to assist a person to get help from a suitable  
17 therapist if they have a conflict between their sexual  
18 orientation and their religious views?

19 A Yes. Absolutely.

20 Q Thank you. And you agree with the statement  
21 that it is not the case that sexual orientation is  
22 immutable or might not vary to some extent in a  
23 person's life?

24 A Ye. I would probably agree with that.

25 Q And, of course, by immutable means you agree

1 with the statement that it's not unchangeable?  
2 A I guess.  
3 Q Okay.  
4 A I mean, but I think the real issue is the types of  
5 treatments that are employed to assist people. And  
6 that's really where my expertise is.  
7 Q Okay. And if a large number of people felt a  
8 particular treatment was helpful for them for that  
9 particular purpose, that would be useful information,  
10 would it not?  
11 A It would be interesting information. It would  
12 have to be seen in the context of a lot of other  
13 information.  
14 Q Thank you, Doctor. And you agree, Doctor,  
15 that some types of behavior can be considered  
16 disordered even if they're not considered a mental  
17 disease or a defect?  
18 A I'm familiar with conditions that are considered  
19 mental diseases and disorders.  
20 Q Right. And, of course, not everything that's  
21 a treatable condition is listed in the Diagnostic  
22 Statistical Manual, is it?  
23 A Well, I guess it depends on what you mean by  
24 treatable condition.  
25 Q Well, something that maybe a person wants

1 help with, okay, that's not listed. I don't know. You  
2 had listed some things. But what if a person wants  
3 help with a pornography addiction or overeating or  
4 something like that, that's not necessarily something  
5 they'd have to go to a psychiatrist and have it  
6 diagnosed and have it fit within a classification in  
7 the DSM, would it?  
8 A Well, I think that actually concerns me more than  
9 anything else. I mean, one of my concerns and one of  
10 the reasons I'm in the field that I'm in and the work  
11 that I do is to make sure that people who are suffering  
12 from mental illnesses and disorders like this get  
13 appropriate treatment from licensed people.  
14 Q Okay. Well, you did say that one of the  
15 things that constitutes a disorder is how it affects  
16 people in terms of their emotional distress?  
17 A That's one piece of it, yes.  
18 Q Okay. And you certainly know of grief  
19 counselors and people like that who may be treating  
20 people who have emotional distress and they're not  
21 necessarily licensed psychiatrists?  
22 A That's absolutely correct.  
23 Q And you don't have a problem with that?  
24 A Well, I think the challenge is kind of like what I  
25 was talking about before about the Internet. There's a

1 lot out there and a lot of people offering to help  
2 about a lot of things. And I think it's very difficult  
3 for people to understand when they're getting  
4 appropriate treatment and when they aren't.

5 Q Sure. But oftentimes, people do?

6 A They do. That is correct.

7 Q And there's a lot of self help programs like  
8 Alcoholic Anonymous of Sexaholic Anonymous, Overeater  
9 Anonymous, I suppose. All run by people who have been  
10 through it, been there, done that, and are successfully  
11 helping other people and they're not necessarily  
12 licensed professionals?

13 A I think those groups exist and are run by people  
14 who are not licensed, yes.

15 Q Okay. And as far as you know, a lot of  
16 people are helped by groups like Alcoholics Anonymous?

17 A Perhaps.

18 Q They've been around a long time, right?

19 A Excuse me?

20 Q They've been around a long time?

21 A They have been around a long time.

22 Q Okay. Doctor, isn't it true you're aware  
23 there's a general success rate for therapies, not  
24 limited to what we're talking about here, of one-third  
25 get an excellent result, one-third improve their

1 condition, and one-third don't improve generally;  
2 you've heard that before?

3 A Not in the science that I'm familiar with, no.

4 Q But you're aware there's a general rate of  
5 success for therapies; you've heard of that? One-  
6 third --

7 A I know that there are treatments that have success  
8 rates, yes.

9 Q You've heard that one-third, one-third, one-  
10 third, though?

11 A Only in the context of this trial.

12 Q You haven't heard of it in private --

13 A No.

14 MR. LI MANDRI: Okay. I'd like to play Page  
15 140, Lines 10 through 19.

16 MR. BROMLEY: Objection, Your Honor. If you  
17 go to the next Q and A, you'll see it's not impeaching.

18 THE COURT: I don't see where it's impeaching  
19 because I would think you would have to read through  
20 Line 23 to be fair. But if you want to do that, if you  
21 want to read 10 to 23, I have no problem with that.

22 MR. LI MANDRI: Okay.

23 Q Let me just ask you this. Are you vaguely  
24 aware of that, even outside the context of this case?

25 A To be honest, in my recollection, I think it's

1 probably in the context of this trial that I've heard  
2 it.

3 Q Okay. You didn't say that in your  
4 deposition, though.

5 A I don't -- I don't have the deposition in front of  
6 me --

7 Q Okay.

8 A -- so I can't tell you.

9 Q And you're not testifying regarding whether  
10 any of the plaintiffs in this case experienced any  
11 harm, are you?

12 A Without examining them and working with them, I  
13 couldn't do that.

14 Q And you haven't even looked at their medical  
15 records, have you?

16 A I haven't looked at their medical records, no.

17 Q But you have looked at their depositions,  
18 correct?

19 A Yes.

20 Q And in terms of what they experienced, are  
21 you relying on any of that information on what the  
22 plaintiffs said in their depositions?

23 A I could not make any comment about that. It would  
24 be unethical for me to do so.

25 Q Well, I'm not asking you if they were telling

1 the truth. I'm just asking you if you relied on any of  
2 that information.

3 A For what purpose?

4 Q For any purpose, about the opinions you're  
5 giving here in court, about what's considered proper  
6 treatment modalities, or anything else they say they  
7 experienced.

8 A I think I'm relying on their testimony as  
9 describing what they say they experienced.

10 Q Okay.

11 A Yes.

12 Q All right. And if that testimony that you're  
13 relying on turns out not to be accurate, that could  
14 potentially affect your opinions. Wouldn't you agree?

15 A I suppose.

16 Q You would agree, Doctor, wouldn't you, that  
17 someone could identify as either gay or straight and  
18 later change their mind, right?

19 A About ident --

20 THE COURT: Counsel, just stop. Sorry.

21 Are we going to continue with this She's  
22 answered that, I believe, several times.

23 MR. LI MANDRI: I believe that I'm getting to  
24 the very --

25 THE COURT: I know you may be getting to your

1 end, but I'm getting to my end.

2 MR. LI MANDRI: All right.

3 THE COURT: I think she's agreed with you. I  
4 don't know how many times you've asked her that on  
5 cross. She agrees with you.

6 MR. LI MANDRI: Thank you, Your Honor, for  
7 pointing that out.

8 THE COURT: Sorry.

9 Q Doctor, in reading the plaintiffs'  
10 deposition, you did not see any testimony that the  
11 defendants seek to make people feel shame or hurt their  
12 self esteem, did you?

13 A I don't recall about the testimony, per se.

14 Q All right. Would you agree that if a patient  
15 fails to follow up with appointments and fails to come  
16 see you, that it would be difficult for you to be able  
17 to help them?

18 A Yes.

19 Q And, finally, you believe that it would be  
20 inappropriate for a therapist to tell a client who has  
21 unwanted same sex attraction that they should just  
22 simply gay identify and not seek help?

23 A I think that it would be most appropriate if  
24 people are in distress that they be advised to seek  
25 help.

1 Q Thank you. I have no further questions. I  
2 appreciate it, Doctor.

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

4 THE COURT: Redirect.

5 MR. BROMLEY: Yes, Your Honor. I'll be very  
6 brief.

7 REDIRECT EXAMINATION BY MR. BROMLEY:

8 Q Dr. Bernstein, Mr. LiMandri asked you a  
9 couple of questions about Plaintiff's P-429.

10 MR. BROMLEY: Can you pull that up?

11 Q The forward, which is on Page 2. Do you  
12 recall Mr. LiMandri asking you a few questions about  
13 that?

14 A Yes, I do.

15 Q And there was a point in time when Mr.  
16 LiMandri asked you whether it was binding and you said,  
17 I actually would like to explain it; and he said, it's  
18 not necessary.

19 A Right.

20 Q I'd like you to explain it.

21 A Okay. So the formal Principles of Medical Ethics  
22 are set out so that if people violate them, that's  
23 grounds for expulsion from the American Psychiatric  
24 Association.

25 The opinions offered by the ethics committee,

1 which is a separate group, it's not -- you know, so  
2 these are opinions, kind of like FAQs, frequently asked  
3 questions that you might see and if there's something  
4 that you didn't understand, people list frequently  
5 asked questions.

6 So the ethics committee issues FAQs on frequently  
7 asked questions that are supposed to serve as  
8 guidelines. It's absolutely true that one might not  
9 necessarily be expelled from the American Psychiatric  
10 Association. And, certainly, if you're not a  
11 psychiatrist, you can't belong. But they are listed  
12 there as ethical principles and guidelines that we hope  
13 everybody in the mental health community follows.

14 Q So is it fair to say, Dr. Bernstein, that  
15 when you're looking at this, at these FAQs, if you  
16 will, you're looking to them for ethical guidance?

17 A That is correct.

18 Q Thank you. And that would be true for the  
19 psychiatric community in general?

20 A Yes.

21 Q Doctor, there was a question about people  
22 having the right to seek therapy in respect to their  
23 sexual orientation. Now -- and I think you that said  
24 people have the right to seek that therapy. Do they --  
25 do the people who are providing that therapy have the

1 right to use dangerous or unethical modalities in  
2 providing that therapy?

3 A I would hope not.

4 Q Now Mr. LiMandri asked you a series of  
5 questions about psychodrama. And I believe you said  
6 you're not an expert in psychodrama.

7 A That is correct.

8 Q And you don't know -- you're not aware, are  
9 you, of whether or not any of the universities that Mr.  
10 LiMandri mentioned actually teach psychodrama in the  
11 manner that you suggested that they should?

12 A No, I'm not aware. I don't know that they're part  
13 of a major course catalog or offered by reputable  
14 people. I'm not.

15 Q And you're on the staff of the NYU School of  
16 Medicine. To your knowledge, NYU School of Medicine  
17 doesn't teach it, does it?

18 A That is correct.

19 Q Okay. Now when Mr. LiMandri was asking you  
20 some questions about psychodrama, right, if -- and I  
21 had asked you at the end of your direct a series of  
22 questions. So, for instance, if -- if removing  
23 clothing during an individual or a group session was  
24 described as psychodrama, that wouldn't change your  
25 testimony you gave earlier, would it, that it's wrong?

1 A I think that's wrong. Period.  
2 Q It doesn't matter whether you call it  
3 psychodrama or anything else?  
4 A That is correct.  
5 Q And would your answer be the same if the  
6 psychodrama was described to be extended holding?  
7 A Yes, it would be the same.  
8 Q Or if the psychodrama was to reenact  
9 childhood sexual abuse?  
10 A Absolutely.  
11 Q Or if the psychodrama was to direct clients  
12 to hurl homophobic insults at other clients?  
13 A Completely inappropriate.  
14 Q So it doesn't matter that you put the word  
15 psychodrama into any of that. It's still inappropriate  
16 in your view?  
17 A That is correct.  
18 Q Thank you. Now there was a brief statement  
19 about immutable sexual orientation and I just wanted to  
20 be clear. You were making a distinction, I believe,  
21 between attraction, identity, and behavior?  
22 A Yes.  
23 Q And when you were saying that things could  
24 change, were you referring to all three or --  
25 A I was primarily referring to identity and

1 orientation. I mean, this issue of fluidity of  
2 attraction is a little bit nebulous, to be -- to be  
3 candid, so --  
4 Q So when you say identity, that's somebody  
5 who's saying I'm straight or I'm gay?  
6 A That's correct. It's how you self identify, how  
7 you consider yourself as being straight or gay or  
8 bisexual or whatever.  
9 Q So is it fair to say it's still possible for  
10 someone who's married to a woman, with children, to  
11 still be attracted to men?  
12 A Absolutely.  
13 Q And for that person to say I'm straight?  
14 A Absolutely.  
15 Q But their attraction could still exist to  
16 men?  
17 A That is correct.  
18 Q Thank you. In your view, Dr. Bernstein, is  
19 an unlicensed life coach qualified to assess a patient  
20 for a potential diagnosis of mental health illness?  
21 A No.  
22 Q Dr. Bernstein, there was a document which was  
23 numbered Plaintiff's 370.  
24 MR. BROMLEY: If we could pull that up  
25 quickly. Oh, okay. We don't have it. I don't know if

1 I could ask --  
2 MR. LI MANDRI: Sure. Which one is it?  
3 MR. BROMLEY: -- defendants' counsel.  
4 The position statement.  
5 THE COURT: The one that we marked?  
6 THE WITNESS: It's this one, 370.  
7 MR. BROMLEY: Yes. 370.  
8 MR. LI MANDRI: I've got it.  
9 Q Just a couple of brief questions. There was  
10 a sentence that Mr. LiMandri read to you, it said, "To  
11 date, there is no scientifically rigorous outcome  
12 studies to determine either the actual efficacy or harm  
13 of reparative treatment."  
14 Efficacy means effectiveness, right?  
15 A That's correct.  
16 Q And so this statement says, there's no -- as  
17 of 2000, there was no scientifically rigorous studies,  
18 outcome studies, to determine whether reparative  
19 treatments are effective. Is that fair?  
20 A That is correct.  
21 Q And then you mentioned that this was  
22 superceded?  
23 A Yes, it was.  
24 Q And was that the document we showed you  
25 earlier?

1 A Yes, it was.  
2 Q And that was P-431.  
3 MR. BROMLEY: If we can take a look on your  
4 screen.  
5 Q I'm sorry. Is that the one?  
6 A Yeah, I think so.  
7 MR. LI MANDRI: What was this --  
8 MR. BROMLEY: I'm sorry. "Position statement  
9 on issues related to homosexuality."  
10 Q Is that the one that --  
11 A That's the one.  
12 Q And that's the current version?  
13 A That is the current version.  
14 MR. BROMLEY: If I can just bring up the  
15 footnote at the bottom.  
16 A Yeah, that's important.  
17 Q Now that says, "This statement combines into  
18 one document APA policies previously expressed in 12  
19 separate position statements adopted between 1973 and  
20 2011", right?  
21 A That's correct.  
22 Q And so 2011 is after 2000, isn't it?  
23 A That is correct.  
24 Q So the one prior to the 2013 statement was  
25 the one in 2011?

1 A Presumably, yes.  
2 Q So at least one is between the 2000 and the  
3 --  
4 A That's correct.  
5 Q Okay. Thank you. Now one last question --  
6 set of questions. Mr. LiMandri mentioned referral  
7 counselors, mentioned that JONAH has referral  
8 counselors?  
9 A Oh, that they refer people to other practitioners.  
10 Q Right.  
11 A Yes.  
12 Q Now in your practice, is it ethical to take a  
13 cut of the fee charged by the referral counselor for  
14 that referral?  
15 MR. LI MANDRI: I'm going to object, Your  
16 Honor. It exceeds the scope of cross-examination.  
17 THE COURT: Well, I'm going --  
18 MR. BROMLEY: Your Honor, he asked about  
19 referrals.  
20 THE COURT: I'm going to allow it. You asked  
21 about referrals. She can answer the question.  
22 A Not in my opinion, no.  
23 Q And do you know if there's something in the  
24 ethics opinions about that?  
25 A I think there is something in the ethics opinions.

1 Q And that it's inappropriate for fee --  
2 A That it's inappropriate. It's kind of like taking  
3 a cut of the -- you know, if you're offering a job to  
4 someone and you take a cut. That how it strikes me.  
5 And I think that the ethics opinion specifically speak  
6 to that. Again, the ethics committee's.  
7 MR. BROMLEY: Thank you, Your Honor. No  
8 further questions.  
9 THE COURT: Thank you very much, Dr.  
10 Bernstein. You may step down.  
11 (Witness excused)  
12 THE COURT: All right. Ladies and gentlemen,  
13 I think this corresponds well with our afternoon break.  
14 So I'd ask you to just leave your pads there. And  
15 let's resume at 3:19.  
16 I keep looking at this clock. It is off by a  
17 few minutes, but that's all right. We'll go by this  
18 clock at 3:10. And thank you very much.  
19 And, again, please, we're still in the part  
20 of the testimony. Do not discuss this case and do not  
21 go look at any of these position papers online. And  
22 please don't do any research. Talk about anything  
23 else. Talk about how the 49ers have fallen apart. No,  
24 I'm only kidding.  
25 I'll see you at 3:10.

1 (Jury not present in court)  
2 THE COURT: All right. Who's going to be  
3 next?  
4 MR. DINIELLI: Sheldon Bruck, Your Honor.  
5 THE COURT: Okay. You may just want to take  
6 away the doctor's stuff there. And I'm going to give  
7 Mr. Laffey back his transcript.  
8 All right. Off the record.  
9 (Off the record. Back on the record)  
10 (Jury present in court)  
11 THE COURT: All right. All seven jurors are  
12 present and accounted for.  
13 Thanks you, again, ladies and gentlemen for  
14 your promptness. At this time, we are still on the  
15 direct presentation by plaintiffs.  
16 Please call your next witness.  
17 MR. WOLFE: Your Honor, plaintiffs call  
18 Sheldon Bruck.  
19 THE COURT: Just remain standing and raise  
20 your right hand for the officer.  
21 S H E L D O N T. B R U C K, PLAINTIFF'S WITNESS,  
22 SWORN.  
23 THE COURT OFFICER: State your name for the  
24 record, please.  
25 THE WITNESS: What?

1 THE COURT OFFICER: State your name for the  
2 record, please.  
3 THE WITNESS: Sheldon T. Bruck.  
4 THE COURT OFFICER: Thank you. Have a seat.  
5 THE COURT: You may proceed, Counsel.  
6 DIRECT EXAMINATION BY MR. WOLFE:  
7 Q Sheldon, would you please spell your last  
8 name for the record?  
9 A Bruck, B-r-u-c-k.  
10 Q Sheldon, how old are you?  
11 A I am 22 years old.  
12 Q At what age did you first encounter JONAH?  
13 A I was doing some research online. I was 16 years  
14 old, or I just turned 17 years old. It was in the  
15 summer.  
16 Q Are you a plaintiff in this case?  
17 A I was a plaintiff, but I was a minor at the time,  
18 and my parents were the ones that paid for the  
19 sessions, so I was no longer a plaintiff.  
20 Q Your mother testified yesterday?  
21 A Yes.  
22 Q At the time you were 16 or 17, where were you  
23 living?  
24 A I was living in Chicago at my parents' house.  
25 Q That's where you grew up?

1 A Yeah.  
2 Q Where do you live now?  
3 A I'm currently living in the Upper West Side of New  
4 York.  
5 Q Describe to the jury briefly yourself as a  
6 teenager?  
7 A I was always like a goody-two-shoes. Always did  
8 what I was supposed to. My family is very close. I  
9 was always very close to my mother. I was always the  
10 creative type. I always loved drawing and dancing and  
11 just having fun. And, yeah, just a regular high school  
12 kid.  
13 Q How did you understand your sexual  
14 orientation when you were 17?  
15 A When I was 17 years old, I was struggling with my  
16 sexual orientation because I grew up as a Orthodox Jew.  
17 And it was something that I believed at the time was  
18 contradictory to Orthodox Judaism. So I was struggling  
19 with the fact that -- my sexual orientation and being a  
20 religious Jew.  
21 Q When did you first realize you were gay?  
22 A I started to have feelings towards the end of  
23 seventh and eighth grade, like when I was going through  
24 puberty. And I tried to ignore those feelings. But by  
25 the time I was, like, 16, I knew for sure I'm -- my

1 sexual orientation.  
2 Q Who did you know at the time who was openly  
3 gay?  
4 A Nobody.  
5 Q How did you feel about being gay at that  
6 time?  
7 A Ashamed.  
8 THE COURT: What -- excuse me. What time?  
9 Q When you were 16 or 17?  
10 A I felt ashamed. Scared. I felt like why me?  
11 Because I, you know, like, I was never a rebellious  
12 kid. I always did what I was supposed to do. And I  
13 just always felt like I was always a good kid, why did  
14 this burden get placed on to me.  
15 Q When did you first tell someone that you were  
16 gay?  
17 A I told my psychologist at the time. I was 17 or  
18 16. Sixteen.  
19 Q That wasn't the JONAH counselor?  
20 A No.  
21 Q How sure were you when you 16 or 17 of your  
22 sexual orientation?  
23 A I was sure of it, but I really didn't want it to  
24 be what it was. So I hoped it wouldn't be. But it  
25 was. I knew I was gay.

1 Q What attractions did you experience towards  
2 girls?

3 A None.

4 Q Describe for the jury what was going on in  
5 your life at around the age of 16 or 17 right before  
6 contacted JONAH?

7 A I was away for high school for ninth and tenth  
8 grade, and then I went back to high school in Chicago a  
9 Jewish Orthodox High School when I was 16. And I was  
10 there -- (indiscernible).

11 Q What -- describe your emotional state right  
12 before you encountered JONAH for the first time?

13 A I was really struggling with my sexual  
14 orientation. Like I was saying before, like, it was  
15 something that I always believed couldn't be a  
16 realistic part of my life since I was an Orthodox Jew,  
17 and that's how I was raised. It's something I believed  
18 in. And at that point, I didn't think it was something  
19 that was that you were able to be and still continue  
20 being a Jewish boy.

21 So I was just struggling with trying to -- because  
22 I had these two identified, and I was struggling with --  
23 -- I felt that I had to choose one. And I didn't -- I  
24 didn't feel at that time that I was able to combine  
25 both and live with multiple identities and not just

1 one.

2 Q How did it feel to be gay at that time at 17?

3 A It just was really difficult. I just felt like I  
4 -- I'm not really sure how to explain it. It was -- it  
5 was just a really difficult thing for me, and it just  
6 felt like a huge burden. And it was something that  
7 felt like it took over my life and I felt that it was a  
8 negative way at the time. And it was just a really  
9 hard struggle. And definitely -- it definitely put me  
10 in, like, a sad place.

11 Q I'd like to talk about your first  
12 interactions with JONAH.

13 A Okay.

14 Q How did you first come into contact with  
15 JONAH?

16 A I was on Google, looking up different searches. I  
17 remember I used to, like, sit in my room with the door  
18 locked. And I was looking up, like, changing being  
19 gay, or changing being Jewish gay. And then I stumbled  
20 across their website, and I clicked on it.

21 And I felt like I struggled -- like I was looking  
22 at the website, and reading the testimonies, and I saw  
23 all these different, like, rabbis' signatures, some of  
24 which I, like, knew of.

25 So I was, like, oh, my gosh, like, I found

1 something. Because I didn't know something like that  
2 existed. So I felt like I just got, like, the golden  
3 ticket in Willy Wonka.

4 Q What did you do after you saw the website?

5 A I realized that I needed to discuss with my  
6 parents about my sexual orientation. It's something  
7 that I wanted to conceal. But I realized that since I  
8 found this, you know, way out, that I had to tell my  
9 parents.

10 Q How did that conversation go?

11 A It was actually email. I sent my mother an email.  
12 I gave my father a letter. It was the most terrifying  
13 thing of my entire life.

14 I sent an email to my mother, and then I left the  
15 house. I was staying at my friend's house. And I told  
16 her, like, you know, I sent you an email, but don't  
17 even, like, call me afterwards. That's how ashamed I  
18 was. I was, like, you can text me, don't call me. And  
19 she's just, like, texted me that she loves me  
20 unconditionally, no matter what, and that she'll always  
21 love and support me, and (indiscernible).

22 And my father, my father's, like, a very tough  
23 guy. He's very -- he's, like, a strong businessman,  
24 very, like, intense. So I was really scared of his  
25 reaction. I told him like a month and a half later,

1 after my mom.

2 And I wrote him a letter, and I gave him the  
3 letter in his office, and then I went into my bedroom.  
4 And he called my room and paged me down. And then I  
5 went in his office. I never saw my dad cry, like, in  
6 my entire life. And he was crying and he stood up and  
7 gave me a huge hug, and told me that he loves me no  
8 matter what. And that whatever I want to do, he'll  
9 support me 100 percent. He just wants me to be happy.

10 Q What happened next in terms of your  
11 interaction with JONAH?

12 A So I felt like that was -- I told my parents, they  
13 know. I felt like a huge weight off my shoulders. And  
14 I thought, okay, now I'm going to go to this JONAH  
15 program, everything's going to change. I'm going to  
16 live a wonderful life.

17 Q What was your first actual interaction with  
18 JONAH after you had seeing the website?

19 A I -- through their website, I used the contact  
20 form, and I got a response back from Elaine Berk,  
21 telling me that I emailed her. It was -- I'm the  
22 perfect age, at the prime time. And that the reason  
23 why I have these feelings is because of my past and  
24 emotional wounds and all this stuff that I didn't even  
25 mention it in my contact form whatsoever. They were

1 just assumptions about me.

2 And that she's going to -- she's going to get  
3 Arthur Goldberg to contact me and go from there.

4 Q Did Arthur Goldberg contact you?

5 A Yes. Do you want me to elaborate?

6 Q Yes.

7 A Yes. I was shopping at T.J. Maxx in Chicago. I  
8 remember it clear as day. He called me on the phone.  
9 And I was like so nervous because I was, like, in the  
10 store. So I (indiscernible) the store to have the  
11 conversation and in my car.

12 And he seemed like a really nice, friendly guy on  
13 the phone. Very upbeat. He was telling me that  
14 there's no such thing as being gay, that it's a  
15 psychological disorder, that it's actually SSA, same  
16 sex attraction, and that society has got it wrong, and  
17 it's something that can be fixed.

18 And I was so excited. Like, I thought, oh, my  
19 gosh, like, this is everything that I wanted to hear at  
20 that point is everything that he was telling me. So I  
21 was really excited.

22 He told me unfortunately that there was no  
23 counselors or therapists that they have in Chicago, so  
24 that I would have to be set up with one via Skype and  
25 telephone. He didn't have any for me at the time, but

1 he told me that he was going to get somebody and get  
2 back to me.

3 Q Had you heard of this term "same sex  
4 attraction" before?

5 A No.

6 Q What did you understand that to mean?

7 A That -- my understanding was that, like he said,  
8 that being gay wasn't a thing. So someone can't be  
9 gay. Same sex attraction is something that you  
10 develop. He told me that it's for an overbearing  
11 mother, your father not really being there, and being  
12 rejected by your male peers.

13 And when he told me that, to me that made total  
14 sense. Because, like, my father was always at work.  
15 But I still had, like, a relationship with him, he was  
16 just always at work. My mother and I were close my  
17 entire life. We're still really close. She's in the  
18 courtroom. So I was like, oh, that must be the  
19 overbearing mom.

20 And then when I was in middle school, I was  
21 bullied by a few kids. And I thought, oh, my gosh,  
22 like, he's telling the story of my life and I don't  
23 even know this guy. So that was definitely the hook,  
24 line, and sinker.

25 Q How did Mr. Goldberg describe what JONAH

1 could do to help you become straight?

2 A So he told me -- he just told me about they were  
3 going to set me up with this therapist. I wasn't sure  
4 what the therapy consisted of.

5 He also told me that they have Shabbatons, like,  
6 or retreats, weekend retreats. And he suggested that  
7 in order to, you know, make the program more successful  
8 and move along faster, to come to New Jersey once a  
9 month and to go to the retreats. It was something I  
10 was nervous about because I was still so uncomfortable  
11 of being gay.

12 He also told me about a book that he wrote called  
13 Light in the Closet, which I purchased immediately  
14 after the phone call. And -- and yeah.

15 Q Did you read the book?

16 A I read like three-quarters of the book.

17 Q What was your impression of Mr. Goldberg's  
18 book?

19 A I got the book. I started reading it before I  
20 entered the therapy. It was just interesting to me.  
21 This was a whole new world for me. It was nothing I  
22 understood. Like I said before, I didn't know anybody  
23 who was gay. And I just wanted, like, a way out.

24 So I was reading this book. And, you know, in the  
25 beginning, it starts making sense because it talks

1 about, like, you know, your overbearing mom and your  
2 dad not being around, and your being -- like he just  
3 told me on the phone. And I thought, oh, my gosh, this  
4 makes sense.

5 But as I continued reading it, just a lot of the  
6 things didn't make sense. While I was in the therapy,  
7 I was reading the book. And towards the end of the  
8 therapy where I realized that this wasn't legitimate,  
9 the book -- like, it was, like, it totally made -- it  
10 just didn't make any sense. And that's when I stopped  
11 reading it. I never finished the book.

12 Q What were Arthur Goldberg's credentials?

13 A I wasn't sure. I -- at the time, I assumed based  
14 on everything he was telling me that he was some sort  
15 of psychologist or therapist or doctor of some sort.

16 Q Was there anything that he said to make you  
17 believe that?

18 A Well, he told me that he was -- he referred to  
19 himself as the ever straight, which means that he was  
20 always straight, he's the only one. He told me that  
21 every one of the JONAH therapists that they set you up  
22 with actually changed themselves. And he -- he would  
23 set me up with someone. And he was the one that ran  
24 the organization.

25 So, in my mind, everything was discovering

1 everything. It just seemed as if he must have been,  
2 like, the head therapist or head person to all these  
3 other people who he set individuals up with.

4 Q How did Mr. Goldberg describe JONAH's ability  
5 to change sexual -- sexual orientation?

6 A When -- well, he told me that it was just that  
7 they do. Like, they change orientation. And I asked  
8 him, like, how long does it take? And he told me,  
9 well, for some people it could be a few months, for  
10 some people it could be a few years, for some people it  
11 could be several years, it just matters the amount of  
12 work they were willing to put in. And I was totally  
13 willing to put in all the work. I was like, done, so  
14 -- so I was so ready. Because if I was willing to put  
15 in all that work, and that's all it takes, then I'm  
16 going to change. And I was so excited.

17 Q What did Mr. Goldberg say about your own  
18 prospects for success?

19 A What do you -- I don't understand what you mean.

20 Q Did he give any description of your ability  
21 to be successful in JONAH's program?

22 A It was just that you do. It was, you change, it  
23 was a matter of time. That's all there that was  
24 described to me, yes.

25 Q Was there anything else that you remember

1 that Mr. Goldberg said during your interaction with him  
2 initially?

3 A The first interaction?

4 Q Yes.

5 A He just talked to me a lot about the Torah, and  
6 religion and, like, the whole thing, like, the main  
7 reason why I (indiscernible) because I was -- I'm an  
8 Orthodox Jew. And it was -- Judaism is something I  
9 truly value. And the organization was Jews Offering a  
10 New Alternative to Homosexuality.

11 So this was something that went along with both my  
12 identities at the time, both identifying as an Orthodox  
13 Jew and identifying as a -- I wasn't identifying yet,  
14 but I was a gay man. So it was something that it made  
15 sense for me to enter and go through.

16 Q Who did you communicate with about your  
17 conversation with Mr. Goldberg?

18 A My psychologist, my mother, and my father.

19 Q In what way did you communicate with your  
20 father?

21 A I spoke with Arthur Goldberg before I told my  
22 father. I told my mother. And then, like, a month,  
23 month and a half later, I told my father.

24 So I spoke with Arthur Goldberg beforehand. And  
25 then I -- when I wrote the letter to my father that I

1 was telling you about, I wrote about my conversation  
2 with Arthur Goldberg in that letter.  
3 Q How soon after -- how soon after the  
4 conversation did you write that letter?  
5 A Like one or two days.  
6 MR. WOLFE: I'd like to show Sheldon  
7 Plaintiff's 20.  
8 THE COURT: Plaintiff's 20.  
9 MR. WOLFE: Yes.  
10 MR. LI MANDRI: Plaintiff 20.  
11 THE COURT: P-20.  
12 MR. LI MANDRI: Yeah, I object to one hearsay  
13 statement in the letter.  
14 THE COURT: What part -- what part of P-20 do  
15 you intend to use?  
16 MR. WOLFE: This would be the second page,  
17 the first full paragraph, talking about "after telling  
18 mom." It's a contemporaneous statement of Mr.  
19 Goldberg's conversation with Sheldon.  
20 THE COURT: Yeah. So we're going to use just  
21 the second paragraph on Page 2?  
22 MR. WOLFE: That's right, yeah.  
23 MR. LI MANDRI: Let me see what --  
24 THE COURT: Second paragraph, Page 2.  
25 MR. LI MANDRI: I object to the hearsay

1 statement allegedly made by my client.  
2 MR. WOLFE: We also showed this to Sheldon's  
3 mother yesterday.  
4 THE COURT: Yeah, I'm going to allow it.  
5 This was used yesterday. That's fine.  
6 I'm overruling the objection. It's not  
7 hearsay. It's contemporaneous with the phone  
8 conference and it's an email from the witness.  
9 Q I'd like to focus on that particular  
10 paragraph, beginning with "after telling mom" on the  
11 second page.  
12 A Okay.  
13 Q Sheldon, would you just read for about two  
14 sentences, please?  
15 A Yeah. "After telling mom, she looked online and  
16 found an organization called JONAH. JONAH is an  
17 organization for gay Jews who are struggling. They  
18 believe that being gay is a psychological disorder and  
19 they have helped many people overcome this disorder."  
20 Q One more sentence.  
21 A "Psychologist and man who runs this, Arthur  
22 Goldberg, told me many reasons that could cause this  
23 disorder, and all they fit me perfectly. It was like"  
24 --  
25 Q Okay. You can put that away.

1           Is that an accurate description of your  
2 conversation with Mr. Goldberg?  
3       A     Yes, it is.  
4           Q     How did Mr. Goldberg's statements influence  
5 your decision to engage JONAH counseling?  
6       A     It definitely -- like I was saying, it was the  
7 first conversation I had with him. And he told me  
8 everything that I wanted to hear, and everything that  
9 hoped for. So I thought, like, I just broke some sort  
10 of spell or curse that I had on top of me. And I was,  
11 like, so excited.  
12          Q     How did you feel at the time at the prospect  
13 of becoming straight?  
14       A     Really hopeful. I remember going to my  
15 psychologist's office and, like, being so excited.  
16 Like, I felt like that was it, like, this huge burden  
17 that I had on my shoulders my, like, entire life that I  
18 was dealing with, especially those years beforehand, is  
19 now going to be taken care of.  
20          Q     Was there anything you had to sign before  
21 beginning JONAH therapy?  
22       A     Yes.  
23          Q     What's that?  
24       A     Some sort of document.  
25          Q     What do you remember about that form?

1       A     I signed it.  
2          Q     Did you read it before you signed it?  
3       A     No.  
4          Q     Why not?  
5       A     I was 17 years old, and I didn't really care what  
6 it had to say. Because I just wanted to change.  
7          Q     Why didn't you care what it had to say?  
8       A     Because I was 17 years old, and I wanted this more  
9 than anything in life. So it didn't matter what it  
10 took.  
11          Q     How many JONAH sessions did you complete?  
12       A     Five.  
13          Q     Who paid for those sessions?  
14       A     My parents.  
15          Q     Why did you end conversion therapy?  
16       A     I ended it because I realized that it wasn't a  
17 legitimate form of therapy and I couldn't -- it didn't  
18 make any sense. The counselor, the therapist that I  
19 was set up with, I didn't have any trust in him. My  
20 sessions didn't really go well with him. He just made  
21 me feel really uncomfortable, and I didn't -- I came to  
22 realize that I was being taken advantage of, and that  
23 my sexuality is not something that is able to be  
24 changed.  
25          Q     What other contact did you have with Arthur

1 Goldberg after ending therapy?

2 A After I entered therapy, he contacted me while I  
3 was away in Israel, in my first year in college. I  
4 studied abroad. Months later. I was already -- I was  
5 -- it was my first year in school setting, going in  
6 openly gay and just who I am. This was the first time  
7 I ever felt like myself, and I wasn't wearing a mask.

8 And he contacted me, and told me how he  
9 periodically he contacts old people who were in the  
10 JONAH program to see how they were doing, get an  
11 update, and all this stuff.

12 MR. WOLFE: I'd like to show Sheldon  
13 Plaintiff's 428.

14 MR. LI MANDRI: 428, sir?

15 MR. WOLFE: Yes.

16 MR. LI MANDRI: We only go to 426, I'm sorry.

17 MR. WOLFE: This is the redacted version of  
18 420.

19 MR. LI MANDRI: 420. Okay. So it's  
20 redacted.

21 Q I'd like to focus -- actually, this third --  
22 first, let's look at the first page.

23 A Okay.

24 Q Is this the email conversation you were just  
25 mentioning, Sheldon?

1 A Yes, it is.

2 Q It's from Arthur Goldberg, the first one is  
3 from Arthur Goldberg to you?

4 A Yes, it is.

5 Q And this is dated sometime following your  
6 conclusion of JONAH sessions?

7 A Yes.

8 THE COURT: Well, why don't -- it has the  
9 date on it, right? November 19, 2010?

10 MR. WOLFE: Yes.

11 THE COURT: Is that the date?

12 THE WITNESS: Yes.

13 Q I'd like to focus on the bottom of the second  
14 of three pages, after the redaction.

15 MR. WOLFE: Would you highlight just that?  
16 Yes.

17 Q Sheldon, go ahead and please read that.

18 A "So, in other words, I don't even see you as a  
19 trustworthy person. I see JONAH as one big money scam.  
20 And for the people it actually worked for, maybe they  
21 were molested or had some trauma that caused them to  
22 think that they were gay. Maybe some people are just  
23 convincing themselves they're not."

24 Q What led you to that conclusion?

25 A After I found out, after I did the JONAH program

1 that Mr. Goldberg --

2 MR. LI MANDRI: I'm going to object, Your  
3 Honor. I believe that this is supposedly the redacted  
4 portion, and we aren't going into this.

5 THE COURT: Well, he -- I have the area  
6 that's redacted. That wasn't redacted that -- those  
7 two sentences. Do you have the redacted copy?

8 MR. LI MANDRI: I think we should go to  
9 sidebar, Your Honor.

10 May I -- may I come to sidebar?

11 THE COURT: Yes. I'm sorry. I didn't heard  
12 what you said.

13 (Sidebar)

14 MR. WOLFE: This is the redacted part going  
15 into details of Mr. Goldberg's conviction.

16 MR. LI MANDRI: Yeah, well, I think he's  
17 going to elicit from him after he left JONAH, he did  
18 research or actually joined JQY, found out about the  
19 felony conviction and now he wants to talk about the  
20 felony conviction more than a year and a half after he  
21 left JONAH when he was still with the JQY people. I  
22 don't think -- I don't see where it has anything to do  
23 with his treatment. It's just prejudicial. It's a  
24 year after the fact.

25 THE COURT: Yeah, I don't think it's

1 appropriate. Is he intending to say that after doing  
2 research and finding out he was convicted, that's why  
3 he feels it's not legitimate? Because that's exactly  
4 what I told the jury they can't do.

5 MR. LI MANDRI: Right.

6 MR. WOLFE: Okay.

7 THE COURT: All right. The objection is  
8 sustained.

9 (Sidebar concluded)

10 BY MR. WOLFE:

11 Q What do you understand about JONAH's program  
12 now?

13 A What do I understand about it? That --

14 MR. LI MANDRI: Object on relevance grounds,  
15 what he understands now.

16 THE COURT: Yeah, I mean, what are we trying  
17 to ask him? Do -- do you we want to ask him why he  
18 left the program?

19 MR. WOLFE: Sure.

20 THE COURT: Okay.

21 A Why did I leave the program? Because I realized  
22 that I was wasting my time and my parents' money, and  
23 my emotions.

24 Q Did JONAH's program work for you?

25 A No.

1 Q Why not?

2 A Because it didn't work.

3 Q How did conversion therapy affect you?

4 A Conversion therapy is -- it's something that I had  
5 a very difficult time going through. I think that all  
6 of -- everything in our past definitely makes us into  
7 the person that we are today and builds character. It  
8 is something I went through, it's part of the chapter  
9 in my life, and it's not something that affects me  
10 negatively today.

11 Now I'm a very happy, openly gay person who has  
12 embraced who I am instead of ashamed of who I am.

13 Q Why did you bring this lawsuit?

14 A Because I would never want anybody to go through  
15 what I did, and I didn't go through that much compared  
16 to what other people have. And it would kill me to  
17 know that other people go through what I went through  
18 or worse, and to be damaged by this fraudulent program.

19 MR. WOLFE: No further questions at this  
20 time.

21 THE COURT: Okay.

22 Cross-examine.

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

24 CROSS-EXAMINATION BY MR. LI MANDRI:

25 Q Mr. Bruck, I need to be clear on what you

1 went through. Isn't it true that you're talking about  
2 four phone sessions?

3 A No, I'm talking about five.

4 Q Five phone sessions?

5 A No, it was Skype too.

6 Q Okay. In any event, we're talking about  
7 what, were they one-hour sessions?

8 A I believe so.

9 Q And they were with someone named Thaddeus  
10 Heffner?

11 A Yes, they were.

12 Q And you understand that he's a licensed  
13 therapist?

14 A I guess I do.

15 Q Okay. And you didn't go through any  
16 experiential weekends or anything like that, correct?

17 A No, I did not.

18 Q You never came to the JONAH office and met  
19 anybody, did you?

20 A I lived in Chicago, so, no.

21 Q Okay. But you feel that somehow you were  
22 terribly damaged by those four or five telephone  
23 sessions?

24 A I didn't say that.

25 Q You felt that you were harmed by it, and you

1 want to stop other people from being harmed by the type  
2 of experience you had?

3 A Yes.

4 Q Okay. Now as I understand it, was it you  
5 that first Googled to find information on what you  
6 called the cure for being gay, and found JONAH, or did  
7 your mother tell you about JONAH?

8 A No, I did my own research.

9 Q Okay. And you looked up cures because you  
10 thought that it was some type of -- without ever  
11 talking to my client, some type of disease-type  
12 condition?

13 A I was thinking many different things. I don't  
14 think I said -- like, whether there was a cure, or how  
15 do I change from being gay, something like that. It's  
16 something that I didn't want. I grew up as an Orthodox  
17 Jew. At the time, I felt that it was something that  
18 you were not allowed to be.

19 Q Sure.

20 A So that led me to my Google searches.

21 Q And -- and in those Google searches, you came  
22 across words like "psychological disorder," I take it?

23 A No.

24 Q All right. Well, you certainly didn't read  
25 on anywhere on the JONAH website that it was a mental

1 disorder or psychological disorder, did you?

2 A No, I heard it from Arthur Goldberg's mouth.

3 Q Yes, I understand you're testifying to that.  
4 But I'm asking you if you read that anywhere in writing  
5 on the JONAH website?

6 A No, I did not.

7 Q And you say you read Arthur Goldberg's book,  
8 it's almost 500 pages?

9 A I didn't say I read the whole book.

10 Q All right.

11 A I said I read about three-quarters of the book.

12 Q You didn't see anywhere in there he talked  
13 about it being a psychological disorder or mental  
14 disorder, did you?

15 A I read the book five years ago, so I don't  
16 remember.

17 Q Okay. You wrote a letter to your mother,  
18 "Dear Mommy", in October 2009?

19 A Yes.

20 Q And that was before you went to JONAH?

21 A Yes.

22 Q And at that time you told her, sir, you had  
23 suicidal thoughts?

24 A I don't have the letter in front of me, so I  
25 wouldn't be able to say.

1 MR. LI MANDRI: It's D-002.  
2 MR. WOLFE: No objection.  
3 MR. LI MANDRI: D-002.  
4 Q Now the first sentence states, "I have been  
5 hiding a" -- "Dear Mommy." You were 17 at the time?  
6 A Yes.  
7 Q And called your mother mommy?  
8 A Yes.  
9 Q Do you still?  
10 A Yeah.  
11 Q "Dear Mommy, I've been hiding a secret since  
12 8th grade, which has been eating me up in the inside to  
13 the point where I've had suicidal thoughts." So that's  
14 how you felt even before going to JONAH, correct?  
15 A To the point, yeah.  
16 Q And then you wrote later on in the third  
17 paragraph, third sentence, "Tenth grade was a living  
18 hell. Rabbi Fuchs (phonetic) and Rabbi Herskowitz  
19 (phonetic) both made me feel like complete" -- I'll  
20 delete the expletive. "On top of them, Shul Dov Samber  
21 (phonetic) ruined my childhood."  
22 So you had had bad experience with people in  
23 the Jewish faith long before you came to JONAH,  
24 correct?  
25 A No, I had a bad experience with people.

1 Q Bad experience with people, okay.  
2 A Whether they were Jewish or not is irrelevant.  
3 Q I understand. But this was at a Jewish  
4 school?  
5 A It just so happens to be, yeah.  
6 Q Yeah. And the people you mentioned all were  
7 of the same faith, correct?  
8 A Yes.  
9 Q But you -- you told your mother, even on the  
10 last page of that letter, "Someday I would like to get  
11 married to a beautiful girl, have beautiful children,  
12 and live the great life I've always dreamed." Is that  
13 correct?  
14 A Yes.  
15 Q All right. And that's how you felt when you  
16 called and spoke to Arthur Goldberg, right?  
17 A Yes.  
18 Q Okay. So he didn't tell you that's what you  
19 should do, you told him that's what you wanted to do,  
20 correct?  
21 A He actually did tell me in that conversation with  
22 him that people who lead a gay lifestyle are unhappy.  
23 He told me the statistics of them of them getting AIDS  
24 and dying.  
25 Q Okay. All in the same initial phone

1 conversation, you got into the AIDS and dying thing?  
2 A Yeah, in the initial conversation.  
3 Q Okay. And did you go and actually look up  
4 those statistics to see what the --  
5 A I don't remember.  
6 Q -- the infection rates are?  
7 A I'm not sure.  
8 Q Have you ever done that?  
9 A I don't remember.  
10 Q Okay. So you don't know whatever information  
11 you're now claiming in that regard is accurate or not?  
12 A What?  
13 Q You don't know if he gave you accurate  
14 information about HIV rates?  
15 A No, I don't.  
16 Q But in any event, you found that you had  
17 found that you had some new hope after you talked to  
18 Mr. Goldberg, right?  
19 A No. I -- I had hope when I found the JONAH thing,  
20 and he just furthered that.  
21 Q Okay. And you said that Mr. Goldberg could  
22 not tell you what type of therapy, he was not sure of  
23 the type of therapy you'd be given, but that he'd help  
24 you find a counselor, correct?  
25 A He said --

1 MR. WOLFE: Objection. Misstates testimony.  
2 THE COURT: He can -- he can answer the  
3 question. It's cross-examination.  
4 A He said that he was going to find me a counselor.  
5 He didn't say what his name was during that  
6 conversation.  
7 Q Didn't he say he was not sure of the therapy?  
8 That's what I wrote down.  
9 A What?  
10 Q I wrote down that you said you were not sure  
11 of what therapy would be used.  
12 A Yeah, at the time I didn't know what the therapy  
13 entailed.  
14 Q And he told you that he was not sure exactly?  
15 A He never said that.  
16 Q Okay. But he did tell you about the  
17 Shabbatons, and those were Jewish retreats?  
18 A Yes.  
19 Q And you guys spoke about the Torah as well?  
20 A Yes, we did.  
21 Q Okay. You never did choose to go to a  
22 Shabbaton, right?  
23 A No, I did not.  
24 Q Then you wrote another letter, D-3, in  
25 November/December 2009 to "Dear Daddy" shortly before

1 starting JONAH, correct?  
2 A Yes, I did.  
3 Q And, again, you talked about how you were  
4 tortured in middle school?  
5 A Yes.  
6 Q And you didn't want to be tortured in high  
7 school, and you basically wanted to come home, correct?  
8 A I basically wanted to come home?  
9 Q Yeah, you didn't want to say at Yeshiva any  
10 longer, did you?  
11 A I was living at home --  
12 Q Okay.  
13 A -- when I wrote that letter. I was in school in  
14 Chicago. I already left the school that I was in ninth  
15 and tenth grade.  
16 Q I see. And you also wrote on the second page  
17 of the letter, "I'm not sure if I'm 100 percent gay  
18 because there's a girl that I really do like and have  
19 feelings for." Do you remember that?  
20 A Yes.  
21 Q You also indicated, do you recall, at your  
22 deposition that you had a distant relationship with  
23 your father? You said -- you called it a comically  
24 distant would be accurate?  
25 A Comically distant?

1 Q Right.  
2 A What do you mean by that?  
3 Q Well, I don't know. I have it in quotes.  
4 A I wrote comically distant? I said that?  
5 Q I believe Mr. Heffner will say you told him  
6 that. It's in his notes.  
7 A I would never use the word comically.  
8 Q Okay.  
9 A So I would never say comically distant, especially  
10 at 17 years old.  
11 MR. LI MANDRI: Can I play Page 28, Line 24,  
12 to Page 29, Line 9.  
13 THE COURT: 28.  
14 MR. LI MANDRI: Line 24. To Line 9 on Page  
15 29.  
16 MR. WOLFE: It's not impeachment, Your Honor.  
17 THE COURT: It's the same thing he just said,  
18 Counsel.  
19 MR. LI MANDRI: I'm sorry.  
20 Q So it would be accurate, even though you  
21 didn't use those words? Is that what you said?  
22 A No, it's not what I said. I said I'd never used  
23 that word.  
24 Q Right. But it would be accurate nonetheless,  
25 correct?

1 A I said, what do you mean by that? I already  
2 answered that twice.  
3 MR. LI MANDRI: It's impeach --  
4 THE COURT: The witness does not know what  
5 the word comically is referencing. If you want to ask  
6 him if his relationship was distant, you might get an  
7 answer.  
8 MR. LI MANDRI: Okay.  
9 Q You said it was distant, correct?  
10 A Yes.  
11 Q Isn't it true, Mr. Bruck, that no one was  
12 forcing you to go to JONAH or to try to change? Is  
13 that correct?  
14 A No, it was my choice.  
15 Q Thank you. And Mr. Goldberg never used words  
16 like promise or guarantee in any conversations he had  
17 with you, did he?  
18 A Whether or not he used the word guarantee, I'm not  
19 quite sure, to be honest. But he definitely insinuated  
20 that on multiple occasions.  
21 Q He didn't use the words promise or guarantee  
22 though, did he?  
23 A It was five years ago, I don't remember the exact  
24 word he used.  
25 MR. LI MANDRI: Page 41, Lines 14 through 19,

1 Your Honor.  
2 THE COURT: Page 41?  
3 MR. LI MANDRI: Yes, Your Honor.  
4 MR. WOLFE: No objection.  
5 THE COURT: Okay.  
6 MR. LI MANDRI: Thank you, Your Honor.  
7 (Portion of videotaped deposition of S. Bruck  
8 played from 3:49:08 to 3:49:25)  
9 MR. WOLFE: Just for context, Your Honor, we  
10 need the next few lines. So that's 41, 19 through 25.  
11 MR. LI MANDRI: Your Honor, I'm not required  
12 to do that in my cross-exam.  
13 THE COURT: No, you can use that on redirect.  
14 We don't have to play it now. That's not the context.  
15 MR. LI MANDRI: Thank you, Your Honor.  
16 Q Mr. Goldberg told you, did he not, Mr. Bruck,  
17 that the amount of time for change is different for  
18 each person?  
19 A He did.  
20 Q Didn't you tell Mr. Goldberg on the phone  
21 that you were not -- that you were not comfortable  
22 flying to New Jersey in order to participate in JONAH?  
23 A It was about participating in JONAH. He told me  
24 about the retreats, and the Shabbatons, and I told him  
25 that I -- it was still something I'm uncomfortable

1 with. Even saying the words I am gay was so hard for  
2 me at that time. So I didn't even have a therapist  
3 yet. He didn't sign me up with anyone, he didn't give  
4 me a name. So until I knew what the program was and  
5 got involved with the program, I was uncomfortable  
6 because I didn't know what it was.

7 Q Sure. But then in order to get your parents  
8 to pay for it, isn't it true after that conversation,  
9 you told your mother that you had to leave the Yeshiva  
10 so you would have the flexibility to go to JONAH once a  
11 month to participate in the program?

12 A No. That is incorrect.

13 MR. LI MANDRI: Okay. May I please read Page  
14 47, Lines 4 through 8, Your Honor?

15 MR. WOLFE: No objection.

16 THE COURT: Okay.

17 MR. LI MANDRI: You don't have that?

18 I have to just read that, Your Honor.

19 THE COURT: Well, here. Could you read Lines  
20 4 through 8? Do you remember giving that testimony?

21 THE WITNESS: Yes.

22 THE COURT: All right. You can read it to  
23 the jury if you want.

24 MR. LI MANDRI: Thank you.

25 Thank you, Your Honor.

1 Q "In any event, you told your mother that one  
2 of the reasons why you should leave the school was so  
3 that you would have the flexibility?

4 "Answer: Yes."

5 The flexibility you're talking about is going  
6 to JONAH if you had to, right?

7 A It was never about going for the weekends. I  
8 don't know where you got that.

9 Q In any event, you did leave the Yeshiva  
10 school about the same time that you went into the JONAH  
11 program, right?

12 A Yes.

13 Q And the Yeshiva school was a place you were  
14 pretty miserable, correct?

15 A No. That was my school in ninth and tenth grade,  
16 which was in Baltimore, Maryland.

17 Q Okay.

18 A This school was in Chicago, Illinois. Skokie,  
19 Illinois, actually.

20 Q Okay.

21 A I was very happy there.

22 Q Then why -- please, I don't understand. Why  
23 did you leave it at the time you went into the JONAH  
24 program?

25 A Well, technically I didn't completely leave.

1 Because I still went to that school every day for my  
2 Judaic studies in the morning. I had a private tutor  
3 there.

4 But I needed to step out because being in an  
5 Orthodox religious school and dealing with my  
6 sexuality, I didn't want to cause any controversy or  
7 have any issues with that. And it was something that I  
8 had to deal with. And I didn't think that being in  
9 that school full time was giving me the ability to deal  
10 with it properly.

11 So speaking with both my parents, not just my  
12 mother, we decided that that would be the best option  
13 to deal with everything that I was going through.

14 Q Okay. Let's talk about the JONAH consent  
15 form, which is J-2. We've already read it with your  
16 mother, so I don't intend to go through it. But did  
17 you read any part of it before you signed it?

18 A No, I did not.

19 Q Okay. But you were aware, were you not, that  
20 there were no guarantees?

21 A I was not.

22 Q Okay. So you thought that you were getting a  
23 guarantee when you signed this document?

24 A I didn't think anything. After my conversation  
25 with Arthur Goldberg, like you mentioned, he told me it

1 was a matter of time. That was our conversation. So  
2 it was just a matter of time. It wasn't -- that was  
3 the guarantee. It's just whether it was a few months  
4 or a few years or several years. That's all he said.

5 Q You were seeing a psychologist at that time  
6 before you went to JONAH?

7 A Yes, I was.

8 Q And you told them you were going to JONAH and  
9 you were excited about it?

10 A Yes, I did.

11 Q And they didn't tell you they shouldn't do  
12 that, that can't possibly work, it's --

13 A No, they did not.

14 Q But it is true -- and this is the last time,  
15 because I do have the reference now -- that neither Mr.  
16 Goldberg, Elaine Berk, or Thaddeus Heffner made any  
17 guaranties and used the word guarantee. Isn't that  
18 true? For the last time?

19 A I told you already that I don't recall whether he  
20 used that exact word. But he insinuated on multiple  
21 occasions at multiple times that it's just a matter of  
22 time. And that is a guarantee. Whether he used that  
23 exact word or not, I'm not quite sure. It was five  
24 years ago.

25 MR. LI MANDRI: Page 57, Line 16. It's kind

1 of a long passage. 58, Line 6. We better take a quick  
2 look.  
3 THE COURT: What is it? Page 57?  
4 MR. LI MANDRI: 16. It looks like we just  
5 covered it. I'll move one.  
6 THE COURT: Okay.  
7 MR. LI MANDRI: Thank you, Your Honor.  
8 Q You filled out a form for Mr. Heffner when  
9 you went to start sessions with him by phone, which is  
10 D-7. Do you recall filling out a handwritten form?  
11 A Yes, I do.  
12 Q Thank you sir. And you've put --  
13 MR. LI MANDRI: Can we display that, Your  
14 Honor?  
15 THE COURT: Yes.  
16 MR. LI MANDRI: Page 1, D-7. Do you have it?  
17 MR. WOLFE: Yes.  
18 MS. BENSMAN: Yeah.  
19 MR. WOLFE: That's fine.  
20 MR. LI MANDRI: Thank you.  
21 Q First question, "what is your" -- "What is  
22 motivating you to seek counseling at this time? And  
23 you put, "Not wanting to be gay," and that's how you  
24 felt at the time, sir?  
25 A Yes.

1 Q And then quickly, the next answer. "What are  
2 your goals?" "Marrying a girl, and having children.  
3 Not feeling like an outcast from Judaism, and living a  
4 happy life," correct?  
5 A Yes.  
6 Q And you wrote that because you were not happy  
7 at that time, right?  
8 A No.  
9 Q Pardon me?  
10 A No, I was not.  
11 Q Okay. Thank you.  
12 And in response to Question 10, when you  
13 filled out this form --  
14 THE COURT: It's not on the screen.  
15 MR. LI MANDRI: Can you get the second page,  
16 Question 10? Thank you.  
17 Q "What, if anything, is your greatest fear or  
18 concern about working with the counselor?" You wrote,  
19 "Length of therapy, success rate, and relapse." Is  
20 that correct?  
21 A Yes, it is.  
22 Q So even before you started, you were  
23 concerned about the success rate, correct?  
24 A Yes, it is.  
25 Q Thank you.

1 A Arthur Goldberg discussed with me during my first  
2 conversation with him, he compared being gay similarly  
3 to that of an alcoholic. So this was my concern.  
4 Because just like an alcoholic could relapse, or just  
5 like an alcoholic could, you know -- just because you  
6 go to, like, rehab or some sort of AA, you could still  
7 relapse at any point. So that was my concern. Since  
8 he compared it to that of an alcoholic, I had those  
9 worries, just like someone who's an alcoholic would.

10 Q Okay. And, of course, not all alcoholics are  
11 successful trying to even recover from alcoholism,  
12 right?

13 A Which is exactly why I had these concerns.

14 Q Sure. And you also wrote in response to the  
15 last question, 33, "If there is anything else you think  
16 I should now as we start together." That would be the  
17 last, Page 7, Question 33.

18 You said, "I am going to school in Israel  
19 starting September. I'll be staying in a dorm, and the  
20 time difference is so immense that I won't be able to  
21 do this anymore." So you already anticipated it to be  
22 a problem continuing the program even before you  
23 started, correct?

24 A That was just a concern.

25 Q All right. And Mr. Heffner told you when you

1 had your phone sessions with him on January 19, 2010,  
2 which is the second to the last session, he reiterated  
3 that the results could not be guaranteed, correct?

4 A He didn't reiterate. I asked him specifically,  
5 what are the chances. Because I already got skeptical  
6 of the therapy by that session. And he told me at that  
7 point, and that was the first time I ever heard that  
8 there is a 33 percent chance you're going to change, a  
9 33 percent chance that you can learn an attraction  
10 towards girls, and a 33 percent chance that nothing  
11 will change.

12 Q Okay. And that wasn't good enough for you?

13 A That was the first I heard of it.

14 Q Okay.

15 A And it contradicted to everything Arthur Goldberg  
16 told me up until that point.

17 Q Okay. You didn't see in his book where he  
18 said basically the same thing?

19 A Nope. I probably didn't get to that chapter yet.

20 Q You also accused Mr. Heffner of raising his  
21 voice and screaming at you when you asked him about  
22 success rates, didn't you?

23 A Yes, I did.

24 Q Okay. And that's why you said you lost trust  
25 in Mr. Heffner?

1 A Yes, I did.

2 Q But even though you say that he screamed at  
3 you and you lost trust with him, you still had another  
4 phone session with him, right?

5 MR. WOLFE: Your Honor, I object to this line  
6 of questioning as outside the scope of direct.

7 THE COURT: No, I'm going to allow it. It's  
8 --

9 You can answer the question.

10 MR. LI MANDRI: Thank you.

11 A In that last session, I was very guarded, and I  
12 lost all trust in him, which is why I only had one more  
13 sessions. Which is also why when I stopped the  
14 therapy, I didn't even tell him in that sessions, I had  
15 to write him an email because I was afraid of him.

16 Q Okay. Have you met Thaddeus Heffner?

17 A No.

18 Q Okay. Isn't he kind of a soft-spoken person  
19 like yourself on the phone?

20 A Not at that moment when he burst and he started  
21 screaming at me. No.

22 Q He started screaming at you just because you  
23 wanted to know success rates?

24 A No. He thought I was fighting it. Because he  
25 started screaming at me that if I'm wasting his time,

1 and if I'm not putting in the work, then I'm not going  
2 to be successful.

3 Q Okay. And in your deposition, when I asked  
4 you if the date was January 19th, you changed and said,  
5 no, he yelled at you on January 12th?

6 A I remember saying that it was in the second to  
7 last session. I don't recall ever mentioning the exact  
8 dates because I still don't know exact dates.

9 Q Okay. But on January 12th, you still said  
10 you check out with hope, correct?

11 A I didn't say that.

12 Q Okay. You wrote a letter on January 26th to  
13 mommy and daddy. Do you recall that?

14 A I'm not quite sure which letter you're referring  
15 to.

16 MR. LI MANDRI: It's Defendant's 8, D-8.

17 THE COURT: Okay.

18 MR. WOLFE: No objection.

19 MR. LI MANDRI: Thank you.

20 Q Now at this point when you stopped seeing Mr.  
21 Heffner, you were really still in kind of the initial  
22 intake and evaluation phase, correct? He hadn't really  
23 gotten into any treatment program yet, had he?

24 A I don't know what that means.

25 Q In any event, take a look at the last

1 paragraph on the first page. You said, "I'm almost  
2 18." Well this was January 26th, 2010. When did you  
3 turn 18?

4 A I turned 18 June 15th.

5 Q June?

6 A June 15th, 2010.

7 Q Okay. Okay. So about six months later.

8 "I'm almost 18. I don't want to be single  
9 the rest of my life, though it's still hard for me to  
10 accept," you said, "the way God created me, I really  
11 have no choice. I don't like speaking with Thaddeus,  
12 my JONAH therapist. He brings back depressing  
13 memories, which is obviously part of the therapy, and I  
14 have no trust in him. It's hard putting trust in  
15 someone I don't know, someone I never met, someone I  
16 can't get guaranteed results from."

17 You didn't say anything here about him  
18 screaming at you and your losing trust in him, right?

19 A In this specific thing, no.

20 Q It's just that you still wanted guaranteed  
21 results?

22 A No, that's not what it is. It's that I lost trust  
23 in him. That's the emphasis over here.

24 Q You said that you don't want to spend  
25 countless years working with JONAH, not knowing if

1 you'll ever get results. Is that right?

2 A Where does it say that?

3 Q The next sentence.

4 A Right. Because I didn't believe in the therapy.

5 Q Okay. You didn't really give the therapy a  
6 chance, did you?

7 A Of course I gave it a chance.

8 Q All right. You felt that you gave it your  
9 best effort going four sessions by phone?

10 A Five. You keep saying four, and it's five.

11 Q Well, wasn't one with your parents?

12 A No. I never had a sessions with me and my  
13 parents.

14 Q Okay.

15 A It was five.

16 Q Five sessions. Fine.

17 A Yes. I realized after five sessions -- like you  
18 mentioned before, when I went through ninth and tenth  
19 grade in the high school that I went out of town for, I  
20 was consistently shamed and belittled by two of the  
21 rabbis who ran the school there. And I was receiving  
22 the same shaming and belittling from Thaddeus Heffner,  
23 and it was -- it was constant.

24 Q Well, constant over five sessions he was  
25 shaming and belittling you?

1 A Yeah.  
2 Q You also testified that Mr. Heffner told you  
3 to put a rubber band on your wrist and presumably snap  
4 it whenever you had, what, a thought of another man?  
5 A I'm walking down the street, and I see someone who  
6 I'm attracted to or have SSA, like he referred to it  
7 as, that I would snap the rubber band. And somehow the  
8 negative physical thing would somehow counteract what I  
9 was feeling.  
10 Q Aren't you sure that's something you read  
11 about, not something Mr. Heffner told you to do?  
12 A No, that's something he told me to do.  
13 Q Okay. Didn't you write an English  
14 composition where you talked about your terrible  
15 experience with JONAH?  
16 A Do you have the English composition to show me?  
17 Q I have it, but I'm just talking to you right  
18 now.  
19 A Okay.  
20 Q Do you remember writing in the composition --  
21 A I don't remember. It was five years ago.  
22 Q All right.  
23 A Do you have it to show me?  
24 Q Yeah, I do. But let me finish, and then  
25 maybe you'll remember.

1 Do you remember writing in the composition  
2 that they would have you lay down and ask you to think  
3 about sexual thoughts and then -- about men, then put  
4 ammonia in your nose?  
5 A Can you show me?  
6 Q Do you remember saying they would tell you to  
7 put --  
8 A That they told me? No. I didn't write that.  
9 Q Okay. But that's what you wrote about the  
10 JONAH program?  
11 A No. Absolutely not.  
12 Q Okay. Let's look at it.  
13 Well, it's not marked, so I'm just going to  
14 read it, see if you recognize it.  
15 MR. WOLFE: Well, let's -- it is an exhibit  
16 actually.  
17 MR. LI MANDRI: Do you have a number on it?  
18 I just want to read it, Your Honor, and see  
19 if his --  
20 THE COURT: I just want to know how long  
21 cross-examination is going to be.  
22 MR. WOLFE: It's Plaintiff's 33.  
23 THE COURT: Because it's almost ten after  
24 four. How much longer do we have with Mr. Bruck?  
25 MR. LI MANDRI: Can you give me ten minutes,

1 and I'll just stop at ten minutes, Your Honor, where  
2 we're at.

3 THE COURT: If that's what you tell me.

4 MR. LI MANDRI: I'll stop. You'll just -- I  
5 know you don't like to stop.

6 MR. WOLFE: It's Plaintiff's 33.

7 MR. LI MANDRI: Plaintiff's 33. Thank you,  
8 Counsel. But we don't have time.

9 Q So I'm going to read it, tell me if you think  
10 that --

11 MR. WOLFE: The witness has asked to be able  
12 to see the words.

13 THE WITNESS: I want to see them.

14 THE COURT: All right. Why don't we do this.  
15 How about reading what is in the exhibit. And you tell  
16 the attorney whether you recall saying that or not.  
17 That's how we're supposed to do this.

18 Go ahead.

19 Q Okay. "After beginning my reparative therapy  
20 sessions with Thaddeus, which led me into a deeper  
21 depression, reparative therapy is a very dangerous  
22 therapy in which they treat you like a dog and make you  
23 depressed in hopes of fix something. But when there's  
24 nothing to fix, it's dangerous. In therapy sessions,  
25 they would do things like make you close your eyes, lay

1 down, put you into a sexual fantasy, then break ammonia  
2 in your nose."

3 A Right. I didn't say I received that. I said that  
4 they would, meaning it's what I read online from other  
5 people who have gone through it. I never once said  
6 that it was something that I went through.

7 Q Okay.

8 A Especially because my sessions were over the  
9 telephone and Skype, so no one could lay me down and  
10 break stuff in my nose.

11 Q Right. Do you think that maybe you're  
12 confusing some of your experiences with your --

13 A Do you think maybe --

14 THE COURT: Wait for the question.

15 Can you ask the question, please?

16 Q Do you think you might be confusing things  
17 like the ammonia in the nose and the rubber band  
18 snapping with things you read on the Internet?

19 A No. That one I read on the Internet.

20 Q Okay. That's not what you put in your  
21 composition, though, did you?

22 A That is exactly what I put in my composition.

23 MR. WOLFE: Objection. Misstates evidence.

24 THE COURT: All right. Stop.

25 Go to your next question.

1 Q Okay. And when you finished with Mr. Heffner  
2 you thanked him for what he had done, correct?  
3 A I don't recall.  
4 MR. LI MANDRI: I hate to do this, Your  
5 Honor, if he --  
6 THE COURT: Well, if you have him saying  
7 that, then do it.  
8 MR. LI MANDRI: Okay.  
9 THE COURT: He doesn't recall.  
10 MR. LI MANDRI: It's not worth it. I'm going  
11 to move to --  
12 Q Isn't it true that your impression of the  
13 sessions you had with Thaddeus is that they were intake  
14 gathering and history? The sessions were intake  
15 gathering and history?  
16 A I don't know what that means.  
17 Q Page 116, Lines 7 through 19.  
18 THE COURT: Page 116, 7 through 19?  
19 MR. LI MANDRI: Yes.  
20 Do we have that?  
21 THE COURT: I think you can start on Line 13.  
22 MR. WOLFE: Thank you.  
23 THE COURT: But let me see what --  
24 MR. LI MANDRI: If I can just read it, Your  
25 Honor?

1 THE COURT: Yeah, you can do 13 through 17.  
2 MR. LI MANDRI: Can I just read it?  
3 THE COURT: If you want, or show it to him.  
4 Q "Was that" -- "Was that your impression" --  
5 THE COURT: Line 13.  
6 Q -- "that the majority of the four sessions  
7 were intake gathering and history?  
8 "Well, that's what the sessions were, yeah."  
9 A Okay.  
10 Q You were aware, were you not, Mr. Bruck, when  
11 you started therapy, that for it to work well, you  
12 would have to attend regularly?  
13 A Yes.  
14 Q Thank you. And you decided to stop the  
15 sessions without even consulting your parents, correct?  
16 A That is false.  
17 Q And you did not talk to Mr. Goldberg or Ms.  
18 Berk before you stopped seeing Mr. Heffner to ask to  
19 have another therapist, did you?  
20 A No, I did not.  
21 Q And you don't really expect to have changed  
22 in only four sessions, right?  
23 A I did five sessions.  
24 Q I'm sorry. Okay. Five sessions. You don't  
25 really expect to have change after you had only did

1 five sessions?  
2 A No, I realized after five sessions that there was  
3 nothing to change.  
4 Q Okay. Fine, sir. Then after you left JONAH,  
5 you met Mr. Erez Harari, correct? January 2011?  
6 A That was almost a year after, like eight months  
7 after I left JONAH.  
8 Q Sure. And he was with Jewish Queer Youth?  
9 A I met them at a Shabbaton in New York called Eshel  
10 (phonetic).  
11 Q Okay. Are you a member of that group?  
12 A Eshel?  
13 Q No, Jewish Queer Youth.  
14 A Do I know that group? Yes.  
15 MR. WOLFE: Objection to this line of  
16 questioning as irrelevant.  
17 THE COURT: Well, I don't -- I don't know if  
18 it's relevant or not. It has been raised before. So  
19 I'll allow a little leeway in the last four minutes.  
20 Q By the way, in your deposition, do you recall  
21 stating that you read all of Mr. Goldberg's book?  
22 A I don't recall saying that.  
23 Q Page 183, Lines 11 through 17.  
24 MR. WOLFE: No objection.  
25 THE COURT: Wait. What page?

1 MR. LI MANDRI: 183, Lines 11 through 17,  
2 Your Honor.  
3 THE COURT: Okay.  
4 MR. LI MANDRI: Okay? Can you play that  
5 quickly so we can -- please play it. You can't find it?  
6 She doesn't have it. I'm going to read it.  
7 Q "Okay. In your responsive" --  
8 THE COURT: Wait on second. I'm going to  
9 give the witness the transcript so he'll follow as you  
10 read it.  
11 MR. LI MANDRI: Thank you.  
12 THE COURT: Line 11.  
13 Okay.  
14 Q Okay. "In responsive email on November 20th,  
15 which begins at the bottom of the second page of  
16 Exhibit 24, when you explained to me what the program  
17 is, and I read your book as well."  
18 And then I said, "Did you read the entire --  
19 his entire book?"  
20 "Answer: Yes."  
21 So do you recall that testimony in your  
22 deposition?  
23 A Yes.  
24 Q Isn't it true that you feel that you did not  
25 give the JONAH program enough of an opportunity to work

1 for you before you withdrew from it?  
2 A No.  
3 MR. LI MANDRI: I need to read, and then I  
4 can finish on this.  
5 THE COURT: All right.  
6 MR. LI MANDRI: Page 209, Line 20 and Page  
7 210, Line 2.  
8 MR. WOLFE: No (indiscernible).  
9 MR. LI MANDRI: Page 209, Line 20, to Page  
10 210, Line 2.  
11 THE COURT: All right. Do you have it to  
12 play, or do you need me to give him the --  
13 MR. LI MANDRI: Can you play that? No?  
14 THE COURT: No?  
15 MR. LI MANDRI: Could you give it to the  
16 witness, please?  
17 THE COURT: Starting on Line 20, and then  
18 it's going to go to Line 2.  
19 Q "Question: Did you feel you gave the program  
20 enough of an opportunity to work for you before you  
21 withdrew from it?  
22 "Answer" An enough to work for me?"  
23 "Question" Right.  
24 "Answer: No."  
25 THE COURT: Do you want to ask him a

1 question?  
2 Q Do you recall that deposition testimony now  
3 that you've read it?  
4 A Yeah, because it doesn't work. That was my  
5 answer, as now.  
6 MR. LI MANDRI: That's all the questions I  
7 have of the witness at this time. Thank you, Your  
8 Honor.  
9 THE COURT: How long is your redirect?  
10 MR. WOLFE: Just a few questions.  
11 THE COURT: I need to know what a few is. I  
12 told this jury they will never be here past 4:30.  
13 MR. WOLFE: We can definitely have everyone  
14 gone by 4:30.  
15 THE COURT: Okay.  
16 REDIRECT EXAMINATION BY MR. WOLFE:  
17 Q Sheldon, were you ever confused about your  
18 sexual attractions to girls?  
19 A No.  
20 Q What attractions did you have for girls?  
21 A At that time, I really wanted to have an  
22 attraction towards girls. At the time, I was best  
23 friends with this girl named Eleana (phonetic). And we  
24 were always best friends, we always hung out together.  
25 And in my mind, it was like, okay, we're best friends,

1 so I want to get married, marry her.

2 Q In the questionnaire that you were looking  
3 over, there was the question referencing your fears,  
4 your greatest fears of the length of therapy, success  
5 rate, relapse. What did you mean by that?

6 A Like I was saying before, Arthur Goldberg  
7 explained it to me in my first conversation with him  
8 that it was similar to that -- someone struggling with  
9 SSA is similar to that of an alcoholic. Just like an  
10 alcoholic relapse. I was worried that I could relapse.

11 MR. WOLFE: I'd like to show Sheldon  
12 Plaintiff's 33. This will be on Page -- it'll be on  
13 Page 2 of 6.

14 THE COURT: Okay.

15 Q It's the second full paragraph, second  
16 sentence, beginning with "JONAH claims." Can you read  
17 that, please?

18 A The first --

19 THE COURT: Can we just give some reference  
20 so the jury knows what we're reading?

21 MR. LI MANDRI: Yes. This is Page --

22 Q So this is your composition we were looking  
23 at earlier?

24 A Yes.

25 Q So we're looking at Page 2 of 6, the second

1 full paragraph, second sentence.

2 MR. LI MANDRI: I'm objecting to this. I  
3 didn't display it, and it's his own statement, so it's  
4 hearsay.

5 THE COURT: Well, Counsel, you asked him  
6 about the composition on cross-examination, and I let  
7 you read from the composition.

8 MR. LI MANDRI: Yeah, but --

9 THE COURT: So I'm going to allow him to do  
10 the same on redirect.

11 Go ahead. Just highlight the area you want.  
12 Don't show the whole composition if it's not necessary.

13 A Should I read it?

14 Q Yes. Beginning with "JONAH claims that  
15 homosexuality is."

16 A "JONAH claims that homosexuality is psychological,  
17 and that it can be fixed through reparative therapy."

18 Q Continue.

19 A "They believe it's something that can be developed  
20 as early as age two. They believe that masculinity is  
21 learned by the father, and the child's peers. If the  
22 father isn't around the child, and the peers reject the  
23 child, that child can develop a psychological illness."

24 Q Thank you. Is that consistent with Mr.  
25 Goldberg's conversation with you?

1 A Yes, it is.

2 Q There were a few questions about your  
3 sessions with Thaddeus Heffner. Describe the content  
4 of what -- Mr. Heffner's work with you during those  
5 sessions.

6 A The first couple of sessions were talking about,  
7 like, my whole life story, starting from, like,  
8 childhood. And there's -- you know, experiences I've  
9 gone through that were hard. And I was always raised  
10 by my parents to, like, be positive and, you know, push  
11 forward, and not dwell on the past or hard times. So  
12 any time I talked about, like, a difficult part of my  
13 life, like, when I was bullied in middle school, he  
14 would like really dwell on it. He would be, like, that  
15 was really hard.

16 And then I would, you know, put a positive spin on  
17 it and be, like, yeah, well, because of that, like, I  
18 am the person I am today. And any time I would do  
19 that, where I would try to put a positive spin on it,  
20 it would frustrate him because he felt as if I was  
21 trying to fight the therapy or whatever he was trying  
22 to do. When in reality all I was doing was being  
23 positive.

24 Q What range of emotion did Mr. Heffner exhibit  
25 during your sessions?

1 A What range of emotion? In terms of what?  
2 Throughout the therapy?

3 Q Yeah, throughout the therapy.

4 THE COURT: Counsel, how would the witness  
5 know what Mr. Heffner's emotions are?

6 MR. LI MANDRI: We actually object. I'm  
7 sorry.

8 THE COURT: Since he doesn't want to object  
9 --

10 MR. LI MANDRI: Calls for speculation.

11 THE COURT: I'm going to ask you, how would  
12 he possibly know what his emotions are?

13 MR. WOLFE: I mean, I can clarify it.

14 Q What range of --

15 THE COURT: Yeah, please rephrase the  
16 question, and you've got about five minutes.

17 Q What range of emotions did Mr. Heffner  
18 exhibit during your therapy?

19 MR. LI MANDRI: Objection. Calls for  
20 speculation.

21 THE COURT: Yeah. What are you --

22 MR. WOLFE: I can -- I can move on. That's  
23 fine.

24 Q Sheldon, had Arthur Goldberg met you face-to-  
25 face when he told you that he could turn you straight?

1 A No.  
2 Q What was the -- there was this whole  
3 discussion about guaranteeing whether he made a  
4 promise. What particularly did Mr. Goldberg say?  
5 A That it was just a matter of time, whether it be a  
6 few months, a few years, or several years. But that it  
7 was going to happen.  
8 Q What would success depend upon?  
9 A How much work that you put in. And I was willing  
10 to put in everything.  
11 MR. WOLFE: No further questions.  
12 THE COURT: Thank you, Mr. Bruck.  
13 THE WITNESS: Thank you very much, Your  
14 Honor.  
15 THE COURT: You may step down.  
16 (Witness excused)  
17 THE COURT: Ladies and gentlemen, we have  
18 concluded for the day. If you'll just give me one  
19 second, I just want to talk to counsel at sidebar so I  
20 know what time to tell you to come tomorrow.  
21 (Sidebar)  
22 THE COURT: Okay. Who do we have tomorrow?  
23 UNIDENTIFIED: Elaine Berk followed by Alan  
24 Downing.  
25 THE COURT: Okay. What time do you want to

1 start?  
2 MR. LI MANDRI: Nine, 9:30.  
3 MR. DINIELLI: I think 9:30 should be fine.  
4 We'll be quick with Elaine Berk, and we'll be as quick  
5 as we can with Alan Downing. I don't know if that's  
6 going to be possible.  
7 THE COURT: All right. Why don't we -- I'm  
8 going to tell the jury 9:30, and then we can address  
9 legal issues at nine.  
10 MR. DINIELLI: Thank you.  
11 MR. LI MANDRI: Your Honor, we've got a  
12 flight at seven, so I assume if we leave by 4:30, we  
13 shouldn't (indiscernible).  
14 THE COURT: I wouldn't think it's a problem.  
15 If you want, we can start -- we could stop at four.  
16 MR. LI MANDRI: Four would be great. Because  
17 we can return the car and all that stuff.  
18 THE COURT: Because we're just doing those  
19 two tomorrow?  
20 MR. DINIELLI: Yes.  
21 THE COURT: I'd like to think we should be  
22 able to finish both of them by four?  
23 MR. DINIELLI: Yes.  
24 THE COURT: All right.  
25 MR. LI MANDRI: Thank you, Your Honor.

1 (Sidebar concluded)

2 THE COURT: Okay. Ladies and gentleman,  
3 we're going to start tomorrow morning at 9:30. There's  
4 going to be something that I have to do at nine, so I  
5 don't want to make you come here at nine and sit here.  
6 So we will start promptly at 9:30 tomorrow. You can  
7 leave your books on the chair. Have a very pleasant  
8 evening, and I will see you all in the morning.

9 Please do not talk about the case. Please do  
10 not do any research about the case. And when I say  
11 don't talk about the case, as I said in my preliminary  
12 instructions, not just with each other, but with  
13 anyone.

14 Also, I didn't say this initially. I don't  
15 believe I said this, if you do see clients or attorneys  
16 in the hall or in the elevator or outside, they  
17 shouldn't be saying anything to you. They're not being  
18 unfriendly. They know that they're ethically bound not  
19 to speak to you during the course of the trial. So if  
20 they don't acknowledge you or they don't say hello,  
21 they're not being insulting, they're following our  
22 rules of ethics. Okay?

23 Have a very nice evening. And if you would  
24 exit through the last door. Thank you very, very much.

25 (Jury not present in court)

1 THE COURT: Just stay on the record, Cat.  
2 Okay. Jurors left. Please be seated.

3 I just want the record to reflect that the  
4 emails have been received by the Sheriff's Department.  
5 They're just trying to see whether or not the source of  
6 the emails are available. One of the email addresses  
7 is already nonresponsive. So tomorrow morning, we can  
8 address it as to whether or not photographs can be  
9 taken. I want to at least give them the rest of the  
10 day.

11 In reviewing it with the officers, while the  
12 -- some of the language is threatening, we're not  
13 certain that it really rises to the level of a direct  
14 threat. I'd have to assume, that because the writer  
15 refers to himself as God almighty, that when he makes  
16 threats from God, perhaps they're from him, but it is  
17 not really clear. So I will give you a decision in the  
18 morning at nine o'clock regarding the request about  
19 photographing the defendant's witnesses.

20 I also had a question. Are the photographs  
21 on the website, or on anything on the -- on the JONAH  
22 material? Are any of the photographs displayed there?

23 And the two witnesses we're talking about, I  
24 understand tomorrow we're going to have Elaine Berk and  
25 Allen Downing. Do we know whether their photographs

1 are posted on the website or on any link to JONAH?

2 MR. LI MANDRI: Not to my knowledge.

3 MR. JONNA: No. Their photographs are not n  
4 there, Your Honor. No.

5 THE COURT: All right. Well, I would ask you  
6 to just double check that, and you can let me know in  
7 the morning.

8 MR. DINIELLI: Your Honor, for your  
9 information, pictures of both Alan Downing and Elaine  
10 Berk have already appeared in multiple news sources  
11 taken in this courtroom.

12 THE COURT: Okay. All right. So we'll -- as  
13 I said, right now, I'm not inclined to bar. As I said,  
14 if it was up to me, I wouldn't have any photographers  
15 in my courtroom. I don't like it. But I'm bound by  
16 the Supreme Court rules, and our guidelines do allow  
17 it. And I would only -- the only way I would disallow  
18 it is if I had what would be considered a security  
19 concern that would rise to the level that I would go  
20 against our guidelines.

21 I'm not -- at this point, I don't think we've  
22 risen to that level, but I'm waiting for the Sheriff's  
23 Department to try to conduct or finish their initial  
24 review. And I will, in consultation with them, make a  
25 ruling tomorrow on that.

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

2 THE COURT: All right.

3 MR. LI MANDRI: Appreciate it.

4 THE COURT: And what I also would like, I  
5 have -- I'll look at these, the revised objections,  
6 I'll try to look at those this evening, so maybe we  
7 could take care of that also tomorrow morning at nine,  
8 so that you have the weekend to do whatever editing has  
9 to be done on the tapes.

10 And I would also ask the parties, if you can,  
11 I started looking at the charges and the objections to  
12 the charges. Now I've had those awhile. So I don't  
13 know if there's been any changes in your positions.  
14 Perhaps you could also address that before next week so  
15 we can find out exactly what's in dispute and what  
16 isn't in dispute. Okay? Because I know that I've  
17 gotten things in at different times.

18 MR. LI MANDRI: Yes, Your Honor.

19 THE COURT: Okay. Then I will see you  
20 tomorrow at nine o'clock. Thank you all very much, and  
21 have a pleasant evening.

22 ALL COUNSEL: Thank you, Your Honor.

23 THE COURT: All right. Off the record, cat.  
24 (Proceedings adjourned to 6/11/15 at 9 a.m.)  
25

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. 2:14:47 to 2:52:55 and 3:13:22 to 4:23:16 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**