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1 (Jury present in court)  
2 THE COURT: Okay. All seven jurors are  
3 present and accounted for.  
4 Good morning, ladies and gentlemen. And  
5 thank you very much for your promptness.  
6 We will now continue with the presentation of  
7 evidence on behalf of the defendants.  
8 Counsel, would you please call your next  
9 witness?  
10 MR. LI MANDRI: Thank you, your Honor. The  
11 defendants call Jeremy Schwab.  
12 THE COURT: Come forward, Mr. Schwab. Please  
13 remain standing and raise your right hand for the  
14 Officer.  
15 J E R E M Y S C H W A B , DEFENDANT'S WITNESS, SWORN.  
16 THE CLERK: State your name for the record,  
17 please.  
18 THE WITNESS: Jeremy Schwab.  
19 THE CLERK: Thank you. You may take a seat.  
20 DIRECT EXAMINATION BY MR. JONNA:  
21 Q Good morning, Mr. Schwab.  
22 A Good morning.  
23 Q How old are you, sir?  
24 A I am 37.  
25 Q Where do you reside?

## Schwab - Direct/Jonna

1 A Dallas, Texas.  
2 Q And what's your educational background?  
3 A I did a bachelor's in economics, and then a  
4 master's in business administration. And then went  
5 back for a second master's, a master of science.  
6 Q What do you do for a living, sir?  
7 A I work in procurement for a food and beverage  
8 company.  
9 Q You're not a party to this lawsuit. Is that  
10 right?  
11 A No, I'm not.  
12 Q Are you voluntarily testifying as a witness?  
13 A Yes.  
14 Q Do you know any of the defendants in this  
15 action?  
16 A Not personally, no.  
17 Q The defendants, Arthur Goldberg, Alan Downing  
18 --  
19 A Oh, yes, the defendants. I know all of them, yes.  
20 Q Where did you meet them?  
21 A Mostly through Journey into Manhood, and I was  
22 also referred to them by Dr. Joseph Nicolosi from -- he  
23 was my therapist from California.  
24 Q And why did you attend Journey into Manhood?  
25 A Dr. Joseph Nicolosi, the psychologist that I was

1 working with, recommended it.

2 Q For what issues, sir?

3 A I was working on overcoming unwanted same sex  
4 attraction. I'd been living the gay life for 12 years,  
5 and I wanted to explore an alternative.

6 Q How old were you when you first realized you  
7 were experiencing same sex attraction?

8 A I was 12 years old.

9 Q Can you briefly tell the jury about your  
10 childhood, please?

11 A Well, I was born. And my parents were pretty  
12 religious. My mother was Baptist, my dad was Catholic.  
13 But as I grew up, I had some disconnect with them and,  
14 also, experienced a lot of bullying from peers, mainly  
15 because I had a birth defect, gynecomastia, which is  
16 like having female-like breasts. And so the kids were  
17 really cruel for several years there. I was totally  
18 ostracized, and being kicked and spit on and called  
19 names, pretty much every day for a couple years there.

20 Q At some point did you identify as gay?

21 A Yes.

22 Q When was that?

23 A When I was 14, I basically started referring to  
24 myself as gay. Not publically, but privately, and to a  
25 few friends.

1 Q Did you live an active gay life?

2 A I did, yes.

3 Q For how many years?

4 A About 12 years, off and on. Actually, probably,  
5 technically, more than that, if I count the times in  
6 high school when I started acting out.

7 Q Tell us -- tell us briefly about that.

8 A Well, I started -- I was always conflicted about  
9 it, but I had my first sexual experience with another  
10 guy when I was 16. And then that kind of led to a lot  
11 more promiscuity. I started meeting people on the  
12 Internet. And, basically, it became out of control  
13 really. I became very promiscuous sexually, but then I  
14 was in several semi-long-term romantic relationships,  
15 as well.

16 Q Were you happy?

17 A No.

18 Q Why not?

19 A I was very conflicted and I was also very  
20 miserable. I was basically just numb. I mean, I felt  
21 like I was just paralyzed by conflicts, by shame. Not  
22 just shame about being gay, but shame about everything.  
23 I felt inferior to other men. I felt inferior to  
24 pretty much everybody at that time.

25 Q You mentioned promiscuity. What do you mean

1 by that?

2 A I had sexual acts with at least 1,000 men or more  
3 during that time.

4 Q Did you attend gay pride parades?

5 A Yes, uh-huh.

6 Q So you said you -- you had over 1,000 sexual  
7 partners. Was that common, in your experience, in the  
8 gay lifestyle?

9 A It was --

10 MR. DINIELLI: Objection. Calls --

11 THE COURT: Sustained.

12 MR. DINIELLI: -- for speculation.

13 THE COURT: Sustained.

14 Q You mentioned you were in a long-term  
15 relationship, a gay relationship. What happened with  
16 that?

17 A Well, I was in several relationships that lasted  
18 between six months and about two years, two, three  
19 years. The last one was a live-in relationship that  
20 lasted about a year and a half to two years. And,  
21 well, it dragged out to about two years.

22 Q How did it end?

23 A Well, it -- towards the end of it, I was really  
24 feeling conflicted. I felt like my life was not going  
25 in the direction that I wanted it to go. And I was

1 really longing for a return to God to and to the faith  
2 that I'd been raised with, but I was avoiding that.  
3 And I was praying for some kind of solution, some way  
4 out of that. And I started to -- to look at other  
5 resources, and I'd been looking at resources off and  
6 on.

7 And then my partner, Tim, left me for somebody  
8 else. And which was devastating at the time, but it  
9 turned out to be probably the best thing that ever  
10 happened.

11 Q So what was it that ultimately motivated you  
12 to try to change your sexual orientation?

13 A I think it was a cumulation of -- of all those  
14 years of my own experiences, and everybody I knew, as  
15 well. Whether they were promiscuous or not, I didn't  
16 think that they were happy. And I didn't find anybody  
17 in -- that I knew that was gay that I wanted to  
18 emulate at all.

19 Q So what was the first step you took to  
20 address you unwanted homosexuality?

21 A The first step I took in 2009 was to call Dr.  
22 Joseph Nicolosi at the St. Thomas Aquinas Psychological  
23 Institute.

24 I knew -- I'd heard his name before, and seen his  
25 books. And it seemed pretty much all the -- all the

1 Christian counselors that I knew had ever interacted  
2 with had all referred to him. They talked of him as  
3 the expert in -- in helping men with overcoming  
4 homosexuality.

5 And so I called his office, and I was able to talk  
6 to him for a little while. And he was pretty booked as  
7 far as his clients at the time. But he referred me to  
8 his son, who was also a Ph.D. in psychology, who worked  
9 in the same psychological clinic.

10 Q What type of therapy did you under go with  
11 Dr. Nicolosi's son?

12 A I worked -- it was reparative therapy, body work,  
13 which is about feeling emotions within the body. And  
14 most of it was through Skype, originally, because he's  
15 in California and I'm in Texas. But I flew out there a  
16 couple times to meet with him in person.

17 Q Did you ever find out what Dr. Nicolosi's  
18 success rates were?

19 MR. DINIELLI: Objection.

20 THE COURT: Sustained.

21 MR. DINIELLI: Calls for speculation.

22 THE COURT: That's sustained.

23 MR. JONNA: Can I make --

24 THE COURT: He's a fact witness, has nothing  
25 to do with the parties in the case.

1 MR. JONNA: Can I make an offer of proof at  
2 sidebar, your Honor?

3 THE COURT: No. We're not going to sidebar.  
4 Just ask your questions. He's not answering those  
5 questions.

6 Q Is Dr. Nicolosi a JONAH referral counselor?

7 A Yes, he is. And he also referred me to the JONAH  
8 website for initial resources. It's one of the first  
9 things he did was refer me to JONAH, and to the People  
10 Can Change website. And, specifically, an article  
11 called "What do We Mean by Change?" which explains that  
12 a change is not a 180-degree shift from gay to  
13 straight, because that's not even in our vocabulary.  
14 But it's about congruence, living a life according to  
15 our faith and finding sexual sobriety, and a reduction  
16 in same sex attraction overall.

17 Q And he's a licensed psychologist?

18 A Yes.

19 Q And how long did you work with him?

20 A Two years.

21 Q And did he ultimately recommend Journey into  
22 Manhood?

23 A Yes. Uh-huh.

24 Q How far into your therapy did you -- did you  
25 go to your first Journey into Manhood weekend?

1 A It was -- let's see, about three months. So I  
2 started with him in July, and then I went to Journey  
3 into Manhood at the end of October, 2009.

4 Q What kind of progress did you make with Dr.  
5 Nicolosi's therapy?

6 A A massive amount of progress. I started feeling  
7 better right away. I started experiencing changes in  
8 every area of life. I felt a lot more -- you know, the  
9 first six months, he focused primarily on eliminating  
10 shame. So I was feeling a lot of freedom from that a  
11 lot more self esteem. And I also noticed that I had  
12 less of a compulsion to seek out acting out with other  
13 men.

14 Q I don't want to talk about all the processes  
15 in the Journey Into Manhood that you participated in,  
16 but I want to focus on a couple. Did you -- when you  
17 went to Journey Into Manhood, did you participate in  
18 any processes that were designed to address body shame?

19 A I did, yes. It was specifically for me.

20 Q Can you tell us briefly about that?

21 A Yes. Since I had dealt with a lot of shame around  
22 my -- my chest and the gynecomastia, my process  
23 included taking off my shirt and being able to be  
24 comfortable being seen by other men and affirmed as a  
25 man, despite my -- my appearance, and that was really

1 healing for me.

2 Q Did you find that process to be homoerotic?

3 A No, not at all.

4 Q Any process at JIM homoerotic?

5 A No, never.

6 Q Did you participate in anger transference  
7 exercises?

8 A Not at the JIM weekend, but I did at -- with  
9 another organization, about two years later, and  
10 organization called Celebration of Being. And it's a  
11 weekend that's run by women for men, and they do an  
12 anger process where you use -- you beat pillows  
13 basically with a bat.

14 Q How did that impact you?

15 A It -- that particularly helped me a lot with  
16 relating to my mother because I was able to get rid of  
17 a lot of the messages that I was taking on from her.  
18 Because there were a lot of things that she said that I  
19 took on as shame, whether she meant it that way or not.  
20 And I was able to really separate that from her and see  
21 her as a real person.

22 And so my relationship with her is a lot better  
23 than it was before.

24 Q Did you participate in any processes that  
25 we've heard as called GUTS Work at the JIM?

1 A Yes.

2 Q Can you tell us briefly about that?

3 A Yes. GUTS stands for getting under the surface,  
4 and I studied it quite a bit with other programs,  
5 because it -- it's designed for lay people to use.  
6 They use it in church groups as well. It's just  
7 basically a manner of expressing emotions in a physical  
8 way.

9 And so I experienced that on the JIM weekend,  
10 and in about ten weekends after that, ten other  
11 programs that are totally separate from this  
12 organization.

13 Q Did you find those effective?

14 A Yes.

15 Q How did the processes of Journey into Manhood  
16 impact your same sex attraction?

17 A Well, I noticed a definite decrease in the erotic  
18 same sex attraction. And over -- that led to a lot of  
19 breakthroughs in terms of relating to other men, and I  
20 felt equal to other men. So I was able to really make  
21 a lot of progress.

22 I joined a -- a guys' Bible study group. I think  
23 I was the only one that experienced same sex  
24 attraction, but I was able to be open about that and  
25 received a lot of affirmation, and a lot of healing in

1 that.

2 So over the course of about two years, with  
3 therapy and with the JIM weekend, I saw at least a 90-  
4 percent reduction in the frequency and intensity of my  
5 same sex attraction.

6 Q How many JIM weekends have you attended?

7 A I participated in one as a participant. But then  
8 I went back and staffed about 12 of them.

9 Q Did you ever participate in processes  
10 involving nudity at an experiential weekend?

11 A I did at another organization called New Warriors.  
12 I didn't at the Journey into Manhood weekend. They  
13 don't do nudity.

14 Q How did those processes impact you?

15 A Well, Dr. Nicolosi had referred me to the New  
16 Warrior weekend, specifically because of that process.  
17 It's a weekend that's not designed for same sex  
18 attraction at all. In fact, I think most of the men on  
19 my weekend had never experienced same sex attraction or  
20 were not openly gay, at least.

21 And it was really healing for me because it was a  
22 way to desensitize that I didn't see it as an erotic  
23 experience at all. It was a very much de-shaming and  
24 very much a -- a process with being open.

25 Q Besides attending these experiential weekends

1 and -- and working with Dr. Nicolosi, what else did you  
2 do to address your unwanted same sex attraction?

3 A Well, I started attending daily mass. I came back  
4 into my Catholic faith. And that was very  
5 transformative for me. It just radically changed my  
6 life in a lot of ways. I continue to do that to this  
7 day.

8 Q I want to talk briefly about your knowledge  
9 of the defendants. Start with Alan Downing. Where did  
10 you meet him?

11 A I met him at -- at JIM weekend, originally.

12 Q Do you remember when that was?  
13 Approximately.

14 A Approximately, probably 2011.

15 Q Have you staffed JIM weekends with him?

16 A Yes, a few.

17 Q Did he play a role in your personal journey?

18 A Yes. He's a -- he's always been sort of an  
19 inspiration for me. I like his -- his personality and  
20 his -- his way of just bringing to life, you know, the  
21 growth process, the Journey into Manhood that people  
22 experience. And he's very -- very nurturing, very  
23 attune to -- to everyone's needs. And I've seen him,  
24 you know, be very selfless and self giving, very  
25 forgiving. I've seen him, you know, pray for all of

1 the plaintiffs by name. And even two years ago, just  
2 very -- very eager to -- to see men heal.

3 Q How about Arthur Goldberg; when did you first  
4 meet him?

5 A I first encountered him after I had gotten on an  
6 e-mail Listserv through Journey into Manhood, and also  
7 through his -- the JONAH website that -- that Dr.  
8 Nicolosi referred me to.

9 And he -- he actually called me out of the blue to  
10 help me with a problem that I was having. I had  
11 mentioned that I actually had a date with a girl, and I  
12 was scared because I didn't I was going to be able to  
13 tell her, at first. And just very nervous. And he  
14 called me just to reassure me, and tell me just to be  
15 myself and be calm, and be to open just to the  
16 experience. And that when the time comes, I could be  
17 open and share my past with her. And that was really  
18 helpful, and really reassuring to me, yeah.

19 Q How would you describe the role he played in  
20 your personal journey?

21 A He's definitely been an inspiration and a mentor  
22 for me. I think -- I actually started a ministry  
23 myself just kind of emulate JONAH. And it's sort of a  
24 -- a Catholic version of JONAH.

25 Q We'll talk about that later.

1 A Oh, okay.  
2 Q So did you attend any JONAH events or  
3 training sessions?  
4 A Yes. I went to two of them.  
5 Q Can you tell us about that, briefly?  
6 A Yes. There were two trainings I went to for --  
7 for GUTS work, in order to help other people with, you  
8 know, releasing pent up emotions and -- and finding  
9 healing. So I went to both of those, and learned a lot  
10 of those processes.  
11 Q How about Thaddeus Heffner. Do you know him?  
12 A Yes.  
13 Q Where did you meet him?  
14 A I staffed a couple of -- actually, the first time  
15 I met him was at Courage Sports Camp in 2011.  
16 Q What's --  
17 A It's a Catholic organization that runs a retreat  
18 similar to JIM in some ways.  
19 Q What's your impression of Mr. Heffner?  
20 A He's very -- very peaceful, very -- very kind,  
21 very loving. And I'm just -- every experience that  
22 I've had with him has been very positive.  
23 Q Based on your experience with these men, have  
24 you ever heard them refer to homosexuality as a mental  
25 disorder or mental disease?

1 A No, I've never heard them use that. I've heard  
2 them say the opposite, actually, yeah.  
3 Q By the way, have you ever heard the word  
4 disorder used in a religious context?  
5 A Yes. It's actually in the catechism of my church  
6 that homosexual behavior is an intrinsic disorder. And  
7 so I am -- that's the faith that I follow, and so that  
8 is my understanding of homosexuality.  
9 Q Have you ever heard the defendants say they  
10 can cure homosexuality?  
11 A Never.  
12 Q I want to talk a little bit about your goals.  
13 Before you started this journey, how would you describe  
14 them?  
15 A Initially, my goals were just to find --  
16 initially, mostly sobriety because I was -- you know, I  
17 found myself addicted to either pornography or to  
18 acting out, or to a lot of emotional codependency in --  
19 in gay relationships. And I was almost kind of an  
20 agnostic at the time. I'd been away from my faith for  
21 a couple of years, and kind of just distanced from it,  
22 even though I was kind of longing for it.  
23 But I sought out Dr. Nicolosi first because I knew  
24 that he had a very scientific approach to it and he was  
25 a licensed psychologist. And I knew that, based on

1 what I had seen, with all the books I'd seen, and the  
2 people I've heard that have worked with him, I knew  
3 that if anybody could help me, he could.

4 And then from working with him, and seeing a lot  
5 of healing in a very short time, I became -- I came  
6 back into my faith because I realized that -- that the  
7 Church was right all along, that the teaching of the  
8 church was for my own benefit. It wasn't just an old  
9 rule or some kind of a stipulation. It was actually  
10 out of love and for my own benefit.

11 Q How would you describe how your same sex  
12 attraction has changed since you started this journey?

13 A I'd the erotic same sex attraction and the  
14 romanticism has ben reduced by at least -- at least 90  
15 percent in terms of frequency and intensity. I used to  
16 be, you know, having lustful thoughts or acting out  
17 every day, sometimes several times a day, before I  
18 started this. And now it's more of like just a random  
19 thought, every couple weeks or so. And it doesn't  
20 compel me to -- to do anything that I don't want to do.  
21 It just -- it's a random thought, and I'm able to  
22 release that and analyze that.

23 Q How about your opposite sex attraction? How  
24 has that changed?

25 A I've definitely seen an -- an increase in that.

1 It's different from what I normally would have  
2 expected, in the past. It's not like a 180-degree  
3 shift because that wouldn't be healthy, either. And as  
4 Dr. Nicolosi explained to me early on, that typically  
5 for -- for men coming out of same sex attraction, the  
6 way that opposite sex attraction develops is they  
7 develop a friendship --

8 MR. DINIELLI: Objection. This is expert  
9 testimony, and it's hearsay.

10 THE COURT: Sustained.

11 Q I just want to hear about how your opposite  
12 sex attraction changed.

13 A Okay. The way my opposite sex attraction has  
14 changed is that when I have been able date a girl and  
15 get to know her, that I see that attraction develop as  
16 the friendship develops, and as the relationship  
17 develops. It's not the way some guys, where they look  
18 at -- see every girl as they walk by. And I don't  
19 necessarily see that as healthy, either. I don't want  
20 to objectify women either. I want to have a healthy  
21 marriage, eventually.

22 Q Are you happier now?

23 A Yes.

24 Q In which way?

25 A In every imaginable way. My life is a thousand

1 times better than it's ever been before.

2 Q Have you started dating women?

3 A I have.

4 Q And you said you could see yourself getting  
5 married to a woman.

6 Q I hope so. It's definitely a -- a big  
7 possibility now.

8 Q Has your faith played a role in your journey?

9 A It's been very integral to my journey. It's the  
10 center of my life now.

11 Q Why are you willing to be a witness in this  
12 case?

13 A Because I believe in the cause. I believe in  
14 religious freedom. And I believe in what Arthur's  
15 doing.

16 MR. DINIELLI: Objection. Relevance.

17 THE COURT: What difference does his belief  
18 make?

19 MR. JONNA: I want to hear why he's willing  
20 to fly out here and testify.

21 THE COURT: Well, he came out here because he  
22 believes the process works. I think that's all the  
23 jury needs to know.

24 MR. JONNA: Very good. Thank you, your  
25 Honor.

1 Q Are you involved in any other ministries  
2 similar to JONAH?

3 A Yes. I started a ministry modeled after JONAH.  
4 And --

5 Q What's it called?

6 A It's called Joel 2:25.

7 Q What does that name signify?

8 A It's -- the verse stands for "I will restore what  
9 the locust have eaten." And it's about emotional  
10 healing and restoration. And it's primarily for men  
11 and women who experience unwanted same sex attraction.

12 Q Why did you start it?

13 A I started it because I really liked what I saw  
14 JONAH doing. And I saw them helping a lot of men, and  
15 helping a lot of women, as well. And I wanted to carry  
16 that on. And so I started a -- basically a Catholic  
17 evangelical version of that. And also branched out  
18 through the Internet to help people in other countries  
19 develop that.

20 Q How many men do you work with?

21 A It's -- well, men and women, and parents now, it's  
22 about -- about 730.

23 Q Is it international?

24 A Yes. They have -- they're spread across 104  
25 countries right now.

1 Q Do you engage in any processes that would  
2 take place in a JIM weekend?  
3 A Yes, we do a few.  
4 Q Which ones?  
5 A Well, I mean, without copying, we --  
6 (indiscernible) our experience, we try to adapt to  
7 anything that the individual really needs. So it's a  
8 lot more -- we have -- divide up into small groups.  
9 And so, depending on what the person's dealing with, if  
10 they're dealing a lot of shame, we try to deal with  
11 that. If they're, you know, just dealing with --  
12 trying to -- to make friends and -- and feel  
13 comfortable around other men, we'll deal with that. So  
14 it's customized for each individual, just like it is on  
15 a JIM weekend.  
16 Q Is your work with Joel 2:25 time consuming?  
17 A Yes.  
18 Q Are you paid for your time?  
19 A No.  
20 Q Do you expect to be?  
21 A No, never.  
22 Q Why are you willing to give up your time to  
23 do this?  
24 A Because it's something I'm really passionate  
25 about. It's something my faith calls me to do. And --

1 and I love to see other men and women experience the  
2 same freedom and healing that I have.  
3 Q Do you know other men who have changed their  
4 sexual orientation?  
5 A Many.  
6 MR. DINIELLI: Objection. It calls for  
7 speculation.  
8 THE COURT: Sustained.  
9 Q Are you involved in any way politically  
10 trying to protect people's rights to have access to  
11 this type of therapy?  
12 MR. DINIELLI: Objection. Relevance.  
13 THE COURT: Can I see counsel at side bar?  
14 (Sidebar)  
15 THE COURT: What are we doing?  
16 MR. JONNA: Well, I assume that was going to  
17 come up on cross. I want to bring it out on direct.  
18 MR. LI MANDRI: We just preempted that.  
19 THE COURT: Well, if it comes up on cross,  
20 then you can object. I don't care how he feels about  
21 Constitutional issues. He's a fact witness.  
22 MR. JONNA: Okay.  
23 THE COURT: He's a success story witness.  
24 That's the proffer.  
25 MR. JONNA: Okay.

1 THE COURT: It's limited to that.

2 MR. LI MANDRI: I -- just so you know, we  
3 anticipated they would try to discredit him by saying  
4 you're an activist --

5 THE COURT: Well, they're going to have a  
6 hard time doing that since they just objected to your  
7 question.

8 MR. LI MANDRI: Got -- got it. Thank you.

9 MR. JONNA: Thank you.

10 THE COURT: Okay.

11 (Sidebar concluded)

12 BY MR. JONNA:

13 Q One last question. Based on your experience  
14 with this work, including your work with Joel 2:25 and  
15 the over 790 you work with, have you ever witnesses  
16 anyone being harmed?

17 A Never.

18 MR. DINIELLI: Objection. Speculation.

19 MR. JONNA: I'm asking him what he witnessed,  
20 your Honor.

21 THE COURT: I'll allow the question. Go  
22 ahead.

23 A I have never experienced anyone being harmed. And  
24 I've also read --

25 MR. LI MANDRI: No.

1 THE COURT: No. Stop.

2 THE WITNESS: Okay. Okay.

3 THE COURT: You've never seen anybody harmed  
4 in anything you personally ran or attended. That's  
5 your answer.

6 THE WITNESS: Yes. Yes, that's my answer.

7 THE COURT: Cross-examine.

8 THE WITNESS: Okay. Thank you.

9 MR. LAFFEY: Excuse me, your Honor.  
10 Transcript.

11 THE COURT: Oh, thank you.

12 CROSS-EXAMINATION BY MR. DINIELLI:

13 Q Good morning, Mr. Schwab. We haven't met.  
14 My name is David Dinielli.

15 A Thank you, David.

16 Q I'd like to talk to you a little bit about  
17 some of your connections to people in this case.

18 A Yes.

19 Q I'd like to start with Jeff Bennion.

20 A Uh-huh.

21 Q He's the man from Utah who testified  
22 yesterday. You know him, right?

23 A Yes. Uh-huh.

24 Q In fact, you've staffed several Journey Into  
25 Manhood weekends with him?

1 A Yes.  
2 Q And several of these Journey Beyond weekends  
3 as well?  
4 A A few, yes. Uh-huh.  
5 Q Those are those advanced weekends where  
6 sometimes the participants and the staff members are  
7 naked?  
8 A Yes, uh-huh.  
9 Q And so you have been naked with Jeff Bennion?  
10 A I guess so. I imagine. I don't remember. But  
11 probably so, yeah.  
12 Q And the other man from Utah that we've heard  
13 of, Pret Dahlgren. I believe he's going to testify  
14 today. You know him too, right?  
15 A Yes. Uh-huh.  
16 Q You've staffed several Journey Into Manhood  
17 weekends with him?  
18 A Yes.  
19 Q And you know many of the other defense  
20 witnesses as well. The first person who testified in  
21 the defense case, Thaddeus Heffner, do you know him?  
22 A Yes.  
23 Q You've staffed several Journey Into Manhood  
24 weekends with him?  
25 A One or two, I believe.

1 Q And, of course, Jonathan Hoffman. That's the  
2 man that you heard Michael Ferguson testify about, in  
3 Israel. You've staffed a Journey Into Manhood weekend  
4 with him as well?  
5 A Staffed a Journey Beyond week with him, I --  
6 Q Journey Beyond. A more advanced weekend?  
7 A Yes, uh-huh.  
8 Q And there's someone whose video deposition we  
9 may hear, Blake Smith. You went on a Journey Beyond  
10 weekend with him, you've staffed weekends with him as  
11 well, and so you've been naked with Mr. Smith as well?  
12 A I guess so, yes.  
13 Q You've testified today that you know Arthur  
14 Goldberg?  
15 A Yes.  
16 Q You've staffed lots of these People Can  
17 Change weekends with him?  
18 A Yes.  
19 Q You've stayed at his house?  
20 A Yes.  
21 Q You think highly of him?  
22 A Yes. Definitely.  
23 Q You even said in your deposition that you  
24 don't know anyone that doesn't love him?  
25 A Exactly. Yes.

1 Q And, of course, you know Alan Downing well,  
2 as well?

3 A Yes. Uh-huh.

4 Q You've staffed Journey Into Manhood weekends  
5 with him also?

6 A Yes.

7 Q And you spoke on your direct examination  
8 about your personal journey. And I want to ask a few  
9 details about that just to make sure that I have the  
10 chronology.

11 You first decided you were gay when you were  
12 a freshman in high school?

13 A Yes.

14 Q Your first sexual encounter was when you were  
15 16?

16 A Yes.

17 Q And so then you continued to identify as gay  
18 until you were a freshman in college?

19 A Yes. I would -- yeah, primarily at the time.

20 Q And at that time, you experienced what you  
21 described in your deposition as a religious conversion?

22 A Yes.

23 Q This was what you described as a major  
24 conversion?

25 A Yes.

1 Q And at that time, you tried to stop acting on  
2 your homosexual desires?

3 A Yes.

4 Q So during the rest of college, you tried to  
5 remain, I think your words are sober, but you did have  
6 some occasional homosexual acts?

7 A Yes.

8 Q But then when college ended, you went back to  
9 looking for sex on the Internet?

10 A Yes. So I was isolated and by myself, yes.

11 Q That was around the year 2000?

12 A Yes.

13 Q And so from 2000 up until 2009, you were  
14 pretty much, in your words, living a gay life?

15 A Off and on, yes.

16 Q You went to gay pride parades?

17 A Yes.

18 Q And you tried to have relationships with  
19 other men?

20 A Yes.

21 Q And I think you testified this morning and in  
22 your deposition that, in fact, you had a live-in  
23 boyfriend?

24 A Yes.

25 Q And that relationship lasted for about a year

1 and a half, two years?  
2 A Yes.  
3 Q But in 2009, you went with that boyfriend to  
4 a gay pride event at Disney World in Florida?  
5 A Yes, uh-huh.  
6 Q And that trip didn't go well. You didn't  
7 like some of your boyfriend's friends, right?  
8 A Yeah. I felt like the environment was -- it  
9 reminded me of how decadent my life had become at the  
10 time.  
11 Q And you and your boyfriend fought and you  
12 eventually broke up with him soon thereafter?  
13 A Yeah. We didn't really fight, no. But he left  
14 soon after.  
15 Q So soon thereafter, your boyfriend left you  
16 for someone else?  
17 A Yes. Uh-huh.  
18 Q And you said in your deposition that this  
19 breakup was devastating --  
20 A Yes.  
21 Q -- was your word?  
22 A Uh-huh.  
23 Q And it was around this same time that you  
24 reached out to this counselor in California to think  
25 about trying to change your sexual orientation?

1 A Yes, a psychologist.  
2 Q He is the one who sent you to the Journey  
3 Into Manhood weekend --  
4 A Yes.  
5 Q -- or recommended it?  
6 A Uh-huh.  
7 Q So you went to this weekend in October of  
8 2009?  
9 A Yes.  
10 Q And then it was about a year later, November  
11 2010, when you had your last sexual encounter with a  
12 man?  
13 A Yes. It took about a year for me to really stop  
14 the sexual addiction at that time.  
15 Q And so since 2009, you've been on, I think  
16 you said, 12 Journey Into Manhood weekends?  
17 A Yes. Well -- yeah, I started starting in 2010.  
18 Q Around 12?  
19 A Yes. Uh-huh.  
20 Q And you also go to these things called JIM or  
21 Journey Into Manhood reunions, right?  
22 A Yes. Those are not affiliated directly with the  
23 organization, but ad hoc, the guys who have been to it  
24 before have organized these as well.  
25 Q And you have participated in some of those?

1 A Yes.  
2 Q And you've organized some of those?  
3 A Yes.  
4 Q And you've been to around eight of those?  
5 A Yes, at least.  
6 Q Some of those have taken place in private  
7 homes?  
8 A Yes.  
9 Q And at these reunions, you've done healthy  
10 touch or father/son holding?  
11 A Sometimes, yes.  
12 Q Well, in fact, in deposition, you said that  
13 you've done that at every single one of those reunions?  
14 A Yes. At all the reunions, yes.  
15 Q Journey Beyond, the advanced weekend.  
16 A Uh-huh.  
17 Q You've testified in deposition that you've  
18 been to at least three. How many have you been to now?  
19 A Let's see. I guess four now, and I'll be doing  
20 the fifth one in August.  
21 Q Fifth Journey Beyond weekend this coming  
22 summer?  
23 A Yes. Uh-huh.  
24 Q And you also founded a support group, I think  
25 you called it, for people who went to the Journey Into

1 Manhood weekends?  
2 A Yes. Uh-huh.  
3 Q And at these support groups that you help  
4 start, you recreate some of these Journey Into Manhood  
5 processes?  
6 A Yes.  
7 Q That includes GUTS works?  
8 A Sometimes.  
9 Q And it includes this healthy touch or  
10 father/son holding?  
11 A Yes. If the -- if that's what the men need, we do  
12 that as well.  
13 Q And that gave rise to your decision to start  
14 this Joel 2:25 organization?  
15 A Yes. Joel 2:25.  
16 Q Okay. So, Mr. Schwab, despite all of these  
17 efforts, you've testified today to the jury that you  
18 have not eliminated your same sex attractions?  
19 A No. That's not the goal.  
20 Q You still occasionally have attractions  
21 towards men?  
22 A Exactly.  
23 Q And you don't regularly experience opposite  
24 sex attraction?  
25 A No. Not the way that others do. That's not the

1 goal either.

2 Q But, Mr. Schwab, you have had sex with women?

3 A There were -- there was two times in my life that  
4 that occurred. But that's not something that I'm  
5 wanting to do at this point unless I'm -- until I'm  
6 married. So that's not something I'm pursuing.

7 Q Well, in deposition, Mr. Schwab, you  
8 testified that you had sex with three women in the fall  
9 of 2010, right around the same time that you for the  
10 last time you had sex with a man. Isn't that correct?

11 A Yes. And that was at the -- the same weekend  
12 actually, the same occurrence. It was a weekend when I  
13 went on the Internet and searched that out. But that  
14 happened at the same time.

15 Q That's right. So on a Friday night, you had  
16 sex with a woman?

17 A Yes.

18 Q And then Saturday, you had sex with a  
19 different woman?

20 A Two women that time.

21 Q Two women at the same time that next day?

22 A Yes. That's not something I would do today at  
23 all.

24 Q That's your only experience having sexual  
25 contact with women?

1 A I think there was one time before that, possibly,  
2 but that's about it.

3 Q But certainly the last time?

4 A Yes. Uh-huh.

5 Q And that's largely because of your religious  
6 faith?

7 A Exactly.

8 Q So, essentially, you had this kind of bender  
9 with women five years ago, correct?

10 A Uh-huh.

11 Q But as a general matter, Mr. Schwab, you do  
12 not sexually fantasize about women?

13 A I don't want to. That's not my goal.

14 Q It's not consistent with your religious  
15 values?

16 A Exactly.

17 Q So you don't fantasize about women's breasts?

18 A No.

19 Q You don't fantasize about women's butts?

20 A No.

21 Q You don't fantasize about having sexual  
22 intercourse with women?

23 A No, not normally. That's not my goal. And I'm  
24 not aware of anybody having that goal.

25 Q Let's talk about this organization that you

1 founded, Joel 2:25.  
2 A Uh-huh.  
3 Q You founded this organization and its purpose  
4 is to cater to individuals with unwanted same sex  
5 attraction?  
6 A Yes.  
7 Q And you testified at your deposition and then  
8 again that this organization is really just modeled on  
9 JONAH?  
10 A Largely, yes. It's a Christian version of JONAH.  
11 Q It's the Christian or the Catholic version of  
12 JONAH?  
13 A Yes.  
14 Q And you're currently working or you have  
15 worked with 730 men?  
16 A Seven hundred and thirty individuals, including a  
17 large group of women, about 30 women, and parents as  
18 well.  
19 Q And you said that you're working or have  
20 worked with people in 104 different countries?  
21 A There are 104 countries represented in our online  
22 groups of the people that log in.  
23 Q You've referred some of these people to  
24 Arthur Goldberg for counseling?  
25 A I refer all of them to contact Arthur if they can.

1 Q And so if JONAH is found to be engaged in  
2 consumer fraud in this case, that would be a really big  
3 deal for JONAH 2:25 (sic)?  
4 A Yes, it would. But we would continue to fight  
5 until we're sued as well and that we're on your list as  
6 well.  
7 MR. DINIELLI: I would move to strike that,  
8 Your Honor, as nonresponsive.  
9 THE COURT: Yes. It was a yes or no  
10 question.  
11 THE WITNESS: Okay.  
12 A I mean, it's on your website, so --  
13 MR. DINIELLI: I would move to strike that as  
14 also nonresponsive.  
15 THE COURT: The jury is to disregard the  
16 nonresponsive answer. The question called for a yes or  
17 no answer. And the answer was yes.  
18 Q Mr. Schwab, you testified in your deposition  
19 that you would "do whatever it takes to come here and  
20 testify live in this trial," correct?  
21 A Exactly, yes.  
22 Q Well, since you're here, I'd like to talk to  
23 you about what it is you do know about this case --  
24 A Uh-huh.  
25 Q -- and the facts that you're here to testify

1 about.  
2 A Yes.  
3 Q At your deposition, you said that you read  
4 the complaint in this case.  
5 A Yes, I have.  
6 Q And you were yesterday when my colleague, Ms.  
7 Bensman, talked with Jeff Bennion about the fact that  
8 this is a consumer fraud case. And so you know, don't  
9 you, that this is a fraud case; it's about particular  
10 misrepresentations that we say the defendants said to  
11 my clients; you know that?  
12 A That's not correct. It's -- the purpose of this  
13 case is to shut down JONAH and all ministries similar  
14 to JONAH. And that's what's on your website. That's  
15 what you've been promoting for the past two years.  
16 MR. DINIELLI: Move to strike.  
17 Q You know that the complaint in this case --  
18 A That's the purpose --  
19 Q -- is about mis --  
20 A Yeah. That's the guise you're using.  
21 THE COURT: Stop.  
22 Q You know that the --  
23 THE COURT: Stop. One person speaks at a  
24 time so the jury can understand.  
25 THE WITNESS: Sorry.

1 THE COURT: All right? The question is, did  
2 you read the complaint.  
3 A Yes, I did.  
4 Q You understand that the allegations in the  
5 complaint are that the defendants made  
6 misrepresentations to my clients?  
7 A Yes, I understand that.  
8 Q Thank you. Well, but, Mr. Schwab, you  
9 actually don't know the plaintiffs in this case. You  
10 don't know Michael Ferguson personally?  
11 A No, I don't.  
12 Q You don't know what happened at his JIM  
13 weekend?  
14 A I know what happens in general at JIM weekends. I  
15 don't know his JIM weekend.  
16 Q You weren't there?  
17 A No.  
18 Q You don't know what Arthur Goldberg said to  
19 Michael Ferguson when they sat down together on the  
20 floor and had a conversation?  
21 A I know that he doesn't make promises about results  
22 on --  
23 Q You -- you don't --  
24 A -- changing same sex attraction.  
25 Q You don't know what he said to Michael

1 Ferguson?  
2 A No, not directly.  
3 Q You don't know what Alan Downing said to  
4 Michael Ferguson in any of his coaching sessions?  
5 A No.  
6 Q And you don't know Benji Unger?  
7 A No.  
8 Q You don't know what Arthur Goldberg said to  
9 him when Benji Unger made a telephone call in his  
10 father's office and spoke with Arthur Goldberg?  
11 A No, I don't.  
12 Q You don't know anything about what Alan  
13 Downing said to Benji in their coaching sessions?  
14 A No.  
15 Q You don't know anything about what Arthur or  
16 Elaine may have said to Benji on the JONAH Listserv?  
17 A No.  
18 Q By the way, in your direct testimony, you  
19 mentioned a JIM Listserv. That's different than the  
20 JONAH Listserv which is --  
21 A Yes.  
22 Q -- which is restricted to just Jewish people,  
23 correct?  
24 A Exactly.  
25 Q You weren't on the JONAH Listserv?

1 A True.  
2 Q Okay. And you don't know Chaim Levin?  
3 A He commented on my Facebook page a few times, but  
4 I don't know him personally.  
5 Q You don't know him --  
6 A No.  
7 Q -- personally? You don't know what Arthur  
8 Goldberg told him about the JONAH program when they  
9 first met and talked about it?  
10 A No, I don't.  
11 Q You don't know whether or not Arthur Goldberg  
12 told Chaim Levin that the JONAH program was based on  
13 science?  
14 A No, I don't know what he said to him.  
15 Q You don't know if he told Chaim that the  
16 JONAH program had a particular success rate?  
17 A I am pretty sure he didn't, but I don't know that  
18 directly.  
19 Q You don't know what he said?  
20 A No.  
21 Q You don't know what Alan Downing said to  
22 Chaim in any of their coaching sessions?  
23 A No.  
24 Q You don't know what Chaim said -- or what he  
25 said to Chaim during the coaching session which Chaim

1 Levin testified he got naked and touched his penis?  
2 A No.  
3 Q And you've never been a JONAH client?  
4 A I went to two JONAH weekends. So I've had that  
5 transaction with them. I've not been a -- I'm not  
6 aware of them having clients with JONAH itself, no.  
7 Q The weekends were GUTS training sessions,  
8 right?  
9 A Yes. Held by JONAH.  
10 Q Held by JONAH?  
11 A Yes.  
12 Q But you were never referred to a JONAH  
13 counselor?  
14 A Yes. Well, I talked to Dr. Nicolosi. He was a  
15 JONAH counselor.  
16 Q Let me rephrase. You were never referred by  
17 JONAH to a counselor?  
18 A No.  
19 Q You were never a client of, for example, Alan  
20 Downing?  
21 A No.  
22 Q Thank you. And as you said, you weren't on  
23 the JONAH Listserv?  
24 A No, I was not.  
25 Q So you can't talk about any of that?

1 A No.  
2 Q Okay. Let me make certain I understand what  
3 you are here to talk about and what you can say.  
4 So based on your personal knowledge, you can say  
5 that you've attended and staffed lots and lots of  
6 Journey Into Manhood weekends, and Journey Beyond  
7 weekends?  
8 A Yes.  
9 Q And that you thought that they were helpful  
10 to you?  
11 A Exactly.  
12 Q And that they weren't coercive?  
13 A Exactly.  
14 Q Okay. And you've testified that you've  
15 staffed these weekends with Arthur Goldberg and Alan  
16 Downing and with Jonathan Hoffman and with Thaddeus  
17 Heffner and with Jeff Bennion and with Pret Dahlgren  
18 and with Blake Smith. All of them are defense  
19 witnesses?  
20 A Yes.  
21 Q And you've testified that you recently  
22 started your own organization that you said is "modeled  
23 after JONAH"?  
24 A Yes.  
25 Q And because of that, in your deposition, you

1 testified that you would do "whatever it takes to come  
2 here today and testify"?

3 MR. JONNA: Objection, Your Honor.  
4 Cumulative.

5 THE COURT: I'll allow it. It's cross-exam.  
6 A Yes, I did say that.

7 MR. DINIELLI: Thank you. I don't have  
8 anything further.

9 THE COURT: Redirect.  
10 MR. JONNA: Very briefly.

11 REDIRECT EXAMINATION BY MR. JONNA:

12 Q You were asked about Journey Beyond.

13 A Yes.

14 Q And you were asked if you had been naked.  
15 Can you please briefly describe the context?

16 A Yes. There's the Journey Beyond weekend, which is  
17 very advanced and only people that have a certain  
18 number of years of sobriety, away from acting out with  
19 other men, are allowed to go on this weekend. And  
20 there are processes to reduce body shame and -- very  
21 similar to what I experienced with New Warriors and  
22 with other organizations. That's not the center of the  
23 weekend. That's not the only thing that happens on the  
24 weekend. But that is a small part of that weekend.

25 Q You were asked about an experience at Disney

1 World with your ex-boyfriend and I think --

2 A Yes.

3 Q -- you wanted to explain. Can you briefly  
4 explain the context there?

5 A Yes. I was there, and it happened to be during  
6 the gay pride week. And the more and more I was there,  
7 I just felt more and more conflicted because I felt  
8 like that's not place I ever really wanted to be in my  
9 life, it didn't feel right to me. It didn't feel  
10 healthy to me. And I started praying for any kind of  
11 sign on where I should go. Because I felt kind of  
12 trapped at that point.

13 Q Would you say you only had a religious  
14 conversion or has your change in same sex attraction  
15 also been attributed to your therapy?

16 A Yes. I've had a major reduction in same sex  
17 attraction, at least 90 percent, due to therapy as  
18 well.

19 Q Does your same sex attraction distress you  
20 anymore?

21 A No. It used to. Not anymore.

22 Q You were asked about some experiences with  
23 women, some sexual experience. What did you learn from  
24 that?

25 A Well, what I learned from that is -- I mean, I

1 learned that I could be physically aroused by women.  
2 But I also learned that I didn't want to repeat the  
3 same pattern. I didn't want to live the same life in  
4 just a heterosexual way because that wouldn't be  
5 healthy either. And I didn't want to treat women the  
6 way I had treated men. And I wanted to go back and  
7 continue pursuing my faith and life a healthy life and  
8 respect women, and have a loving marriage some day.

9 Q Thank you, Mr. Schwab. No further questions.

10 THE COURT: Thank you very much, Mr. Schwab.  
11 You may step down.

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: Watch your step.

14 THE WITNESS: Thank you.

15 (Witness excused)

16 THE COURT: Next witness, please.

17 MR. JONNA: Thank you, Your Honor.

18 Defendants call Preston Dahlgren.

19 THE COURT: Would you remain standing? Raise  
20 your right hand for the officer, please.

21 P R E S T O N R O B E R T D A H L G R E N ,  
22 DEFENDANT'S WITNESS, SWORN.

23 THE COURT OFFICER: State your name for the  
24 record.

25 THE WITNESS: Preston Robert Dahlgren.

1 THE COURT OFFICER: Thank you.

2 DIRECT EXAMINATION BY MR. JONNA:

3 Q Good morning, Mr. Dahlgren.

4 A Good morning.

5 Q How old are you, sir?

6 A I am 33 years old.

7 Q And where do you reside?

8 A I live in West Jordan, Utah. It's a suburb of  
9 Salt Lake.

10 Q What's your educational background?

11 A I have a bachelor's degree in nursing and a couple  
12 of associate's degrees.

13 Q And what's your current occupation?

14 A I work currently as a nurse manager at a local  
15 hospital.

16 Q You're not a party to this lawsuit, right?

17 A That's correct.

18 Q Are you voluntarily testifying as a witness?

19 A I am voluntarily testifying as a witness.

20 Q Do you have any prior experience with any of  
21 the defendants?

22 A Yeah. I met --

23 Q Which ones?

24 A Alan Downing and Arthur Goldberg.

25 Q Where did you meet them?

1 A I met them both on a JIM weekend in 2007, the  
2 weekend I attended.

3 Q And why did you attend that weekend?

4 A I attended that weekend because I also experience  
5 same sex attraction.

6 Q How did you come to realize you experience  
7 same sex attraction?

8 A I came to realize this when I was about 12 years  
9 old. I had a lot of questions. And I remember some  
10 boys in middle school making fun of what they called  
11 gay kids. And I remember walking away from that  
12 experience and thinking I'm more like the gay kids  
13 they're making fun of.

14 Q Can you tell us briefly about your childhood?

15 A Yeah. It was a good childhood. I come from a  
16 loving home, a great mom and dad, three brothers, one  
17 sister, and a really good family. The only downfall  
18 was early on, I had a pretty good falling out with my  
19 dad.

20 Q Why was that?

21 A I was with a girl and we were playing the "I'll  
22 show you mine if you show me yours" games, and that a  
23 lot of kids do play.

24 Q How old were you?

25 A I was four years old. About 50 percent of

1 American apparently plays these games. And I know that  
2 now, but I didn't back then. And we were caught by the  
3 girl's mom. And the second we were caught, I was -- I  
4 knew I was in deep trouble. I knew I was in big  
5 trouble. I knew once my dad found out, I was going to  
6 get nailed for this, and that's exactly what happened.

7 That mom had called my mom. And then that day,  
8 when my dad got home from work, he called me into his  
9 bedroom and I'll never forget. He -- I walked that  
10 hallway and I go in the bedroom, and he was sitting on  
11 his bed. And he said -- he just pointed right here,  
12 come stand right over here. So I go and stand right  
13 there, just nervous and scared. And he just started  
14 yelling at me and started demanding answers, did you  
15 see her private parts, did you look at her, did you  
16 touch her. And I didn't. She was wearing these  
17 Oshkosh B'gosh overalls and I couldn't get them off. I  
18 wanted to, but I couldn't get them off.

19 And it was -- that was horrible. It was very  
20 traumatic. I'll never forget that moment. I felt like  
21 something broke inside of me that day, like a  
22 disconnect happened between my dad and I.

23 Q What was grade school like for you?

24 A Grade school, it just kind of went on. That was  
25 in Bismarck, North Dakota. And then we moved when I

1 was 12 years old. We moved out to Utah. And that was  
2 rough when we moved. We moved halfway through my sixth  
3 grade year. And --

4 MS. BENSMAN: Objection. Narrative.

5 MR. JONNA: I'm just going to ask him to  
6 briefly summarize, Your Honor.

7 THE COURT: What is he summarizing?

8 Q What was significant in grade school for you?

9 A Middle school was rough. Middle school was really  
10 hard on me. Moving out to Utah was a really big change  
11 and I didn't handle it well.

12 Q So what ultimately motivated you to seek to  
13 address your unwanted same sex attraction?

14 A My religion. I knew that this -- that  
15 homosexuality wasn't something that my church wanted me  
16 to do. It wasn't something that, most of all, my God  
17 wanted me to do. So I knew early on I had a testimony  
18 of my faith. I knew -- I couldn't separate that as  
19 much as I can't separate these same attraction  
20 feelings. But I knew the faith that I grew up with and  
21 I wanted to live it. And I didn't know how.

22 I didn't know that you could -- I didn't know you  
23 could live with it and that it could be okay. I didn't  
24 know any of that until my adult years. And the healing  
25 and the relief that PCC and these weekends have brought

1 me is astounding. I've never been happier than now.  
2 And I attribute that to these experiences.

3 Q What was the first thing that you did  
4 formally to address your same sex attraction?

5 A First thing I did. I told my parents. I had  
6 experimented with another guy. I promised myself I  
7 never would. And I got into college. And then I  
8 experimented with another guy. And I shattered inside  
9 emotionally. I was devastated with my behavior. I was  
10 devastated that I would act on it. I didn't think I  
11 would.

12 So I felt desperate. I felt horribly isolated and  
13 alone and almost to the point of suicide. And --

14 MS. BENSMAN: Objection. Narrative. Not  
15 responsive.

16 THE COURT: Can we try to focus this as to  
17 what -- this is a fact witness and why he's here,  
18 please?

19 Q Did you seek therapy at some point?

20 A Yes.

21 Q With whom?

22 A With Dan Gray. I went to a cognitive behavioral  
23 therapist at this time in my life.

24 Q Was he a licensed counselor?

25 A Yes, he was.

1 Q Can you briefly describe that therapy?

2 A I went for about six months. He was phenomenal.  
3 He did an amazing job with helping me understand the  
4 basics of what same sex attraction is about and how  
5 many other issues I had.

6 Q How did you end up hearing about Journey Into  
7 Manhood?

8 A Dan Gray told me about it. He talked about the  
9 benefits of it. He told me that he'd staffed a weekend  
10 before. He'd gone and participated. And told me it  
11 would be a really good experience for me.

12 Q How many JIM weekends have you attended as a  
13 participant?

14 A As a participant, I've attended one weekend.

15 Q How many have you staffed?

16 A I've staffed almost 20 now.

17 Q So that first JIM weekend, did you  
18 participate in any processes that involved nudity?

19 A On my weekend that I attended, no.

20 Q Did you participate in any such processes  
21 during weekends that you've staffed?

22 A Yeah. On the first weekend I staffed, there was a  
23 man who -- it was on a GUTS carpet. And I remember the  
24 facilitator came and said, if any of you don't want to  
25 participate at this point, you have the right to

1 voluntarily choose not to participate, but this man has  
2 some issues with body shame. He was molested as a boy  
3 and he felt dirty, intrinsically dirty for what had  
4 happened to him. He was religious --

5 MS. BENSMAN: Objection. The question was,  
6 did you participate in any.

7 MR. JONNA: The next question is going to be  
8 --

9 THE COURT: Well --

10 MR. JONNA: -- can you tell us very briefly

11 --

12 THE COURT: What we need to do is focus,  
13 okay? If you ask a yes-or-no question, then you should  
14 be expecting a yes-or-no answer, not a narrative, okay?

15 MR. JONNA: Yes, Your Honor. Thank you.

16 THE COURT: So rephrase the question.

17 Q Did you participate in any processes that  
18 involved nudity?

19 A Yes, I did.

20 Q Can you just very briefly describe that  
21 process for the jury, please?

22 A Yeah. So this man ultimately asked to be re-  
23 baptized, to be cleansed. And so we -- there was a  
24 local river. And we went and held a baptism for him.

25 He was a very religious man and he came up out of

1 the water crying and grateful, and talked about how he  
2 felt clean finally.

3 And we helped witness that with him. And then  
4 afterwards, processed it or talked about it with him  
5 and the rest of the group. And it was a beautiful  
6 experience.

7 Q Did you participate in any GUTS processes at  
8 JIM?

9 A Yes, I did.

10 Q Can you please briefly describe one of them?

11 A Yean. So my first -- the weekend I went through  
12 on that Sunday, there's a lot of materials that are put  
13 out, a lot of feminine hygiene products and other  
14 things. And they told us to go and grab one. So I  
15 grabbed one. I grabbed a tampon. And that tampon  
16 represented distrust and disdain. Like, I didn't  
17 understand women. I didn't understand these elements  
18 of life. And I literally held it out here like this  
19 'cause I didn't now how to relate. And my GUTS work  
20 was all about that.

21 And what happened was as we started to process  
22 that on my carpet, it took me back to when I was that  
23 four-year-old boy. And I had forgotten about all of  
24 those things. And as the facilitators questioned me  
25 and helped me get to the emotions of it, I exploded

1 with anger, like a four-year-old would normally act.  
2 But as that four-year-old, I didn't act that way. And  
3 this finally bridged that gap and connected me to how I  
4 felt as a four-year-old. And as an adult, I could act  
5 differently. It was life changing for me.

6 Q Was Arthur Goldberg involved in any of your  
7 processes at Journey Into Manhood?

8 A He was. Yeah, he was --

9 Q Can you briefly describe that?

10 A He was -- the first night, when we do some of the  
11 father/son holding, he was in my small group. And he  
12 was very much like a father figure. He came and gave  
13 me a Jewish blessing at the very end of it. And I  
14 remember thinking, that's weird, I'm not even Jewish,  
15 why would I want a Jewish blessing. And yet, I felt  
16 peace and I felt protected and safe because Arthur was  
17 there like a father and a mentor figure. And I'll  
18 never forget that.

19 Q Did you find any of the processes at JIM to  
20 be offensive or harmful?

21 A No. I found them to be intense, but not harmful  
22 and not offensive. They were healing.

23 Q What effect, if any, did they have on your  
24 unwanted same sex attraction?

25 A They diminished it tremendously. I didn't once on

1 the whole weekend think about actually being attracted  
2 to men, other than the very first few minutes of  
3 walking in the room and noticing one attractive guy.  
4 The rest of the weekend, it just continued to de-  
5 escalate.

6 Q Did you know -- do you know if there were any  
7 licensed counselors there?

8 A There were, yeah.

9 Q During your growth process, Mr. Dahlgren,  
10 have you made any mistakes along the way since you've  
11 been married?

12 A Yeah, I have.

13 Q Tell us briefly what happened.

14 A Briefly, there's a guy by the name of Josh  
15 Chadwick. Shortly after my JIM weekend, still on this  
16 journey and trying to work through things, I had acted  
17 out with him.

18 Q What year was that?

19 A That was in 2008, early 2008. 2007, 2008. End of  
20 2007 'cause I went through in 2007. We acted out. It  
21 wasn't full-on sex. It wasn't oral or anal sex. It  
22 was more experimentation. But that was -- yeah, that  
23 was a hard time.

24 I'm not proud of how I acted. I regret having  
25 done that. But I am proud of how I handled the

1 consequences. I learned through it. The whole thing  
2 has been a huge journey.

3 Q What have you learned from it?

4 A I learned about the importance of transparency  
5 with my wife. Immediately, I told her. Immediately, I  
6 went and told my bishop, my religious leader at the  
7 time. And I felt horrible about it. And I also  
8 learned how to accept myself as a human being, not  
9 giving permission to go and do inappropriate things,  
10 but rather accepting that making mistakes is a part of  
11 life. We learn and we grow and we move on.

12 Q How did your wife handle this?

13 A She was hurt. It definitely took its toll. I  
14 mean, it wasn't something I'm proud of. I'm still not  
15 proud of that. But she was loving and accepting and  
16 patient and said -- she told me word-for-word, if you  
17 continue to make mistakes, that's fine, because I'm  
18 going to make mistakes too. But if you have an ongoing  
19 affair with somebody, then that's not okay and I can't  
20 tolerate that.

21 And I told her I don't want to do that to us or  
22 our marriage. I don't want that. I want to be with  
23 you.

24 Q I want to turn briefly to the parties. Let's  
25 start with the defendants. Where did you meet Alan

1 Downing?

2 A I met Alan Downing on my Journey Into Manhood  
3 weekend in 2007.

4 Q And how many weekends have you staffed with  
5 him?

6 A I've staffed five Journey Beyond weekends with  
7 him, and probably four Journey Into Manhood weekends  
8 with him.

9 Q How would you describe the role he's played  
10 in your personal journey?

11 A Alan's been a friend. He's been a mentor. He's  
12 been a guide, and just a real valuable asset to me.

13 Q Did he ever solicit you as a client?

14 A Never.

15 Q Have you known him to solicit clients on  
16 weekends?

17 A No.

18 Q Did you ever find him to be overbearing or  
19 forceful?

20 A Not at all. Alan's -- first time I met him -- no,  
21 is your answer.

22 Q Why's that?

23 A The first time I saw him, he was talking to one of  
24 my buddies, who was very scared to be on the weekend.  
25 And I saw Alan talking to him and just -- I could see

1 the concern and care Alan for him. And I remember  
2 looking at Alan for the first time, and I remember  
3 thinking, that is a gentle giant. And I felt safe with  
4 Alan.

5 Q Have you seen him lead processes at Journey  
6 Into Manhood?

7 A Yes, I have.

8 Q Do any of them stand out to you?

9 A Yeah. One in particular. It was in Utah. And  
10 one of my friends was on the GUTS carpet. He was  
11 married and struggling in marriage. He loved his wife,  
12 but he also felt controlled by the situation, by being  
13 married to her. And was struggling to accept his  
14 relationship to her.

15 And I remember at one point, they pulled out a  
16 rope. And I thought, okay, they're going to tie him  
17 up, here we go. They didn't tie him up. They used the  
18 rope as a connecting piece between her -- so he picked  
19 somebody to represent her -- and he held on to the  
20 other end. And I remember thinking, he's gripping that  
21 so tight.

22 And at one point, Alan asked him, is this what you  
23 really want, do you want to be married to this woman.  
24 And he said -- and he started crying at this point. He  
25 said, absolutely, I love her, I just doing know how,

1 teach me how to love her. It was powerful. So  
2 powerful.  
3 Q And you mentioned Arthur Goldberg and the  
4 process he led. What's been his role in your journey,  
5 if any?  
6 A Arthur's been another father -- father-like  
7 figure, a mentor and a guide.  
8 Q How about Thaddeus Heffner?  
9 A Thaddeus has been awesome. I met him in 2007.  
10 He's also been a mentor and a guide and a friend, a  
11 true friend.  
12 Q I'm going to turn now to the three  
13 plaintiffs. Do you know any of the male plaintiffs in  
14 this case?  
15 A I do. I know Benji Unger and I know Michael  
16 Ferguson.  
17 Q Let's start with Mr. Unger. Where did you  
18 meet him?  
19 A I met Ben on my Journey Into Manhood weekend in  
20 2007. He also went through for the first time then.  
21 Q Did you participate in any processes with Mr.  
22 Unger during the weekend?  
23 A Yeah. That Saturday morning, I remember seeing  
24 Benji before and thought, oh, that's neat, he's devoted  
25 to his faith because he had a yarmulke on.

1 MS. BENSMAN: Objection. Not responsive.  
2 Narrative.  
3 THE COURT: I'll allow it.  
4 Q Just --  
5 THE COURT: Rephrase the question, please.  
6 And let's stay specific to the questions.  
7 Q So the answer is yes, you did participate in  
8 processes with him?  
9 A Yes.  
10 Q Can you just tell us about that specific  
11 process, please?  
12 A Yeah. So that Saturday morning, he asked me if I  
13 would -- if he could clear with me.  
14 Q What does clear mean?  
15 A Clear means you have a charge or an emotional jolt  
16 of energy towards somebody and he wanted to clear with  
17 me. And so I said, yes, I'd be willing to support  
18 Benji in this -- or Ben is how I knew him. I never  
19 knew him as Benji. I just saw Ben.  
20 And I said yes. So we went outside. And, in  
21 essence, he stood right in front of me and described to  
22 me the things that he liked about me. And I remember  
23 him saying very specific things about how I reminded  
24 him of, like, a beacher -- beach boy from California  
25 and a surfer dude, and curly hair. And I remember

1 distinctly thinking, that's really weird because I've  
2 never surfed before. I want to. I've always wanted to  
3 surf. But I'll never forget that conversation.

4 In time, he continued to describe me and his  
5 feelings. And he started to cry. And he started to  
6 talk about his attractions towards me, that he found me  
7 to be physically attractive and that I represented  
8 courage, that I had strength in who I was.

9 And in the end, we embraced, we hugged. And I  
10 remember feeling admiration for Ben and having a  
11 connection with him and admiring his strength to deal  
12 with and confront some of this. It was a beautiful  
13 moment. And he cried. I remember hugging him. And he  
14 cried in my arms.

15 Q What did Mr. Unger tell you about his JIM  
16 weekend after he attended?

17 A I didn't interact with Ben much. I had a phone  
18 call. I tried calling him at one point. I don't even  
19 remember if we talked. I think I left him a voicemail.  
20 But I saw him again on "Nightline". And I remember on  
21 "Nightline", I had done an interview on "Nightline".  
22 And he appeared as somebody representing the opposite  
23 side of things. And I remember being shocked, seeing  
24 his -- his story and his testimony 'cause it was the  
25 complete opposite of what I had experienced with him.

1 On our JIM weekend, we had many more  
2 conversations, both at dinner time, later on that next  
3 day. We continued to connect at different points. And  
4 so to see him on "Nightline", it blew me away. It's  
5 like he had rewritten history. Because that's not what  
6 I had experienced with him.

7 Q Do you know Michael Ferguson?

8 A Yes, I know Michael Ferguson.

9 Q And where did you meet him?

10 A I met Michael when he moved back to Utah after he  
11 had been a client of Alan Downing.

12 Q We heard briefly about North Star yesterday,  
13 the LDS ministry in this area. Did Mr. Ferguson  
14 express any interest in being part of North Star?

15 A Yeah. He was -- after he came back to Utah, he  
16 was really excited about North Star. That's why all of  
17 this is shocking to me. He was a huge proponent of it,  
18 and all about, like, gung-ho. Like almost too far, to  
19 zealous about it.

20 Q And this was after his coaching with Alan  
21 Downing?

22 A Yes, it was. He wanted to start a group. He  
23 wanted to start a special arts-type group within North  
24 Star. I remember we went to what's called a steering  
25 committee. And he had raised his hand at a couple of

1 points in the meeting and said, I want to specifically  
2 address this, this, and this, and we need to help men  
3 who experience same sex attraction in the church, and  
4 also have tendencies towards art, and I want to include  
5 those and combine those and create, like, a group.

6 I remember thinking, that's kind of weird, but I  
7 also liked Mike at the time. I really enjoyed him and  
8 I appreciated some of his vigor for wanting to help  
9 men.

10 Q Do you know if he ever recommended Journey  
11 Into Manhood to other people?

12 A I do, yes.

13 Q This is after coaching with Alan Downing?

14 A Yes. There was one man in particular that he came  
15 to both Jeff and I and asked if we would speak with  
16 him. Because he wanted us to talk to this man and  
17 prepare him for and encourage him to go on the JIM  
18 weekend because of the positive experiences he believed  
19 that this man could have.

20 Q I want to briefly talk about a few things Mr.  
21 Ferguson said in court here. He testified that you  
22 went to the JIM with him and that you showered  
23 together. Is that true?

24 A That is not true.

25 Q He testified that you claimed to be

1 exclusively attracted to men with the exception of your  
2 wife. Is that true?

3 A I think at the time it was true.

4 Q Is that currently true?

5 A No.

6 Q Why not?

7 A Because my same sex attraction has changed, and  
8 I'm finding women more and more attractive. I'm  
9 noticing more and more women.

10 Q Mr. Ferguson claims you've been nude  
11 together. Is that true?

12 A That we've been nude together?

13 Q Yes.

14 A Never.

15 Q He discussed these holding exercises and said  
16 you typically choose a man you have a charge with. Is  
17 that true?

18 A Absolutely not.

19 Q Why not?

20 A You would never do holding with a man you have a  
21 charge with. That's so counterproductive to the whole  
22 point of holding and to the point of a charge. You'd  
23 do a clearing with somebody you have a charge with,  
24 where you'd have an opportunity to resolve and heal  
25 some of these things and talk about it and process it.

1 Holding is specifically for father/son energy. That's  
2 the wrong intent, the wrong purpose, and, no, that  
3 would not have it.

4 Q What's father/son energy?

5 A When somebody has, like, a little -- a need to  
6 feel loved and to feel safe and to feel protected,  
7 you'd go to somebody like that. You wouldn't go to  
8 somebody who sparks your energy and excites you and  
9 challenges you and scares you, or whatever the charge  
10 might be about, right?

11 Q Are you involved with North Star currently?

12 A Yes, I am.

13 Q And what's your work like with them? What do  
14 you do?

15 A I'm on the board of North Star.

16 Q Are you compensated?

17 A Not at all.

18 Q Why are you willing to donate so much of your  
19 time and energy to this cause?

20 A Because this stuff is life changing. I have my --  
21 so many blessings in my life. I was led to this work,  
22 and I believe by God. And it has helped heal me and  
23 helped me become the man I am today. And I'm proud of  
24 that. I'm finally happy. Finally feel peace and joy  
25 in my life. And that's exactly why I've gotten

1 involved. That's exactly why I staff. That's why I  
2 try and help other men.

3 Q Taking a step back, looking at your life, and  
4 the progress you've made in your personal journey. Can  
5 you briefly describe how your same sex attraction has  
6 changed?

7 A It's diminished. The frequency has gone way down.  
8 The emotional intensity of it has gone way down. There  
9 are times where I certainly feel some emotionality  
10 around it, for sure. But it is nothing like it used to  
11 be. It doesn't haunt me like it used to eat at me and  
12 ache and hurt and pain. I feel peace inside. I feel  
13 love.

14 Q How about your opposite sex attraction?

15 A I feel an increased opposite sex attraction. I  
16 feel respect for admiration for women that I'd never  
17 felt before, in a way that I've never experienced it,  
18 and I love it.

19 Q Has your faith played a role in the journey?

20 A Absolutely. My faith -- it started me out. It  
21 helped me get to a point where I had the courage to  
22 step into this. This is hard stuff, to go to a weekend  
23 with a bunch of men who also experience this. It's  
24 scary. My faith has helped drive a lot of that for me.  
25 Initially, that was the big proponent. And now I

1 feel it dually. I still feel my faith supporting me  
2 and blessing me. But I also have my own personal  
3 desires where I believe my happiest state is with my  
4 wife and my children.

5 Q Are you happily married?

6 A Yes. Absolutely.

7 Q Do you have children?

8 A Yeah. I've got three kids. I've got two girls  
9 and one angel daughter.

10 Q What do you mean by that?

11 A Our second child passed away 20 minutes after  
12 birth. And I would not have had that experience of  
13 meeting her if it weren't for these weekends and what  
14 I've experienced. God's grace has been in my life  
15 because of these programs.

16 MR. JONNA: I'd like to show Defendants'  
17 Exhibit 310, Your Honor.

18 MS. BENSMAN: No objection.

19 THE COURT: Okay.

20 Q Okay. When was this picture taken?

21 A This was just this last year. That's Lilly, my  
22 oldest. She's four years old. That bear right there  
23 is -- that's Stella. That represents my second  
24 daughter that died 20 minutes after birth. And then  
25 that's Naomi, our youngest. And she's now seven months

1 old. We're happy. We love each other. We have fun.  
2 I never -- I never thought that was possible. And I  
3 gained that hope and that experience here on these  
4 weekends.

5 MR. JONNA: I'd like to show Defendants'  
6 Exhibit 312. I just have two more pictures, Your  
7 Honor.

8 THE COURT: Are these going to be more family  
9 pictures? No. One's enough. The jury gets the idea.  
10 I don't think they need to see three photos.

11 Q How does your wife handle these issues along  
12 your journey?

13 MS. BENSMAN: Objection. She's not here to  
14 testify.

15 THE COURT: Yeah. She's not going to  
16 testify. That's -- that's sustained.

17 MR. JONNA: Okay.

18 Q Have you made your story of change public at  
19 all?

20 A Yes, I have.

21 Q How so?

22 A I did that "Nightline" piece a couple of years  
23 after the Journey Into Manhood weekend, and I felt  
24 compelled to do that based on what I was experiencing  
25 and how much joy I was feeling. And when I say

1 compelled, I mean, invited to share, to help other men.  
2 And then in January this last year, I was also  
3 part of the TLC show, "My Husband's Not Gay." And I  
4 was involved in that as well.  
5 Q Were you paid?  
6 A I was paid, yes.  
7 Q How much?  
8 A I was paid \$3500 for about two and half years'  
9 worth of work. So it wasn't about the money. It never  
10 was about the money.  
11 Q Why were you willing to make your story  
12 public?  
13 A Because I wanted to give men hope. I wanted to  
14 give other people the opportunity to see that you can  
15 experience this, that life is a choice, that we're not  
16 compelled or forced down any one path, but that the one  
17 valuable thing we all have is agency. That's a gift.  
18 Q Thank you, Mr. Dahlgren. That's all I have.  
19 THE COURT: Cross-examine?  
20 MS. BENSMAN: Yes, Your Honor.  
21 CROSS-EXAMINATION BY MS. BENSMAN:  
22 Q Good afternoon, Mr. Dahlgren.  
23 A Good afternoon.  
24 Q I want to start by clarifying what you are  
25 and aren't here to testify about.

1 A Sure.  
2 Q You testified that you know Alan Downing, but  
3 you've never been his client, right?  
4 A That's correct.  
5 Q And you said that you met Alan through JIM  
6 and that you've staffed JIM weekends with him. At one  
7 of those weekends, Alan Downing mentioned to you that  
8 he's still dealing with SSA, right?  
9 A Yes, he did.  
10 Q Okay. Now --  
11 A Actually, no.  
12 Q You want to change your answer?  
13 A I want to say it wasn't on a JIM weekend that he  
14 told me that.  
15 Q Oh, I see. What kind of weekend was it?  
16 A It wasn't a weekend. It was in a conversation.  
17 Q I see. Okay. Thank you for clarifying that.  
18 A Yeah.  
19 Q And I know you've heard some of this before  
20 because you were in court this morning, you were in  
21 court yesterday. But are you aware that this is a  
22 fraud cause against JONAH, Arthur Goldberg, and Alan  
23 Downing?  
24 A I am aware of that.  
25 Q And do you understand that that means that

1 the allegations in this case are about what the  
2 plaintiffs say the defendants told them in  
3 conversation?

4 A Yes.

5 Q Okay. And you were not part of any of those  
6 conversations, right?

7 A No, I was not.

8 Q So you're not here to talk about what the  
9 defendants did or didn't say any of the plaintiffs,  
10 right?

11 A No, I'm not.

12 Q You can't do that because you don't know.

13 A That's correct.

14 Q Okay. And you're not and you've never been a  
15 JONAH client, right?

16 A That's correct. I've not.

17 Q And you've never tried to become a JONAH  
18 client?

19 A No, I have not.

20 Q Okay. And, of course, you've never been a  
21 member of JONAH's Listserv, right?

22 A No, I haven't.

23 Q But you are here to testify about your  
24 success, right?

25 A Yes.

1 Q Okay. You would not describe yourself as a  
2 heterosexual, would you?

3 A Not necessarily, no.

4 Q Okay. And you continue to experience same  
5 sex attraction, as you've said, right?

6 A Yes.

7 Q And you don't believe you have full control  
8 over those feelings, do you?

9 A No, not 110 percent control, no.

10 Q And I believe you said when you were  
11 testifying that you can't separate your SSA feelings  
12 any more than you can separate your faith?

13 A That's correct.

14 Q Because you believe that your behavior is a  
15 choice, but your feelings are not a choice, right?

16 A Yes.

17 Q In fact, you're primarily sexually attracted  
18 to men, right?

19 A Currently, yeah, primarily.

20 Q And eliminating your same sex attraction,  
21 that's not your goal, right?

22 A Currently, no.

23 Q And you don't believe that everyone can  
24 change from homosexual to heterosexual, right?

25 A No.

1 Q You also testified about your marriage. You  
2 were married before you attended JIM, right?  
3 A That's right.  
4 Q And during your marriage, you've had what you  
5 call slip-ups, right?  
6 A Yeah, I've made mistakes, slip-ups.  
7 Q One of them was what you described happened  
8 between you and Josh Chadwick, right?  
9 A That's correct.  
10 Q But that wasn't the only one?  
11 A No, it wasn't.  
12 Q And your sexual encounter with Josh Chadwick,  
13 you said that happened shortly after you attended JIM?  
14 A Yeah.  
15 Q So shortly after JIM tremendously diminished  
16 your SSA?  
17 A I would say, yeah, it did.  
18 Q You also testified about sharing your story  
19 on "Nightline" and appearing in that special on TLC,  
20 right?  
21 A Yes.  
22 Q And did you appear publicly on television to  
23 share your story because you were brainwashed by  
24 activists?  
25 A No.

1 Q No. Now on that TLC show, that was the one  
2 that was called "My Husband is not Gay," right?  
3 A That's right.  
4 Q That was a reality show; it wasn't fiction;  
5 you're not an actor?  
6 A No, I'm not an actor. It was more -- it was a  
7 one-time special.  
8 Q Right. About your life?  
9 A Yes.  
10 Q Your real life?  
11 A Yes.  
12 Q Okay. And in one of the scenes on that show,  
13 as we discussed yesterday, you and Mr. Bennion went to  
14 play basketball on a public court, right?  
15 A That's right.  
16 Q And you and Mr. Bennion rated a man who was  
17 there on your danger scale?  
18 A Yes, we did.  
19 Q Yes. That's the scale we discussed yesterday  
20 that goes from one to four?  
21 A Yes.  
22 Q And the way you explained it on the show is  
23 that four pretty much means you're requiring restraint?  
24 A Yes, that is how I described it.  
25 Q Okay. I want to talk a little bit about your

1 experience with People Can Change weekends, starting  
2 with Journey Into Manhood.  
3 Now you had mentioned -- actually, I think a  
4 few witnesses had mentioned that there are licensed  
5 professionals who staff at JIM weekends?  
6 A Yeah, there are.  
7 Q You've staffed at JIM weekends, right?  
8 A I have, yeah.  
9 Q And you're not licensed, right?  
10 A That's correct. I'm not. I'm not a licensed  
11 psychologist. I am a licensed nurse.  
12 Q Right. And Arthur Goldberg's not licensed,  
13 right?  
14 A I don't believe so.  
15 Q Nor is Alan Downing, is he?  
16 A Correct.  
17 Q Nor is Jeff Bennion?  
18 A That's correct.  
19 Q We've heard about the holding that happens at  
20 Journey Into Manhood. And you testified that you  
21 participated in that holding, right?  
22 A Yes.  
23 Q But at first, when you went to JIM for the  
24 first time, you were afraid of the healthy touch,  
25 right?

1 A I was, yes.  
2 Q Your mentality was, don't give an alcoholic a  
3 bottle?  
4 A Yeah, that was the idea when I first started.  
5 Q But you don't feel that way anymore, right?  
6 A Not entirely.  
7 Q Okay. And just to be clear, you said that  
8 you've staffed JIM about 20 times?  
9 A Yeah.  
10 Q How --  
11 A And you participate in holding outside of JIM as  
12 well, right?  
13 A I have, yes.  
14 Q In fact you're part of a group that meets  
15 where there can be healthy touch, right?  
16 A Yes, I am.  
17 Q Okay. Now the first time you staffed a  
18 Journey Into Manhood weekend, you were involved in the  
19 nudity exercise that you described, right?  
20 A The first time I staffed a weekend, yes.  
21 Q And that was the exercise that you said  
22 related to the participant's childhood sexual abuse?  
23 A Yes.  
24 Q But it wasn't the participant who suggested  
25 getting naked, right?

1 A It was the participant who wanted to get naked.  
2 Q Okay. Do you remember being deposed in this  
3 case?  
4 A Yes, I do.  
5 Q Okay. And you remember taking an oath, the  
6 same oath that told now (sic), to tell the truth at  
7 your deposition?  
8 A Yeah.  
9 Q Okay. And do you remember describing this  
10 nudity exercise at your deposition?  
11 A Yeah. I thought that I did.  
12 Q Okay. And do you remember describing that in  
13 that exercise, you remember the facilitator asking,  
14 "Those of us who are staffing to step aside, and said,  
15 'Okay. What we are going to do is called part of a  
16 naked process,'" right?  
17 A Yes.  
18 Q Okay.  
19 A Not the staff though.  
20 Q The facilitator.  
21 A The facilitator asked the men who weren't ready to  
22 participate or didn't feel comfortable participating in  
23 that process to step aside.  
24 Q Right. And how you described it is, "I  
25 remember the facilitator asked us, those of us who were

1 staffing to step aside and said, 'Okay. What we are  
2 doing to do is what's called part of a naked process  
3 and we're going to divide up into those who are willing  
4 to do it and those who aren't.'" Do you remember that  
5 testimony?  
6 A I do remember that --  
7 Q Thank you.  
8 A -- testimony.  
9 Q And you mentioned that you've been to Journey  
10 Beyond five times. Is that right?  
11 A Yes. I've staffed five times.  
12 Q Staffed five times.  
13 A I went through in 2009, and I've staffed from 2010  
14 'til current, once a year.  
15 Q Okay. And that weekend is -- is it four and  
16 a half days long?  
17 A It starts on a Tuesday and goes to the next  
18 Sunday. So it's more like a week. It's not a weekend.  
19 Q And you've participated in nudity on Mankind  
20 Project weekends as well, New Warriors?  
21 A Correct.  
22 Q Now you mentioned that you met Benji Unger at  
23 a JIM weekend and he did a clearing with you, right?  
24 A Uh-huh.  
25 Q He wasn't the only one, was he?

1 A No. I don't believe so. But I don't recall the  
2 rest of those. Benji's stuck out to me.  
3 Q Okay. And then you mentioned that you guys  
4 had other conversations over meals?  
5 A Yes.  
6 Q Okay. And in one of those conversations, you  
7 told him, didn't you, that when you have sex with your  
8 wife, you think about men?  
9 A That is incorrect.  
10 Q No?  
11 A No. Absolutely not.  
12 Q I want to return to the first time you  
13 attended JIM. One of the people who staffed that  
14 weekend was a man named Jonathan Hoffman, right?  
15 A Yes.  
16 Q And the first time you met him was at Journey  
17 Into Manhood, right?  
18 A Yeah, that's right.  
19 Q And he experienced same sex attraction  
20 himself, right?  
21 A I assume so, yeah.  
22 Q And you were physically attracted to Jonathan  
23 when you first met, right?  
24 A Yeah. I thought he was an attractive guy.  
25 Q After you met on that weekend, you spent time

1 with him, right?  
2 A Yes, I did.  
3 Q For example, on one occasion, you and four  
4 other men gave Jonathan a massage, right?  
5 A Uh-huh.  
6 Q And Jonathan took his shirt off for this  
7 massage, right?  
8 A Yes.  
9 Q And it was Jonathan who initiated that  
10 shirtless massage that you and four other men gave him,  
11 right?  
12 A I can't answer that. I don't remember who  
13 initiated it.  
14 Q Do you remember testifying at your deposition  
15 that the way the massage came about was because  
16 Jonathan wanted a massage?  
17 A He had asked for it.  
18 Q Thank you.  
19 A Uh-huh. But I don't remember who initiated it.  
20 Q Okay.  
21 A Who offered and said, yeah, let's give him a  
22 massage then.  
23 Q You've also engaged in holding with Jonathan,  
24 right?  
25 A Yes, I have.

1 Q On multiple occasions?  
2 A Yeah, a couple.  
3 Q Including privately at your house?  
4 A Yeah.  
5 Q And one of the ways you hold each other is in  
6 each other's arms facing each other, right?  
7 A Like a hug.  
8 Q I believe the way you described it was, "I  
9 remember leaning against the couch and he laid down  
10 next to me and it was my arms around him, and his arms  
11 around me, like a chest to chest." Is that --  
12 A Yes, okay.  
13 Q -- about fair?  
14 A I do remember that, yeah.  
15 Q Okay. And sometimes, you'd play soft music  
16 during these holding sessions?  
17 A Yes.  
18 Q And they could last as long as half an hour  
19 or an hour, right?  
20 A Yeah. Generally, it's not holding that entire  
21 time. There's talking and conversing and relating.  
22 Q So half an hour to an hour?  
23 A Yes.  
24 Q Thank you. I also want to ask you a little  
25 bit about your involvement with these issues more

1 generally. You mentioned that you are on the --  
2 involved with North Star on the board of directors of  
3 North Star, right?  
4 A Yes.  
5 Q And before that, you were the chairman of the  
6 board of an organization called Evergreen, right?  
7 A That's right.  
8 Q And Evergreen got kind of swallowed up by  
9 North Star or replaced by North Star, in a way?  
10 A North Star absorbed a couple of Evergreen's  
11 functions.  
12 Q Okay. And before North Star, Evergreen was  
13 also working with people who experienced unwanted  
14 homosexual desire?  
15 A Yes.  
16 Q Okay. So you are something of a leader?  
17 A Yes.  
18 Q And you've discussed with Mr. Goldberg how to  
19 get the word out about JONAH, right?  
20 A I talked -- yes, I did talk to him about all this  
21 work, how to help men in general, yes, and specifically  
22 JONAH, yes.  
23 Q And you mentioned the various groups that  
24 you've been involved with, both the post-JIM groups and  
25 the weekly -- the weekly support group you participate

1 in?  
2 A Uh-huh.  
3 Q Okay. And aside from your attendance at  
4 Journey Into Manhood and Journey Beyond, you are also a  
5 member of a private group of men who experience same  
6 sex attraction, right?  
7 A Yes.  
8 Q And that's the group we heard about  
9 yesterday, the Brotherhood of Electrical Workers?  
10 A Yes.  
11 Q And you've also engaged in nudity exercises  
12 with members of the Brotherhood, right?  
13 A One or two.  
14 Q And in those exercises, you are all naked,  
15 standing in lines, facing one another, right?  
16 A Yes, at times. It depends on the process.  
17 Q And Alan Downing has attended these group  
18 meetings in the past, right?  
19 A He's been to one.  
20 Q Okay.  
21 A But that wasn't a naked one.  
22 Q Okay. Now you mentioned that when engaging  
23 in a holding exercise, you wouldn't choose a man you  
24 have a charge with, right?  
25 A Correct.

1 Q That's because a charge is a sexual  
2 attraction?  
3 A Incorrect.  
4 Q Okay. And you also mentioned that your  
5 opposite sex attraction has increased and you describe  
6 that more respect and admiration for women, right?  
7 A And more. More than just that.  
8 MS. BENSMAN: Okay. Nothing further.  
9 THE COURT: Redirect?  
10 MR. JONNA: Yes, briefly, Your Honor.  
11 REDIRECT EXAMINATION BY MR. JONNA:  
12 Q You were asked about a naked process at  
13 Journey Into Manhood, and I think you wanted to explain  
14 how that process was initiated?  
15 A Yeah. The facilitator clearly outlined and  
16 offered -- asking if we wanted to participate, we  
17 could. And that included the other journeyers as well.  
18 And it was probably half and half, half the staff  
19 wanted to participate, the other half didn't. And the  
20 same with the journeyers as well, yes.  
21 Q We've talked a little bit about holding and -  
22 - so far in this trial, and we saw a diagram of how  
23 holding looks. And I just wanted to get an idea --  
24 MS. BENSMAN: Objection.  
25 Q -- if you can --

1 MS. BENSMAN: It's beyond the scope of my  
2 cross.  
3 MR. JONNA: No, it's -- Your Honor --  
4 THE COURT: Counsel.  
5 MR. JONNA: Yeah.  
6 THE COURT: I will make the ruling.  
7 MR. JONNA: Sorry.  
8 THE COURT: Not you. You don't tell her no.  
9 MR. JONNA: Well --  
10 THE COURT: The objection's sustained.  
11 MR. JONNA: Okay.  
12 THE COURT: That drawing was never discussed  
13 and never shown to the witness on cross.  
14 MR. JONNA: Sorry, Your Honor.  
15 Q Can you briefly describe how holding looks  
16 like when you engage in holding exercises?  
17 A Yeah. Holding can look like a ton of different  
18 ways. It can be, like, chest to chest. It can be just  
19 a hand on the knee. Sometimes holding, we use that  
20 term, but it doesn't even involve touch. It could just  
21 be holding eye contact or holding space. It's kind of  
22 a symbol of, I'm here to support you, I'm here to be  
23 with you in what you're experiencing.  
24 So holding has a lot of different modalities or  
25 methods of doing it.

1 Q The holding exercise that you engaged in with  
2 Jonathan Hoffman, is that how you do holding now?  
3 A It's similar. Where it was -- most of it with  
4 Jonathan Hoffman was an arm on the shoulder, like  
5 buddies would be together, yeah.  
6 Q And what's the point of the nudity exercises  
7 that you do in your group?  
8 A Neutralization. Nudity, familiarity. What  
9 becomes exotic becomes erotic. So if you take  
10 something that once was exotic, it can be neutralized.  
11 And those experiences have helped de-escalate and bring  
12 down a lot of the charge or the energy around naked  
13 men. And I don't see men as objects either anymore.  
14 That's helped tremendously, especially on my -- my  
15 weekend in the Mankind Project.  
16 MS. BENSMAN: Objection. Not responsive.  
17 THE COURT: I'll allow it. Go ahead.  
18 Q Are you paid for staffing JIM weekends?  
19 A No. Not at all. I pay to go.  
20 MR. JONNA: No further questions.  
21 THE COURT: You may step down. Thank you  
22 very much. Just watch your step.  
23 THE WITNESS: Thank you.  
24 (Witness excused)  
25 THE COURT: All right, ladies and gentlemen.

1 We're going to take our morning break. You can leave  
2 your pads on the chairs. We'll take a break and we'll  
3 resume at ten-of, since the elevators are a little show  
4 in this building.

5 So we'll resume at ten to 11. Please don't  
6 talk to each other about the case. Please don't talk  
7 to anybody else about the case.

8 If anyone tries to talk to you about the case  
9 or show you anything about the case, please bring that  
10 to my attention immediately.

11 More importantly, and I don't expect it will  
12 happen, but if at any time you feel someone is  
13 recording you or taking a photograph of you, I need to  
14 know that immediately. Because that is a prohibition  
15 of our court rules and will be dealt with swiftly. I  
16 don't anticipate it'll happen.

17 I have received reports of people using cell  
18 phones in the hallway, perhaps taking photographs. So  
19 if you feel at any time someone has pointed an object  
20 to you, you need to tell me or the officer immediately.  
21 Because that's a violation of our court rules. That's  
22 not just a violation of my instructions, okay?

23 So enjoy your break and we'll see your  
24 promptly at ten to 11. Thank you very much.

25 (Jury not present in court)

1 THE COURT: All right. I'll see everybody at  
2 --

3 (Off the record. Back on the record)

4 THE COURT: All right. All seven jurors are  
5 present and accounted for.

6 And, once again, ladies and gentlemen, thank  
7 you so much for your continued promptness in this  
8 trial.

9 We're now going to have testimony via  
10 videotape. So what I need you to do -- I'm planning on  
11 usually maybe an hour and 15 minutes to an hour and 20  
12 minutes is about what I feel is the max before we start  
13 kind of drifting a little bit. That's me.

14 If after a certain point in time less than  
15 that, you feel you need to take a break -- because it's  
16 very important, even though it's on video, it's the  
17 same as if the person was here, just raise your hand  
18 for me. Remember what I told you, we're not a torture  
19 chamber?

20 So if you feel yourself, like, this -- you're  
21 not following or whatever, just raise your hand and  
22 we'll decide whether we just need a short break of  
23 whether we'll break for lunch before my anticipated  
24 time, okay?

25 THE COURT: All right, Counsel.

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

2 THE COURT: You may proceed.

3 MR. LI MANDRI: We'll proceed to play the  
4 videotaped testimony of Witness David DeJiacomo,  
5 please.

6 MR. DINIELLI: Your Honor, for the record,  
7 and to preserve the objection. We object as  
8 cumulative.

9 THE COURT: All right. The objection is  
10 overruled.

11 Let's proceed with David DeJiacomo.

12 (Videotaped testimony of D. DeJiacomo played from  
13 10:54:54 to 12:27:46)

14 THE COURT: Can you stop the tape?

15 How much longer?

16 MR. LI MANDRI: How much longer? Can you  
17 tell us?

18 I'm content to stop here, Your Honor.

19 THE COURT: No, no. I want to know how much  
20 longer the tape is. That's my question.

21 MR. JONNA: I think it's about 10 or 15 more  
22 minutes.

23 THE COURT: All right. We're going to break  
24 for lunch, ladies and gentlemen. I think we've  
25 captivated you long enough since we came back from your

1 break, okay? So we're going to take our lunch break  
2 now. We'll resume at 1:30, okay?

3 You can leave your pads there on the chair.  
4 Please don't talk about the case to anybody, among  
5 yourselves. Please don't let anybody approach you or  
6 talk to you about the case.

7 You've heard some new terminology. Please  
8 don't do any research. It's very important that you  
9 wait until all the evidence is completed and you hear  
10 my charge on the law before you start to even discuss  
11 this case, all right?

12 Thank you all very much and we'll see you at  
13 1:30.

14 You know what, ladies and gentlemen? Make it  
15 1:45 because I have a few things go over. Come back at  
16 1:45. Thank you.

17 (Jury not present in court)

18 THE COURT: All right. You can be seated.

19 Is this what the other tapes are going to be  
20 like? Because two-thirds of that is irrelevant.

21 And I don't know -- you're objecting to it  
22 being cumulative, and the majority of that is your  
23 questioning. Not yours personally.

24 MR. DINIELLI: Yeah. Your Honor, the way  
25 this worked, of course, is that -- I'm sorry.

1 Designations were exchanged and then counter-  
2 designations. And so much of the questioning from the  
3 plaintiffs' counsel was designated by the defendants'  
4 side, not by the plaintiffs' side.

5 THE COURT: Okay. Well, you guys better look  
6 at the tapes. Because I'm going to start objecting to  
7 them during the middle of the trial. Because most of  
8 this was irrelevant.

9 MR. LI MANDRI: Right.

10 THE COURT: I don't understand what the  
11 accomplishment was there. I'm not even sure how it's a  
12 success story witness based on his testimony. But  
13 someone should have told that to me before we showed a  
14 tape and maybe I would have made some rulings.

15 I'll see you at 1:45. Look at the tapes. Or  
16 I will start objecting myself in front of the jury.

17 Off the record.

18 (Off the record. Back on the record)

19 (Jury not present in court)

20 THE COURT: All right. Let's bring the  
21 jurors out.

22 (Jury present in court)

23 THE COURT: All right. All seven jurors have  
24 returned, present and accounted for.

25 And, again, ladies and gentlemen, thank you

1 very much for your promptness. We will continue with  
2 the videotapes deposition of Mr. DeJiacomo. I'm told  
3 that should now be only another 15 minutes or so.

4 We will have a second video that the  
5 attorneys have worked on and will be substantially  
6 shorter. So we may be finished early for today. We'll  
7 see how it works out.

8 We're trying to work on the videotapes as a  
9 group. It took us a couple of minutes to try and see  
10 if there's a way of shortening them if we can. It's a  
11 little harder because they're not live. So it's hard  
12 for me to make certain rulings. So it takes a little  
13 bit of time. But I'm going to try to make sure that we  
14 don't use up any of your time when we do that, okay?

15 So let's continue with the videotape of Mr.  
16 DeJiacomo.

17 (Videotaped testimony of D. DeJiacomo played from  
18 1:53:03 to 1:53:46)

19 MR. LI MANDRI: We saw this. We saw this  
20 already.

21 (Videotaped testimony continues playing from  
22 1:53:46 to 2:13:33)

23 MR. LI MANDRI: I believe that's it, Your  
24 Honor.

25 THE COURT: Okay. So that's the end of Mr.

1 DeJiacomo. The end of Mr. DeJiacomo's testimony. I'm  
2 sorry.

3 Who is our next witness?

4 MR. LI MANDRI: Mr. Sean Hennigan, Your  
5 Honor.

6 MR. DINIELLI: Your Honor, for the record, we  
7 object to Mr. Hennigan as cumulative.

8 THE COURT: Okay. The objection's overruled.  
9 Okay.

10 (Videotaped deposition S. Hennigan played from  
11 2:14:05 to 3:10:05)

12 THE COURT: Want to take a break? Okay.

13 Jurors indicated they want to take a break.  
14 Can you stop the video, please?

15 All right. Ladies and gentlemen, we can take  
16 break. You want to come back at 3:30? Is that good?

17 All right. Just leave your pads there.  
18 Please don't discuss the case with anybody. Don't let  
19 anybody discuss it with you. Very important that you  
20 wait until all the evidence is in. You're hearing some  
21 more names, I believe, in some of these depositions. Please  
22 don't try to do any research. And let me know if  
23 anybody tries to contact you or discuss this with you  
24 in any manner, all right?

25 I'll see you at 3:30. Thank you very much.

1 (Jury not present in court)

2 THE COURT: You sure this is only an hour and  
3 seven minutes?

4 MR. LI MANDRI: That's what it's --

5 MR. JONNA: Eleven minutes left.

6 MR. LI MANDRI: Eleven minutes.

7 THE COURT: How many?

8 MR. JONNA: Eleven minutes.

9 THE COURT: Eleven minutes. Okay.

10 Well, you want a couple of examples why I'm  
11 not sure what's going on here?

12 I have no idea why we had to listen to any of  
13 the testimony about Floyd Godfrey (phonetic). He was  
14 not sent there by JONAH. I have no idea why I had to  
15 listen to that. I don't know the relevancy of Floyd  
16 Godfrey. I don't know the relevancy of his research  
17 with NARTH. I don't know why any of that is here.

18 These are supposed to be success stories of  
19 therapy that the plaintiffs went through, JIM weekend,  
20 Journey Beyond.

21 And you're worried about long, unresponsive  
22 answers? I think you need to go back and listen to  
23 this tape. You know how many yes-and-no questions  
24 there were that this gentleman just babbled about?  
25 That's what I'm talking about, videotaped depositions.

1 MR. LI MANDRI: Your Honor --

2 THE COURT: I'll see you at 3:30. When we're  
3 done with the jury, then we'll continue this  
4 discussion. But you wanted some examples, those are  
5 the examples.

6 MR. BROMLEY: Thank you, Your Honor.

7 (Off the record. Back on the record)

8 (Jury present in court)

9 THE COURT: All right. All seven jurors are  
10 present and accounted for.

11 And, ladies and gentlemen, once again, thank  
12 you for your promptness in returning from the breaks.  
13 It is very much appreciated by the Court and all the  
14 parties involved.

15 All right. Let's continue with the  
16 deposition or the testimony of Mr. Hennigan.

17 (Videotaped testimony of S. Hennigan played from  
18 3:33:05 to 3:44:36)

19 MR. LI MANDRI: I believe that's it, Your  
20 Honor.

21 THE COURT: That's it? Okay.

22 All right. Ladies and gentlemen, we're going  
23 to conclude for today. So we're getting done -- well,  
24 it's not really that much earlier. I thought it would  
25 be a little earlier.

1 So we will resume on Monday morning at 9:30.  
2 If you would just leave your books on the chairs, and  
3 I'll take care of that.

4 Please have a very pleasant weekend. Those  
5 of you who are fathers, godfathers, or whatever, have a  
6 happy Father's Day on Sunday, enjoy.

7 Please don't talk to each other about the  
8 case, please don't talk to any else about the case.  
9 Please do not do any research. I know you've heard  
10 more information, heard a lot more testimony, but we're  
11 not finished yet. We're almost there.

12 We'll finish with the testimony next week.  
13 And when we're finished with the testimony, then you  
14 will hear my instructions on the law, and you will know  
15 how to put it all together. So really to start  
16 deliberating now would be totally contrary and not fair  
17 to the parties. Because you have not heard all the  
18 evidence. Okay?

19 If you happen to see any articles or read  
20 anything, please avoid them. If anyone tries to talk  
21 to you or show you articles, please let me know.

22 Otherwise, as I said, please enjoy the  
23 weekend. Thank you for your promptness. And we'll see  
24 you Monday morning. And we're going to stay out here  
25 on the record. So I'm just going to ask you if you

1 would use the other door when you leave. Thank you  
2 very much.

3 (Jury not present in court)

4 THE COURT: All right. Please be seated.

5 So we'll start Monday at 9:30. Who's going  
6 to be first?

7 MR. LAFFEY: Jonathan Hoffman, your Honor.

8 THE COURT: All right. Now Mr. Hoffman is  
9 someone who's already been discussed by various other  
10 witnesses. So in regards to any objections on  
11 cumulative for him, he's a different witness, so he's  
12 not really going to be cumulative because certain  
13 things have been said about Mr. Hoffman by the  
14 plaintiffs.

15 Also, to elaborate on cumulative, the one  
16 issue is, I hear different processes from the  
17 witnesses. In this case, the carpet example that was  
18 given by Mr. Hennigan, was different than the carpet  
19 example given by prior witnesses. He talked about  
20 using his brothers, as an example.

21 However, the cumulative aspect of the  
22 testimony begins to come in because of what I said  
23 earlier. There's a lot of testimony that I don't know  
24 why the jury or myself is hearing it.

25 MR. LAFFEY: Well, why --

1 THE COURT: Why would the testimony of  
2 Godfrey have any bearing on this case?

3 MR. LAFFEY: He's a general referral  
4 counselor.

5 THE COURT: Did any plaintiffs go to him?

6 MR. LAFFEY: No, but --

7 THE COURT: Are they saying he made any  
8 representation?

9 MR. LAFFEY: No.

10 THE COURT: And he was not referred to him by  
11 JONAH. That was his testimony. He found him by going  
12 on the Internet, looking up NARTH, and that's how he  
13 found Floyd Godfrey.

14 MR. LAFFEY: But he's still a -- a counselor  
15 that Jon --

16 THE COURT: There's no -- what allegations  
17 are being made against Godfrey?

18 MR. LI MANDRI: The allegation is that JONAH,  
19 as you heard from Dr. Beckstead, is basically snake  
20 oil. Everything about it is bad, the whole program is  
21 harmful. And that no qualified competent counselor  
22 would have anybody do this kind of work.

23 So we feel it's important to show, within the  
24 JONAH network, there are licensed counselors who  
25 believe in this work, that send people to the --

1 THE COURT: How do I know Godfrey's a  
2 licensed counselor?

3 MR. LI MANDRI: Well, I believe this witness  
4 said that --

5 THE COURT: All he said, he had things on the  
6 wall. He had no idea what he was. I have things on  
7 the wall, people may think I'm a doctor. I mean, I  
8 don't -- again, it's in, that's fine. There were no  
9 objections. You guys agreed on the testimony, that's  
10 fine. I'm just saying, those are examples of, I don't  
11 know why -- instead of worrying about cumulative,  
12 perhaps you should worry about relevancy.

13 MR. LAFFEY: Judge, your Honor, in deference  
14 to the Court's concerns, we're dropping one of our  
15 videos, Staley (phonetic). And we are going -- we --  
16 we will agree that any cross that we designated, which  
17 the plaintiffs didn't designate and don't care about,  
18 we're willing to have that removed. And we'll just  
19 rely on our direct.

20 MR. LI MANDRI: The directs --

21 MR. LAFFEY: That's for --

22 MR. LI MANDRI: -- are pretty reasonable in  
23 length, for the most part.

24 MR. LAFFEY: Right. That's --

25 THE COURT: All right.

1 MR. LI MANDRI: The directs have been about  
2 20, 30 minutes.

3 MR. LAFFEY: That's for Smith, your Honor.  
4 For Hoffman, we're going to review Hoffman, and see  
5 what, if anything can --

6 THE COURT: Well, I -- I would --

7 MR. LAFFEY: -- reduce Hoffman.

8 THE COURT: -- like the parties to review  
9 Hoffman because I'm hearing four hours. Now I do  
10 realize, and I am sympathetic to some of the things  
11 that have come out about Mr. Hoffman in the testimony.  
12 So I do realize there's going to be areas that will  
13 have to be addressed. So it's not easy for me to say  
14 whether it should be four hours or not.

15 MR. LAFFEY: Well, an hour of Hoffman, your  
16 Honor, is about -- is the plaintiffs asking him about  
17 Journey Beyond.

18 THE COURT: Okay.

19 MR. LI MANDRI: And Mr. Wyler will be here,  
20 to also answer question about that. So we'll go and  
21 look at our direct to see if I can cut that down, or if  
22 there's redirect that we can cut down. Obviously,  
23 we're not in a position to cut down any of the  
24 plaintiffs' cross. We'll talk to them if they want to  
25 do that.

1 But as the Court will recall, that was the  
2 deposition where we got the Court on the phone --  
3 THE COURT: Yes. I --  
4 MR. LI MANDRI: Yeah.  
5 THE COURT: I specifically excluded Hoffman  
6 --  
7 MR. LI MANDRI: Right.  
8 THE COURT: -- as an example because I know  
9 there's a lot of other --  
10 MR. LI MANDRI: But he's --  
11 THE COURT: -- issues.  
12 MR. LI MANDRI: -- the longest by far.  
13 THE COURT: Okay.  
14 MR. LI MANDRI: And there's only one other  
15 video in which we'll look at, and see if we can cut  
16 that down. And then --  
17 MR. LAFFEY: And there's one more live  
18 witness, your Honor.  
19 MR. LI MANDRI: Well, for --  
20 MR. LAFFEY: For success story witnesses.  
21 THE COURT: Okay.  
22 MR. BROMLEY: And that's Chandler Duncan,  
23 right?  
24 MR. LAFFEY: Yes, sir.  
25 MR. BROMLEY: And that's Monday?

1 MR. LAFFEY: Yes, sir. After Hoffman.  
2 THE COURT: So Chandler Duncan is Monday?  
3 He's live?  
4 MR. LAFFEY: Yes, sir.  
5 MR. BROMLEY: And Jetty Staley's (phonetic)  
6 out.  
7 MR. LI MANDRI: Yes.  
8 MR. LAFFEY: Yes. We're removing Jetty  
9 Staley from our list.  
10 MR. LI MANDRI: And we're going to cut down  
11 Duncan and Hoffman, with -- with your cooperation  
12 because we've got to do the edits with you, if we can.  
13 MR. BROMLEY: Just -- just so we can  
14 understand --  
15 MR. LAFFEY: Smith and Hoffman.  
16 MR. BROMLEY: -- what's -- I just want to  
17 understand what you guys have said. Okay. So Jetty  
18 Staley's out completely?  
19 MR. LI MANDRI: Yes.  
20 MR. LAFFEY: Yes.  
21 MR. BROMLEY: Okay. And you are dropping all  
22 of your cross-designations other than your direct.  
23 MR. LI MANDRI: Correct.  
24 MR. LAFFEY: Just on -- just on Blake Smith.  
25 MR. BROMLEY: Just on Blake Smith?

1 MR. LI MANDRI: Blake Smith.  
2 MR. LAFFEY: We have -- we have to look at  
3 Hoffman. But we will drop them all on Blake Smith.  
4 MR. BROMLEY: Okay. So that -- you -- and  
5 Mr. LiMandri said that there's a 20-minute direct.  
6 MR. LI MANDRI: Oh, I don't know.  
7 MR. BROMLEY: Direct on --  
8 MR. LI MANDRI: I'm assuming, from what I've  
9 been seeing. I didn't see -- do Staley, so I don't  
10 remember exactly --  
11 MR. LAFFEY: Smith.  
12 MR. BROMLEY: Blake Smith's an hour.  
13 MR. LI MANDRI: --- how long it took. Blake  
14 Smith, I mean.  
15 MR. BROMLEY: The Blake -- the Blake Smith  
16 direct --  
17 THE COURT: Blake Smith --  
18 MR. BROMLEY: We had -- just to give your  
19 Honor a sense of, you know, for -- by example. Blake  
20 Smith, 63-minute direct, nine-minute cross, 45-minute  
21 designation of material in our cross.  
22 MR. LI MANDRI: We'll drop that.  
23 THE COURT: Well, they're -- they're dropping  
24 43 minutes.  
25 MR. BROMLEY: Okay. So I just want to -- so

1 --- so then they're sticking with the 63 minutes on the  
2 direct?  
3 MR. LI MANDRI: We'll look at that.  
4 MR. LAFFEY: We'll look at it.  
5 MR. LI MANDRI: I mean, I wasn't there for  
6 that. I didn't think it was that long.  
7 MR. BROMLEY: Okay. So it's 63 minutes.  
8 Then there's nine minutes of cross. And then that's  
9 it.  
10 THE COURT: Well, one of the things to look  
11 at, and what both sides should look at -- should have  
12 looked at already. If a question is asked for a yes-  
13 or-no answer, and we listen to a 45 second answer, do  
14 you think maybe that should -- there should have been a  
15 motion to strike as nonresponsive?  
16 MR. LAFFEY: Well, the problem, Judge, you  
17 may be right about that, but the problem is now that to  
18 do that at this late point --  
19 THE COURT: Well, it might -- yeah, it --  
20 MR. LAFFEY: -- would unduly prejudice us.  
21 THE COURT: I realize that. So you have to  
22 try and now work -- work out a way. And you started  
23 working it out. I'm happy to hear you're going to  
24 eliminate all your cross-designation on Blake Smith.  
25 So it sounds like we're going to get Blake

1 Smith down to --  
2 MR. LAFFEY: A little -- little over an hour.  
3 THE COURT: Little over an hour. The other  
4 gentleman is out completely. Staley's gone.  
5 MR. LAFFEY: Yes, sir.  
6 THE COURT: Okay. And what -- and then we  
7 have Hoffman that you're going to look at. And I  
8 realize that's going to be a difficult one. Because I  
9 know there's a lot of issues with him.  
10 MR. LAFFEY: And in Duncan Chandler, and I'll  
11 --  
12 THE COURT: He's live.  
13 MR. LAFFEY: Right.  
14 MR. LI MANDRI: Chandler Duncan.  
15 MR. LAFFEY: Chandler Duncan, I'll be doing  
16 his direct, Judge, and I will --  
17 THE COURT: All right.  
18 MR. LAFFEY: -- try to be brief.  
19 THE COURT: Well, just do me a favor, if you  
20 would, when you speak to him -- and I -- and I  
21 understand. And I'm not -- and I don't like jumping on  
22 people. But when someone's asked a question, yes or  
23 no, I hate when they just continue to go on and on and  
24 on. And it may be semantics, because there's usually a  
25 followup question that would allow him to do that. But

1 I think at least if we do a -- you know, if we get that  
2 structure, it makes more sense to the Court, at least,  
3 and I think it'll make more sense to the jury.  
4 MR. LAFFEY: I understand, sir. I mean,  
5 having been deposed, they know where the questions are  
6 going, and they're anticipating the next question, Your  
7 Honor.  
8 THE COURT: Okay.  
9 MR. LAFFEY: But I will speak to him, and do  
10 my best to control that.  
11 MR. LI MANDRI: Because he does --  
12 MR. BROMLEY: Your Honor, we still have a lot  
13 to do in terms of Hoffman. And I think that we need to  
14 establish some rules here.  
15 Let's have -- tomorrow, we have a -- a day of  
16 work to do before the weekend. I would suggest that  
17 what we have is by close of business tomorrow, a  
18 complete reassessment of what's happening, both with  
19 Hoffman and with Smith. They're the only two videos  
20 left, and we can --  
21 THE COURT: Well, Smith, we've already --  
22 they've -- they've already withdrawn all their cross-  
23 designations.  
24 MR. BROMLEY: And there -- and Mr. LiMandri  
25 said that he thought was 20 minutes of direct, now

1 there's 63 minutes.

2 MR. LI MANDRI: Well, I --

3 THE COURT: Well, he's going to look at that.

4 MR. BROMLEY: Right. And I understand. So  
5 I'm just saying, let's have -- let's have a deadline  
6 for the close of business tomorrow to do that. And we  
7 will also, by the same token, look at Hoffman.

8 Just to give you a sense of Hoffman, yes, we  
9 totally agree, your Honor, that there's additional  
10 material there, and Hoffman's different from everyone  
11 else.

12 But there's 160 minutes of Hoffman, which is  
13 two and a half hours, that's been designated by the  
14 defense. We've designated 100 minutes, most of which  
15 is Journey Beyond. The reason we designated Journey  
16 Beyond is that Mr. Wyler simply refused to testify  
17 about it. So in his deposition, we've got nothing from  
18 Mr. Wyler on Journey Beyond --

19 THE COURT: Wait a minute. Wait a minute.

20 MR. BROMLEY: -- because he said no. He  
21 refused.

22 THE COURT: What do you mean he -- what do  
23 you mean he refused to testify about it? Did anyone  
24 bring that to my attention? I would have barred him.  
25 What did I say about witnesses not wanting to answer

1 questions? I thought we went through this. I thought  
2 I went through this with some of the defense witnesses,  
3 where I said to that young man on the phone, either you  
4 answered the question or you don't testify.

5 MR. BROMLEY: There -- there were certain  
6 instances where that did occur. And with Mr. Wyler, we  
7 had a problem with him being in Virginia and his  
8 counsel here in --

9 THE COURT: Yeah, but I thought he came up --

10 MR. MC COY: -- New Jersey. He was being  
11 very --

12 THE COURT: -- here. We talked about Wyler.

13 MR. LI MANDRI: We didn't represent him at  
14 that time, your Honor.

15 THE COURT: No. But I'm saying didn't we  
16 have a phone conference about that.

17 MR. LI MANDRI: I don't --

18 MR. BROMLEY: Not about Wyler.

19 MR. LI MANDRI: Not about Wyler. We did it,  
20 I think, on Hoffman.

21 THE COURT: Who was the person -- there was  
22 an attorney here --

23 MR. BROMLEY: Jonathan Hoffman. I mean, this  
24 is the way -- this is the way Journey Beyond came into  
25 Jonathan Hoffman, is that we'd already been through

1 Wyler, and Wyler said, I'm not going to testify, full  
2 stop. You can't make me. The only way you can do it  
3 is to send me a subpoena in Virginia. I'm only going  
4 to come up here voluntarily on these terms.

5 THE COURT: All right. So I take it the  
6 parties agreed to that.

7 MR. LI MANDRI: Right. But I will say,  
8 having talked to Mr. Wyler, he goes, there's not much I  
9 can add to what -- what Hoffman did because Hoffman  
10 went through laborious detail on every Journey Beyond  
11 process. Wyler tells me, there's really not much more  
12 to say because Hoffman went through --

13 MR. BROMLEY: And the --

14 MR. LI MANDRI: -- it in great detail. But I  
15 understand what they're saying, but I wasn't  
16 representing Wyler at the time, and they had their own  
17 concerns.

18 THE COURT: I agree with you. There was an  
19 attorney from PCC involved. He intervened.

20 MR. BROMLEY: Now and you should understand  
21 too, your Honor, just -- just to make sure everything's  
22 out on the record. There was a redirect in Hoffman.  
23 So there was an 80-minute direct; there was a 100  
24 minutes that we've designated on the questions that we  
25 asked; 80 minutes of questions that were designated by

1 defendants within our questioning; and then a three-  
2 minute redirect.

3 THE COURT: Okay. Well, those are the things  
4 you're going to look at.

5 MR. LI MANDRI: Right.

6 MR. BROMLEY: And so, you Honor, with respect  
7 to these things, we are going to take Court's advice  
8 and look at all the questions. And to the extent that  
9 there's issues relating to relevance or anything else  
10 that we've already talked about, we're going to talk  
11 about them again. Because, you're right, your Honor,  
12 this is not fair to the jury.

13 In that vein, one of the things that we  
14 wanted to talk to you about is we do think it's  
15 appropriate that the jury understand that when tapes  
16 are being played, that just the fact that a voice is  
17 asking a question doesn't mean that the party has  
18 requested that the jury -- that whose voice that  
19 belongs to has actually asked the jury to listen to  
20 that.

21 So we would just like a clarifying  
22 instructions to the jury in terms of how things were  
23 selected. Not to say that it was -- we're breaking it  
24 up according to X or Y, just that they shouldn't draw  
25 any conclusions from the voice asking the questions

1 that that party was the party that designated that  
2 piece of the testimony.

3 THE COURT: It's a very difficult thing to  
4 do.

5 MR. LI MANDRI: Right.

6 MR. BROMLEY: Actually, Your Honor, I don't  
7 think it is. It would be difficult is we were saying,  
8 we want you to understand that X percent or Y percent,  
9 we just --

10 THE COURT: Well, no, what you're --

11 MR. BROMLEY: -- don't want them to draw any  
12 conclusions.

13 THE COURT: You're basically asking me to  
14 tell them what? Not to pay attention to the question  
15 because somebody else asked it?

16 MR. BROMLEY: No. Not to -- not that. Just  
17 saying that you shouldn't draw any conclusions from the  
18 -- the voice that's asking the question as to which  
19 party has designated that portion of the testimony for  
20 them to listen to.

21 MR. LI MANDRI: Well, the problem is, you  
22 know, it is important with regard to my direct that  
23 they know this is a witness being called for the  
24 defense, who's testifying for defense on direct.

25 THE COURT: Well, that -- that they know.

1 I've already told --

2 MR. BROMLEY: That they know.

3 THE COURT: -- them these are defense  
4 witnesses.

5 MR. BROMLEY: But for instance, there was 55  
6 minutes of Mr. DeJiacomo's testimony that was elicited  
7 by us that was designated by the defendants, not by us.

8 MR. LI MANDRI: Well, all I can say is, in  
9 all fairness, this is a problem of the plaintiffs' own  
10 making. I did pull video -- e-mails. I was prepared  
11 to show the Court where I -- I told them what I was  
12 advising was to do a discovery deposition first,  
13 followed by a separate trial preservation deposition.  
14 I represented --

15 MR. BROMLEY: And I have emails --

16 MR. LI MANDRI: Wait a second. I represented  
17 on the record -- I remembered that. And then we went  
18 and found those emails. Now I'm happy to bring them  
19 into court if there's any dispute about that's exactly  
20 what I did. And I even sent an email. This is how  
21 I've done it in the past. But that's how the thing  
22 went down. And we could have avoided this --

23 MR. BROMLEY: And that's -- that's entirely  
24 inconsistent with the emails that I'm holding in my  
25 hand.

1 MR. LI MANDRI: Then let's bring them in and  
2 let the judge look at them. Let's bring them in.

3 MR. BROMLEY: Fine. Let's bring them in.

4 THE COURT: You can bring them in, but you  
5 can also take a look at what I said in the beginning,  
6 which is 4-14-9, which tells you how videotaped  
7 depositions are supposed to work. I said that at the  
8 first pretrial conference date.

9 MR. BROMLEY: And we -- we certainly listened  
10 to that, Your Honor. And the problem with that rule is  
11 that it assumes that there's been an agreement as to  
12 the use of these depositions for trial testimony.

13 One of the problems we had here, your Honor,  
14 is that the time that these depositions were being  
15 scheduled, there were 36 depositions that were being  
16 requested of success story witness -- or not  
17 depositions, 36 success story witnesses that were being  
18 offered by the defendants. If we were to do two  
19 depositions, a trial preservation, and a --

20 MR. LI MANDRI: Seventeen.

21 MR. BROMLEY: -- discovery one for each of  
22 those, it would have been 72. They dropped 18 of them,  
23 leaving us with 17.

24 We still needed to do discovery depositions.  
25 The email traffic makes very clear that Mr. LiMandri's

1 view is, I'm bringing these people to trial, you don't  
2 need to take their deposition, you can ask them for the  
3 first time when they sit on the -- on the witness  
4 stand.

5 MR. LI MANDRI: No, that was --

6 MR. BROMLEY: That is clearly not what's  
7 supposed to happen.

8 MR. LI MANDRI: That was one issue. That --

9 MR. BROMLEY: That is not one issue.

10 MR. LI MANDRI: -- that we got --

11 MR. BROMLEY: That's the critical issue, when  
12 we're talking about --

13 THE COURT: Well --

14 MR. BROMLEY: -- preserving these things.

15 MR. LI MANDRI: Let's bring in the emails.

16 THE COURT: The problem becomes when there  
17 are witnesses, all a party has to do is disclose the  
18 name of a witness. It's up to the other side to  
19 whether they want to take they're deposition or not.  
20 My understanding was each party was producing their own  
21 witnesses for depositions, which is very unusual. But  
22 that's what happened in this case, didn't it?

23 MR. LI MANDRI: Right.

24 THE COURT: So when someone produces their  
25 own witness and it's videotaped, how did the parties

1 not know --  
2 MR. LI MANDRI: Right.  
3 THE COURT: -- that it may be used at the  
4 time of trial?  
5 MR. LI MANDRI: That was our --  
6 MR. LAFFEY: Exactly --  
7 MR. DINIELLI: Your Honor, the issue of  
8 recording the depositions is just something that we do  
9 in normal practice. The fact is, is that what we had  
10 were 17 witnesses that were eventually limited --  
11 reduced down to nine. Mr. LiMandri specifically said  
12 and Mr. Jonna specifically said in the emails, we are  
13 bringing these witnesses to trial. We are bringing  
14 them to trial. You don't need to depose them. So now,  
15 when we are sitting here a couple of --  
16 THE COURT: Then I'll look at the videotapes.  
17 Because that's obviously -- that's a different --  
18 that's a different email than --  
19 MR. LI MANDRI: We better look at the email  
20 string. That was only --  
21 THE COURT: All right. We'll look at --  
22 we'll look at the email string tomorrow. You'll bring  
23 them in tomorrow. But what -- getting back to the  
24 schedule. On Monday, we're going to start with  
25 Chandler Duncan at 9:30, right?

1 MR. LAFFEY: Yes. No. We're doing Hoffman  
2 in the morning, Judge. Start with Hoffman.  
3 THE COURT: All right. We're going to do the  
4 videotape first. Okay.  
5 MR. LAFFEY: Yes, sir. And as soon as that's  
6 done, we'll do Mr. Chandler.  
7 MR. LI MANDRI: Duncan.  
8 MR. LAFFEY: Mr. Duncan.  
9 THE COURT: And then, how long do we  
10 anticipate Mr. Duncan to be? Just -- I don't mean --  
11 I'm not holding anybody to this. How -- I mean, is he  
12 somebody that's going to take a couple of hours?  
13 MR. LAFFEY: Less than a couple of hours. I  
14 was thinking maybe a hour and a half.  
15 THE COURT: Total or just on direct?  
16 MR. LAFFEY: My direct, hour to an hour and a  
17 half, I would expect.  
18 MR. DINIELLI: Your Honor that's a surprise  
19 to us. He wasn't a JONAH client. He's similar to the  
20 other success stories who went to experiential  
21 weekends.  
22 We completed two live witnesses this morning  
23 before the first break. Both directs and crosses. It  
24 is very surprising to me that we would spend an hour  
25 and a half on Chandler Duncan, especially after

1 Jonathan Hoffman, whose deposition video right now is  
2 over four hours.  
3 THE COURT: He did not go to JONAH?  
4 MR. LAFFEY: He -- he was -- he went to JIM.  
5 He's a JIM client.  
6 THE COURT: Is he one of those who went as a  
7 participant and a staff member?  
8 MR. LAFFEY: Yes, sir.  
9 THE COURT: Well, let's see what his  
10 testimony's going to be and --  
11 MR. LAFFEY: I mean, I will try to keep it as  
12 --  
13 THE COURT: He's going to be live, so you'll  
14 be able to make objections.  
15 MR. DINIELLI: Thank you, your Honor.  
16 MR. LAFFEY: I might tend to overestimate,  
17 rather than underestimate, Judge.  
18 THE COURT: That's fine. That's okay. I'm  
19 just -- I'm just trying to find out if we need more  
20 than the two of them on Monday. That's what I'm trying  
21 to find out.  
22 MR. LAFFEY: Well, --  
23 THE COURT: But if we do, you have another  
24 tape anyway.  
25 MR. LAFFEY: Well, right. That would be the

1 -- if we do, that would be the Blake Smith tape.  
2 THE COURT: Okay. So we're covered for  
3 Monday.  
4 MR. LAFFEY: Yes, sir.  
5 THE COURT: That's all I needed to know.  
6 MR. LAFFEY: Yes, sir.  
7 MR. LI MANDRI: And it sounds like we better  
8 tell our two remaining live witnesses, Rich Wyler and  
9 Dr. Berger --  
10 THE COURT: Yeah, to be here Tuesday.  
11 MR. LI MANDRI: -- to definitely be Tuesday.  
12 Because we told Dr. Berger Wednesday, after we already  
13 changed appointments once. And now I dread asking him  
14 to do it again, but I see no choice. I'll tell him we  
15 -- we have to have him. But he's flying here, so  
16 that's --  
17 THE COURT: Well, if he can come in -- if you  
18 tell us -- I'll work around the schedule to put him on  
19 the stand when he gets here. If you -- you know, when  
20 you talk to him, let me know tomorrow afternoon what  
21 time --  
22 MR. LI MANDRI: We'll do that for sure,  
23 Judge.  
24 THE COURT: -- he can do it.  
25 MR. LAFFEY: Well --

1 THE COURT: I mean, in the -- look --  
2 MR. LAFFEY: I mean, we could -- we could do  
3 Smith and Wyler on Tuesday, and then just have Dr.  
4 Berger on Wednesday.  
5 MR. LI MANDRI: We want to finish on Tuesday,  
6 it seems.  
7 THE COURT: What do you have him scheduled  
8 for right now?  
9 MR. LI MANDRI: Wednesday morning, is it?  
10 MR. LAFFEY: Yeah.  
11 THE COURT: All right. Well, you'll check  
12 with the doctor. If he can do Tuesday, fine, if he  
13 can't, then we'll put him on the stand first thing  
14 Wednesday morning. He's not going to be that long.  
15 MR. LI MANDRI: No.  
16 MR. LAFFEY: No. Very short.  
17 THE COURT: You'll let us know tomorrow  
18 afternoon --  
19 MR. LI MANDRI: Yes, we'll call him right  
20 away.  
21 THE COURT: -- and we'll see.  
22 MR. LAFFEY: If your -- if your Honor's  
23 finished with that, there's another issue I'd like to  
24 indiscernible.  
25 THE COURT: Yeah. I just want to do one

1 other -- okay. So then that takes care of the  
2 testimony. Tomorrow afternoon we're going to do --  
3 we're going to talk about the charge and verdict sheet.  
4 MR. BROMLEY: Your Honor, can I just -- I'm  
5 sorry, for clarification purposes. So you had had Dr.  
6 Berger coming in on Tuesday?  
7 MR. LI MANDRI: Well --  
8 THE COURT: No. Right now, he's scheduled  
9 for Wednesday morning.  
10 MR. BROMLEY: No, I understand that, but I  
11 thought earlier you -- you had said -- you had changed  
12 it to Wednesday from Tuesday.  
13 MR. LI MANDRI: When did we change it from,  
14 Paul? Do you know when he was scheduled originally?  
15 MR. JONNA: I don't think we ever scheduled  
16 it. We -- we didn't --  
17 MR. LI MANDRI: Well, there was a -- you  
18 showed me an email, he complained that he cancelled  
19 patients for us.  
20 MR. JONNA: Well, yeah, he was going to -- he  
21 was scheduled -- well, we talked about him coming on  
22 Tuesday. Now it's -- we're talking about moving it to  
23 Wednesday.  
24 MR. LI MANDRI: And he --  
25 MR. JONNA: Is that your question?

1 MR. LI MANDRI: He is on Wednesday now,  
2 correct?  
3 MR. JONNA: No, currently, it's -- yeah,  
4 currently, it's -- currently it's --  
5 THE COURT: Oh, why don't we do this.  
6 MR. JONNA: Wednesday.  
7 THE COURT: Why don't you --  
8 MR. LI MANDRI: Yeah, right.  
9 THE COURT: -- talk to the doctor tomorrow.  
10 And tomorrow afternoon, let's find out whether he's  
11 coming Tuesday afternoon or -- if he comes Wednesday,  
12 it's got to be Wednesday morning first thing.  
13 MR. LAFFEY: And that's it.  
14 THE COURT: Or relatively first thing because  
15 he'll be it.  
16 MR. LAFFEY: And that's at 1:30 tomorrow,  
17 Your Honor?  
18 THE COURT: Yes. And that's the end, right?  
19 MR. LI MANDRI: Yes.  
20 THE COURT: Okay. Any rebuttal witnesses?  
21 MR. DINIELLI: No, your Honor.  
22 THE COURT: Okay. All right.  
23 MR. DINIELLI: Not so far.  
24 THE COURT: Yes?  
25 MR. LAFFEY: I'm concerned, Judge, over the

1 last few days about Juror, I believe it's NO. 4, the  
2 woman sitting closest to the audience. She seems to be  
3 nodding off quite a bit.  
4 THE COURT: I thought the same thing, but I  
5 don't necessarily think she's actually nodding off.  
6 Because sometimes I watch her when her head is down,  
7 but her hand is moving on her pad.  
8 MR. LAFFEY: Okay.  
9 THE COURT: So it's hard to say that she's  
10 completely nodding off. I have seen her close her eyes  
11 at times, but I have also seen her writing. That's not  
12 to say that there aren't times that she's drifted. But  
13 I have not seen her in a prolonged --  
14 MR. LAFFEY: Okay. Well, you have a better  
15 vantage point --  
16 THE COURT: Yeah.  
17 MR. LAFFEY: -- than I do, obviously, Your  
18 Honor.  
19 THE COURT: I mean, I -- again, I'm not -- I  
20 don't reveal what's in the books, but she has been  
21 writing of notes.  
22 MR. LAFFEY: Yes.  
23 THE COURT: And I watch her as her head does  
24 go down sometimes, she -- she --  
25 MR. LAFFEY: Okay.

1 THE COURT: -- still is writing. There are  
2 times I'm not entirely sure, but I haven't seen --  
3 unless someone else has, I haven't seen a long period  
4 of where I would say she's missed some testimony. Not  
5 -- not yet, anyway.

6 MR. LAFFEY: Okay. All right. I just --

7 THE COURT: But I do -- I have looked over  
8 and seen that. And sometimes, I will, like, cough or  
9 hit my microphone. But I see her -- I see her moving  
10 her hand.

11 MR. LAFFEY: Okay.

12 THE COURT: So I stop.

13 MR. LAFFEY: Very good.

14 THE COURT: Because I can --

15 MR. LAFFEY: As I said --

16 THE COURT: -- do that or I can --

17 MR. LAFFEY: Yeah, I can't -- I can't see  
18 that --

19 THE COURT: -- either --

20 MR. LAFFEY: -- from here, so --

21 THE COURT: But I have noticed that, but it  
22 hasn't -- I have not seen it where I would normally go  
23 to sidebar and say to the attorneys, has anyone else  
24 noticed. I have noticed some of that, but I haven't  
25 seen it even with the videos. I was careful to watch

1 them a little more than the video here, and I did not  
2 see her during the video drift.

3 MR. LAFFEY: Thank you, Judge. My -- one  
4 further question, and this is of a personal nature.

5 THE COURT: Yes.

6 MR. LAFFEY: I know we're scheduled for the  
7 afternoon tomorrow. It's my son's high school  
8 graduation tomorrow and I'd like to be excused.

9 THE COURT: Yeah, I don't -- anyone have a  
10 problem with allowing Mr. Laffey to --

11 MR. LI MANDRI: NO.

12 MR. DINIELLI: No, your Honor. Of course  
13 not.

14 THE COURT: That's not -- not a problem.

15 MR. LAFFEY: Thank you, your Honor.

16 MR. LI MANDRI: I have a quick procedural  
17 question, Your Honor. Did I understand that the way it  
18 works here in New Jersey is that the defendant goes  
19 first for closing argument, and then the plaintiff  
20 follows?

21 THE COURT: Are we the only one that does  
22 that? I find that hard to believe that in a Civil  
23 case, we're the only state where the defendant sums up  
24 first.

25 MR. LI MANDRI: I can't represent that. I

1 can't say. In California --  
2 THE COURT: Yes, that is correct.  
3 MR. LI MANDRI: -- it's in Federal Court --  
4 THE COURT: In New Jersey -- in New Jersey,  
5 as you heard me say, in the beginning -- well, you  
6 probably didn't want to listen to my preliminary  
7 instructions.  
8 MR. LI MANDRI: No, I did, that's why I'm  
9 asking.  
10 THE COURT: I told the jury that the  
11 plaintiff opens first, and then the defendant. And the  
12 closing argument is given in reverse order.  
13 MR. LI MANDRI: That's fine.  
14 THE COURT: The defendant goes first --  
15 MR. LI MANDRI: I actually heard that.  
16 THE COURT: Yes.  
17 MR. LI MANDRI: But in state and federal  
18 court, in California anyhow, plaintiff always gives the  
19 first closing, the defendant, then plaintiff gets  
20 rebuttal. Actually, I prefer it this way.  
21 THE COURT: They do that in a criminal case,  
22 but not civil in New Jersey.  
23 MR. LI MANDRI: Okay. Thanks for --  
24 THE COURT: In New Jersey, in --  
25 MR. LI MANDRI: -- confirming that.

1 THE COURT: -- civil, the defendant sums up  
2 first.  
3 MR. LI MANDRI: Okay.  
4 THE COURT: So that you know that, because  
5 you don't get to stand up and say anything when they're  
6 done.  
7 MR. LI MANDRI: Yeah, I see that.  
8 THE COURT: Okay. So you're going to  
9 revisit. You'll -- if you haven't already, talk to  
10 each other about the charges. And then we'll meet at  
11 1:30 tomorrow.  
12 We'll find out tomorrow afternoon whether Dr.  
13 Berger's coming Tuesday or Wednesday morning. Either  
14 way, you should be prepared for summations on  
15 Wednesday, unless we're unable, which I would hope  
16 doesn't happen, but unless we're unable to have the  
17 charge inverted sheet. But I would imagine by  
18 Wednesday we should. Like to hope --  
19 MR. LI MANDRI: Will the jury be able to  
20 deliberate on a Friday, even though they --  
21 THE COURT: I would allow them to deliberate  
22 on the Friday, if deliberations continue. But that's  
23 by choice. I will not order them to deliberate.  
24 MR. LI MANDRI: Oh, I see.  
25 THE COURT: I will certainly -- even though I

1 had not planned to sit on Friday, and I have other  
2 matters, if they're deliberating, I always let them  
3 come in, rather than let them wait the weekend. But I  
4 don't order them to do that. Because we told them in  
5 the beginning, we would not sit on Fridays.

6 MR. LI MANDRI: Can I assume that if we don't  
7 have a verdict by Friday and they don't sit on Friday,  
8 that Mr. Jonna and I would -- would be excused. Mr.  
9 Laffey can take the verdict?

10 THE COURT: On Monday?

11 MR. LI MANDRI: Yeah.

12 THE COURT: If it goes that -- yes,  
13 absolutely.

14 MR. LI MANDRI: Okay.

15 MR. KESSLER: One more thing, your Honor,  
16 very briefly. I have and I can hand them to the Court,  
17 the plaintiffs' position on Defense 303.

18 THE COURT: Oh, okay.

19 MR. KESSLER: And I've given a copy to the  
20 defendants.

21 THE COURT: All right. Thank you.

22 Also, you know, in -- in terms of evidence,  
23 right now I have this sheet that you gave me and only  
24 those documents that we did on the record. I think  
25 there were only one or two that I let over defendants

1 objection.

2 MS. BENSMAN: Yes, your Honor.

3 THE COURT: Well, the record will show it.  
4 Those -- that's all we have for evidence right now.

5 MS. BENSMAN: We're continuing to discuss  
6 with --

7 THE COURT: Okay.

8 MS. BENSMAN: -- defendants, and we should be  
9 able to submit a joint additional --

10 THE COURT: All right.

11 MS. BENSMAN: -- list to you shortly.

12 THE COURT: I just want to make sure that  
13 there hasn't been anything else on that. Okay.

14 What else? I guess that's it.

15 All right. Well, have a pleasant evening and  
16 I'll see you tomorrow afternoon.

17 ALL COUNSEL: Thank you, your Honor.

18 THE COURT: Off the record, Cat.

19 You can -- you can go because I'm going to  
20 collect the pads.

21 (Off the record. Back on the record)

22 (Jury not present in court)

23 THE COURT: Also, talk to each other. In New  
24 Jersey, you can agree to have all seven of them  
25 deliberate, if you don't want an alternate.

1 MR. LI MANDRI: Yes.

2 THE COURT: If you check the rules, the rules  
3 allow you to do that. The verdict would have to be six  
4 to one, unless you agree otherwise. You don't have to  
5 have all seven deliberate, but you can agree to have  
6 all seven deliberate.

7 MR. LI MANDRI: And the alternative would be  
8 five to one.

9 THE COURT: Yeah. The alternative would be  
10 we would have to pick an alternate, we got a little box  
11 over here, we would put the numbers in and Cathy would  
12 pick the lucky --

13 MR. LI MANDRI: That's interesting. Because  
14 in California, you know who the alternates are from the  
15 beginning. There's always the alternates.

16 THE COURT: Yeah. No, we don't -- we don't  
17 do that.

18 MR. LI MANDRI: Yeah.

19 THE COURT: But, you know, that's something  
20 you could talk to each other about if -- in order to  
21 have all seven them deliberate, it has to be by consent  
22 of party. I cannot order that.

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

24 THE COURT: All right.

25 (Proceedings adjourned to 6/22/15 at 1:30

1 p.m.)

2  
3 CERTIFICATION

4  
5 I, Patrice Mezzacapo, the assigned transcriber, do  
6 hereby certify that the foregoing transcript of  
7 proceedings in the Hudson County Superior Court,  
8 Law Division on June 18, 2015 on CD No. 6/18/15, Index  
9 Nos. 9:04:05 to 10:28:04, 10:53:30 to 12:30:12, 1:50:42  
10 to 3:12:14, 3:32:44 to 4:12:16 is prepared in full  
11 compliance with the current Transcript Format for  
12 Judicial Proceedings and is a true and accurate  
13 compressed transcript of the proceedings as recorded.  
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19 Patrice Mezzacapo, AD/T #214  
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