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FILED
Clerk of the Superior Court

DEC - 6 2019

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By: R. Cersosimo, Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO – HALL OF JUSTICE

11 CHRISTOPHER WILLIAMS,

12 Plaintiff,

13 v.

15 DAVID ARAMBULA; CITY OF LEMON
16 GROVE; and DOES 1 through 1,000,

17 Defendants.

Case No. 37-2018-00023369-CU-PO-CTL
[Complaint Filed: May 11, 2018]

Judge: Hon. Richard S. Whitney
Dept: C-68

**DEFENDANTS' MOTION IN LIMINE TO
PRECLUDE DORINNA HIRSCH FROM
TESTIFYING AT TRIAL, AND TO
PREVENT PLAINTIFF FROM USING HER
DEPOSITION TESTIMONY AS EVIDENCE;
DECLARATION OF EMILY M. STRAUB**

[Defense MIL No. 4 of 22]

Trial Date: December 13, 2019

21 **TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:**

22 PLEASE TAKE NOTICE that Defendant David Arambula hereby moves the Court, on
23 behalf of the defense, for an order precluding (a) non-party Dorinna Hirsch from testifying at trial,
24 and (b) plaintiff from using Ms. Hirsch's deposition transcript as testimonial evidence or
25 demonstrative evidence.

26 This motion is based on the supporting memorandum of points and authorities, the
27 declaration of Emily M. Straub, the pleadings and papers on file in this action, and upon such
28 argument and evidence as may be presented prior to or at the hearing of this matter.

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1 **I. INTRODUCTION**

2 It is anticipated plaintiff will either call Dorinna Hirsch to testify at trial, or use her deposition
3 transcript as testimonial evidence and/or demonstrative evidence. This should not be permitted
4 because: (a) Ms. Hirsch has no personal knowledge of any matters at issue in the litigation; (b) Ms.
5 Hirsch's deposition proves her testimony was, and will be, irrelevant, unfounded, unduly prejudicial,
6 and improper character evidence which cannot be used to prove Mr. Arambula's conduct; and (c)
7 presentation of Ms. Hirsch's trial and/or deposition testimony would result in an undue consumption
8 of time that would only confuse and mislead the jury.

9 **II. AUTHORITY FOR MOTION**

10 A motion *in limine* is the appropriate method "to preclude the presentation of evidence
11 deemed inadmissible and prejudicial by the moving party." (*Blanks v. Seyfarth Shaw, LLP* (2009)
12 171 Cal.App.4th 336, 375.) The important purpose served by such motion is "to avoid the obviously
13 futile attempt to 'unring the bell' in the event a motion to strike is granted in the proceedings before
14 the jury." (*Hyatt v. Sierra Boat Co.* (1978) 79 Cal.App.3d 325, 337.)

15 **III. THE TESTIMONY SHOULD BE EXCLUDED BECAUSE MS. HIRSCH LACKS**
16 **PERSONAL KNOWLEDGE OF ANY MATTERS AT ISSUE**

17 The testimony of any non-expert witness "concerning a particular matter is inadmissible
18 unless he has personal knowledge of the matter." (Evid. Code § 702, subd. (a).) "To testify, a witness
19 must have personal knowledge of the subject of the testimony, based on the capacity to perceive and
20 recollect." (*People v. Montoya* (2007) 149 Cal.App.4th 1139, 1150.) Without personal knowledge,
21 a witness cannot provide competent testimony. (*Alvarez v. State of California* (1999) 79 Cal.App.4th
22 720, 727.)

23 The deposition testimony of Ms. Hirsch confirms she has no personal knowledge of
24 (a) the physical altercation between plaintiff and Mr. Arambula, or (b) the meeting at Mr.
25 Arambula's home that preceded the physical altercation. (*See* Declaration of Emily M. Straub at
26 Exhibit 1 – testimony excerpts from the deposition of Dorinna Hirsch on August 26, 2019, at 62:25-
27 63:24, 136:20-137:6.) Everything she has learned about these topics comes from reading news
28 articles. (*Id.* at 136:20-137:6.) Ms. Hirsch has otherwise never spoken with Mr. Arambula or anyone

1 else who was at Mr. Arambula's home on the dates when the aforementioned events transpired, but
2 even if she did, she would still lack personal knowledge about the incident. (*Id.* at 136:20-137:6.)
3 Accordingly, Ms. Hirsch is not competent to testify about any happenings at issue in this case. Her
4 testimony is therefore inadmissible.

5 **IV. PLAINTIFF CANNOT USE CHARACTER EVIDENCE TO PROVE CONDUCT**
6 **OR PROPENSITY**

7 Testimony evidence or other evidence regarding a defendant's character and/or character
8 traits cannot be used to establish (a) the defendant engaged conduct, and/or (b) had the propensity
9 to engage in such conduct. (Evid. Code § 1101(a); *Holdgrafer v. Unocal Corp.* (2008) 160
10 Cal.App.4th 907, 928; *People v. Jackson* (2016) 1 Cal.5th 269, 299.)

11 Ms. Hirsch provided extensive deposition testimony amounting to an unfounded character
12 assassination of Mr. Arambula. Ms. Hirsch first met Mr. Arambula when they went to law school
13 together. (*See Exhibit 1* at 14:14-18.) After graduation, Mr. Arambula continued to work with Ms.
14 Hirsch on a contractual basis for approximately four to five years before it ended "tragically." (*Id.*
15 at 20:7-16.) Ms. Hirsch testified she was afraid of Mr. Arambula because "he's a bully." (*Id.* at
16 25:23-26:2.) However, when asked what he did to "appear aggressive or violent" toward her, she
17 responded with general references to the fact "he'd drink excessively. And you – you could see
18 his demeanor change . . . in general with himself, with . . . people around him." (*Id.* at 26:8-27:7.)
19 She described aggressive, drunk ramblings. (*Id.* at 142:16-25.) Ms. Hirsch also alluded to vague
20 threats he directed toward her, contained in texts she no longer had in her possession and e-mails
21 which seemed professional but that she knew were threats because "I know how he talks." (*Id.* at
22 141:5-19, 142:9-143.)

23 Plaintiff's counsel used Ms. Hirsch's deposition to elicit opinions she had about Mr.
24 Arambula's behavior, even asking her to speculate regarding whether he was "capable of physically
25 attacking someone he loves." (*See Exhibit 1* at 172: 9-20.) Ms. Hirsch testified she saw Mr.
26 Arambula behave aggressively with a bouncer at a bar. (*Id.* at 29:23-31:1.) Ms. Hirsch admitted to
27 not really knowing the circumstances surrounding Mr. Arambula's aggressive behavior with the
28 bouncer. (*Id.* at 31:5-14.)

1 Ms. Hirsch also testified she was so afraid of Mr. Arambula that she set up security in her
2 home, and later moved from her home for fear he would attack her. (*See* Exhibit 1 at 33:12-34:5.)
3 Ms. Hirsch further accused Mr. Arambula of both emptying her bank account and breaking into her
4 house to take an appellate brief. (*Id.* at 39:16-41:25.) Ms. Hirsch admitted she had no knowledge or
5 evidence Mr. Arambula broke into her house. (*Id.* at 102:4-19.) She simply assumed Mr. Arambula
6 was the individual who broke into her home based on “intuition, logic.” (*Id.*)

7 Lastly, Ms. Hirsch testified about obtaining a Temporary Restraining Order (“TRO”) against
8 Mr. Arambula. (*See* Exhibit 1 at 46:3-47:21.) The TRO was automatically granted per code. (*Id.* at
9 118:21-119:1.) However, the Court denied Ms. Hirsch’s request for a restraining order, and
10 dissolved the TRO. (*Id.* at 125:15-126:8.)

11 Defendants anticipate plaintiff will attempt to use the above “parade of horrors” of
12 character evidence to prove Mr. Arambula had the propensity to, and did, commit assault and
13 battery. Such tactic is improper as a matter of law. This is yet another reason why the jury should
14 not be exposed to testimony by Ms. Hirsch.

15 **V. THE TESTIMONY SHOULD BE EXCLUDED BECAUSE IT IS NOT RELEVANT**

16 Evidence is not admissible unless it is relevant. (Evid. Code § 350.) Relevant evidence is
17 evidence “having any tendency in reason to prove or disprove any disputed fact that is of
18 consequence to the determination of the action.” (Evid. Code § 210.) The test of relevance is
19 whether the evidence tends “logically, naturally and by reasonable inference” to establish material
20 facts. (*People v. Wilson* (2006) 38 Cal.4th 1237, 1245.)

21 Here, Ms. Hirsch’s deposition testimony proves she cannot provide relevant testimony for
22 two reasons. Reason number one: Ms. Hirsch has no personal knowledge of the events at issue in
23 this lawsuit. Reason number two: Ms. Hirsch’s character assassination testimony of Mr. Arambula
24 cannot be used to prove or disprove any disputed fact of consequence. The testimony is therefore
25 also excludable on these bases.

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1 **VI. THE TESTIMONY SHOULD BE EXCLUDED UNDER EVIDENCE CODE**
2 **SECTION 352**

3 Evidence Code Section 352 provides:

4 The court, in its discretion, may exclude if its probative value is
5 substantially outweighed by the probability that its admission will
6 (a) necessitate undue consumption of time or (b) create substantial
7 danger of undue prejudice, of confusing the issues, or of misleading
8 the jury.

8 The term “prejudicial” means “evoking an emotional response that has very little to do with the issue
9 on which the evidence is offered.” (*Rufo v. Simpson* (2001) 86 Cal.App.4th 573, 597.) Importantly:

10 [E]vidence should be excluded as unduly prejudicial when it is of such
11 nature as to inflame the emotions of the jury, motivating them to use
12 the information, not to logically evaluate the point upon which it is
13 relevant, but to reward or punish one side because of the jurors'
14 emotional reaction. In such a circumstance, the evidence is unduly
15 prejudicial because of the substantial likelihood the jury will use it for
16 an illegitimate purpose.

15 (*People v. Branch* (2001) 91 Cal.App.4th 274, 286 (quoting *Vorse v. Sarasy* (1997) 53 Cal.App.4th
16 998, 1008-1009 (internal quotation marks omitted).)

17 As discussed, *supra*, Ms. Hirsch’s testimony is not relevant. As such, it has no probative
18 value. Moreover, Ms. Hirsch’s testimony would (a) necessitate undue consumption of time, and
19 (b) create a substantial danger of undue prejudice, of confusing the issues, and of misleading the
20 jury. Ms. Hirsch’s testimony could improperly lead the jury to believe Mr. Arambula is a “loaded
21 gun” with little to no control over his emotions. Such preconception could influence a
22 determination it is more likely than not Mr. Arambula committed assault and battery. Plaintiff
23 must be precluded from tainting the jurors’ minds in this regard.

24 **VII. CONCLUSION**

25 For the foregoing reasons, Mr. Arambula respectfully requests the Court grant this motion
26 and issue and order precluding (a) Ms. Hirsch from testifying at trial, and (b) plaintiff from using
27 Ms. Hirsch’s deposition transcript as testimonial evidence or demonstrative evidence.

28 ///

1 Dated: December 5, 2019

TYSON & MENDES

2
3 By:



Jessica G. Heppenstall, Esq.

Emily M. Straub, Esq.

Attorneys for Defendant DAVID ARAMBULA

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DECLARATION OF EMILY M. STRAUB

I, Emily M. Straub, Esq., declare as follows:

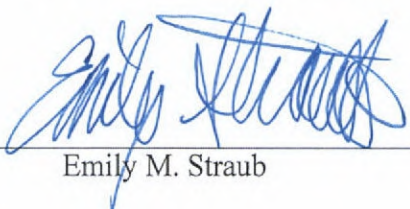
1. I am an attorney at law duly licensed to practice in all courts of the State of California.

2. I am a counsel of record for Defendant David Arambula, and offer this declaration in support of the corresponding motion *in limine*.

3. The following facts are based on my own personal knowledge, and if called upon I could and would testify competently thereto.

4. Attached hereto as Exhibit 1 is a true and correct copy of transcript excerpts from the deposition of Dorinna Hirsch on August 26, 2019.

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that this declaration was executed this 5th day of December, 2019, at La Jolla, California.



Emily M. Straub

EXHIBIT 1

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
HALL OF JUSTICE

CHRISTOPHER WILLIAMS,)	
)	
Plaintiff,)	
)	Case No.:
vs.)	37-2018-000233
)	69-CU-PO-CTL
DAVID ARAMBULA, et al.,)	
)	
Defendants.)	
_____)	

DEPOSITION OF DORINNA ELYSE HIRSCH, ESQ.
SAN DIEGO, CALIFORNIA
MONDAY, AUGUST 26, 2019

Reported by: Jeannette M. Kinikin, CSR
License No. 11272

1 license?

2 A. No. No. No. Just like an explanation letter,
3 and that's as far as that -- that's as far as I had any
4 problems with the bar.

5 Q. How long ago was that?

6 A. That was like, estimating, I guess it is, maybe
7 like three years ago.

8 Q. Okay. You never have been reprimanded or
9 punished by the State bar for any active dishonesty, have
10 you?

11 A. No.

12 Q. Okay. Do you know someone named David Arambula?

13 A. Yes, I do.

14 Q. How do you know Mr. Arambula?

15 A. We went to school together.

16 Q. Okay. After law school, did you ever have any
17 contact with Mr. Arambula?

18 A. Yes, I did.

19 Q. What was the nature of that contact?

20 A. After law school, the -- I mean, at the
21 beginning, it was friendly, social I guess. We -- I
22 don't know. See each other once -- once a year at
23 events, or we'd call each other up and say, hey, we
24 should see each other and catch up, or, you know, I just
25 bought a -- I think one time he had just bought a house

1 would happen and maybe next week it could happen again. And
2 then maybe it wouldn't happen for the next three months.

3 Q. Okay.

4 A. And then, depending on what happened there, if I
5 got a client or five or whatever, you know, he'd help --
6 he'd help out with the paperwork, et cetera, et cetera.

7 Q. How long did your business relationship with
8 Mr. Arambula last?

9 A. Again, the -- I'm -- chronologically, like I'm
10 not very good at that. So I'm going to estimate, like
11 maybe four, five years.

12 Q. Okay.

13 A. Three, four, five. I don't know. I just
14 don't --

15 Q. How did it end?

16 A. Tragically.

17 Q. So --

18 A. Tragically.

19 Q. So what was the tragedy --

20 A. So what started to happen was like David had a
21 full-time job with somebody else at another law firm
22 for -- when -- when -- when he started helping me, he
23 worked for another attorney, Alvin Gomez.

24 Q. Okay.

25 A. And then that's another story, whatever happened

1 A. Yes, but I did not tell him. I just stopped
2 giving him work and I stopped communicating with him and
3 talking to him. Because the last few times had just been
4 bad. Like I said, you know, I -- in the relationship, it
5 was always like -- like -- like he was the boss and I was
6 the employee, but not just any boss and any employee.
7 Like -- like -- like I would be the one yelled at. I
8 would be the one threat -- threatened or screamed at.
9 If -- if you don't get this done, this case is gonna go
10 bad for you and clients are going to report you to the
11 bar because, at the end of the day, it's your name on
12 that. So he would turn it around even though it's --
13 yeah. He's right. I am the attorney, and he's right.
14 It is my responsibility. But you were supposed to get
15 the work done.

16 So after a couple of those times, and I just saw that
17 it didn't -- like it -- it didn't stop, I said -- like I
18 stopped giving him work and just staying away, not even
19 calling him back or answering his calls because I didn't
20 know what to do. And, quite honestly, I was scared.

21 Q. Why were you scared?

22 A. I'm sorry?

23 Q. Why were you scared?

24 A. Because this was a bullying. He's a bully. He's
25 a bully and he was going to yell at me, he was going to

1 turn it around to, it's my fault.) A lot of manipulation,
2 psychological madness.

3 Q. Did he ever appear aggressive or violent to you?

4 MR. MICHELS: Vague and ambiguous.

5 But go ahead.

6 THE WITNESS: I'm sorry?

7 BY MR. BRIGGS:

8 Q. Did he ever appear aggressive or violent towards
9 you?

10 MR. MICHELS: Objection. Vague and ambiguous.

11 Go ahead.

12 THE WITNESS: Aggressive, yes. Violent, do you
13 mean like physically? Like physically threaten me?

14 BY MR. BRIGGS:

15 Q. Anything that you took to be violent in nature.

16 A. Yeah. Verbally, yes. Many, many, many times.

17 Q. Okay. What did he do that you took that way?

18 A. David over the years would talk, especially when
19 he would drink, he -- over the years, too. It's not like
20 we hung out all the time. We worked together. But, like
21 I said, I didn't -- months would go by and I wouldn't
22 physically see him. So he -- he'd do work and email me.
23 We would email, we'd text.

24 So when we would meet, which, I mean, it wasn't like --
25 you know, sometimes we would say we were going to meet once

1 a week, once a month. That didn't necessarily happen. But
2 when we would go to L.A. and we would try -- we -- we would
3 have to spend the night in L.A. because of meetings with
4 clients, you know, at nighttime in the hotel, you go, you
5 have a drink, he'd drink excessively. And you -- you could
6 see his demeanor change with -- you know, with -- just, in
7 general, with himself, with -- with people around him.)

8 What was the question?

9 Q. Did you ever see him get drunk?

10 A. Oh, yeah. Several times.

11 Q. Okay.

12 A. On the phone -- I'd get phone calls, you know, in
13 the middle of the night. When he.

14 Q. From him?

15 A. Yes.

16 Q. Okay. And what happened during those phone
17 calls?

18 A. Drunk ramblings, mad -- mad -- mad. I don't --
19 mad, but also angry mad.

20 Q. Okay.

21 A. About the -- the first ones I recall were when he
22 was ending his relation -- his working relationship with
23 the attorney Alvin Gomez, he would -- he would complain a
24 lot about what an incompetent attorney he was, about
25 this, that, the other, blah, blah, blah, blah, blah. And

1 so he would have a lot of drunk ramblings about Alvin
2 Gomez. And that would go on for months.

3 Q. Was it -- was he civil in his comments about
4 Mr. Gomez or was he aggressive and mean in his comments?

5 MS. STRAUB: Vague and ambiguous. Compound.

6 MR. MICHELS: Objection. I'll join. Go ahead.

7 THE WITNESS: Super aggressive and super mean.

8 BY MR. BRIGGS:

9 Q. Okay. So --

10 A. Not just aggressive and mean. Like, he would
11 make comments like -- and -- and this happened
12 throughout. Even -- even -- he would mostly do it when
13 he was drinking, but he would throw them in, in casual
14 conversations, here and there, like --

15 Q. So when you say that he was aggressive and mean,
16 can you explain what you mean by that?

17 A. Yeah. He would say like -- like with the example
18 like with Alvin, like I can fuck him up. I'm in the
19 Marine Corps, the whatever he was in. And I was in
20 counterintelligence in Afghanistan, or whatever, and I
21 learned how to do fucked up shit. I was in
22 counterintelligence and I know how to fuck people up and
23 mentally, psychologically, and I can go into your house
24 and -- and do shit and you won't -- you won't even know.
25 You'll wake up in the morning and you won't even know I

1 was there. Like, that's when I say mad, I mean like --

2 like -- like angry mad, but also like --

3 Q. Crazy mad?

4 A. Like crazy mad.

5 Q. Okay.

6 A. And without Alvin, that was when I first started

7 to notice -- and that was before we worked together.

8 That was when we were like -- I was just -- that was

9 before we had like a -- more of a working relationship.

10 Q. Okay. So --

11 A. In L.A. one time when we went to --

12 Q. When you talk about in L.A. one time, you mean

13 this is now after you and Mr. Arambula have had a working

14 relationship, correct?

15 A. Yeah.

16 Q. Okay. Continue, please.

17 A. We had had to stay there again over the weekend

18 because that's when the drivers -- they won't meet with

19 you during the week. So we -- we -- we stayed at a

20 hotel. I have a friend that's a female friend that I

21 said, oh, I'm going to be in L.A. Like let's meet up,

22 have a drink. And I invited David and we went to -- I

23 don't know. Stayed in the hotel, went to a local bar so

24 I could chitchat with my girlfriend I hadn't seen in a

25 while.

1 We had a few drinks. I -- we -- we were leaving the --
2 the bar, and something happened with the bouncer and my --
3 my girlfriend. I don't know if he -- I don't know what
4 happened to be honest. But next thing I know, David's
5 having it out with the bouncer. I'm going to kill you. I'm
6 going to fuck you up. You don't know who I am, and don't
7 touch me. And it was a scene.)

8 And it's not like we were partying. I mean, we're not
9 like at a partying age. We didn't go clubbing. We just
10 went out to have a couple of drinks because, the next day,
11 we had to wake up and go work.)

12 And -- and it got like nasty. Like I'm from Mexico. I
13 felt like I was 18 on Revolution Street again. You know,
14 the bouncer called another bouncer, they called the cops,
15 and at the end -- and -- and he -- he would say -- he -- he
16 would always say stuff like that, I'm a Marine and I know
17 how to do shit. That's how he threatened the bouncer. Like
18 I'm a Marine and I can do shit to you. I'll fuck you up. I
19 don't care how big you are.)

20 The bouncer was huge. David's not a little guy, but,
21 the bouncer was like three times his size. And he kept
22 yelling that over and over. Like David does that a lot
23 with, I'm a Marine and -- and I can -- I know how to do
24 things. I've been trained. That's what he'd say. I've
25 been trained. I have special counterintelligence from the

1 Marines and I can fuck you up. He would use that word.

2 Q. So during this incident in L.A., was he in the
3 bouncer's physical space? I mean, were they close or was
4 it across the room?

5 A. Oh, yeah. No. No. No. No. We were already
6 outside. We had already left. And, as we were leaving,
7 something -- I don't -- I don't know what the -- I don't
8 think the bouncer actually did anything to my -- to my
9 girlfriend because my girlfriend, you know, didn't make a
10 big deal about it. I don't know if -- I don't know. I
11 don't know what the issue was, but that was an issue.
12 Something happened that David felt offended because of
13 what the bouncer said or whatever to my girlfriend,
14 because we were already leaving.

15 But, yeah, he was in his face. But the bouncer was,
16 you know, being what a bouncer, I guess, should be, a normal
17 attitude, just standing there, because he was huge. He was
18 trying to calm David down at first.

19 Q. So you just gestured with your hand and put your
20 hand just an inch or so in front of your face. Is that
21 how Mr. Arambula was to the bouncer?

22 A. Yeah. He was in his face, yeah.

23 Q. Okay. Have -- had you -- well, since that time,
24 have you seen Mr. Arambula get violent or aggressive in
25 any -- any other situations?

1 Q. And you understood him to be using those words in
2 a physically aggressive way?

3 MR. MICHELS: Objection. Vague ambiguous.

4 Go ahead.

5 BY MR. BRIGGS:

6 Q. Is that --

7 A. Yeah. When somebody tells me they're gonna fuck
8 me up, that's what I take it to mean.

9 Q. Okay.

10 A. And since he killed people in Afghanistan and is
11 telling me he is trained to do that, then, shit, yeah.

12 Q. Did you ever worry that he might hurt you?

13 A. I'm -- yes.

14 Q. Okay.

15 A. I moved from San Diego. I do not live in San
16 Diego. I moved out of my house. Now sitting here
17 talking about it, I'm -- yeah.

18 Q. I can see you're upset. Do you want to take a
19 break?

20 A. (Witness shakes head.)

21 Q. We can take a break if you want.

22 MS. STRAUB: We'll get you some tissues.

23 BY MR. BRIGGS:

24 Q. Let me see that.

25 Let me ask you this. Did you move from your house in

1 A. As -- as always.

2 Q. Okay. You mentioned a restraining order a few
3 moments ago. Do you recall that?

4 A. Yeah.

5 Q. Can you tell me about the restraining order?

6 A. So shortly after that, that my mother passed
7 away, and I just had already stopped emailing and giving
8 work to David again -- it's not like we called every
9 week, texted every week, emailed every week. He's an
10 independent contractor. It's sporadic work. But the --
11 again, when he noticed that that was it, like that's --
12 I'm not talking to you, I'm not speaking to you, this is
13 the end of this relationship was with my mother's passing
14 away, because I never answered those text messages or
15 anything.

16 (So shortly after that -- I still own my)
17 townhouse -- the garage in my townhouse I used as an -- as)
18 my office -- as my home office.) And I live in a -- in a
19 private neighborhood which is quite safe. All the neighbors
20 know each other, so I leave my garage door unlocked. It's
21 an office, there's a printer, there's a desk, there's a
22 bunch of legal papers that nobody wants, right?

23 (So what happened shortly after that was I went
24 into my garage and I saw that papers had been shuffled. I
25 just received a huge appeal on a case that I had won, so

1 the -- the -- I had never seen something so big, the -- the
2 appeal packet, or whatever it's called, the -- with the
3 binded, right, like this big. And so I received it in the
4 mail. It was like so heavy. And I was like, what the hell
5 am I gonna do with this? So I literally went and I just
6 threw it on a -- I have a long desk in the garage, and I
7 just like threw it there. I'm like, I'll deal with it
8 another day.

9 And a couple days past. And I went into my
10 garage, and it was gone. And my -- my -- my desk is clean.
11 I'm pretty -- I'm organized. It's not like I have a bunch
12 of stuff everywhere. Like if this is here, this is here, I
13 pretty much know where my stuff is.

14 And so I went into the garage and I noticed that
15 things weren't -- the first thing I noticed was that huge
16 thing was just missing.

17 Q. You mean the huge stack from the appellate court?

18 A. Yeah. It's the actual appeal. And it had like
19 red paper on top. It was the scariest thing you've ever
20 seen.

21 But, yeah, it was missing. Because I just --
22 basically, I walked into my garage and I'm like -- I like
23 threw it. So the table is like there. There's stuff on the
24 table, but I have this huge thing like this, and it was
25 missing. And I went there specifically looking for that.

1 So then when that was missing, I was like -- it was
2 maybe like a day or two after the -- the last David incident
3 with my mother and stuff, so I'm still literally dealing
4 with burying my mother and whatnot. And -- and so, yeah. I
5 went into the garage. I actually think I went into the
6 garage to look for like pictures of my mother to use for
7 the -- I don't know -- I don't even remember. But,
8 anyway -- oh, I remember what it was. There was a box. I
9 had gone into the garage days before that to -- to get a box
10 of pictures of my old -- of my mother to use for the
11 whatever, the -- the funeral, is that what it's called? Not
12 the burial but the "velorio." I don't know what.

13 Q. The memorial service?

14 A. The memorial service.

15 And the box had been rifled through, the pictures.
16 The -- the appeal packet was missing. And so those were the
17 first two things that I noticed.

18 And then I started looking around and just things
19 looked -- didn't look like -- it looked like somebody had
20 been in there rifling through stuff. A couple of boxes were
21 missing. I couldn't tell you what was in the boxes anymore
22 because it's been a while. But -- but, yeah, my first
23 instinct was David was here.

24 Q. Okay. So what --

25 A. David took it and --

1 Q. What did you do after that?

2 A. I had the locks changed, I had a security system
3 installed, cameras, I started not spending the night at
4 my house. First, I started not spending the night at my
5 house. Then -- then, the locks in my house changed,
6 the -- the doors, then the security system. And then, at
7 some point -- I owed David money. I owed David money
8 for -- for -- for the -- for services, but because we had
9 already been having problems when we were speaking, and
10 it was an understanding between David and I, it was like,
11 look, we're both angry right now. Let's just wait until
12 things cool off. Then we can sit down and figure out how
13 much money you owe me and blah, blah, blah. And, yeah, I
14 was like super angry. So -- so I still owed him money
15 and had agreed to pay him.

16 But then, like I said, my mother passed away, and this
17 happened, it just escalated. And then I went into my bank
18 account and the money was gone. He wiped out the -- the
19 account. The account was an expense account because we
20 traveled to L.A. a lot. So when you go to L.A., there's --
21 you know, he goes in his car sometimes, I go in mine, he has
22 to have gas, buy a cheeseburger -- I don't know -- potato
23 chips. I don't care. Whatever. Here, you book the online,
24 hotel rooms. You know, you do it. Or Patty is his
25 significant other, she would help out sometimes with like

1 those little details. Hey, Patty, could you book us a
2 couple of rooms? Go to Priceline, get a cheap room next to
3 the courthouse, whatever. So he had an expense account.
4 Since we met with a lot of drivers. Like I said, sometimes
5 we would meet at -- towards the end, we'd meet at a
6 restaurant and we'd buy them coffee and -- I don't know --
7 soda refreshment. And if -- so David had to have access to
8 a business expense account.

9 Q. Was that your firm's business expense account?

10 A. Correct.

11 Q. Was David a signer on that account?

12 A. Yes, I believe so.

13 Q. Was Dave authorized to go -- was Mr. Arambula
14 authorized to go into that account to pay himself for
15 things other than travel expenses?

16 A. No.

17 Q. Okay. How do you know he's the one who took the
18 money?

19 A. Because it was on the bank. Like I went -- like
20 there was nobody -- I think he transferred -- he has a
21 Wells Fargo account, and he actually transferred the
22 money from that account to his account.

23 Q. Were -- were you and he the only two who could
24 have done --

25 A. Correct.

1 Q. -- an electronic transfer?

2 A. We were the only two on the account.

3 Q. Okay.

4 A. We were the only two people who had access to
5 that account.

6 Q. Okay. And you didn't do the transfer?

7 A. No.

8 Q. And were you able to see that the transfer went
9 to his account?

10 A. Oh, yeah.

11 Q. Okay. Do you know how much money it was?

12 A. I believe it was around \$8500.

13 Q. Okay.

14 A. 8,500, around there.

15 Q. Okay. And --

16 A. Ironically, I -- I don't know because we never
17 sat down to actually go over like billing, but in my
18 head, ironically, I think I owed him a little bit more.

19 Q. Okay.

20 A. So he kind of screwed himself over because it's
21 not like I wasn't going to pay the guy, but now it is
22 what it is.

23 Q. Okay.

24 A. I don't know. In my head, I thought I owed him
25 around -- I don't know. Yeah. Maybe around that much.

1 Q. Was it a workplace violence restraining order?

2 A. I don't know.

3 Q. Do you know what kind of temporary restraining
4 order it was?

5 A. I don't.

6 Q. Was it based on threats of violence against you?

7 A. Yes. Threats of violence, that he had gone into
8 that, because of the bank account situation, he stole the
9 money because it wasn't authorized, and that he -- I
10 didn't see him go into the house, but -- you know, into
11 the -- the -- the -- the garage, but who else is going to
12 take an appellate brief? It was like 1,000 page
13 appellate brief. So -- so it was based on that. It was
14 based on the threats.

15 And, indirectly, he would tell the other attorney, like
16 I said, you know, tell Dorinna that if she blah, blah, blah,
17 tell her that I'm going to fuck her up and tell her that I'm
18 going to do this, you know. She -- she -- tell -- I
19 remember now. She -- he said, tell her -- what were his
20 words? His words were like, she -- she doesn't know -- she
21 doesn't really know me, or she doesn't know what I'm
22 capable, things like that. She doesn't even know -- she
23 doesn't even know a part of what I'm capable of. She can't
24 even imagine of what I'm really capable of, those kinds of
25 things.

1 Q. Okay. That concerned you enough to go and get a
2 restraining order against potential violence?

3 A. Not just that. The fact that he took the money
4 out of the -- he would send emails saying that he was
5 going to report me to the bar, he was going to report me
6 to the IRS. It was like psychological mental
7 manipulation, warfare. Like he was attacking me from
8 everywhere.

9 So I was telling the other attorney that he was going
10 to report me to the police. I'm like, Tom, like what am I
11 going to do? Like this guy is like coming after me from --
12 he's attacking me from everywhere. I've never done anything
13 back bad and I'm freaking out. He reports me to the IRS,
14 yeah, I'm freaking out because you're going to report me to
15 the IRS. Not because I've done anything bad at all. (But)
16 who the hell wants to be reported to the IRS and have to
17 deal with that? Plus, my mother had just passed away. I'm
18 already not very good. (This is happening. It's like,
19 (indicating) you're already not sleeping. It's just like
20 one thing piling on top of the other. So it's like, if
21 somebody touches you, you're like, ouch, you know.)

22 Q. Mm-hmm.

23 A. So -- so what lead to the TRO specifically wasn't
24 like one specific thing. It was just like, this is your
25 whole crazy man threatening world between your text

1 setup a date or he sent me with the -- not you -- the
2 secretary. And that's it. That's the -- that's as much
3 conversation as I've had.

4 Q. Okay. And then the reporter that contacted you,
5 do you remember the name of that individual?

6 A. I think her name is Kara Anderson.

7 Q. Okay. Did she indicate why she was contacting
8 you?

9 A. She didn't contact me. She sent me an email with
10 the link for the last incident where David's wife, I
11 guess, got beat up outside of her house.

12 Q. Okay.

13 A. They emailed. Said, hi, Dorinna, how are you?
14 It's like, here's a link. It was a link. And that's it.

15 Q. And that's it? She didn't ask you to comment on
16 the link or speak with you or speak with her?

17 A. No.

18 Q. Okay.

19 A. I -- I think I then spoke to Patty, David's
20 ex-non-wife. She was okay. I then emailed the reporter
21 back and said, hey, by the way, what's going on with that
22 other case? I don't even know the people's -- the guy's
23 name, the victim's name in this case. Like it's not like
24 I keep up-to-date with what's in David's world.

25 Q. Okay. So you've never spoken with Christopher

1 Williams, is that right?

2 A. That's -- that's the victim in this case?

3 Q. It's the plaintiff, yes.

4 A. I'm sorry, the plaintiff. That's your client,
5 right?

6 MR. BRIGGS: The victim, yes.

7 THE WITNESS: No. I've never spoken to him.

8 BY MS. STRAUB:

9 Q. Okay. And then, other than Kara Anderson and
10 Mr. Briggs, have you spoken with anyone else about David
11 Arambula other than your attorney in connection with the
12 TRO?

13 A. Can you repeat the question? Other than
14 Mr. Briggs?

15 Q. Other than Mr. Briggs, Kara Anderson, and your
16 attorney, in connection with your TRO, have you ever
17 spoken with anyone about Mr. Arambula's behavior?

18 A. Yeah. My friends, my family, my attorney.

19 Q. Okay. Yeah. I don't want to know about speaking
20 with your attorney. But I guess I'm more interested in,
21 after learning about this lawsuit, have you spoken with
22 anyone other than Mr. Briggs and Kara Anderson and your
23 attorney?

24 A. My friends and my family.

25 Q. Okay.

1 wasn't -- mine was at the bottom of the stack.

2 Q. Did you -- so you never heard from anyone?

3 A. I think she called me or went to the house a
4 couple months later, whatever year later, I don't
5 remember, and -- and -- and said, yeah, this is, you
6 know, what happened. We investigated, we this.

7 Oh, I remember what she said. She said, you know, but
8 the fact of the matter was David was on the account. His
9 name was on the account. And so, because of that, it makes
10 prosecuting it a lot more -- more -- more impossible or
11 difficult, or it's just not gonna happen.

12 Q. Was it the same sheriff that you spoke to from
13 that -- from the get-go or someone different?

14 A. The same lady, female.

15 Q. Do you remember her name?

16 A. I don't. But she's very easy to look up.

17 Q. Okay.

18 A. She's very easy to look up.

19 Q. All right.

20 A. To Google, I mean. Because she worked in the --
21 in El Cajon in the sex -- sheriff's sex -- the sex crime
22 whatever. There was a legal problem there, which is how
23 she ended up with the whole David, and then was
24 transferred. She was also in the news and blah, blah,
25 blah, blah, blah.

1 they were friendly. They -- they would -- David would
2 come to the house occasionally. We'd have a couple
3 beers, my mother would be there, you know.

4 Q. What lead you to think that David was the one
5 that took items from your garage?

6 A. Because who -- who else takes an appellate brief
7 that weighs like 10 pounds? There is a printer there,
8 there is other items that are a lot -- that actually have
9 value, skis, a snowboard, a surfboard, Boogie Boards,
10 beach stuff, and yet the only thing missing are like two
11 boxes of legal paperwork and a appellate brief, and
12 pictures from the picture box of my mother. There were
13 pictures missing.)

14 So, yeah, it could have been my neighbor. I don't know
15 that it was David.) It just -- logic tells me, intuition,
16 logic, and it happened in those days where I've lived in
17 that house 18 years, my garage has always been open, never
18 had anything taken from my car, my -- from -- from -- I've
19 never had a problem with any of that.

20 Q. Now, after this garage incident, I think you
21 testified, at some point, you installed security cameras;
22 is that right?

23 A. Yes.

24 Q. Okay. And did you also change your locks?

25 A. (Witness nods head.)

1 Q. So is it your testimony then, your best estimate,
2 about eight months leading up to April, 2017 is when you
3 first came to recognize what you referred to as mental
4 manipulation on the part of David Arambula?

5 A. Yeah. But it's not like the lightbulb goes on
6 and the whole room's like clear. It's like, well, like a
7 lighter, and then a candle. Like you start dimming the
8 lights, and then, all of a sudden, it's like super
9 bright. And you're like, oh, shit. Look at this. I
10 hadn't seen all of this. But at first it's not like
11 that. So it takes -- takes time for the room to light
12 up.

13 Q. Okay. Now, you've indicated earlier that, during
14 the course of your legal career, at some point, you'd
15 practiced family law; is that right?

16 A. Correct.

17 Q. And I believe you also indicated that, in that
18 practice, things that you handled included temporary
19 restraining orders; is that right?

20 A. Yes.

21 Q. Okay. So would you agree with me that when, you
22 know, you first filed for a temporary restraining order,
23 it's automatically granted until the Court has an
24 evidentiary hearing or hears -- has a hearing on the
25 application?

1 A. Yes.

2 MR. BRIGGS: Objection. Calls for a legal
3 conclusion.

4 MS. STRAUB: Yes, it does.

5 BY MS. STRAUB:

6 Q. Okay. And then, so after you filed on --

7 A. By the way, he owned a gun, you know, I mean, so
8 yeah.

9 Q. Yeah. Okay. So after you filed for the TRO, do
10 you recall whether there was any delay in having this
11 evidentiary hearing on your application?

12 A. I think there was a continuance.

13 Q. Okay.

14 A. I don't know who -- I don't know if I asked -- I
15 don't know if Jennifer Irvine asked for it or David or
16 I -- I believe so. I don't remember. I think there was
17 a continuance. I don't know why or for -- yeah. I don't
18 remember who asked for it either.

19 Q. I'll submit to you, ma'am, we ordered the whole
20 record of what's on file with the Court.

21 A. Okay.

22 Q. And so there weren't any written like minutes by
23 a court reporter and we didn't find any evidence that was
24 submitted that was referred to, so just based on what you
25 can recall --

1 of the evidentiary hearing?

2 A. Legally speaking, I don't know if those are the
3 correct terms, but I mean, if -- if we were lay people,
4 that's how I would explain it to a layperson. As a
5 lawyer who does it, I don't know if those were the
6 legally correct terminology for that.

7 Q. Okay. And then, the Court after the evidentiary
8 hearing on the TRO also denied the request to enter a
9 permanent restraining order; isn't that right?

10 A. So the -- the hearing for the -- for the hearing
11 for the TRO is to convert a TRO into a permanent
12 restraining order.

13 Q. Okay. And so --

14 A. So your question's not --

15 Q. So the Court would not agree to convert it into a
16 permanent restraining order; is that right?

17 A. So when the request for a restraining order is
18 denied, it's not that it's denied, period. And because
19 the restraining order only has a certain lifespan, which
20 is up to the date of the hearing, it automatically dies I
21 guess you can say. And if the judge does not grant you
22 the permanent restraining order, then it's just not
23 granted. And the temporary restraining order, since it's
24 only good up until that day, it's not that it's
25 dismissed, it just -- it dies automatically. Again, I

1) don't know the correct legal terminology for it, but
2) that's how that works.

3) Q. Okay. So is that what happened here?

4) A. Yeah.

5) Q. Okay. So no permanent restraining order was put
6) in place, correct, against Mr. Arambula?

7) A. No permanent restraining order -- the permanent
8) restraining order was not granted.

9) Q. Right.

10) A. That's the correct legal terminology.

11) Q. Did you appeal?

12) A. Did we -- we did appeal.

13) Q. What happened with that?

14) A. What happened with that? I think we just didn't
15) follow through. Tom -- I'm trying to figure out what's
16) the best word to use. I don't want to say Tom convinced
17) me. Tom advised me. Tom told me I should --

18) MR. BRIGGS: Hang on. You don't want to disclose
19) what your attorney told you.

20) THE WITNESS: What my attorney told me, so yeah.

21) BY MS. STRAUB:

22) Q. Was Tom representing you at any point in these
23) TRO proceedings? I thought that was Jennifer.

24) A. No. On the -- on the appeal I believe it was. I
25) believe it was on the appeal that Tom represented me.

1 Q. Okay. So did you ever -- you didn't move forward
2 with the appeal then?

3 A. No.

4 Q. Do you recall why?

5 A. It was just too much -- I mean, to be honest, the
6 judge's -- the -- the judge's reasoning for not granting
7 the TRO, it's not -- I did not not -- that's wrong.
8 That's completely wrong grammar, right? But, yeah, I got
9 it. It made sense what the judge said. I mean, I didn't
10 disagree with what -- why the judge did not grant the
11 restraining order. I didn't like it, but he was right.
12 The account had been closed, the security, there were no
13 more threats, so there is no imminent danger of harm,
14 blah, blah, blah, all the requirements necessary for the
15 TRO.

16 So the appeal was done without disclosing what the
17 attorney said. The appeal was done. I'm trying to choose
18 my words correctly. At that point, I'm -- I'm -- I'm
19 fighting back. So I'm not fighting back on the decision
20 because I didn't agree with what the judge said. I'm just
21 like, look, I'm going to protect myself, so keep coming at
22 me and I'm going to start fucking back with you. And this
23 is how I'm going to fuck back. I'm going to file an appeal.
24 I don't care if I lose. Just like leave me alone. Go away.
25 Because every time you do something, I'm going to fight

1 A. After I did the interview with Kara Anderson,
2 I -- that's -- I -- I -- I didn't feel comfortable
3 anymore. That's not what I wanted to do.

4 Q. And I think you may have already said you don't
5 recall the statement you provided; is that right?

6 A. To who?

7 Q. To Kara Anderson.

8 A. The statement? It was -- it wasn't a statement.
9 It was like a phone interview.

10 Q. Okay.

11 A. It was over the phone. She asked me several
12 questions about the relationship with David, about the
13 restraining order, and my answers were -- I mean, you
14 know, maybe not exactly the statements today, but the
15 story's the story.

16 Q. Okay. Was this after, if you can remember, your
17 TRO hearing?

18 A. I can't remember if it was after the TRO hearing
19 when I spoke to Kara or not. It might have been.

20 Q. All right. Can you give me an indication of why
21 you agreed to speak with who you believe to be a Kara
22 Anderson?

23 A. When I heard about the news story to this man, I
24 told you I was not surprised. From what I know and from
25 what I understand is this man was in a coma for several

1) days. I don't know. I don't remember reading it. I
2) read a lot of articles online. I don't know the man.
3) I've never spoken to him, his family. (Just from the -- I
4) didn't even read the news articles. I would just open
5) them up and like skip through them and like try to ignore
6) it.

7 And so, when this happened, I felt like it was almost
8 like my duty -- David sits on the board of whatever the
9 council Lemon Grove thing and he comes across as this like
10 charismatic, caring, loving human being. And he's
11 Dr. Jekyll and whatever. He's the bad person in that, the
12 mask. And I think it's somebody's duty, somebody's
13 responsibility to come out and start stating that because
14 he's going to end up killing somebody. He's crazy.

15 Q. Do you --

16 A. And this is an example of that.

17 Q. Okay. Do you believe David Arambula -- have you
18 ever told --

19 A. But after I spoke to Kara, I felt I got scared
20 again. I said, shit, I'm putting myself in the line of
21 fire. I'm going to come out in the article. My name's
22 gonna be there. I'm not David's attention anymore now he
23 has a new victim. Thank you, God. I swear that's what I
24 thought.

25 Q. Okay.

1 A. And then sometimes they go to arbitration, or
2 they're appealed and they go to the Superior Court.

3 Q. After -- after going through the department?

4 A. Sometimes they don't make it to the department
5 because they -- they make the -- a motion to compel
6 arbitration, or --

7 Q. When you say they, is they --

8 A. Defendant.

9 Q. Okay.

10 A. Sorry.

11 Q. No. That's fine. Just so I'm understanding.

12 But you were representing who the truck drivers would
13 be, the plaintiffs, correct?

14 A. Yes.

15 Q. Okay. Do you still have copies of texts and/or
16 emails with David Arambula?

17 A. No. After the -- the -- the TRO and the appeal,
18 I -- again, I was just trying to like disappear and just
19 like -- like just get -- delete and get rid of --

20 Q. Sure.

21 A. -- that part of your life. Like move to Mexico.
22 So it just -- I didn't -- I don't -- I didn't think I'd
23 ever -- I mean, I didn't -- yeah. No. I think I -- I
24 actually lost that phone, too, anyway. It might -- it
25 might be in iCloud or whatever. Is it called iCloud?

1 Whatever. You know what I'm talking about?

2 Q. Yeah. The cloud which nobody knows what's there.

3 A. Yeah. I don't know how to get there so --

4 Q. But, in your mind, at least as you sit here right
5 now, you don't think you have --

6 A. Don't --

7 Q. Hang on. Let me finish my question.

8 A. Sorry. Sorry.

9 Q. You don't think you have a way to pull texts
10 and/or emails you may have had with David Arambula,
11 correct?

12 A. Okay. So with text messages --

13 Q. Yeah.

14 A. -- they're -- they might be in the iCloud.

15 Q. Okay.

16 A. I'm pretty sure they are. But, the text messages
17 were never -- example, I'm not saying this was a text
18 message, like, bitch, I'm going to kill you, because
19 David's not that stupid. He's very, very smart. So he
20 knows what to say and where to stay and how to say it.

21 I do remember there was one that was really, really
22 bad. I actually took pictures of it. And I'm pretty sure
23 one is in the iCloud where it did say like, whatever. I
24 know it had bitch in there a few times. And that was in one
25 of his drunken ramblings.

1 But it's not like there were strings back and forth,
2 I'm going to kill you, I'm going to fuck you up, or this or
3 that.) Emails, I have them. They're there, I haven't
4 erased those.) And the emails -- so wait. Going back to the
5 texts, The texts I know, I took pictures of the -- of
6 the -- several texts that were -- were bad. There was not
7 like hundreds of them. There was like maybe like a dozen.
8 And exactly how -- I don't know what the word is --
9 incriminating, they're there, so that I took pictures of
10 them. And I'm pretty sure those are in the iCloud. How do
11 I get into that? I have no idea. But I'm pretty sure
12 they're there. So those are text messages.)

13 Emails, there are several emails, dozens. In emails,
14 again, I've known David for more than ten years and just
15 like -- so -- so -- so David writes an email, but it's
16 professional, of course. But I know how he talks. I know
17 how he thinks. So he's saying in a professional way, what
18 he needs to say in a professional way, but if he were in
19 front of you, I know what he's telling me in front of me in
20 my face.

21 Q. I got 'ya.

22 So it's almost like code?

23 A. He's not going to -- yeah, of course.

24 Q. All right.

25 A. He's not stupid. He's a -- he's a really smart

1 got.

2 I yield to anyone else who has any questions.

3 MR. BRIGGS: Anything else? Emily?

4 MS. STRAUB: No.

5

6 EXAMINATION

7

8 BY MR. BRIGGS:

9 Q. Ms. Hirsch, given your experience with
10 Mr. Arambula, do you believe he's capable of physically
11 attacking someone he loves?

12 MS. STRAUB: Calls for speculation. Calls for an
13 expert opinion. Lacks foundation.

14 MR. MICHELS: I'll join.

15 MS. STRAUB: Vague and ambiguous.

16 MR. MICHELS: I'll join. It's also irrelevant,
17 but go ahead.)

18 MR. BRIGGS: You can answer.

19 THE WITNESS: When David is sober, no. But David,
20 not sober, drinking, and he drinks a lot, absolutely.

21 BY MR. BRIGGS:

22 Q. What's the name of the mother of his children,
23 the one you're friends with?

24 A. It's -- they just have one son together.

25 Q. Okay.

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DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at _____, California,
on _____.

DORINNA ELYSE HIRSCH, ESQ.

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REPORTER'S CERTIFICATE

I, Jeannette M. Kinikin, CSR 11272, do hereby declare:

That, prior to being examined, the witness named in the foregoing deposition was by me duly sworn pursuant to Section 2093(b) and 2094 of the Code of Civil Procedure;

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to text under my direction.

I further declare that I have no interest in the event of the action.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

The dismantling, unsealing, or unbinding of the original transcript will render the Reporter's Certificate null and void.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of September, 2019.

Jeannette M. Kinikin, CSR
Certificate No. 11272