

1 STATE OF ILLINOIS )

2 )

3 COUNTY OF McHENRY )

4 IN THE TWENTY-SECOND JUDICIAL CIRCUIT

5 McHENRY COUNTY, ILLINOIS

6 PAUL DULBERG, )

7 Plaintiff, )

8 vs. ) No. 17 LA 377

9 THE LAW OFFICES OF THOMAS J. )

10 POPOVICH, P.C., and HANS MAST, )

11 Defendants. )

12 ELECTRONICALLY RECORDED REPORT OF

13 PROCEEDINGS had in the above-entitled cause before

14 the Honorable THOMAS A. MEYER, Judge of said Court

15 of McHenry County, Illinois, on the 11th day of

16 July, 2022, at the McHenry County Government Center,

17 Woodstock, Illinois.

18 APPEARANCES:

19 LAW OFFICE OF ALPHONSE A. TALARICO, by

20 MR. ALPHONSE A. TALARICO, (Via Zoom)

21 On behalf of the Plaintiff,

22 KARBAL COHEN ECONOMOU SILK DUNNE, LLC, by

23 MR. GEORGE K. FLYNN, (Via Zoom)

24 On behalf of the Defendant.

1 THE COURT: Any other agreed uncontested or both  
2 sides?

3 MR. FLYNN: Judge, I think both sides will be on  
4 the Dulberg matter.

5 THE COURT: Dulberg. Okay. Just looking for  
6 it.

7 MR. FLYNN: 17 LA 377.

8 THE COURT: No. 24. You got it. All right.

9 Plaintiff's counsel, if you can identify  
10 yourself?

11 MR. TALARICO: Good morning, your Honor. My  
12 name is Alphonse Talarico for the plaintiff. And  
13 before we go any further, I would like to apologize  
14 for missing court last time.

15 THE COURT: Okay.

16 MR. TALARICO: It was a medical and non-medical  
17 matter which I -- I'm under certain care.

18 THE COURT: Okay.

19 MR. TALARICO: So I apologize.

20 THE COURT: Defense counsel, if you could  
21 identify yourself?

22 MR. FLYNN: George Flynn for defendants.

23 THE COURT: All right. I was going to close  
24 (f)(1). What's going on, plaintiff?

1 MR. TALARICO: Judge, I don't think closing  
2 (f)(1)s is going to be appropriate at this moment.  
3 And some things have evolved. Some things have  
4 happened. I don't know how this electronic Zoom  
5 system works, but is there a way of speaking in  
6 camera?

7 THE COURT: Yeah. I mean, I will pass you guys,  
8 and I will come back to you shortly. So let me get  
9 rid of all the many other people on my call right  
10 now, and then I'll deal with you at the end. And  
11 it's 8:44.

12 (Whereupon the afore-captioned  
13 cause was recalled.)

14 THE COURT: Mr. Flynn, on Dulberg, do you have  
15 any objection to Mr. Talarico having a confidential  
16 discussion with me regarding whatever issue this is?

17 MR. FLYNN: Ex parte?

18 THE COURT: Yeah.

19 MR. FLYNN: We have an objection.

20 THE COURT: All right. Then, are you able to do  
21 a conference call?

22 MR. FLYNN: A conference call?

23 THE COURT: Yeah.

24 MR. FLYNN: Sure.

1 THE COURT: All right. Who is going to initiate  
2 the call?

3 MR. TALARICO: Judge, are you -- with your Honor  
4 and with Mr. Flynn, is that the --

5 THE COURT: Yeah. He's objecting. I can't just  
6 go off the record and have a conversation with you  
7 unless I formally set it as a pretrial. And I don't  
8 have this as a pretrial. And I'm reluctant to have  
9 a confidential discussion over objection at this  
10 point.

11 So what would you like to do? I can set it  
12 over for pretrial, but I don't know what you want to  
13 do.

14 MR. TALARICO: My entire goal is to limit the  
15 amount of ears to what I have to say, and --

16 THE COURT: Well, why don't you -- can you talk  
17 to Mr. Flynn while I'm wrapping up these other  
18 things?

19 MR. TALARICO: Yeah, I guess we could.

20 THE COURT: Okay. Remember to mute your  
21 computer. Give him a call, and you guys can discuss  
22 what the issue is.

23 MR. FLYNN: Judge, can I just interject one  
24 thing? I thought that Mr. Talarico initially asked



1 for an in camera hearing. It wasn't necessarily ex  
2 parte. I thought he just didn't want to necessarily  
3 do it in front of the other attorneys in the room.  
4 Is that correct?

5 MR. TALARICO: That's correct. I'm here --

6 THE COURT: Okay. Then I'm going to -- I'm  
7 going to make you guys wait. I'm going to leave the  
8 courtroom for five minutes and keep everybody else  
9 on the line, and we will have it answered for you  
10 soon.

11 MR. FLYNN: Thank you, your Honor.

12 MR. TALARICO: Thank you.

13 (Whereupon the afore-captioned  
14 cause was recalled.)

15 THE COURT: Back on the record on the Dulberg  
16 matter.

17 Plaintiff's counsel, if you can identify  
18 yourself?

19 MR. TALARICO: Judge, my name is Alphonse  
20 Talarico for Mr. Dulberg.

21 MR. FLYNN: George Flynn for the defendants.

22 THE COURT: Okay. And you indicated in camera  
23 which I interrupted to mean confidential and not on  
24 the record. Everything we are saying, even if the

1 other attorneys are out, is going to be on the  
2 record because the recording system is going to pick  
3 it up.

4 That being said, Mr. Talarico, what do you  
5 want to do?

6 MR. TALARICO: Um.

7 MR. FLYNN: Judge, can I just address that  
8 because I'm -- I do have an objection to this  
9 discussion not being on the record.

10 THE COURT: Okay.

11 MR. FLYNN: There's never been a motion filed.  
12 I'm not even sure what this is about. There have  
13 been some notices relative to court reporting in the  
14 case and in the underlying case. Some subpoenas  
15 issued to court reporters and for the circuit clerk  
16 here, but I really don't know what this is about.  
17 And since no motion has ever been filed on this  
18 issue, I would object to this hearing not being  
19 recorded.

20 THE COURT: No. I'm not really -- I'm not sure  
21 that I am conducting a hearing, but I -- but I'm now  
22 curious. But you are right, I don't have anything  
23 pending in front of me. So what do you guys want to  
24 do?

1 MR. TALARICO: Okay. Judge, I think that if you  
2 are simply okay with it being on the record, then,  
3 I'm okay with it too.

4 Your Honor, the sensitivity of the matter  
5 is such that I thought it would be better for fewer  
6 ears, but that's okay. I don't have a problem with  
7 that.

8 What I -- what this is all about, and I  
9 think Mr. Flynn has an indication at least of it is  
10 the Exhibit 12 to Mr. Hans Mast's deposition. If  
11 you remember this case, this Exhibit 12 issue has  
12 been ongoing. I think the last time we spoke of  
13 it -- we spoke to it, you said -- you told us that  
14 when -- either produce it or saying you don't have  
15 it.

16 What I have gotten in return is what I  
17 believe, I hate to use this word, but a forgery, a  
18 false document, a document that is not part of the  
19 record was created recently.

20 THE COURT: Okay.

21 MR. TALARICO: Now, how do I know this? I -- I  
22 did a records only subpoena to the court reporter.  
23 She answered, which her answers were sent to  
24 Mr. Flynn. Thereafter, she sent me a flash drive

1 with -- because -- because she said all her notes  
2 were not -- were too large to send by the proper  
3 response. The flash drive was also sent to  
4 Mr. Flynn.

5 What she said -- what is there is that  
6 there was no Exhibit 12. She never produced  
7 Exhibit 12. The issue -- the mini and the total  
8 original had no Exhibit 12, but somehow I have  
9 received a copy of Exhibit 12.

10 I also sent Exhibit 12 to a document  
11 examination, a professional. I got his report this  
12 morning -- I'm sorry, last night at 11:15 p.m., and  
13 the indication what was sent is -- does not match  
14 the other sections, the other labels -- the other 14  
15 exhibits. Someone, it appears, has created  
16 something new and sent it to me saying this is  
17 Exhibit 12. So I -- I think that I should be --

18 THE COURT: What's Exhibit 12? What is that?  
19 What is it?

20 MR. TALARICO: I'm sorry. What is Exhibit 12?

21 THE COURT: What is Exhibit 12? What is the  
22 document?

23 MR. TALARICO: It is a list of cases that  
24 Mr. Hans Mast had talked to Mr. Dulberg about in

1 the -- in the period of time of convincing him to  
2 settle the case for \$5,000 --

3 THE COURT: Identified a number of -- he  
4 allegedly identified a number of similar cases?

5 MR. TALARICO: Judge, even that is an issue  
6 because there was some problem on the Internet  
7 between Mr. Flynn's office, Ms. Clinton's office and  
8 the recordings for the Zoom deposition.

9 My whole thing is, Judge, I have a 50-page  
10 order -- 50-page report saying -- well, just, for  
11 example, you can take judicial notice, the label  
12 is -- the label that was sent to me in April of this  
13 year misspelled the defendant's name.

14 THE COURT: Okay. Well, that's a different  
15 issue. That's on the merits of your anticipated  
16 motion with -- whatever it may be with respect to  
17 what you've told me is Exhibit 12. Exhibit 12 is an  
18 attachment to a deposition as opposed to something  
19 that took place in court, is that true?

20 MR. TALARICO: That is correct.

21 THE COURT: All right.

22 MR. TALARICO: There was a deposition.

23 THE COURT: And what -- let's assume --

24 Mr. Flynn, no offense. But let's assume 100 percent

1 of what you're saying is true that it's a forged  
2 document, how does that impact what we're doing  
3 right now?

4 MR. TALARICO: How it impacts us is because I  
5 would like to have the opportunity to present a  
6 motion to exclude Mr. Hans Mast's deposition. This  
7 is just one of the issues that -- that are centered  
8 on that deposition. The Internet -- the Internet  
9 not working properly during it, the Exhibit 12 that  
10 was never produced by the reporter, the cases that  
11 came in this April filing does not include one of  
12 the major cases that was part of that, it was called  
13 (indiscernible) versus Spangler, and that's not in  
14 there.

15 So there are so many issues that are  
16 centered on that deposition that I would like some  
17 time to file a motion to exclude that and then  
18 (indiscernible) over.

19 THE COURT: Mr. Flynn, and please ignoring the  
20 implied accusations because that's not relevant to  
21 what I'm interested in, what is your original  
22 motion? Forgive my lack of memory.

23 MR. FLYNN: The original motion that we are here  
24 for today was just simply a motion to finally close

1 (f)(1) discovery. There was an oral motion only  
2 because this has been an ongoing issue. If we could  
3 just (indiscernible) the case. Counsel came into  
4 the case I think a year and three quarters ago and  
5 hasn't noticed up a certain deposition. The case  
6 just needs to move along. I -- I haven't really had  
7 a need for a summary judgment motion --

8 THE COURT: That's what I was thinking. Okay.  
9 I was thinking you had filed your summary judgment.

10 MR. FLYNN: We had not. Waiting for fact  
11 discovery to be closed. I was present for Hans  
12 Mast's deposition back in I think it was the spring  
13 of 2020 at the onset of the pandemic. It was done  
14 by Zoom. I was in his -- Hans Mast's office, at the  
15 time our office, and plaintiff was represented by  
16 Julia Williams from the Clinton Law Firm. It was  
17 her deposition, her exhibits, and I haven't read any  
18 (indiscernible) because there has been no motion. I  
19 didn't realize there was this issue, but I can't see  
20 how any of the exhibits from that deposition being  
21 forged.

22 From what I recall of Exhibit 12, I believe  
23 it was some photocopies of case law from an -- it  
24 looked like it had been copied from a -- one of the

1 old law books. I think --

2 THE COURT: Okay.

3 MR. FLYNN: -- the Court, if I remember  
4 correctly. And asked Mast about those documents at  
5 his deposition, not in great detail, by the way, but  
6 I believe he was asked about his depositions -- I'm  
7 sorry, those cases.

8 So I don't understand what the issue is. I  
9 don't see how having a hearing on the summary  
10 judgment of this case moving along. There have been  
11 a number of conspiracy theories put forth that have  
12 never -- never been filed in court. And I would  
13 just request strenuously that the (f)(1) discovery  
14 be closed, and we move along so that motions could  
15 be addressed.

16 THE COURT: Okay. Mr. Talarico, I don't have a  
17 motion, and --

18 MR. TALARICO: That is correct. What I'm asking  
19 for right now, by the same token there is no --  
20 there is only an oral motion, while I wasn't here  
21 last time because of my own illness, I was  
22 hospitalized, et cetera. So the (f)(1)s, I believe,  
23 should not be closed because if I -- if my motion is  
24 granted and Mr. Mast's deposition is stricken,



1 that -- that may lead to other people I have to -- I  
2 have to list as (f)(1)s, and it may also impact  
3 Mr. Flynn's motion -- motion for summary judgment.

4 But this entire thing, the deposition  
5 itself should be stricken. That's why I may not  
6 have time to file a motion for. I have a court -- I  
7 have a court reporter saying on her -- sending it in  
8 responses to my records only subpoena, that she --  
9 every time they tried -- whoever tried to keep  
10 sending her that exhibit, the first 22 pages were  
11 blank. She's written it over and over and over  
12 again in her response which I sent to Mr. Flynn.

13 How can they now come up with 25 or 27  
14 pages to put in a full -- with a label that  
15 misspelled the defendant's name and with a label  
16 that is not --

17 THE COURT: You are arguing the merits. You are  
18 arguing the merits.

19 MR. TALARICO: May I please file that motion?

20 THE COURT: You can file your motion. But I  
21 don't know that -- how that the anticipated motion  
22 prevents me from otherwise closing discovery. You  
23 can file your motion. You can ask to have it  
24 reopened to address issues. But that's still going

1 to be your burden because you haven't otherwise  
2 identified discovery you want to take other than  
3 related to this deposition issue.

4 And have you -- forgive me for fishing a  
5 little bit, but have you talked to Ms. Clinton, I  
6 guess that was the name of the attorney, Mr. Flynn?

7 MR. FLYNN: Ms. Williams.

8 THE COURT: Ms. William. I'm sorry. The  
9 Clinton Law Firm. Is that what you told me? All  
10 right. Have you contacted them for whatever  
11 Exhibit 12 is?

12 MR. TALARICO: No, Judge. If you remember when  
13 we talked about the pink pages, the black -- the  
14 blank pages, she would not respond to me back on  
15 that issue.

16 THE COURT: All right. I think I do recall  
17 that. All right. And have you issued a subpoena  
18 for Exhibit 12? Because I can't see how an  
19 attorney-client privilege would attach to a document  
20 that was used as an exhibit in the course of a  
21 discovery deposition.

22 MR. TALARICO: Judge, if -- maybe I'm  
23 misunderstanding. There is no Exhibit 12. That --  
24 I can't subpoena what doesn't exist.

1 THE COURT: Well, we don't have a formal  
2 response from her one way or another, do we?

3 MR. TALARICO: No, we don't. But we have a  
4 forged Exhibit 12, and we have the reporter saying  
5 there is no Exhibit 12.

6 THE COURT: She says she doesn't have it. She  
7 didn't say there was no such thing.

8 MR. TALARICO: No, excuse me, Judge. In her  
9 handwriting, the discussion about asking the Clinton  
10 firm for Exhibit 12 over and over and over again and  
11 getting no response.

12 THE COURT: That -- that doesn't look good, but  
13 it doesn't resolve the issue because I'm imagining,  
14 correct me if I'm wrong, that the record reflects a  
15 discussion of Exhibit 12.

16 MR. FLYNN: And I believe that being the case,  
17 Judge. I don't -- I can pull the transcript. I  
18 have it here within a few feet of my desk. But I  
19 recall Mr. Mast being questioned about Exhibit 12.  
20 Now --

21 THE COURT: I think that's obvious simply  
22 because there was no discussion of it, we  
23 wouldn't -- their wouldn't be -- if there was no  
24 testimony regarding the existence of Exhibit 12, we

1 wouldn't be having this discussion.

2 And I think that in the end, I'm going to  
3 ask you to get a formal response out of that law  
4 firm or that attorney as to whether or not  
5 Exhibit 12 exists. And if they are going to claim  
6 attorney-client privilege, I don't see how. But I  
7 mean, I'll look at whatever their responses are.  
8 But if they have got it, they should produce it.  
9 Mr. Talarico?

10 MR. TALARICO: Judge, whatever way you want to  
11 go, I will do.

12 THE COURT: Okay. I have not -- and I'll show  
13 my hand a little bit, if everything you're saying is  
14 true with respect to the court reporter not having  
15 Exhibit 12, that's not going to be enough for me to  
16 strike the deposition and/or bar the use of  
17 Exhibit 12. It's going to create some issues, but  
18 given the fact that it was not an in-person  
19 deposition, her testimony does not -- her  
20 anticipated testimony doesn't establish for me that  
21 Exhibit 12 does not exist or that Exhibit 12, as  
22 produced in discovery in this case, is a forgery. I  
23 don't know.

24 MR. TALARICO: But Judge, if you -- may I speak?

1 THE COURT: Yeah.

2 MR. TALARICO: If you recall, this all started  
3 when we -- with the deposition was about -- was  
4 going to be used, the deposition of Hans Mast. And  
5 in the deposition as it was produced, there was no  
6 Exhibit 12. It says Exhibits 1 to 11, 13 through  
7 15. That's when I brought it to your Honor's  
8 attention. When it was produced, there was no  
9 Exhibit 12. As of April of this year, there is  
10 Exhibit 12.

11 THE COURT: But there is testimony regarding  
12 Exhibit 12.

13 MR. TALARICO: There is.

14 THE COURT: And if -- if we have -- if the  
15 attorney who presented Exhibit 12 isn't responsive,  
16 then -- then, I think we have to address the issue.  
17 But I need to know what she says. If she says I  
18 don't have it, it never existed, yeah, there is a  
19 problem. But if she produces an Exhibit 12, then we  
20 have to discuss that.

21 MR. FLYNN: Judge, just my recollection of the  
22 transmittal of this deposition once it was written  
23 up is there was -- it was done electronically. I  
24 could be wrong again. I didn't realize -- I wasn't

1 aware of what the issue was here. But my  
2 recollection was that the court reporter sent us the  
3 transcripts and sent the exhibits electronically.  
4 So perhaps I'm wrong, you know. It was a couple  
5 years ago, but that was my understanding.

6 THE COURT: Yeah, I want to know what the  
7 attorney says. I mean, that's really the bottom  
8 line.

9 MR. TALARICO: Judge, are you suggesting a  
10 deposition of Ms. Williams to get that?

11 THE COURT: I don't know that that's necessary.  
12 I mean, a subpoena -- if you issue a subpoena and  
13 she produces one -- produces Exhibit 12, we will  
14 talk about whether or not a deposition is necessary.

15 MR. TALARICO: Okay.

16 THE COURT: And -- or -- I mean, I can see  
17 laying a foundation, but if she -- for it, or if we  
18 want to take her deposition, yeah, I'd probably be  
19 open to letting you do that. But I do agree with  
20 Mr. Flynn, it's time to get moving on this.

21 And Mr. Flynn, without showing me your  
22 hand, can I ask if Exhibit 12 is relevant to you're  
23 anticipated motion? If you don't want to answer,  
24 you don't have to.

1 MR. FLYNN: I -- you know, I suppose it may be  
2 discussed. It's part of the overall advice that was  
3 given relative to my client recommending a  
4 settlement. It's not a major part of the motion.  
5 You know, we've got statute of limitations issues  
6 which would be part of the summary judgment motion.  
7 So I don't think had any bearing on that argument.

8 THE COURT: Is it possible that -- to split this  
9 motion?

10 MR. FLYNN: Well, I -- I've always anticipated,  
11 you know, unlike my motion this morning on another  
12 matter which is one issue, I would have four or five  
13 issues on summary judgment in this case. If the  
14 Court would allow it, I could use the extra pages  
15 anyhow, or I may need to to square it up, and I  
16 really won't know until I start writing it, to tell  
17 you the truth.

18 THE COURT: Okay. Well, my -- and forgive me if  
19 I'm contradicting something, because I'm -- that  
20 I've said or done in the past, but is, in effect,  
21 the statute of limitations argument is 2-619  
22 generally. And I would think that could be isolated  
23 from anything involving -- and I would make  
24 Mr. Mast's testimony -- we wouldn't have to touch

1       it, I don't think, but I don't know. I don't know  
2       what -- I don't know the issues. That's just my  
3       general recollection.

4               And I'm thinking of if we are able to at  
5       least get rid of some of this without having to  
6       reopen discovery, because I anticipate that  
7       Mr. Talarico's issues could lead to more  
8       depositions. And I'll let you guys proceed how you  
9       want. I just want to get something done.

10       MR. FLYNN: I --

11       THE COURT: Let me add to this, the Supreme  
12       Court has made it clear that we have to move cases,  
13       and if we don't cases --

14       MR. FLYNN: I understand that.

15       THE COURT: -- within the allotted time, we will  
16       be punished. They are vague about what punishment  
17       is.

18       MR. FLYNN: I understand. I think there are  
19       multiple issues on -- I thank you for the  
20       (indiscernible) page limit. I may have some  
21       problems with that anyway. So I suppose if the  
22       Court would allow it, I could attempt to break up  
23       the various issues.

24       THE COURT: I'll consider any motion you guys



1 want to file.

2 MR. FLYNN: Okay.

3 THE COURT: And -- but if it's impossible to  
4 split it up, then we will waive. Okay.

5 MR. FLYNN: There are a lot of intertwined  
6 issues for the Court's ruling. So I'll do my best  
7 to make it easy on us all if I can.

8 THE COURT: You know, if they are all  
9 intertwined, forget everything I said.

10 Mr. Talarico, do you want to weigh in?

11 MR. TALARICO: Just so I understand, Judge, you  
12 are suggesting, and I will comply, a subpoena on  
13 Julia Williams as to Exhibit 12, and -- well, if  
14 I -- well, then, depending on -- well, I would still  
15 like to do a motion to -- to strike or exclude the  
16 deposition of --

17 THE COURT: You can, but I think that attorney's  
18 testimony or subpoena response is going to be  
19 critical to my decision on that --

20 MR. TALARICO: Then, I would --

21 THE COURT: -- because court reporters make  
22 mistakes as to attorneys as to judges, and the court  
23 reporter's perspective isn't determinative of  
24 whether or not an Exhibit 12 was identified and

1       relied upon by all the parties at the deposition and  
2       she just doesn't have it. I -- so that -- that's  
3       not going to result in my barring the dep or the  
4       exhibit, just her testimony.

5           MR. FLYNN: Judge, may I just comment on that as  
6       well?

7           THE COURT: Sure.

8           MR. FLYNN: I just wanted to point out and just  
9       for the record that these issues for all on the --  
10      according to this side of the aisle, the deposition  
11      was taken by the plaintiff. The exhibit was  
12      introduced by the plaintiff. It is plaintiff's new  
13      counsel now that is moving to strike that deposition  
14      that was taken by the plaintiff.

15           The only thing I did in this case was pass  
16      along what I thought was Exhibit 12 after it was  
17      sent to me by the court reporter.

18           THE COURT: And you raise an interesting point,  
19      but I'll address that at the appropriate time.

20           MR. TALARICO: Judge, can I make a comment?

21           THE COURT: Sure. Sure.

22           MR. TALARICO: I -- the court reporter gave me  
23      no indication that she passed on Exhibit 12 to  
24      Mr. Flynn. So that's -- that's a question now.

1 That --

2 THE COURT: Well, it was a Zoom dep, wasn't it?

3 MR. FLYNN: It was.

4 MR. TALARICO: It was a Zoom dep.

5 THE COURT: And was the court reporter even  
6 present?

7 MR. TALARICO: No.

8 THE COURT: You see, that's -- that's an issue  
9 for me because you've got everybody in separate  
10 locations.

11 MR. TALARICO: All I'm saying, Judge, is the  
12 documents I sent to Mr. Flynn by the court reporter,  
13 there were -- there were ongoing issues with  
14 Exhibit 12 saying I don't have it, I don't have it,  
15 somebody give it to me, what is this. There is for  
16 the -- we have got two things. You've got the  
17 reporter actually focusing on 12 and saying I don't  
18 have it, the reporter --

19 THE COURT: I believe it.

20 MR. TALARICO: -- not producing an Exhibit 12,  
21 and then the document expert saying it's a forgery.

22 THE COURT: I --

23 MR. FLYNN: I may be able to shed a little bit  
24 of more light on this as well. This is just for

1 purposes of moving forward.

2 So my recollection was Ms. Williams  
3 forwarded the proposed exhibits of the deposition  
4 prior to the deposition. My recollection was that  
5 some of them were fairly extensive, and I didn't  
6 print out every single one. I recall getting hard  
7 copies of some of the exhibits to Mr. Mast's office.

8 We had some technical issues with screen  
9 sharing the exhibits. I recall showing him one or  
10 two hard copies of exhibits. But again, my  
11 recollection of the exhibits were sent in the  
12 proposed form prior to the deposition. That may, at  
13 least, help us, not that I am getting -- chasing  
14 down this issue because I'd rather not spend time on  
15 it. But just for everyone's edification, I think  
16 that was the case.

17 THE COURT: Okay. Mr. Talarico, anything to  
18 add?

19 MR. TALARICO: No, Judge.

20 THE COURT: All right. So please issue a  
21 subpoena. I guess I had misunderstood. I thought  
22 that the deposition was from a companion case, not  
23 this case. So simply by names of the attorneys, I  
24 had overlooked that. And we will have to address

1       that when we get to it.

2               But if you want to file a motion, file a  
3 motion. But I think issuing a subpoena or even  
4 contacting her and getting an affidavit is fine. I  
5 don't care. But I want to know what she says. And  
6 I just don't know where we are going if you file a  
7 motion based upon the court reporter saying I never  
8 got them because that doesn't establish for me that  
9 Exhibit 12 doesn't exist or that the one that you've  
10 been produced is the wrong one then, and I don't  
11 know how to resolve that.

12       MR. TALARICO: All right, Judge. I will gladly  
13 take your advice and move forward with a -- with a  
14 subpoena.

15       THE COURT: Okay. When did we want to come  
16 back?

17       MR. FLYNN: Judge, is that -- I'm happy to  
18 prepare the order. Is fact discovery closed?

19       THE COURT: Yeah.

20       MR. FLYNN: Okay.

21       THE COURT: Closing fact discovery on my motion  
22 today. But that does not prevent Mr. Talarico from  
23 filing a motion to reopen discovery for purposes of  
24 pursuing this issue. So you're really -- with

1       respect to the issues Mr. Talarico has raised today,  
2       there is no prejudice. He can still pursue exactly  
3       what I said he could pursue.

4               So in case there is any question, I will  
5       explicitly grant leave to issue his subpoena or  
6       obtain an affidavit from that attorney in question  
7       regarding Exhibit 12.

8       MR. FLYNN: Showing who the parties in the  
9       order.

10       THE COURT: I think that's better.  
11       Mr. Talarico, does that cover what you want to  
12       cover?

13       MR. TALARICO: Yes, Judge.

14       THE COURT: So realistically, I'm thinking 60  
15       days to resolve the issue with the attorney. That  
16       puts us into mid September. How is September 16, a  
17       Friday?

18       MR. FLYNN: Works for me.

19       MR. TALARICO: I'm checking, your Honor.

20       THE COURT: Okay.

21       MR. TALARICO: Fine.

22       THE COURT: All right. That will be -- well,  
23       let me look at my schedule because I anticipate --  
24       let's say 9:30.

1 MR. TALARICO: Okay.

2 MR. FLYNN: And Judge, in this court this  
3 morning earlier on the Interrante case, this matter  
4 was scheduled for 9:45. I wasn't sure  
5 (indiscernible) did we both have to be here, or if I  
6 missed something as far as --

7 THE COURT: I have it -- I think I had your  
8 other case up at 8:45.

9 MR. TALARICO: Mr. Flynn, you were right, this  
10 case was scheduled for 9:45 also.

11 MR. FLYNN: It was. I think, Judge, you drafted  
12 the last order. I'm not trying to blame you, but I  
13 think originally 8:45 and then it was stricken on  
14 the order and then changed 8 to 9:45.

15 THE COURT: That was my mistake, and somebody  
16 brought it to my attention and made fun of me. I  
17 will accept blame for that.

18 Let's go 9:30. You put it in the order,  
19 and you can even say by order of the Judge at 9:30.  
20 And the reason for that is so that we don't have to  
21 wait for a large call to dissipate before talking.

22 MR. FLYNN: I'll draft the order, Mr. Talarico.  
23 I should be able to get it to you within an hour or  
24 so.

1 MR. TALARICO: Thank you, sir.

2 THE COURT: All right.

3 MR. FLYNN: That's it.

4 THE COURT: I'll sign it when I see it, and then  
5 we will see you at 9:30 on September 16.

6 MR. TALARICO: May I say one more thing, Judge?

7 THE COURT: Yes.

8 MR. TALARICO: I'm sorry. I'm apologizing again  
9 for missing court. This is probably the first time  
10 in my life, but it was a medical emergency and --

11 THE COURT: Understood.

12 MR. TALARICO: -- I missed court, and I  
13 apologize.

14 THE COURT: Okay.

15 MR. FLYNN: No apology necessary. Thank you.

16 THE COURT: No problem. All right. We will see  
17 you next month -- or in September.

18 MR. FLYNN: Thank you.

19 THE COURT: Thank you. Bye. Disconnecting.

20 (Which were all the proceedings  
21 had in the above-entitled cause  
22 this date.)  
23  
24



1 STATE OF ILLINOIS )  
2 ) SS:  
3 COUNTY OF McHENRY )  
4

5 I, JUDY CARLSON, an official Court Reporter  
6 for the Circuit Court of McHenry County,  
7 Twenty-Second Judicial Circuit of Illinois,  
8 transcribed the electronic recording of the  
9 proceeding in the above-entitled cause to the best  
10 of my ability and based on the quality of the  
11 recording, and I hereby certify the foregoing to be  
12 a true and accurate transcript of said electronic  
13 recording.  
14

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