

1 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
2 COUNTY DEPARTMENT - LAW DIVISION  
3

4 PAUL R. DULBERG, Individually, )  
5 and THE PAUL R. DULBERG )  
6 REVOCABLE TRUST, )  
7 Plaintiffs, )  
8 vs. ) No. 2022 L 010905  
9 KELLY N. BAUDIN, et al., )  
10 Defendants. )  
11  
12  
13

14 VIDEOCONFERENCE COURT HEARING

15  
16 MAY 25TH, 2023  
17 COMMENCING AT 10:30 A.M.  
18

19 BEFORE: HONORABLE MICHAEL F. OTTO  
20  
21  
22  
23

24 REPORTED BY: Linda S. Idrizi, CSR NO. 84-3704.

1 APPEARANCES:

2  
3 ALPHONSE TALARICO LAW OFFICES,  
4 (707 Skokie Boulevard, Suite 600,  
5 Northbrook, Illinois 60062), by:  
6 MR. ALPHONSE A. TALARICO,  
7 contact@lawofficeofalphonsetalarico.com,  
8 appeared on behalf of the Plaintiff;  
9

10 LEWIS BRISBOIS BISGAARD & SMITH, LLP,  
11 (550 West Adams Street, Suite 300,  
12 Chicago, Illinois 60661), by:  
13 MR. JASON W. JOCHUM,  
14 jason.jochum@lewisbrisbois.com,  
15 appeared on behalf of Defendants;  
16  
17  
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19  
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22  
23  
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1 APPEARANCES:

2  
3 CHAPMAN SPINGOLA, LLP,  
4 (190 South LaSalle Street, Suite 3850,  
5 Chicago, Illinois 60603), by:  
6 MR. ROBERT CHAPMAN,  
7 rchapman@chapmanspingola.com,  
8 appeared on behalf of the Defendants;  
9

10 AMUNDSEN DAVIS,  
11 (150 North Michigan Avenue, Suite 3300,  
12 Chicago, Illinois 60601), by:  
13 MS. MICHELLE E. Tinajero,  
14 mtinajero@smithamundsen.com,  
15 appeared on behalf of the Defendants.  
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1 THE COURT: Good morning, everybody. This is  
2 Dulberg versus Baudin, 2022 L 10905. I'm Judge  
3 Michael Otto. We are up today for a hearing on a  
4 couple of different fully briefed motions to  
5 dismiss.

6 And then I believe I also need to set  
7 a briefing schedule on other motions that have been  
8 filed, but we will do all of that -- we will go  
9 through all of that after everybody introduces  
10 themselves for the record, please, starting with  
11 Plaintiff's counsel.

12 MR. TALARICO: Good morning, your Honor.  
13 Good morning, Counsel. My name is Alphonse  
14 Talarico. I represent the Plaintiff, Paul Dulberg.

15 THE COURT: And also the Dulberg Revocable  
16 Trust; correct?

17 MR. TALARICO: Correct, yes.

18 THE COURT: Okay. Who is here for any of the  
19 movants on the fully briefed motions?

20 MR. CHAPMAN: Good morning, your Honor.  
21 Robert Chapman on behalf of ADR Systems.

22 MR. JOCHUM: And good morning, your Honor.  
23 Jason Jochum, J-O-C-H-U-M, on behalf of the  
24 Defendants Joseph Olsen, Raphael Yalden and Craig

1 Willette. And I am going to refer to them  
2 collectively as the Olsen Defendants, which we  
3 referred to them in our motions.

4 THE COURT: Good morning to everyone so far.  
5 And Miss Tinajero.

6 MS. TINAJERO: Good morning, Judge. Michelle  
7 Tinajero on behalf of Allstate.

8 THE COURT: Okay. And no one here for the  
9 Baudin Defendants at this time?

10 MR. TALARICO: Doesn't appear that way.

11 THE COURT: All right. We will cross that  
12 bridge when we come to it. Why don't we go ahead  
13 with the motions to dismiss that are up today for  
14 hearing. Unless the parties have agreed otherwise,  
15 I am fine with starting with ADR and going in  
16 alphabetical order.

17 I will say at the outset that as to  
18 both ADR's motion to dismiss and we are going to  
19 call it the Olsen Defendants, the Olsen Defendants'  
20 motion to dismiss, I have read all of the briefs,  
21 motion in response, reply, reviewed the exhibits  
22 that the parties have cited and considered the  
23 authority on which the parties have relied.

24 So nobody should feel that they need

1 to read their brief to me, but if anybody has  
2 anything they want to highlight, especially since  
3 we do have a court reporter here, I would, of  
4 course, give both sides a chance to be heard.

5 So, Mr. Chapman, you will have the  
6 first and last word on your motion. Please go  
7 ahead when you are ready.

8 MR. CHAPMAN: Thank you, your Honor. I will  
9 be very brief in light of the fact that you have  
10 reviewed everything.

11 From our perspective, your Honor, our  
12 motion is very straightforward. I am going to  
13 assume you know who ADR Systems is and that we are  
14 in the mediation and arbitration business.

15 There was a bankruptcy by Mr. Dulberg.  
16 The trustee assumed control of his personal injury  
17 claim. There was a motion presented in the  
18 bankruptcy court that approved a binding mediation  
19 at ADR Systems.

20 As Mr. Talarico states in Exhibit 10  
21 to his complaint is a binding mediation agreement  
22 with ADR Systems, following which is executed by  
23 the Baudin attorneys.

24 It is unclear to me if Mr. Talarico is

1 disputing that Mr. Dulberg's signature is on the  
2 document, but that's neither here nor there as the  
3 bankruptcy court approved the mediation with a  
4 high-low agreement.

5 The mediation occurred. Judge  
6 Etchingham retired, oversaw the binding mediation.  
7 He entered an award of \$560,000 in Mr. Dulberg's  
8 favor.

9 There was a high-low agreement. The  
10 bankruptcy court record, which the court can take  
11 judicial notice of, the payment was made by  
12 Allstate, I believe. The proceeds from the  
13 mediation were then distributed, including \$117,000  
14 to Mr. Dulberg.

15 In sum, we are in the mediation  
16 business. There was a mediation agreement. Judge  
17 Etchingham ruled consistent with the mediation  
18 agreement and the parties performed in accordance  
19 with that mediation agreement, which the bankruptcy  
20 court had directed the trustee to enter into as he  
21 saw necessary.

22 Under those circumstances, you Honor,  
23 I don't think there is any allegation in the  
24 complaint, as we state in our pleadings, that would

1 support any type of claim that ADR breached the  
2 agreement. It's that straightforward. There are  
3 no allegations of breach in the agreement.

4 THE COURT: Thank you, Mr. Chapman.

5 Mr. Talarico.

6 MR. TALARICO: A quick response, Judge.  
7 There were two agreements, two different exhibits  
8 attached to the complaint.

9 The breach that we are alleging is  
10 that ADR as a third-party to the contract breached  
11 their own terms.

12 The terms of which we are talking  
13 about specifically -- I don't have them in front of  
14 me, but what they require is that if a contract  
15 which has been made and -- made and it's gotten  
16 changed, it has to be -- the changes have to be  
17 approved by the parties and ADR.

18 There was a change. The terms of the  
19 contract are different. And there is no evidence  
20 of approval by ADR.

21 THE COURT: Mr. Talarico, the first contract  
22 was not executed.

23 MR. TALARICO: Correct.

24 THE COURT: So if I am understanding

1 correctly, your theory is that ADR is bound by the  
2 terms of the unexecuted contract and they breached  
3 the unexecuted contract by ultimately performing  
4 under the contract that the parties did execute.

5 MR. TALARICO: That's not exactly what I'm  
6 trying to say. I will try again, Judge, and  
7 forgive me if I am not being clear.

8 The unsigned one that was presented to  
9 the bankruptcy judge has a term in it. And the  
10 term -- one of the terms, which makes it very  
11 interesting, it says that payments have to be made  
12 on a scheduled basis. And one of the dates that's  
13 included is November 21st, 2016. I think I  
14 addressed that.

15 Now, the contract, we don't know yet  
16 whether there was a signed contract at that point,  
17 but the terms of the one that was presented to the  
18 bankruptcy court, okay, required, again, by  
19 November 21st, payments of somewhere around 2,  
20 \$3,000 be made in advance.

21 I also believe that means under  
22 discovery there was a signed contract prior to the  
23 one that they -- that was presented on December  
24 8th.

1           A contract was presented on December  
2   8th, the day of the hearing, but that also had the  
3   term you must pay -- I don't remember, 2 to \$3,000  
4   by November 21st.

5           Judge, how could there not have been a  
6   first contract if the December 8th one that they  
7   filed has a term requiring a payment of November  
8   21st?

9           THE COURT: So, again, I'm not sure that that  
10   addresses the concern that I suspect was evident  
11   from my question.

12           You are seeking to hold them to an  
13   unsigned contract. Right now you are saying maybe  
14   there was a different signed contract and we just  
15   don't know, but you pled nothing about that.

16           MR. TALARICO: What I am trying to say was  
17   the contract that was presented to the bankruptcy  
18   judge was a contract that was on ADR's stationary.  
19   It had terms. It had money that ADR was entitled  
20   to. It had fees on it. All of those things got  
21   changed on the second contract.

22           THE COURT: I understand, but the first  
23   contract was never signed.

24           MR. TALARICO: We don't know that, Judge. We

1 know that that was the contract that was submitted.

2 THE COURT: Sure. So let me say it a  
3 different way. The only contract that you have  
4 presented as an exhibit to support your theory that  
5 there was a breach is an unsigned version?

6 MR. TALARICO: We presented the December 8th  
7 contract, also, Judge, that was signed. And that  
8 had --

9 THE COURT: Mr. Talarico, if you want to  
10 quibble --

11 MR. TALARICO: No, I don't. Not at all.

12 THE COURT: You understand the point that I  
13 am making, do you not?

14 MR. TALARICO: I'm not sure, Judge.

15 THE COURT: Wait a minute, Mr. Talarico. I  
16 will try to make it even more plain. You say that  
17 the contract that was presented to the bankruptcy  
18 court differed from the contract that was  
19 ultimately performed; correct?

20 MR. TALARICO: Correct.

21 THE COURT: But the bankruptcy court version  
22 of the contract, the version that was presented to  
23 the bankruptcy court, was unsigned; correct.

24 MR. TALARICO: Correct.

1 THE COURT: Okay. Anything else?

2 MR. TALARICO: Yes. The one that was signed  
3 also had that same clause requiring payment by  
4 November 21st of that year where that contract,  
5 which is now a signed contract, took place on  
6 December 8th. I don't know how that can happen.

7 And, Judge, just one last sentence,  
8 that's all, and then I will end it. The terms --  
9 it's not just the fact that it says November 21st,  
10 but that any changes to contracts have to be  
11 approved by ADR.

12 And the December 8th contract was not  
13 approved by ADR. It was signed and there was a  
14 hearing. It doesn't -- I don't understand how it  
15 could possibly be both.

16 THE COURT: How it could be both, what?

17 MR. TALARICO: The only contract requiring a  
18 payment of dollars weeks or months in advance of  
19 the contract being signed.

20 THE COURT: Okay. Thank you.

21 Mr. Chapman, you have the last word,  
22 if you wish.

23 MR. CHAPMAN: Your Honor, unless you have any  
24 questions, we will just rely on our briefs.

1           THE COURT: That's fine. Thank you,  
2           Mr. Chapman.

3                     The motion is granted. I do not see  
4           any sufficient allegations of breach of any term of  
5           the contract against ADR in the complaint as pled.

6                     The notion that they are bound by a  
7           contract which was unsigned is untenable. And the  
8           complete speculation that there was a previous  
9           signed version of the contract is just that. Not  
10          only is it speculation, but it doesn't even appear  
11          in the complaint. The motion is granted.

12           MR. CHAPMAN: Your Honor, thank you very  
13          much. I think I have stated both in my initial  
14          brief and my reply brief that we would like the  
15          dismissal to be with prejudice.

16                     I can't imagine any allegations that  
17          would allow this -- a claim to go forward. And we  
18          would like it to be with prejudice, to have the  
19          requisite Rule 304(A) language since there are  
20          other claims still pending.

21           THE COURT: I am skeptical, as well, but I  
22          think it's fair to give the Plaintiffs an  
23          opportunity to replead, if they have grounds for  
24          asserting some of the theories or some of the facts

1 that were alluded to today, I will give leave to  
2 replead it. At this time I am not going to dismiss  
3 it with prejudice. I will give 21 days to replead.

4 MR. CHAPMAN: Thank you, your Honor.

5 THE COURT: All right. Thank you.

6 Let's move to the Olsen Defendants'  
7 motion to dismiss. Let's see, Mr. Jochum, again, I  
8 have read motions, response and reply, but I do  
9 want to give both sides a chance to be heard. You  
10 will have the first and last word. Please go ahead  
11 when you are ready.

12 MR. JOCHUM: Thank you, your Honor. Similar  
13 to Mr. Chapman, I will just have a few, brief  
14 arguments, and then if your Honor has any  
15 questions, I am glad to address them.

16 Plainly put, the Olsen Defendants were  
17 appointed as a bankruptcy trustee of Mr. Dulberg's  
18 bankruptcy in August of 2016.

19 There was an approval of the mediation  
20 agreement October 31st, 2016, by the bankruptcy  
21 court that Mr. Olsen presented. And the mediation  
22 occurred on December 8th, 2016 with the award  
23 entered on December 12th, 2016.

24 As we noted in our motion to dismiss,

1 this claim is barred by the statute of limitations  
2 and the statute of repose. There is no question of  
3 fact that Mr. Dulberg knew of his injury and that  
4 it was allegedly wrongfully caused when the award  
5 was entered on December 12th of 2016.

6 In fact, he emailed the Baudin  
7 Defendants' attorneys as noted in Paragraph 57 of  
8 his complaint. "You guys did good. I just feel  
9 like I gave these people \$261,000." I am  
10 paraphrasing, but that's essentially what he  
11 stated.

12 He knew of his injury. He knew he was  
13 coerced into participating into this mediation.  
14 His claim arose then. He didn't file suit within  
15 two years.

16 I just want to briefly address two  
17 points raised in the response brief. Mr. Dulberg  
18 argues that disability should toll the statute of  
19 limitations and the statute of repose.

20 That is just -- being deemed disabled  
21 by the Social Security Administration is not  
22 legally disabled as noted by a significant amount  
23 of Illinois case law.

24 And I would just point out that if

1 Mr. Dulberg was disabled, he could not even bring  
2 the present suit because he is legally disabled.

3 Mr. Dulberg also cites to Carlson,  
4 that is not applicable to this case. There is no  
5 question of fact that Mr. Dulberg's injury occurred  
6 in 2016, that he knew it, and he failed to file  
7 suit within two years.

8 Briefly on the statute of repose, the  
9 only act or omission alleged by -- against the  
10 Olsen Defendants occurred on October 31st, 2016,  
11 and the complaint filed more than six years later  
12 is not timely.

13 So unless your Honor has any  
14 questions, we will stand on our briefs and the  
15 arguments therein.

16 THE COURT: Do you want to address the Barton  
17 Doctrine at all or just rest on the briefs for it?

18 MR. JOCHUM: Your Honor, I could bring it up,  
19 but I think the statute of limitations and the  
20 statute of repose arguments are fairly dispositive.

21 Barton, there is no -- we have done  
22 extensive research on it. There actually is no  
23 Illinois case we have found deciding whether the  
24 Barton Doctrine applies or how an Illinois court

1 has applied it; however, the 3rd, 4th and 7th  
2 Circuits have held that the debtor must have  
3 permission for the bankruptcy court to bring suit  
4 against a trustee.

5 I know Mr. Talarico has cited to an  
6 11th Circuit case that holds otherwise. We would  
7 state that the Court should follow the holdings of  
8 the 3rd, 4th and 7th Circuit which are more  
9 dispositive on the issue, especially the 7th  
10 Circuit as that is based here in Chicago.

11 THE COURT: Fair enough. Thank you,  
12 Mr. Jochum.

13 Mr. Talarico?

14 MR. TALARICO: Thank you, Judge. As to the  
15 Barton Doctrine, the purpose of the Barton Doctrine  
16 as we have cited is to recognize the superiority of  
17 the bankruptcy court in other related matters, but  
18 once the bankruptcy court has finished its  
19 business, it no longer has jurisdiction.

20 The Barton Doctrine cannot -- a person  
21 cannot go ask a court that is not in existence for  
22 permission. That's as simple as I can make it.

23 The jurisdiction is no longer there.  
24 So the request to the bankruptcy court, which no

1 longer has jurisdiction, is a nonentity, something  
2 that can't be done or shouldn't be done.

3 THE COURT: Bankruptcy cases are re-opened  
4 all the time.

5 MR. TALARICO: But this one -- they may be,  
6 Judge, but this one was not re-opened. Are you  
7 saying -- well, whatever. Okay. Yes, sir.

8 THE COURT: Okay. Did you have anything else  
9 you wanted to add, Mr. Talarico?

10 MR. TALARICO: Oh, the statute of limitations  
11 argument. The statute of limitations when linked  
12 with fraud by deception, including attorneys who  
13 are doing fraud by deception, there is a five-year  
14 statute from discovery.

15 The discovery was made on October  
16 22nd, 2022 when ADR submitted to me by my request a  
17 contract different than what was presented to the  
18 bankruptcy court. The allegations are fraud and  
19 fraud by deception.

20 THE COURT: The allegations against Olsen,  
21 Willette and Yalden have what to do with the  
22 purported contract switch --

23 MR. TALARICO: That has to do with the  
24 fact -- what I am arguing about with Olsen is that

1 they claim that they had nothing -- the individual  
2 Defendants, Yalden and Willette, had nothing to do  
3 with the case, the bankruptcy case, yet the trustee  
4 applied and asked for and was paid money for their  
5 services. I don't see how they can be paid for  
6 something they didn't do.

7 THE COURT: My question must have been  
8 unclear. What of your allegations of wrongdoing  
9 against Olsen, Willette and/or Yalden have anything  
10 to do with the purportedly improper change in terms  
11 of the ADR contract?

12 MR. TALARICO: The fact that they, Olsen  
13 related to the bankruptcy judge that Mr. Dulberg  
14 did not want to go forward with the case, the  
15 trial, to a jury trial, and that he was -- he  
16 acknowledged himself to be a poor witness such that  
17 ADR was his choice to go forward.

18 The trustee also in the hearing when  
19 he brought this motion said he didn't want to  
20 micromanage. And the last fact is this was a  
21 positive bankruptcy, a rarity, where, yes, the  
22 estate -- the trustee had control of the estate and  
23 the estate's action, but by relinquishing it and by  
24 the fact that Dulberg also was a taker from that

1 estate, he had -- and they said they are relying on  
2 what he wants to make a decision.

3 They say he wants to go to ADR. He  
4 wants -- they are abandoning to a certain degree  
5 the control of that case. And that's based on a  
6 lie that was presented to the judge that this was  
7 the individual, Dulberg's, desire. So I think  
8 that's fraud.

9 THE COURT: First, it's not fraud against  
10 Mr. Dulberg. At most, if true, it would be fraud  
11 on the bankruptcy court.

12 Leaving that aside, all of that  
13 occurred in October of 2016. So even if I agreed  
14 with you that in theory that this complaint sounds  
15 in fraud, you still blew the five-year statute of  
16 limitations because 2016 is more than five years  
17 before you filed the suit.

18 MR. TALARICO: Not five years from when he  
19 knew about it, knew about the fraud.

20 THE COURT: He knew about everything that you  
21 just said when it happened because it happened in  
22 open court.

23 The production of a different ADR  
24 contract didn't suddenly reveal to him everything

1 that you just said was the wrongdoing that you are  
2 claiming the Olsen Defendants committed.

3 That's why I tried to ask you very  
4 specifically and clearly and more than once what,  
5 if anything, does the changed -- purportedly  
6 changed, purportedly improperly changed ADR  
7 contract have to do with anything that any of these  
8 Defendants are alleged to have done.

9 You didn't answer that, but you told  
10 me everything that you claim they did wrong and all  
11 of that happened in 2016.

12 And I don't see what possible  
13 relevance the purported 2022 production of the  
14 changed terms, quote/unquote, ADR contract had to  
15 do with any of it.

16 MR. TALARICO: Your Honor, I have nothing  
17 further to say.

18 THE COURT: Okay. Thank you, Mr. Talarico.

19 MR. TALARICO: You're welcome.

20 THE COURT: Mr. Jochum, you have the last  
21 word, if you wish.

22 MR. JOCHUM: I would just like to point out  
23 Adverston versus Riseburrow, all claims against an  
24 attorney are subject to 735 ILCS 5/13-214.3.

1           Mr. Talarico's assertion of fraud and  
2           how the statute of limitations applies is  
3           incorrect. And I have nothing further, your Honor.

4           THE COURT: All right. Thank you both.

5           This motion is granted with prejudice.  
6           First, I agree with Mr. Jochum that the relevant  
7           statute of limitations is that for attorney's  
8           conduct, the two year statute of limitations, six  
9           year statute of repose.

10           By those measures, by both of those  
11           measures, the complaint is untimely as to these  
12           Defendants and is subject to dismissal.

13           The Plaintiffs have argued fraudulent  
14           concealment, but I see nothing having been  
15           fraudulently concealed as far as the wrongdoing  
16           that these Defendants are alleged to have  
17           committed. I see no basis for tolling the statute  
18           of limitations.

19           And as to the argument in the  
20           alternative set out in the brief that the  
21           Plaintiff, Mr. Dulberg, individually is under a  
22           legal disability that would toll the statute of  
23           limitations, again, I agree with the movants, the  
24           Defendants, that that is incorrect.

1           The brief itself notes that Section  
2   1.06 of the statute on statutes defines a person  
3   under legal disability is a person who -- well, I  
4   don't need to read the whole thing, but essentially  
5   it refers to individuals who because of mental  
6   deterioration or physical incapacity, mental  
7   illness, are unable or at least not fully able to  
8   manage their person or estates.

9           There is no suggestion whatsoever in  
10   the complaint or any of the exhibits to it or the  
11   exhibits to the response that that applies to  
12   Mr. Dulberg.

13           As Mr. Jochum pointed out, if it did  
14   apply to him, given the representation that he  
15   remains disabled, there would be another reason to  
16   dismiss the case because he would be incapable,  
17   legally incapable of moving forward at the present  
18   time.

19           So, again, I don't see any basis for  
20   tolling the statute of limitations based on that  
21   argument.

22           As to -- and as I discussed with  
23   Mr. Talarico, even if the five year statute of  
24   limitations were to apply, for purposes of

1 argument, which, again, I do not believe it does,  
2 still the actions took place and the Defendant --  
3 pardon me, the Plaintiffs were aware of the harm  
4 more than five years before the complaint was filed  
5 and it would still be subject to dismissal on  
6 limitations grounds.

7 In addition, as an alternate basis for  
8 dismissal, the Barton Doctrine as applied by the  
9 7th Circuit, among others, I believe is  
10 appropriately invoked here.

11 Although, it may very well be true,  
12 and it is true apparently, that the bankruptcy case  
13 has been closed, it's routinely and possible to  
14 re-open the bankruptcy case. That happens for a  
15 host of reasons and the Plaintiff has presented no  
16 argument or suggestion why if he wished to pursue a  
17 cause of action against the movants, he could have  
18 sought to reopen and sought leave for the  
19 bankruptcy court to do so.

20 I think ordinarily the court then  
21 appoints an official, whether it be a trustee in  
22 this case or a receiver, ordinarily claims against  
23 those individuals appointed by the court need to be  
24 approved at a minimum by the court that appointed

1 the individuals. And the Barton Doctrine is the  
2 bankruptcy specific manifestation of that generally  
3 accepted principle.

4 So this motion is granted with  
5 prejudice. And I will provide 304(A) language in  
6 the order. I do find that there is no just cause  
7 for delay, enforcement or appeal of this order.  
8 And so 304(A) language should be included in the  
9 written order memorializing today's proceedings.

10 All right. So then let's move,  
11 please, to the other Defendants for the moment. I  
12 know that I do need to give a deadline for the  
13 Plaintiff to replead against ADR Systems, if the  
14 Plaintiffs choose to do so, but I do want to first  
15 ask Miss Tinajero, I believe that you filed a  
16 motion to dismiss on behalf of Allstate. Am I  
17 correct about that?

18 MS. TINAJERO: So, Judge, we -- let me double  
19 check really quick. We answered the complaint. We  
20 have not filed a motion to dismiss. We may file a  
21 dispositive motion in the future, but no. We have  
22 nothing on file as of today.

23 THE COURT: Okay. And as we noted earlier,  
24 there is not anyone here on behalf of Defendants

1 Kelly Baudin, William Randal Baudin II or Kelran,  
2 Incorporated, which surprises me, but is anyone  
3 here able to represent whether those individuals  
4 had filed a responsive pleading on the schedule set  
5 by this Court's order of March 28th?

6 MR. TALARICO: They have filed a motion to  
7 dismiss based on 2-619(1).

8 THE COURT: Okay. Thank you. Have we  
9 already set a briefing schedule on that? I don't  
10 believe so.

11 MR. TALARICO: Yes, we have, Judge.

12 THE COURT: Okay. On the Baudin motion to  
13 dismiss?

14 MR. TALARICO: Yes.

15 THE COURT: Okay. Well, then that briefing  
16 schedule will stand. I think it probably makes  
17 sense, and I imagine this might be a little bit  
18 frustrating for Mr. Chapman on behalf of ADR, but I  
19 think it probably makes sense for me to hear that  
20 final motion to dismiss before setting a deadline  
21 for the Plaintiffs to file an amended complaint, if  
22 they elect to do so, against ADR so Mr. Talarico  
23 knows exactly what he has to replead and doesn't  
24 have to replead more than once.

1 MR. CHAPMAN: Your Honor, if you don't mind  
2 me interrupting only because I am looking at the  
3 May 18th order. And the Baudin Defendants' motion  
4 is set for July 31, 2023. Do you want to just have  
5 a status on that, on that date on the ADR, the  
6 complaint as it is to ADR?

7 THE COURT: The July 31 date, can you tell me  
8 the time? I don't have that order in front of me.

9 MR. CHAPMAN: Sure. 9:45 a.m.

10 THE COURT: So that's for status on  
11 disposition?

12 MR. TALARICO: Yes, your Honor.

13 MR. CHAPMAN: Yes.

14 THE COURT: Yes, that will be for status, but  
15 Mr. Talarico, just to be abundantly clear, I am not  
16 requiring you to replead against ADR before that  
17 July date. I think it's fairest to hear that last  
18 motion to dismiss, as well, and then we can get one  
19 amended complaint depending on the ruling on that  
20 motion.

21 MR. CHAPMAN: I will just indicate that the  
22 matter -- I am just looking at a draft order I have  
23 been working one. I will say the matter as to ADR  
24 is continued for status to July 31 at 9:45 a.m.

1 THE COURT: Yes.

2 MR. CHAPMAN: Okay. Thank you.

3 THE COURT: All right. Are there any other  
4 outstanding matters that it would be helpful for us  
5 to address this morning? Mr. Talarico, I will ask  
6 you first?

7 MR. TALARICO: No, your Honor.

8 THE COURT: Anybody else?

9 MR. CHAPMAN: Your Honor, on housekeeping, is  
10 it -- I would suggest that we have two separate  
11 orders because of the 304(A) language.

12 THE COURT: Agree.

13 MR. CHAPMAN: So I will submit an order to  
14 the court for ADR.

15 THE COURT: I think having two separate  
16 orders makes abundant sense with 304(A) language on  
17 one and not the other.

18 And they don't really need to say much  
19 more since we do have a court reporter transcribing  
20 the proceedings than that the motions are granted  
21 respectively without and with prejudice for the  
22 reasons stated on the record.

23 Thank you all and I will see you July  
24 26th.

1 MR. JOCHUM: Thank you, your Honor.

2 MR. CHAPMAN: Thank you.

3 MR. TALARICO: Thank you, Judge, and counsel.

4 MS. TINAJERO: Thank you.

5 THE COURT: Have a good day, everyone. Thank  
6 you.

7 (WHICH WERE ALL THE PROCEEDINGS HAD  
8 IN THE ABOVE-ENTITLED CAUSE ON  
9 THIS DATE.)

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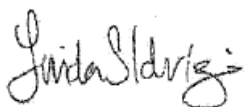
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4 I, LINDA S. IDRIZI, a Certified Shorthand  
5 Reporter of the State of Illinois, CSR No. 84-3704,  
6 do hereby certify that I reported in shorthand the  
7 proceedings had in the aforesaid matter, and that  
8 the foregoing is a true, complete and correct  
9 transcript of the proceedings had as appears from  
10 my stenographic notes so taken and transcribed  
11 under my personal direction.

12 IN WITNESS WHEREOF, I do hereunto set my  
13 hand this 31st day of May, 2023.

14  
15 

16 LINDA S. IDRIZI, CSR  
17 CSR No. 84-3704.  
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|------------------------|------------------------|------------------------|-----------------------|
| <b>&amp;</b>           | <b>261,000</b> 15:9    | <b>8</b>               | 28:5                  |
| <b>&amp;</b> 2:10      | <b>26th</b> 28:24      | <b>84-3704</b> 1:24    | <b>addressed</b> 9:14 |
| <b>0</b>               | <b>28th</b> 26:5       | 30:5,17                | <b>addresses</b>      |
| <b>010905</b> 1:8      | <b>3</b>               | <b>8th</b> 9:24 10:2,6 | 10:10                 |
| <b>1</b>               | <b>3,000</b> 9:20 10:3 | 11:6 12:6,12           | <b>administration</b> |
| <b>1</b> 26:7          | <b>300</b> 2:11        | 14:22                  | 15:21                 |
| <b>1.06</b> 23:2       | <b>304</b> 13:19 25:5  | <b>9</b>               | <b>adr</b> 4:21 5:15  |
| <b>10</b> 6:20         | 25:8 28:11,16          | <b>9:45</b> 27:9,24    | 6:13,19,22 8:1        |
| <b>10905</b> 4:2       | <b>31</b> 27:4,7,24    | <b>a</b>               | 8:10,17,20 9:1        |
| <b>10:30</b> 1:17      | <b>31st</b> 14:20      | <b>a.m.</b> 1:17 27:9  | 10:19 12:11,13        |
| <b>117,000</b> 7:13    | 16:10 30:13            | 27:24                  | 13:5 18:16            |
| <b>11th</b> 17:6       | <b>3300</b> 3:11       | <b>abandoning</b>      | 19:11,17 20:3         |
| <b>12th</b> 14:23 15:5 | <b>3850</b> 3:4        | 20:4                   | 20:23 21:6,14         |
| <b>150</b> 3:11        | <b>3rd</b> 17:1,8      | <b>able</b> 23:7 26:3  | 25:13 26:18,22        |
| <b>1746</b> 30:15      | <b>4</b>               | <b>above</b> 29:8      | 27:5,6,16,23          |
| <b>18th</b> 27:3       | <b>4th</b> 17:1,8      | <b>abundant</b>        | 28:14                 |
| <b>190</b> 3:4         | <b>5</b>               | 28:16                  | <b>adr's</b> 5:18     |
| <b>2</b>               | <b>5/13-214.3.</b>     | <b>abundantly</b>      | 10:18                 |
| <b>2</b> 9:19 10:3     | 21:24                  | 27:15                  | <b>advance</b> 9:20   |
| <b>2-619</b> 26:7      | <b>550</b> 2:11        | <b>accepted</b> 25:3   | 12:18                 |
| <b>2016</b> 9:13       | <b>560,000</b> 7:7     | <b>accordance</b>      | <b>adverston</b>      |
| 14:18,20,22,23         | <b>57</b> 15:7         | 7:18                   | 21:23                 |
| 15:5 16:6,10           | <b>6</b>               | <b>acknowledged</b>    | <b>aforesaid</b> 30:7 |
| 20:13,16 21:11         | <b>600</b> 2:4         | 19:16                  | <b>agree</b> 22:6,23  |
| <b>2022</b> 1:8 4:2    | <b>60062</b> 2:5       | <b>act</b> 16:9        | 28:12                 |
| 18:16 21:13            | <b>60601</b> 3:12      | <b>action</b> 19:23    | <b>agreed</b> 5:14    |
| <b>2023</b> 1:16 27:4  | <b>60603</b> 3:5       | 24:17                  | 20:13                 |
| 30:13                  | <b>60661</b> 2:12      | <b>actions</b> 24:2    | <b>agreement</b> 6:21 |
| <b>21</b> 14:3         | <b>7</b>               | <b>actually</b> 16:22  | 7:4,9,16,18,19        |
| <b>21st</b> 9:13,19    | <b>707</b> 2:4         | <b>adams</b> 2:11      | 8:2,3 14:20           |
| 10:4,8 12:4,9          | <b>735</b> 21:24       | <b>add</b> 18:9        | <b>agreements</b> 8:7 |
| <b>22nd</b> 18:16      | <b>7th</b> 17:1,8,9    | <b>addition</b> 24:7   | <b>ahead</b> 5:12 6:7 |
| <b>25th</b> 1:16       | 24:9                   | <b>address</b> 14:15   | 14:10                 |
|                        |                        | 15:16 16:16            | <b>al</b> 1:9         |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>allegation</b> 7:23<br><b>allegations</b> 8:3<br>13:4,16 18:18<br>18:20 19:8<br><b>alleged</b> 16:9<br>21:8 22:16<br><b>allegedly</b> 15:4<br><b>alleging</b> 8:9<br><b>allow</b> 13:17<br><b>allstate</b> 5:7<br>7:12 25:16<br><b>alluded</b> 14:1<br><b>alphabetical</b><br>5:16<br><b>alphonse</b> 2:3,6<br>4:13<br><b>alternate</b> 24:7<br><b>alternative</b><br>22:20<br><b>amended</b> 26:21<br>27:19<br><b>amount</b> 15:22<br><b>amundsen</b> 3:10<br><b>answer</b> 21:9<br><b>answered</b><br>25:19<br><b>anybody</b> 6:1<br>28:8<br><b>apparently</b><br>24:12<br><b>appeal</b> 25:7<br><b>appear</b> 5:10<br>13:10<br><b>appearances</b><br>2:1 3:1 | <b>appeared</b> 2:8<br>2:15 3:8,15<br><b>appears</b> 30:9<br><b>applicable</b> 16:4<br><b>applied</b> 17:1<br>19:4 24:8<br><b>applies</b> 16:24<br>22:2 23:11<br><b>apply</b> 23:14,24<br><b>appointed</b><br>14:17 24:23,24<br><b>appoints</b> 24:21<br><b>appropriately</b><br>24:10<br><b>approval</b> 8:20<br>14:19<br><b>approved</b> 6:18<br>7:3 8:17 12:11<br>12:13 24:24<br><b>arbitration</b><br>6:14<br><b>argued</b> 22:13<br><b>argues</b> 15:18<br><b>arguing</b> 18:24<br><b>argument</b><br>18:11 22:19<br>23:21 24:1,16<br><b>arguments</b><br>14:14 16:15,20<br><b>arose</b> 15:14<br><b>aside</b> 20:12<br><b>asked</b> 19:4<br><b>asserting</b> 13:24<br><b>assertion</b> 22:1 | <b>assume</b> 6:13<br><b>assumed</b> 6:16<br><b>attached</b> 8:8<br><b>attorney</b> 21:24<br><b>attorney's</b> 22:7<br><b>attorneys</b> 6:23<br>15:7 18:12<br><b>august</b> 14:18<br><b>authority</b> 5:23<br><b>avenue</b> 3:11<br><b>award</b> 7:7<br>14:22 15:4<br><b>aware</b> 24:3                                                                 | 24:7<br><b>baudin</b> 1:9 4:2<br>5:9 6:23 15:6<br>26:1,1,12 27:3<br><b>behalf</b> 2:8,15<br>3:8,15 4:21,23<br>5:7 25:16,24<br>26:18<br><b>believe</b> 4:6 7:12<br>9:21 24:1,9<br>25:15 26:10<br><b>binding</b> 6:18<br>6:21 7:6<br><b>bisgaard</b> 2:10<br><b>bit</b> 26:17<br><b>blew</b> 20:15<br><b>boulevard</b> 2:4<br><b>bound</b> 9:1 13:6<br><b>breach</b> 8:3,9<br>11:5 13:4<br><b>breached</b> 8:1<br>8:10 9:2<br><b>bridge</b> 5:12<br><b>brief</b> 6:1,9<br>13:14,14 14:13<br>15:17 22:20<br>23:1<br><b>briefed</b> 4:4,19<br><b>briefing</b> 4:7<br>26:9,15<br><b>briefly</b> 15:16<br>16:8<br><b>briefs</b> 5:20<br>12:24 16:14,17 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>b</b>                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>bankruptcy</b><br>6:15,18 7:3,10<br>7:19 9:9,18<br>10:17 11:17,21<br>11:23 14:17,18<br>14:20 17:3,17<br>17:18,24 18:3<br>18:18 19:3,13<br>19:21 20:11<br>24:12,14,19<br>25:2<br><b>barred</b> 15:1<br><b>barton</b> 16:16<br>16:21,24 17:15<br>17:15,20 24:8<br>25:1<br><b>based</b> 17:10<br>20:5 23:20<br>26:7<br><b>basis</b> 9:12<br>22:17 23:19 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>bring</b> 16:1,18<br>17:3<br><b>brisbois</b> 2:10<br><b>brought</b> 19:19<br><b>business</b> 6:14<br>7:16 17:19                                                                                                                                                                                                                                                                                                                                                                                                                    | 27:1,9,13,21<br>28:2,9,13 29:2<br><b>chapmanspin...</b><br>3:7<br><b>check</b> 25:19<br><b>chicago</b> 2:12<br>3:5,12 17:10<br><b>choice</b> 19:17<br><b>choose</b> 25:14<br><b>circuit</b> 1:1 17:6<br>17:8,10 24:9<br><b>circuits</b> 17:2<br><b>circumstances</b><br>7:22<br><b>cited</b> 5:22 17:5<br>17:16<br><b>cites</b> 16:3<br><b>claim</b> 6:17 8:1<br>13:17 15:1,14<br>19:1 21:10<br><b>claiming</b> 21:2<br><b>claims</b> 13:20<br>21:23 24:22<br><b>clause</b> 12:3<br><b>clear</b> 9:7 27:15<br><b>clearly</b> 21:4<br><b>closed</b> 24:13<br><b>coerced</b> 15:13<br><b>collectively</b> 5:2<br><b>come</b> 5:12<br><b>commencing</b><br>1:17<br><b>committed</b> 21:2<br>22:17 | <b>complaint</b> 6:21<br>7:24 8:8 13:5<br>13:11 15:8<br>16:11 20:14<br>22:11 23:10<br>24:4 25:19<br>26:21 27:6,19<br><b>complete</b> 13:8<br>30:8<br><b>concealed</b><br>22:15<br><b>concealment</b><br>22:14<br><b>concern</b> 10:10<br><b>conduct</b> 22:8<br><b>considered</b><br>5:22<br><b>consistent</b> 7:17<br><b>contact</b> 2:7<br><b>continued</b><br>27:24<br><b>contract</b> 8:10<br>8:14,19,21 9:2<br>9:3,4,15,16,22<br>10:1,6,13,14,17<br>10:18,21,23<br>11:1,3,7,17,18<br>11:22 12:4,5<br>12:12,17,19<br>13:5,7,9 18:17<br>18:22 19:11<br>20:24 21:7,14<br><b>contracts</b> 12:10<br><b>control</b> 6:16<br>19:22 20:5 | <b>cook</b> 1:1<br><b>correct</b> 4:16,17<br>8:23 11:19,20<br>11:23,24 25:17<br>30:8<br><b>correctly</b> 9:1<br><b>counsel</b> 4:11,13<br>29:3<br><b>county</b> 1:1,2<br><b>couple</b> 4:4<br><b>course</b> 6:4<br><b>court</b> 1:1,14<br>4:1,15,18 5:4,8<br>5:11 6:3,18 7:3<br>7:10,10,20 8:4<br>8:21,24 9:18<br>10:9,22 11:2,9<br>11:12,15,18,21<br>11:21,23 12:1<br>12:16,20 13:1<br>13:21 14:5,21<br>16:16,24 17:3<br>17:7,11,17,18<br>17:21,24 18:3<br>18:8,18,20<br>19:7 20:9,11<br>20:20,22 21:18<br>21:20 22:4<br>24:19,20,23,24<br>25:23 26:8,12<br>26:15 27:7,10<br>27:14 28:1,3,8<br>28:12,14,15,19<br>29:5 |
| <b>c</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>c</b> 4:23<br><b>call</b> 5:19<br><b>carlson</b> 16:3<br><b>case</b> 15:23 16:4<br>16:23 17:6<br>19:3,3,14 20:5<br>23:16 24:12,14<br>24:22<br><b>cases</b> 18:3<br><b>cause</b> 24:17<br>25:6 29:8<br><b>caused</b> 15:4<br><b>certain</b> 20:4<br><b>certified</b> 30:4<br><b>certify</b> 30:6<br><b>chance</b> 6:4 14:9<br><b>change</b> 8:18<br>19:10<br><b>changed</b> 8:16<br>10:21 21:5,6,6<br>21:14<br><b>changes</b> 8:16<br>12:10<br><b>chapman</b> 3:3,6<br>4:20,21 6:5,8<br>8:4 12:21,23<br>13:2,12 14:4<br>14:13 26:18 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>court's</b> 26:5<br><b>craig</b> 4:24<br><b>cross</b> 5:11<br><b>csr</b> 1:24 30:5<br>30:16,17                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>defines</b> 23:2<br><b>degree</b> 20:4<br><b>delay</b> 25:7<br><b>department</b> 1:2<br><b>depending</b> 27:19<br><b>desire</b> 20:7<br><b>deterioration</b> 23:6<br><b>differed</b> 11:18<br><b>different</b> 4:4<br>8:7,19 10:14<br>11:3 18:17<br>20:23<br><b>directed</b> 7:20<br><b>direction</b> 30:11<br><b>disability</b> 15:18<br>22:22 23:3<br><b>disabled</b> 15:20<br>15:22 16:1,2<br>23:15<br><b>discovery</b> 9:22<br>18:14,15<br><b>discussed</b> 23:22<br><b>dismiss</b> 4:5<br>5:13,18,20<br>14:2,7,24<br>23:16 25:16,20<br>26:7,13,20<br>27:18<br><b>dismissal</b> 13:15<br>22:12 24:5,8<br><b>disposition</b> 27:11 | <b>dispositive</b> 16:20 17:9<br>25:21<br><b>disputing</b> 7:1<br><b>distributed</b> 7:13<br><b>division</b> 1:2<br><b>doctrine</b> 16:17<br>16:24 17:15,15<br>17:20 24:8<br>25:1<br><b>document</b> 7:2<br><b>doing</b> 18:13<br><b>dollars</b> 12:18<br><b>double</b> 25:18<br><b>draft</b> 27:22<br><b>dulberg</b> 1:4,5<br>4:2,14,15 6:15<br>7:14 15:3,17<br>16:1,3 19:13<br>19:24 20:10<br>22:21 23:12<br><b>dulberg's</b> 7:1,7<br>14:17 16:5<br>20:7 | <b>entitled</b> 10:19<br>29:8<br><b>especially</b> 6:2<br>17:9<br><b>essentially</b> 15:10 23:4<br><b>estate</b> 19:22,22<br>20:1<br><b>estate's</b> 19:23<br><b>estates</b> 23:8<br><b>et</b> 1:9<br><b>etchingham</b> 7:6<br>7:17<br><b>everybody</b> 4:1<br>4:9<br><b>evidence</b> 8:19<br><b>evident</b> 10:10<br><b>exactly</b> 9:5<br>26:23<br><b>execute</b> 9:4<br><b>executed</b> 6:22<br>8:22<br><b>exhibit</b> 6:20<br>11:4<br><b>exhibits</b> 5:21<br>8:7 23:10,11<br><b>existence</b> 17:21<br><b>extensive</b> 16:22 |
| <b>d</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>e</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>f</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>date</b> 27:5,7,17<br>29:9<br><b>dates</b> 9:12<br><b>davis</b> 3:10<br><b>day</b> 10:2 29:5<br>30:13<br><b>days</b> 14:3<br><b>deadline</b> 25:12<br>26:20<br><b>debtor</b> 17:2<br><b>december</b> 9:23<br>10:1,6 11:6<br>12:6,12 14:22<br>14:23 15:5<br><b>deception</b> 18:12,13,19<br><b>deciding</b> 16:23<br><b>decision</b> 20:2<br><b>deemed</b> 15:20<br><b>defendant</b> 24:2<br><b>defendants</b> 1:10 2:15 3:8<br>3:15 4:24 5:2,9<br>5:19,19 14:6<br>14:16 15:7<br>16:10 19:2<br>21:2,8 22:12<br>22:16,24 25:11<br>25:24 27:3 | <b>e</b> 3:13<br><b>earlier</b> 25:23<br><b>elect</b> 26:22<br><b>emailed</b> 15:6<br><b>enforcement</b> 25:7<br><b>enter</b> 7:20<br><b>entered</b> 7:7<br>14:23 15:5                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>f</b> 1:19<br><b>fact</b> 6:9 12:9<br>15:3,6 16:5<br>18:24 19:12,20<br>19:24                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>facts</b> 13:24<br><b>failed</b> 16:6<br><b>fair</b> 13:22<br>17:11<br><b>fairest</b> 27:17<br><b>fairly</b> 16:20<br><b>far</b> 5:4 22:15<br><b>favor</b> 7:8<br><b>feel</b> 5:24 15:8<br><b>fees</b> 10:20<br><b>file</b> 15:14 16:6<br>25:20,22 26:21<br><b>filed</b> 4:8 10:7<br>16:11 20:17<br>24:4 25:15,20<br>26:4,6<br><b>final</b> 26:20<br><b>find</b> 25:6<br><b>fine</b> 5:15 13:1<br><b>finished</b> 17:18<br><b>first</b> 6:6 8:21<br>10:6,22 14:10<br>20:9 22:6<br>25:14 28:6<br><b>five</b> 18:13<br>20:15,16,18<br>23:23 24:4<br><b>follow</b> 17:7<br><b>following</b> 6:22<br><b>foregoing</b> 30:8<br><b>forgive</b> 9:7<br><b>forward</b> 13:17<br>19:14,17 23:17<br><b>found</b> 16:23 | <b>fraud</b> 18:12,13<br>18:18,19 20:8<br>20:9,10,15,19<br>22:1<br><b>fraudulent</b><br>22:13<br><b>fraudulently</b><br>22:15<br><b>front</b> 8:13 27:8<br><b>frustrating</b><br>26:18<br><b>fully</b> 4:4,19<br>23:7<br><b>further</b> 21:17<br>22:3<br><b>future</b> 25:21<br><b>g</b><br><b>generally</b> 25:2<br><b>give</b> 6:4 13:22<br>14:1,3,9 25:12<br><b>given</b> 23:14<br><b>glad</b> 14:15<br><b>go</b> 4:8 5:12 6:6<br>13:17 14:10<br>17:21 19:14,17<br>20:3<br><b>going</b> 5:1,15,18<br>6:12 14:2<br><b>good</b> 4:1,12,13<br>4:20,22 5:4,6<br>15:8 29:5<br><b>gotten</b> 8:15<br><b>granted</b> 13:3<br>13:11 22:5<br>25:4 28:20 | <b>grounds</b> 13:23<br>24:6<br><b>guys</b> 15:8<br><b>h</b><br><b>h</b> 4:23<br><b>hand</b> 30:13<br><b>happen</b> 12:6<br><b>happened</b><br>20:21,21 21:11<br><b>happens</b> 24:14<br><b>harm</b> 24:3<br><b>hear</b> 26:19<br>27:17<br><b>heard</b> 6:4 14:9<br><b>hearing</b> 1:14<br>4:3 5:14 10:2<br>12:14 19:18<br><b>held</b> 17:2<br><b>helpful</b> 28:4<br><b>hereunto</b> 30:12<br><b>high</b> 7:4,9<br><b>highlight</b> 6:2<br><b>hold</b> 10:12<br><b>holdings</b> 17:7<br><b>holds</b> 17:6<br><b>honor</b> 4:12,20<br>4:22 6:8,11<br>7:22 12:23<br>13:12 14:4,12<br>14:14 16:13,18<br>21:16 22:3<br>27:1,12 28:7,9<br>29:1<br><b>honorable</b> 1:19 | <b>host</b> 24:15<br><b>housekeeping</b><br>28:9<br><b>i</b><br><b>idrizi</b> 1:24 30:4<br>30:16<br><b>ii</b> 26:1<br><b>ilcs</b> 21:24<br><b>illinois</b> 1:1 2:5<br>2:12 3:5,12<br>15:23 16:23,24<br>30:5<br><b>illness</b> 23:7<br><b>imagine</b> 13:16<br>26:17<br><b>improper</b> 19:10<br><b>improperly</b><br>21:6<br><b>incapable</b><br>23:16,17<br><b>incapacity</b> 23:6<br><b>included</b> 9:13<br>25:8<br><b>including</b> 7:13<br>18:12<br><b>incorporated</b><br>26:2<br><b>incorrect</b> 22:3<br>22:24<br><b>indicate</b> 27:21<br><b>individual</b> 19:1<br>20:7<br><b>individually</b><br>1:4 22:21 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>individuals</b><br>23:5 24:23<br>25:1 26:3<br><b>initial</b> 13:13<br><b>injury</b> 6:16<br>15:3,12 16:5<br><b>interesting</b><br>9:11<br><b>interrupting</b><br>27:2<br><b>introduces</b> 4:9<br><b>invoked</b> 24:10<br><b>issue</b> 17:9                                                                                                   | <b>july</b> 27:4,7,17<br>27:24 28:23<br><b>jurisdiction</b><br>17:19,23 18:1<br><b>jury</b> 19:15                                                                                     | <b>lewis</b> 2:10<br><b>lewisbrisbois...</b><br>2:14<br><b>lie</b> 20:6<br><b>light</b> 6:9<br><b>limitations</b><br>15:1,19 16:19<br>18:10,11 20:16<br>22:2,7,8,18,23<br>23:20,24 24:6<br><b>linda</b> 1:24 30:4<br>30:16<br><b>linked</b> 18:11<br><b>little</b> 26:17<br><b>llp</b> 2:10 3:3<br><b>longer</b> 17:19,23<br>18:1<br><b>looking</b> 27:2,22<br><b>low</b> 7:4,9 | <b>matters</b> 17:17<br>28:4<br><b>means</b> 9:21<br><b>measures</b> 22:10<br>22:11<br><b>mediation</b> 6:14<br>6:18,21 7:3,5,6<br>7:13,15,16,17<br>7:19 14:19,21<br>15:13<br><b>memorializing</b><br>25:9<br><b>mental</b> 23:5,6<br><b>michael</b> 1:19<br>4:3<br><b>michelle</b> 3:13<br>5:6<br><b>michigan</b> 3:11<br><b>micromanage</b><br>19:20<br><b>mind</b> 27:1<br><b>minimum</b><br>24:24<br><b>minute</b> 11:15<br><b>moment</b> 25:11<br><b>money</b> 10:19<br>19:4<br><b>months</b> 12:18<br><b>morning</b> 4:1,12<br>4:13,20,22 5:4<br>5:6 28:5<br><b>motion</b> 5:18,20<br>5:21 6:6,12,17<br>13:3,11 14:7<br>14:24 19:19 |
| <b>j</b>                                                                                                                                                                                                                                                                                                                                         | <b>k</b>                                                                                                                                                                              | <b>l</b>                                                                                                                                                                                                                                                                                                                                                                        | <b>m</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>j</b> 4:23<br><b>jason</b> 2:13 4:23<br><b>jason.jochum</b><br>2:14<br><b>jochum</b> 2:13<br>4:22,23 14:7<br>14:12 16:18<br>17:12 21:20,22<br>22:6 23:13<br>29:1<br><b>joseph</b> 4:24<br><b>judge</b> 4:2 5:6<br>7:5,16 8:6 9:6<br>9:9 10:5,18,24<br>11:7,14 12:7<br>17:14 18:6<br>19:13 20:6<br>25:18 26:11<br>29:3<br><b>judicial</b> 7:11 | <b>kelly</b> 1:9 26:1<br><b>kelran</b> 26:1<br><b>knew</b> 15:3,12<br>15:12 16:6<br>20:19,19,20<br><b>know</b> 6:13 9:15<br>10:15,24 11:1<br>12:6 17:5<br>25:12<br><b>knows</b> 26:23 | <b>l</b> 1:8 4:2<br><b>language</b> 13:19<br>25:5,8 28:11<br>28:16<br><b>lasalle</b> 3:4<br><b>law</b> 1:2 2:3<br>15:23<br><b>lawofficeofal...</b><br>2:7<br><b>leave</b> 14:1<br>24:18<br><b>leaving</b> 20:12<br><b>legal</b> 22:22<br>23:3<br><b>legally</b> 15:22<br>16:2 23:17                                                                                             | <b>m</b> 4:23<br><b>made</b> 7:11 8:15<br>8:15 9:11,20<br>18:15<br><b>make</b> 11:16<br>17:22 20:2<br><b>makes</b> 9:10<br>26:16,19 28:16<br><b>making</b> 11:13<br><b>manage</b> 23:8<br><b>manifestation</b><br>25:2<br><b>march</b> 26:5<br><b>matter</b> 27:22<br>27:23 30:7                                                                                                                                                                                                                                                                                                                                                          |

|                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>22:5 25:4,16<br/>25:20,21 26:6<br/>26:12,20 27:3<br/>27:18,20<br/><b>motions</b> 4:4,7<br/>4:19 5:3,13<br/>14:8 28:20<br/><b>movants</b> 4:19<br/>22:23 24:17<br/><b>move</b> 14:6<br/>25:10<br/><b>moving</b> 23:17<br/><b>mtinajero</b> 3:14</p>                                                                                                                                                                         | <p><b>o</b></p> <p><b>o</b> 4:23<br/><b>occurred</b> 7:5<br/>14:22 16:5,10<br/>20:13<br/><b>october</b> 14:20<br/>16:10 18:15<br/>20:13<br/><b>offices</b> 2:3<br/><b>official</b> 24:21<br/><b>oh</b> 18:10<br/><b>okay</b> 4:18 5:8<br/>9:18 12:1,20<br/>18:7,8 21:18<br/>25:23 26:8,12<br/>26:15 28:2<br/><b>olsen</b> 4:24 5:2<br/>5:19,19 14:6<br/>14:16,21 16:10<br/>18:20,24 19:9<br/>19:12 21:2<br/><b>omission</b> 16:9<br/><b>once</b> 17:18 21:4<br/>26:24<br/><b>open</b> 20:22<br/>24:14<br/><b>opened</b> 18:3,6<br/><b>opportunity</b><br/>13:23<br/><b>order</b> 5:16 25:6<br/>25:7,9 26:5<br/>27:3,8,22<br/>28:13<br/><b>orders</b> 28:11,16</p> | <p><b>ordinarily</b><br/>24:20,22<br/><b>otto</b> 1:19 4:3<br/><b>outset</b> 5:17<br/><b>outstanding</b><br/>28:4<br/><b>oversaw</b> 7:6<br/><b>own</b> 8:11</p>                                                                                                                                                                                                                                                                                                                                          | <p><b>person</b> 17:20<br/>23:2,3,8<br/><b>personal</b> 6:16<br/>30:11<br/><b>perspective</b><br/>6:11<br/><b>physical</b> 23:6<br/><b>place</b> 12:5 24:2<br/><b>plain</b> 11:16<br/><b>plainly</b> 14:16<br/><b>plaintiff</b> 2:8<br/>4:14 22:21<br/>24:15 25:13<br/><b>plaintiff's</b> 4:11<br/><b>plaintiffs</b> 1:7<br/>13:22 22:13<br/>24:3 25:14<br/>26:21<br/><b>pleading</b> 26:4<br/><b>pleadings</b> 7:24<br/><b>please</b> 4:10 6:6<br/>14:10 25:11<br/><b>pled</b> 10:15 13:5<br/><b>point</b> 9:16<br/>11:12 15:24<br/>21:22<br/><b>pointed</b> 23:13<br/><b>points</b> 15:17<br/><b>poor</b> 19:16<br/><b>positive</b> 19:21<br/><b>possible</b> 21:12<br/>24:13<br/><b>possibly</b> 12:15<br/><b>prejudice</b><br/>13:15,18 14:3</p> |
| <p><b>n</b></p>                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p><b>p</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p><b>n</b> 1:9<br/><b>name</b> 4:13<br/><b>necessary</b> 7:21<br/><b>need</b> 4:6 5:24<br/>23:4 24:23<br/>25:12 28:18<br/><b>neither</b> 7:2<br/><b>never</b> 10:23<br/><b>nonentity</b> 18:1<br/><b>north</b> 3:11<br/><b>northbrook</b> 2:5<br/><b>noted</b> 14:24<br/>15:7,22 25:23<br/><b>notes</b> 23:1<br/>30:10<br/><b>notice</b> 7:11<br/><b>notion</b> 13:6<br/><b>november</b> 9:13<br/>9:19 10:4,7<br/>12:4,9</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p><b>paid</b> 19:4,5<br/><b>paragraph</b><br/>15:7<br/><b>paraphrasing</b><br/>15:10<br/><b>pardon</b> 24:3<br/><b>participating</b><br/>15:13<br/><b>parties</b> 5:14,22<br/>5:23 7:18 8:17<br/>9:4<br/><b>party</b> 8:10<br/><b>paul</b> 1:4,5 4:14<br/><b>pay</b> 10:3<br/><b>payment</b> 7:11<br/>10:7 12:3,18<br/><b>payments</b> 9:11<br/>9:19<br/><b>pending</b> 13:20<br/><b>people</b> 15:9<br/><b>performed</b> 7:18<br/>11:19<br/><b>performing</b> 9:3<br/><b>permission</b><br/>17:3,22</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| 22:5 25:5<br>28:21<br><b>present</b> 16:2<br>23:17<br><b>presented</b> 6:17<br>9:8,17,23 10:1<br>10:17 11:4,6<br>11:17,22 14:21<br>18:17 20:6<br>24:15<br><b>previous</b> 13:8<br><b>principle</b> 25:3<br><b>prior</b> 9:22<br><b>probably</b> 26:16<br>26:19<br><b>proceedings</b><br>25:9 28:20<br>29:7 30:7,9<br><b>proceeds</b> 7:12<br><b>production</b><br>20:23 21:13<br><b>provide</b> 25:5<br><b>purported</b><br>18:22 21:13<br><b>purportedly</b><br>19:10 21:5,6<br><b>purpose</b> 17:15<br><b>purposes</b> 23:24<br><b>pursue</b> 24:16<br><b>put</b> 14:16 | <b>quibble</b> 11:10<br><b>quick</b> 8:6 25:19<br><b>quote</b> 21:14<br><b>r</b><br><b>r</b> 1:4,5<br><b>raised</b> 15:17<br><b>randal</b> 26:1<br><b>raphael</b> 4:24<br><b>rarity</b> 19:21<br><b>rchapman</b> 3:7<br><b>read</b> 5:20 6:1<br>14:8 23:4<br><b>ready</b> 6:7 14:11<br><b>really</b> 25:19<br>28:18<br><b>reason</b> 23:15<br><b>reasons</b> 24:15<br>28:22<br><b>receiver</b> 24:22<br><b>recognize</b><br>17:16<br><b>record</b> 4:10<br>7:10 28:22<br><b>refer</b> 5:1<br><b>referred</b> 5:3<br><b>refers</b> 23:5<br><b>related</b> 17:17<br>19:13<br><b>relevance</b><br>21:13<br><b>relevant</b> 22:6<br><b>relied</b> 5:23<br><b>relinquishing</b><br>19:23 | <b>rely</b> 12:24<br><b>relying</b> 20:1<br><b>remains</b> 23:15<br><b>remember</b> 10:3<br><b>reopen</b> 24:18<br><b>replead</b> 13:23<br>14:2,3 25:13<br>26:23,24 27:16<br><b>reply</b> 5:21<br>13:14 14:8<br><b>reported</b> 1:24<br>30:6<br><b>reporter</b> 6:3<br>28:19 30:5<br><b>repose</b> 15:2,19<br>16:8,20 22:9<br><b>represent</b> 4:14<br>26:3<br><b>representation</b><br>23:14<br><b>request</b> 17:24<br>18:16<br><b>require</b> 8:14<br><b>required</b> 9:18<br><b>requiring</b> 10:7<br>12:3,17 27:16<br><b>requisite</b> 13:19<br><b>research</b> 16:22<br><b>respectively</b><br>28:21<br><b>response</b> 5:21<br>8:6 14:8 15:17<br>23:11<br><b>responsive</b> 26:4 | <b>rest</b> 16:17<br><b>retired</b> 7:6<br><b>reveal</b> 20:24<br><b>reviewed</b> 5:21<br>6:10<br><b>revocable</b> 1:6<br>4:15<br><b>right</b> 5:11<br>10:13 14:5<br>22:4 25:10<br>28:3<br><b>riseburrow</b><br>21:23<br><b>robert</b> 3:6 4:21<br><b>routinely</b> 24:13<br><b>rule</b> 13:19<br><b>ruled</b> 7:17<br><b>ruling</b> 27:19<br><b>s</b><br><b>s</b> 1:24 30:4,16<br><b>saw</b> 7:21<br><b>saying</b> 10:13<br>18:7<br><b>says</b> 9:11 12:9<br><b>schedule</b> 4:7<br>26:4,9,16<br><b>scheduled</b> 9:12<br><b>second</b> 10:21<br><b>section</b> 23:1<br><b>security</b> 15:21<br><b>see</b> 13:3 14:7<br>19:5 21:12<br>22:14,17 23:19<br>28:23 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>seeking</b> 10:12<br><b>sense</b> 26:17,19<br>28:16<br><b>sentence</b> 12:7<br><b>separate</b> 28:10<br>28:15<br><b>services</b> 19:5<br><b>set</b> 4:6 22:20<br>26:4,9 27:4<br>30:12<br><b>setting</b> 26:20<br><b>shorthand</b> 30:4<br>30:6<br><b>sides</b> 6:4 14:9<br><b>signature</b> 7:1<br>30:15<br><b>signed</b> 9:16,22<br>10:14,23 11:7<br>12:2,5,13,19<br>13:9<br><b>significant</b><br>15:22<br><b>similar</b> 14:12<br><b>simple</b> 17:22<br><b>sir</b> 18:7<br><b>six</b> 16:11 22:8<br><b>skeptical</b> 13:21<br><b>skokie</b> 2:4<br><b>smith</b> 2:10<br><b>smithamunds...</b><br>3:14<br><b>social</b> 15:21<br><b>sought</b> 24:18<br>24:18 | <b>sounds</b> 20:14<br><b>south</b> 3:4<br><b>specific</b> 25:2<br><b>specifically</b><br>8:13 21:4<br><b>speculation</b><br>13:8,10<br><b>spingola</b> 3:3<br><b>stand</b> 16:14<br>26:16<br><b>starting</b> 4:10<br>5:15<br><b>state</b> 7:24 17:7<br>30:5<br><b>stated</b> 13:13<br>15:11 28:22<br><b>states</b> 6:20<br><b>stationary</b><br>10:18<br><b>status</b> 27:5,10<br>27:14,24<br><b>statute</b> 15:1,2<br>15:18,19 16:8<br>16:19,20 18:10<br>18:11,14 20:15<br>22:2,7,8,9,17<br>22:22 23:2,20<br>23:23<br><b>statutes</b> 23:2<br><b>stenographic</b><br>30:10<br><b>straightforward</b><br>6:12 8:2<br><b>street</b> 2:11 3:4 | <b>subject</b> 21:24<br>22:12 24:5<br><b>submit</b> 28:13<br><b>submitted</b> 11:1<br>18:16<br><b>suddenly</b> 20:24<br><b>sufficient</b> 13:4<br><b>suggest</b> 28:10<br><b>suggestion</b> 23:9<br>24:16<br><b>suit</b> 15:14 16:2<br>16:7 17:3<br>20:17<br><b>suite</b> 2:4,11 3:4<br>3:11<br><b>sum</b> 7:15<br><b>superiority</b><br>17:16<br><b>support</b> 8:1<br>11:4<br><b>sure</b> 10:9 11:2<br>11:14 27:9<br><b>surprises</b> 26:2<br><b>suspect</b> 10:10<br><b>switch</b> 18:22<br><b>systems</b> 4:21<br>6:13,19,22<br>25:13 | 8:5,6,21,23 9:5<br>10:16,24 11:6<br>11:9,11,14,15<br>11:20,24 12:2<br>12:17 17:5,13<br>17:14 18:5,9<br>18:10,23 19:12<br>20:18 21:16,18<br>21:19 23:23<br>26:6,11,14,22<br>27:12,15 28:5<br>28:7 29:3<br><b>talarico's</b> 22:1<br><b>talking</b> 8:12<br><b>tell</b> 27:7<br><b>term</b> 9:9,10<br>10:3,7 13:4<br><b>terms</b> 8:11,12<br>8:18 9:2,10,17<br>10:19 12:8<br>19:10 21:14<br><b>thank</b> 6:8 8:4<br>12:20 13:1,12<br>14:4,5,12<br>17:11,14 21:18<br>22:4 26:8 28:2<br>28:23 29:1,2,3<br>29:4,5<br><b>theories</b> 13:24<br><b>theory</b> 9:1 11:4<br>20:14<br><b>thing</b> 23:4<br><b>things</b> 10:20<br><b>think</b> 7:23 9:13<br>13:13,22 16:19 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>t</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>take</b> 7:10<br><b>taken</b> 30:10<br><b>taker</b> 19:24<br><b>talarico</b> 2:3,6<br>4:12,14,17<br>5:10 6:20,24                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| 20:7 24:20<br>26:16,19 27:17<br>28:15<br><b>third</b> 8:10<br><b>time</b> 5:9 14:2<br>18:4 23:18<br>27:8<br><b>timely</b> 16:12<br><b>tinajero</b> 3:13<br>5:5,6,7 25:15<br>25:18 29:4<br><b>today</b> 4:3 5:13<br>14:1 25:22<br><b>today's</b> 25:9<br><b>told</b> 21:9<br><b>toll</b> 15:18 22:22<br><b>tolling</b> 22:17<br>23:20<br><b>took</b> 12:5 24:2<br><b>transcribed</b><br>30:10<br><b>transcribing</b><br>28:19<br><b>transcript</b> 30:9<br><b>trial</b> 19:15,15<br><b>tried</b> 21:3<br><b>true</b> 20:10<br>24:11,12 30:8<br><b>trust</b> 1:6 4:16<br><b>trustee</b> 6:16<br>7:20 14:17<br>17:4 19:3,18<br>19:22 24:21<br><b>try</b> 9:6 11:16 | <b>trying</b> 9:6<br>10:16<br><b>two</b> 8:7,7 15:15<br>15:16 16:7<br>22:8 28:10,15<br><b>type</b> 8:1                                                                                                                                                                                                                                                                                           | <b>videoconfere...</b><br>1:14<br><b>vs</b> 1:8                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>wrongfully</b><br>15:4                                                                                                                  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>u</b>                                                                                                                                                                                                                                                                                                                                                                                         | <b>w</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>y</b>                                                                                                                                   |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>u</b> 4:23<br><b>ultimately</b> 9:3<br>11:19<br><b>unable</b> 23:7<br><b>unclear</b> 6:24<br>19:8<br><b>under</b> 7:22 9:4<br>9:21 22:21<br>23:3 30:11<br><b>understand</b><br>10:22 11:12<br>12:14<br><b>understanding</b><br>8:24<br><b>unexecuted</b> 9:2<br>9:3<br><b>unquote</b> 21:14<br><b>unsigned</b> 9:8<br>10:13 11:5,23<br>13:7<br><b>untenable</b> 13:7<br><b>untimely</b> 22:11 | <b>w</b> 2:13<br><b>wait</b> 11:15<br><b>want</b> 6:2 11:9<br>14:9 15:16<br>16:16 19:14,19<br>25:14 27:4<br><b>wanted</b> 18:9<br><b>wants</b> 20:2,3,4<br><b>way</b> 5:10 11:3<br><b>weeks</b> 12:18<br><b>welcome</b> 21:19<br><b>west</b> 2:11<br><b>whatsoever</b><br>23:9<br><b>whereof</b> 30:12<br><b>willette</b> 5:1<br>18:21 19:2,9<br><b>william</b> 26:1<br><b>wish</b> 12:22<br>21:21<br><b>wished</b> 24:16<br><b>witness</b> 19:16<br>30:12<br><b>word</b> 6:6 12:21<br>14:10 21:21<br><b>working</b> 27:23<br><b>written</b> 25:9<br><b>wrong</b> 21:10<br><b>wrongdoing</b><br>19:8 21:1<br>22:15 | <b>yalden</b> 4:24<br>18:21 19:2,9<br><b>year</b> 12:4 18:13<br>20:15 22:8,9<br>23:23<br><b>years</b> 15:15<br>16:7,11 20:16<br>20:18 24:4 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>v</b>                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                            |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>version</b> 11:5,21<br>11:22 13:9<br><b>versus</b> 4:2<br>21:23                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                            |