

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 2 COUNTY OF ORANGE - CENTRAL JUSTICE CENTER
 3 DEPARTMENT C23
 4

5 LE XUAN KHOA,)
)
 6 PLAINTIFF,)
)
 7 VS.) NO. 30-2021-1201012
)
 8 NGUYEN DINH THANG; BOAT PEOPLE S.O.S.,) PHASE II
)
 9 INC., AND DOES 1 THROUGH 100,)
)
 10 DEFENDANTS.)
)

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 12
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 14
 15 HONORABLE DAVID J. HESSELTINE, JUDGE PRESIDING
 16 REPORTER'S TRANSCRIPT
 17 THURSDAY, NOVEMBER 21, 2024
 18
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 21
 22
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24
 25 MICHELLE LOTT-MEYERHOFER, CSR 8226
 26 COURT-APPROVED OFFICIAL REPORTER PRO TEMPORE

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1 W I T N E S S I N D E X
2 THURSDAY, NOVEMBER 21, 2024
3 PHASE II
4 (NONE)
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Page 4

1 E X H I B I T S
2 THURSDAY, NOVEMBER 21, 2024;
3 PHASE II
4 (EXHIBITS PREMARKED UNLESS OTHERWISE NOTED)
5
6 EXHIBIT ID EVID
7 300 FINAL BOAT PEOPLE S.O.S., INC.
AUDITED FINANCIAL STATEMENT
8 DECEMBER 31, 2023 AND 2022 18
9 301 BOAT PEOPLE S.O.S., INC. BALANCE
SHEET AS OF SEPTEMBER 30, 2024 18
10
11 302 2023 W-2 AND EARNINGS SUMMARY FOR
THANG D. NGUYEN 18
12 303 PENNYMAC STATEMENT - THANG DINH NGUYEN 18
13 304 REAL ESTATE TAX BILL -2ND HALF
THANG DINH NGUYEN 18
14
15 305 REDFIN ESTIMATE 18
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17 306 ZILLOW APPRAISAL 18
18
19 307 REDFIN ESTIMATE 18
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1 SANTA ANA, CALIFORNIA - THURSDAY, NOVEMBER 21, 2024
2 MORNING SESSION
3 *****
4 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT OUT OF THE
5 PRESENCE OF THE JURY:)
6 THE COURT: LET'S GO ON THE RECORD AND CALL KHOA V.
7 THANG.
8 MR. HART: GOOD MORNING, YOUR HONOR. HOYT HART FOR
9 THE PLAINTIFF.
10 MR. VOSS: GOOD MORNING, YOUR HONOR. DAVID VOSS,
11 VOSS, SILVERMAN & BRAYBROOKE ON BEHALF OF DEFENDANTS.
12 MR. ERIGERO: GOOD MORNING, YOUR HONOR. STEPHEN
13 ERIGERO, ROPERS & MAJESKI, ALSO ON BEHALF OF DEFENDANTS.
14 THE COURT: GOOD MORNING, ALL. WE'RE BACK HERE FOR
15 THE SECOND PHASE. AND I DID RECEIVE AN UPDATED EXHIBIT LIST.
16 THE DOCUMENTS THEMSELVES WERE PROVIDED YESTERDAY. WE ALSO
17 THEN RECEIVED THE VERDICT FORM OF PUNITIVE DAMAGES.
18 BEFORE YOU GOT HERE AND OFF THE RECORD,
19 MR. HART, I HAD ADVISED DEFENSE COUNSEL OF JUST A COUPLE
20 LITTLE TYPOS TYPE THINGS IN THE VERDICT FORM. FIRST ONE BEING
21 THAT WE HAVE THE SIGNATURE LINE ON ITS OWN PAGE
22 SO THAT'S -- WE CAN'T HAVE JUST A SIGNATURE FLOATING BY
23 ITSELF.
24 AND THEN IN THE TEXT OF THE QUESTIONS, WE LEFT
25 OFF THE "LE" IN THE PLAINTIFF'S NAME. IT'S JUST XUAN KHOA.
26 SEE IF WE CAN PUT IN THE FULL PLAINTIFF'S NAME, BUT THOSE ARE,

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1 LIKE I SAID, LITTLE TYPO TYPE THINGS.
 2 DID YOU HAVE THE OPPORTUNITY TO SEE THAT
 3 VERDICT FORM?
 4 MR. HART: YES, JUDGE.
 5 THE COURT: AND OTHER THAN THOSE TWO THINGS, ANYTHING
 6 ELSE?
 7 MR. HART: NO. I MISSED THOSE TWO. OTHERWISE, THE
 8 FOAM SEEMED FINE, AS WAS TO BE EXPECTED.
 9 THE COURT: LIKE I SAID, TYPO TYPE THINGS ARE ALL
 10 THOSE ARE. SO WE'LL HAVE TO GET THOSE RECTIFIED. THEN, I
 11 BELIEVE WE HAVE THE GREEN TAGGED EXHIBITS I'VE BEEN TOLD. SO
 12 WE HAVE THAT TAKEN CARE OF.
 13 WE HAVE THE ONE JURY INSTRUCTION THAT WAS
 14 ALREADY SUBMITTED. THAT WILL BE THE SOLE JURY INSTRUCTION
 15 THAT I WILL GIVE TO THE JURY AFTER WE'RE DONE.
 16 MR. HART: THE CONTENT OF THAT INSTRUCTION PRESENTS A
 17 QUESTION TO ME TO PRESENT TO THE COURT. ONE OF THE FACTORS TO
 18 BE CONSIDERED IS WHETHER THE DEFENDANTS' CONDUCT INVOLVED A
 19 PATTERN OR PRACTICE, WHICH I THINK NOW MAKES RELEVANT THE
 20 OTHER DEFAMATION ACTIONS THAT THE DEFENDANT HAS BEEN INVOLVED
 21 IN.
 22 AND I HAVE A WITNESS ON STANDBY ON THAT ISSUE,
 23 IF NECESSARY, FOR REBUTTAL. OBVIOUSLY, IF THE WITNESS ADMITS
 24 THE OTHER CASES REBUTTAL WOULDN'T BE NECESSARY. BUT IT OCCURS
 25 TO ME THAT THIS IS NOW A DIFFERENT ISSUE THAN BEFORE.
 26 THE COURT: MR. VOSS.

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1 MR. VOSS: I'D LIKE AN OFFER AS TO WHAT THIS EVIDENCE
 2 IS. WE HAVEN'T SEEN IT YET.
 3 MR. HART: WELL, THE EVIDENCE IS THE HOLLY NGO CASE.
 4 AND THERE'S ACTUALLY BEEN A FEW OTHERS. SHE'S BEEN SUED
 5 AGAIN.
 6 THE COURT: WELL, I COULD SEE IF -- THE FACT OF A
 7 CASE, JUST BY ITSELF, I DON'T KNOW IF --
 8 MR. VOSS: OR A PENDING CASE WOULDN'T BE RELEVANT
 9 EITHER ANYWAY.
 10 THE COURT: LET ME FINISH.
 11 MR. VOSS: I'M SORRY.
 12 THE COURT: IF THERE ARE OTHER CASES WITH JUDGMENTS
 13 AGAINST -- THAT I COULD SEE AN ARGUMENT AS TO A JUDGMENT, A
 14 CASE IN WHICH THERE IS A JUDGMENT. BUT JUST THE FACT THAT
 15 OTHER CASES WERE FILED AND REGARDLESS OF, YOU KNOW, IF THEY
 16 WERE DEFENSED OR, YOU KNOW, SETTLED SOMEHOW, OR IF ONE'S
 17 PENDING, THOSE, I DON'T SEE THAT AS -- BECAUSE THERE HASN'T
 18 BEEN AN ADJUDICATION OR DETERMINATION AS TO THOSE.
 19 MR. HART: FAIR POINT, JUDGE. THE HOLLY NGO CASE DID
 20 NOT GO TO TRIAL, AND THERE'S A JUDGMENT. SHE WAS THE VICTOR
 21 IN THAT CASE, AND IT'S A SIMILAR KIND OF THING, DEFAMATION,
 22 JUDGMENT, SETTLED.
 23 MR. VOSS: INTERESTING. IT'S A SPLIT VERDICT. IT
 24 WAS A VERDICT AGAINST HOLLY NGO. IT ALSO REMAINS UNPAID BY
 25 HOLLY NGO, SO...
 26 MR. HART: WAIT A MINUTE.

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1 THE COURT: WAIT, WAIT, WAIT, WAIT. WHETHER IT'S
 2 PAID OR NOT, THAT'S IRRELEVANT. AND WE'RE NOT GOING TO SPEND
 3 MUCH, IF ANY, TIME ON THIS. THE FACT THAT IT'S A CROSS -- TAT
 4 THERE'S A JUDGMENT, THAT'S FINE. BUT, AGAIN, WE'RE NOT GOING
 5 TO DIVE INTO AND SPEND A BUNCH OF TIME ABOUT WHAT HE SAID, SHE
 6 SAID.
 7 THE FACT THAT -- YOU KNOW, A COUPLE MINUTES
 8 MAYBE ON THE FACT THAT THERE IS THIS JUDGMENT. AND THEN ON,
 9 YOU KNOW, ON CROSS OR EXAMINATION, DEFENDANT CAN BRING OUT
 10 THAT THERE WAS JUDGMENTS GOING BOTH DIRECTIONS OR WHATEVER. I
 11 DON'T KNOW ABOUT THE CASE, SO I CAN'T SPEAK TO THE DETAILS OF
 12 IT.
 13 BUT THE VERY BASICS OF THE CASE, YOU KNOW, THE
 14 NATURE OF THE JUDGMENT, WE DON'T NEED TO GET INTO ALL THE
 15 ALLEGATIONS, JUST THERE WAS -- WHAT I'M HEARING AND ASSUMING
 16 IS THERE WAS A DEFAMATION CASE THAT WENT TO JUDGMENT AND THERE
 17 WAS A JUDGMENT IN THAT CASE. THOSE SORTS OF THINGS WOULD SEEM
 18 TO BE, I THINK, APPROPRIATE GIVEN THAT.
 19 BUT WE'RE NOT GOING TO TRY THOSE CASES AGAIN
 20 HERE IN THAT CASE. SO WE DON'T -- AND, AGAIN, I'M FINE WITH
 21 DEFENDANT BRINGING UP THAT THERE WAS A JUDGMENT GOING THE
 22 OTHER DIRECTION AS WELL IN THAT CASE.
 23 MR. VOSS: AND ADDITIONALLY, YOUR HONOR, IF THIS IS
 24 THE CASE BEING OFFERED, TWO CASES IS NOT A PATTERN. AND SO,
 25 THEREFORE, WE WOULD OBJECT TO THE PRESENTATION OF ONE OTHER
 26 CASE. IT'S NOT A PATTERN WITHIN THE DEFINITION OF THE

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1 INSTRUCTION. A PATTERN WOULD CONSIST OF MORE THAN JUST TWO
 2 TIMES; IT WOULD HAVE TO BE MULTIPLE OCCASIONS.
 3 MR. HART: I LOOKED FOR AUTHORITY ON THAT, JUDGE, AND
 4 I DIDN'T ACTUALLY FIND ANYTHING LIKE THAT.
 5 THE COURT: SO I'LL TAKE A LOOK BEFORE, BUT I'M
 6 INCLINED TO ALLOW IT WITHIN THE PARAMETERS THAT I'VE SAID.
 7 AGAIN, WE'RE NOT GOING TO TRY THOSE CASES AND GO INTO -- AND
 8 GET ANY, YOU KNOW, SORT OF FACTUAL DISPUTES. THE BASIC BARE
 9 BONES OF THE CASE IS ABOUT ALL WE NEED, BECAUSE, AGAIN, THIS
 10 IS NOT -- THAT WOULD BE A SERIOUS 352 IF WE TRIED TO GET INTO
 11 ALL THE FACTS AND ACCUSATIONS AND WHATEVER CAME OUT OF THAT
 12 ONE.
 13 MR. VOSS: YES, YOUR HONOR. BUT WE'RE ONLY HEARING
 14 ABOUT THIS RIGHT NOW. SO IF COUNSEL KNEW ABOUT THIS, IT WOULD
 15 HAVE BEEN NICE TO HAVE KNOWN IT YESTERDAY WHEN I HAD THE
 16 OPPORTUNITY TO CONDUCT RESEARCH MYSELF INTO THIS ISSUE OF
 17 WHETHER TWO CONSTITUTES A PATTERN, BUT I DON'T BELIEVE THAT IT
 18 DOES BASED ON MY EXPERIENCE AND MY CAREER.
 19 THE COURT: I HAVE A COUPLE EX PARTES QUICKLY.
 20 YOU'LL HAVE A LITTLE BIT OF TIME, YOU AND YOUR ASSOCIATES.
 21 MR. VOSS: LITTLE PHONE RESEARCH?
 22 THE COURT: I SEE A LARGE LAPTOP IN THE GALLERY
 23 CLICKING AWAY, TOO.
 24 MR. VOSS: GOOD TO HAVE SUPPORT.
 25 MR. HART: IS THE GREEN-TAGGED SET OF EXHIBITS UP
 26 HERE?

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1 THE COURT: THEY'RE HERE SOMEPLACE.
 2 MR. HART: BECAUSE I NEED TO MARK MINE TO MATCH THAT.
 3 THE COURT: THAT'S FINE. WE'LL GO AHEAD AND GO OFF
 4 THE RECORD. I'M GOING TO CALL MY COUPLE OF EX PARTES. YOU'LL
 5 TAKE A LOOK AT THE PATTERN ISSUE, AND THEN WE'LL COME BACK.
 6 MR. HART: THANK YOU, YOUR HONOR.
 7 THE COURT: SO OFF THE RECORD.
 8 (OFF THE RECORD.)
 9 THE COURT: LET'S GO BACK ON THE RECORD IN THE KHOA
 10 V. THANG MATTER. WE HAVE COUNSEL AND PARTIES, AND WE'RE
 11 OUTSIDE THE PRESENCE OF THE JURY.
 12 AND SO THERE HAD BEEN, PRIOR TO BREAK, A QUICK
 13 QUESTION RAISED AS TO THE JURY INSTRUCTIONS FOR THE SECOND
 14 PHASE, PUNITIVE DAMAGES. ONE OF THE THINGS TO CONSIDER IN
 15 DECIDING REPREHENSIBILITY IS WHETHER DEFENDANTS' CONDUCT
 16 INVOLVED A PATTERN OR A PRACTICE.
 17 AND MR. HART HAD INDICATED HE INTENDS TO ASK
 18 QUESTIONS ABOUT OTHER CASES. AND I HAD STATED THAT I THINK
 19 THAT WAS ACCEPTABLE, BUT NOT TO LITIGATE THINGS OUT THERE.
 20 THERE HAS BEEN A DETERMINATION AS TO THE OTHER DEFAMATION.
 21 THAT WOULD SEEM APPROPRIATE. WE'RE NOT GOING TO LITIGATE
 22 THOSE CLAIMS OVER AGAIN.
 23 AND THERE WAS MENTION THAT THERE WAS KIND OF
 24 CROSS-DETERMINATIONS IN THAT CASE. SO I SAID THAT IS
 25 ACCEPTABLE AS WELL.
 26 AND SO THERE WAS THE QUESTION AS TO IS ONE CASE

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1 SUFFICIENT. SO JUST LOOKING THROUGH -- THE CACI NOTES CITES
 2 TO A COUPLE CASES, AGAIN, THE NOTES. THIS IS JURY INSTRUCTION
 3 3949. AND THERE'S A CITE TO A CALIFORNIA COURT OF APPEAL,
 4 IZELL, I-Z-E-L-L V. UNION CARBIDE CORPORATION, 2014 CASE,
 5 231 CAL.APP.4TH 962. AND I'LL GET TO THAT ONE IN A MINUTE.
 6 AND THERE'S ALSO A CITATION TO A U.S. SUPREME
 7 COURT CASE, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,
 8 AND THE PINPOINT CITED IN HERE IS 538 U.S. AT 419.
 9 SO STARTING WITH THE IZELL CASE, IT INCLUDES
 10 THE FOLLOWING LANGUAGE:
 11 "THE DEGREE OF REPREHENSIBILITY OF THE
 12 DEFENDANT'S CONDUCT IS THE MOST IMPORTANT INDICATOR OF THE
 13 REASONABLENESS OF A PUNITIVE DAMAGES AWARD. IN ASSESSING THE
 14 REPREHENSIBILITY OF THE DEFENDANT'S CONDUCT, WE ARE TO
 15 CONSIDER WHETHER, ONE, THE HARM CAUSED WAS PHYSICAL AS OPPOSED
 16 TO ECONOMIC; TWO, THE TORTIOUS CONDUCT, EVENTS AND
 17 INDIFFERENCE TO OR RECKLESS DISREGARD OF THE HEALTH OR SAFETY
 18 OF OTHERS; THREE, THE TARGET OF CONDUCT HAD FINANCIAL
 19 VULNERABILITY; FOUR" -- AND THIS WOULD BE THE ONE THAT'S MOST
 20 APPROPRIATE HERE -- "THE CONDUCT INVOLVED REPEATED ACTION OR
 21 WAS AN ISOLATED INCIDENT; AND FIVE, THE HARM WAS A RESULT OF
 22 INTENTIONAL MALICE, TRICKERY OR DECEIT OR MERE ACCIDENT."
 23 SO IT GOES ON FROM THERE. AND THEN IF WE LOOK
 24 TO -- THAT WAS PINPOINT CITED PAGE 985.
 25 THEN ON 986 AND 987, THERE'S FOOTNOTE NO. 10.
 26 THIS IS ONE OF THE -- IT'S AN ASBESTOS CASE, BUT LET ME FIND

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1 THE RELEVANT LANGUAGE HERE.
 2 "UNION CARBIDE ALSO ARGUES THE \$18 MILLION
 3 PUNITIVE DAMAGE AWARD IS UNCONSTITUTIONAL INsofar AS IT WAS
 4 OSTENSIVELY BASED ON PLAINTIFF COUNSEL'S SUGGESTION THAT THE
 5 JURY AWARD \$1 MILLION FOR EVERY YEAR THAT UNION CARBIDE SOLD
 6 ASBESTOS AFTER LEARNING OF ITS DANGERS.
 7 "UNION CARBIDE CONTENDS THIS ARGUMENT INVITED
 8 THE JURY TO IMPERMISSIBLY PUNISH UNION CARBIDE FOR HARM CAUSED
 9 TO OTHERS BECAUSE MR. IZELL WAS EXPOSED TO ASBESTOS FOR ONLY
 10 EIGHT OF THE 18 YEARS IN QUESTION.
 11 "THE DUE PROCESS DOES NOT PERMIT COURTS OR
 12 JURORS, IN THE CALCULATION OF PUNITIVE DAMAGES, TO ADJUDICATE
 13 THE MERITS OF OTHER PARTIES' HYPOTHETICAL CLAIMS AGAINST A
 14 DEFENDANT UNDER THE GUISE OF THE REPREHENSIBILITY ANALYSIS.
 15 THIS DOES NOT MEAN THAT THE DEFENDANT'S SIMILAR WRONGFUL
 16 CONDUCT TOWARDS OTHERS SHOULD NOT BE CONSIDERED IN DETERMINING
 17 THE AMOUNT OF PUNITIVE DAMAGES.
 18 "AS OUR SUPREME COURT STATED IN JOHNSON V. FORD
 19 MOTOR COMPANY, TO CONSIDER THE DEFENDANT'S ENTIRE COURSE OF
 20 CONDUCT IN SETTING OR REVIEWING A PUNITIVE DAMAGE AWARD, EVEN
 21 IN AN INDIVIDUAL PLAINTIFF'S LAWSUIT, IS NOT TO PUNISH THE
 22 DEFENDANT FOR ITS CONDUCT TOWARDS OTHERS. AN ENHANCED
 23 PUNISHMENT FOR RECIDIVISM DOES NOT DIRECTLY PUNISH THE EARLIER
 24 DEFENSE; IT IS RATHER, 'A STIFFENED PENALTY FOR THE LAST CRIME
 25 WHICH IS CONSIDERED TO BE AN AGGREGATING OFFENSE BECAUSE A
 26 REPETITIVE ONE.'

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1 "BY PLACING THE DEFENDANT'S CONDUCT ON ONE
 2 OCCASION INTO THE CONTEXT OF A BUSINESS PRACTICE OR POLICY, AN
 3 INDIVIDUAL PLAINTIFF CAN DEMONSTRATE THAT THE CONDUCT OF HIM
 4 OR HER WAS MORE BLAMEWORTHY AND WARRANTS A STRONGER PENALTY TO
 5 DETER A CONTINUED OR REPEATED CONDUCT OF THE SAME NATURE."
 6 SO THAT'S THE CALIFORNIA COURT OF APPEAL CASE.
 7 AND WHAT'S CITED, HERE, IN THE USE NOTES PER
 8 THAT 3941 CACI INSTRUCTION TO THE SUPREME COURT IS SIMILAR.
 9 IT READS AS FOLLOWS:
 10 "THE MOST IMPORTANT INDICUM OF REASONABLENESS
 11 OF A PUNITIVE DAMAGE AWARD IS THE DEGREE OF REPREHENSIBILITY
 12 OF THE DEFENDANT'S CONDUCT. WE HAVE INSTRUCTED COURTS TO
 13 DETERMINE THE REPREHENSIBILITY OF A DEFENDANT BY CONSIDERING
 14 WHETHER THE HARM CAUSED WAS PHYSICAL AS OPPOSED TO ECONOMIC;
 15 THE TORTIOUS CONDUCT EVENTS AN INDIFFERENCE TO OR RECKLESS
 16 DISREGARDS OF THE HEALTH OR SAFETY OF OTHERS; THE TARGET OF
 17 THE CONDUCT HAD FINANCIAL VULNERABILITY; THE CONDUCT INVOLVED
 18 REPEATED ACTIONS OR WAS AN ISOLATED INCIDENT; AND THE HARM WAS
 19 THE RESULT OF INTENTIONAL MALICE, TRICKERY OR DECEIT OR MERE
 20 ACCIDENT.
 21 "THE EXISTENCE OF ANY ONE OF THESE FACTORS
 22 WEIGHING IN FAVOR OF PLAINTIFF SHOULD NOT BE SUFFICIENT TO
 23 SUSTAIN A PUNITIVE DAMAGE AWARD, AND THE ABSENCE OF ALL OF
 24 THEM RENDERS ANY AWARD SUSPECT."
 25 AGAIN, THAT WAS A U.S. SUPREME COURT CASE ON
 26 THAT ONE. SO THEY'RE KIND OF CONSISTENT. ONE USING THE

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1 LANGUAGE FROM THE U.S. SUPREME COURT.
 2 SO BASED ON THOSE, AT FIRST GLANCE, IT WOULD
 3 SEEM THAT EVEN IF IT JUST ONE PRIOR, IT WOULD BE APPROPRIATE
 4 BECAUSE IT IS -- AND THE PATTERN -- JUST READING THROUGH THIS
 5 LIMITED CASE LAW, PATTERN ISN'T IN THOSE -- IN THE CASE LAW.
 6 PATTERN MAY WELL BE DEVELOPED BY THE CACI
 7 COMMITTEE IN DEVELOPING INSTRUCTIONS, TRYING TO MAKE THINGS IN
 8 A MORE COMMON USAGE, SO TRYING TO USE SIMPLER LANGUAGE. BUT I
 9 DON'T SEE THE WORD "PATTERN" IN THERE. IT'S MORE OF A REPEAT
 10 OR, YOU KNOW, HAVING HAD SOMETHING -- LIKE I SAID, I THINK THE
 11 "PATTERN" WORD MAY BE A LITTLE -- FOR THE DISCUSSION WE'RE
 12 HAVING, MAY POTENTIALLY BE A LITTLE DECEPTIVE IN TERMS OF THE
 13 CACI TRYING TO MAKE IT MORE UNDERSTANDABLE FOR THE JURORS.
 14 SO I'LL TURN TO MR. VOSS.
 15 MR. VOSS: SO WHAT WE WOULD SIMPLY DO FOR PRESERVING
 16 THE RECORD IS, AT THIS POINT, WE WOULD OBJECT TO THE
 17 INTRODUCTION OF THE OTHER CASE. WE UNDERSTAND THE COURT IS
 18 EFFECTIVELY GOING TO OVERRULE THAT OBJECTION ON THE BASIS OF
 19 WHAT YOU JUST READ. AND WHEREVER IT GOES FROM THERE, IT GOES
 20 FROM THERE.
 21 THE COURT: ABSOLUTELY. THAT'S ALL WE CAN DO.
 22 MR. VOSS: BUT RATHER THAN DO THAT IN THE PRESENCE OF
 23 THE JURY, WE ARE HAVING THAT DISCUSSION NOW.
 24 THE COURT: AND I'M HAPPY TO DO THAT. AND I WANT TO
 25 MAKE SURE WE GIVE EVERYBODY THE OPPORTUNITY TO GET THINGS ON
 26 THE RECORD TO PRESERVE WHATEVER ISSUES OR CLAIMS THAT THEY

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1 HAVE.
 2 AND SO GIVEN THAT NO OTHER WITNESSES WERE ON
 3 THE LIST, ANY WITNESS OTHER THAN DEFENDANT WOULD HAVE TO BE A
 4 REBUTTAL WITNESS, WHICH I THINK MR. HART MADE POTENTIAL
 5 REFERENCE TO. WE'LL HAVE TO WAIT AND SEE. BUT, AGAIN, THERE
 6 HAS TO TRULY BE THE NEED FOR REBUTTAL BASED ON THE TESTIMONY
 7 WE HEAR. WE DON'T JUST TO GET TO CALL THEM A REBUTTAL WITNESS
 8 WHEN THEY'RE REALLY NOT A REBUTTAL WITNESS.
 9 MR. VOSS: SO LET ME ASK AS A FOLLOW-ON, IF I MAY:
 10 THEN THE EXISTENCE OF A PRIOR JUDGMENT IS ONE THING, NOT
 11 RELITIGATING THE OTHER CASE IS ANOTHER, AND SOMEWHERE IN
 12 BETWEEN, SHORTER TO THE "JUST THERE WAS ANOTHER CASE," IS THE
 13 COURT'S APPARENT PREFERENCE, ARE AMOUNTS OF THE PRIOR FINDINGS
 14 GOING TO BE ADMISSIBLE?
 15 MR. HART: I DON'T INTEND TO ASK THAT QUESTION.
 16 MR. VOSS: OKAY. SO MERELY THERE WAS A PRIOR
 17 DEFAMATION?
 18 MR. HART: CORRECT.
 19 MR. VOSS: BECAUSE PART OF WHAT WE'RE DOING IS --
 20 COUNSEL HAS OFFERED THAT PERHAPS WE CAN STIPULATE TO A LOT OF
 21 THIS BEING RECEIVED AND CUT TO THE CHASE. WE'RE TRYING TO
 22 NARROW THAT DOWN.
 23 THE COURT: I APPRECIATE THAT.
 24 MR. HART: NOW, JUDGE, FOR THE RECORD, THIS WITNESS
 25 IS ON OUR WITNESS LIST.
 26 MR. VOSS: WE KNOW HER WELL. I WAS ACTUALLY INVOLVED

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1 IN THE OTHER CASE. I WASN'T LEAD COUNSEL, BUT I WAS THERE.
 2 THE COURT: BUT THEN IT SOUNDS LIKE -- SO WE JUST HAD
 3 THE REPRESENTATION FROM MR. HART THAT HE DOES NOT INTEND TO
 4 ASK OR INTRODUCE THE AMOUNT OF ANY PRIOR JUDGMENT --
 5 MR. HART: RIGHT.
 6 THE COURT: -- JUST THAT --
 7 MR. VOSS: "IS IT TRUE THAT THERE WAS A PRIOR
 8 DEFAMATION CASE IN WHICH A JUDGMENT WAS FOUND AGAINST YOU?"
 9 MR. HART: ESSENTIALLY, YEAH. WE'RE JUST GOING TO
 10 ASK FOR AN ADMISSION THAT THERE WAS A PRIOR AND WHEN IT
 11 HAPPENED.
 12 MR. VOSS: OKAY.
 13 THE COURT: AND, OBVIOUSLY, YOU'LL HAVE THE RIGHT TO
 14 OBJECT TO ANY OTHER QUESTIONS AS WE GO ALONG.
 15 MR. VOSS: RIGHT.
 16 THE COURT: BUT LIKE I SAID, I DON'T EXPECT TO
 17 LITIGATE -- THERE'S A LITTLE BIT OF INFORMATION THAT IS
 18 RELEVANT, BUT ONCE WE -- THIS IS A DIFFERENT CASE. SO WE'RE
 19 NOT GOING TO LITIGATE THAT ONE AGAIN.
 20 MR. HART: NEED WE HAVE THIS WITNESS SIT OUTSIDE
 21 DURING THE INITIAL EXAMINATION?
 22 THE COURT: I THINK THAT WOULD BE PROBABLY BE
 23 PRUDENT.
 24 MR. VOSS: I WOULD.
 25 (DISCUSSION BETWEEN COUNSEL.)
 26 THE COURT: WELL, WHY DON'T WE JUST IN AN ABUNDANCE

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1 OF CAUTION.
 2 MR. VOSS: I SUPPOSE. SO IF I MIGHT CONFER WITH
 3 COUNSEL, I THINK WE'LL BE ABLE TO -- THE STUFF THAT WE
 4 PRODUCED, WE DON'T NEED TO HAVE HIM AUTHENTICATE ON THE STAND,
 5 THAT SORT OF THING.
 6 MR. HART: WHY DON'T WE, ON THE RECORD, THEN
 7 STIPULATE THESE THINGS INTO EVIDENCE?
 8 MR. VOSS: I WANT TO DISCUSS ONE THING WITH YOU.
 9 THE COURT: SO WE'LL GO OFF THE RECORD MOMENTARILY.
 10 (OFF THE RECORD.)
 11 THE COURT: WE WILL GO AHEAD AND GO BACK ON THE
 12 RECORD. AND IT SOUNDS LIKE WE MAY HAVE SOME STIPULATIONS AS
 13 TO SOME OF THESE EXHIBITS FOR THIS PHASE?
 14 MR. HART: THERE'S TWO STIPULATIONS. ONE IS AS TO
 15 THE EXHIBITS. WE'RE AGREEING THAT EXHIBITS 301 THROUGH 307
 16 WILL BE ADMITTED INTO EVIDENCE.
 17 THE COURT: SO NOT 300 BUT --
 18 MR. HART: WELL, 300. I DIDN'T MEAN TO LEAVE IT OUT.
 19 THE COURT: 300 IS THE AUDITED FINANCIAL STATEMENTS.
 20 SO 300 THROUGH 307?
 21 MR. HART: RIGHT, ARE STIPULATED INTO EVIDENCE.
 22 AND THEN WE'VE ALSO AGREED THAT IF THE WITNESS
 23 ANSWERS AFFIRMATIVELY AS TO THE NOVEMBER 2019 PRIOR JUDGMENT
 24 FOR DEFAMATION, THEN WE WILL NOT NEED TO CALL OUR REBUTTAL
 25 WITNESS.
 26 THE COURT: ALL RIGHT.

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1 (EXHIBITS 300 TO 307 ADMITTED.)

2 MR. VOSS: NOW, JUST SO WE DON'T HAVE ANY SURPRISES

3 FOR HIS REBUTTAL WITNESS OR ANYTHING, WE WOULD BE ASKING HIM

4 IF THERE WAS ANY FINDING OF MALICE OR PUNITIVE DAMAGE IN THAT

5 CASE. THE ANSWER IS "NO."

6 MR. HART: I CAN'T REMEMBER IF I -- YEAH, I DON'T

7 KNOW, JUDGE. IS THAT GETTING TOO FAR INTO IT?

8 THE COURT: NO, I THINK THAT'S --

9 MR. VOSS: THAT'S A STATEMENT OF FACT.

10 THE COURT: YEAH, I MEAN, BECAUSE THAT KIND OF GOES

11 INTO THE REPREHENSIBILITY POTENTIALLY. THAT'S SOMETHING -- I

12 THINK THAT'S A RELEVANT CONSIDERATION FOR THE JURY IF WE'RE

13 DEALING WITH REPREHENSIBILITY, WHETHER OR NOT THE OTHER JURY,

14 IN FINDING THAT THERE WAS DEFAMATION, FOUND ONE WAY OR THE

15 OTHER AS TO PUNITIVE DAMAGES.

16 MR. HART: OKAY.

17 THE COURT: I THINK THAT'S -- I MEAN, IF YOU GOT

18 ARGUMENT TO THE CONTRARY, I'LL ENTERTAIN IT, BUT THAT SEEMS

19 RELEVANT.

20 MR. HART: OKAY. I'LL ASK THAT QUESTION. HE CAN

21 ANSWER IT IN MY EXAM.

22 THE COURT: ALL RIGHT. WE GOT THE JURY THEN; RIGHT?

23 COURTROOM ATTENDANT: YES, YOUR HONOR.

24 MR. HART: SO SINCE WE'VE STIPULATED, I'LL HAVE THE

25 WITNESS STAY IN THE COURTROOM.

26 THE COURT: THAT'S FINE, IF WE HAVE THAT STIPULATION.

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1 ANYTHING ELSE WE NEED TO DISCUSS BEFORE WE

2 BRING THE JURY IN?

3 MR. HART: I DON'T THINK SO, JUDGE.

4 THE COURT: ANYTHING ELSE FROM DEFENSE PERSPECTIVE

5 BEFORE WE BRING THE JURY IN?

6 MR. VOSS: NO, YOUR HONOR.

7 THE COURT: WE'LL HAVE TO PUT THEM IN THE JURY ROOM

8 REAL QUICKLY. THOSE FOR USE NOW. THEN WE'LL GO AHEAD AND

9 BRING THEM IN AND YOU CAN SHOW THEM IN TO THE JURY ROOM. AND,

10 AGAIN, JUST TO PICK UP THEIR STUFF AND THEY CAN COME STRAIGHT

11 BACK OUT AND TAKE THEIR SEATS.

12 MR. HART: YOU GOT IT, YOUR HONOR.

13 THE COURT: THANK YOU VERY MUCH.

14 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT IN THE

15 PRESENCE OF THE JURY:)

16 THE COURT: WELCOME BACK, LADIES AND GENTLEMEN. I

17 KNOW I SOUND LIKE A BROKEN RECORD, BUT THANK YOU, YET AGAIN,

18 FOR YOUR TIME AND SERVICE HERE. IT IS NOT TAKEN FOR GRANTED

19 AND IT IS GREATLY, GREATLY APPRECIATED. WE THANK YOUR

20 PATIENCE. WE'RE TRYING TO STREAMLINE THINGS, GET IT AS QUICK

21 AS POSSIBLE HERE. SO WE'RE ACTUALLY SAVING SOME TIME WITHIN

22 THE LAST FEW MINUTES HERE.

23 SO AS INDICATED, WE ARE BACK HERE BASED ON THE

24 RESULTS AND YOUR VERDICT YESTERDAY. AND THE QUESTION TO BE

25 PRESENTED AND DECIDED IS: THE AMOUNT, IF ANY, OF PUNITIVE

26 DAMAGES TO AWARD.

Page 20

1 SO WE'LL HEAR A LITTLE BIT OF TESTIMONY AND

2 SOME ARGUMENTS AND AN INSTRUCTION OR SO, AND THEN GET YOU BACK

3 INTO THE JURY ROOM AS QUICKLY AS WE CAN.

4 SO WITH THAT, I'LL TURN TO MR. HART TO START US

5 OFF.

6 MR. HART: THANK YOU, YOUR HONOR. PLAINTIFFS CALL

7 DR. THANG TO THE STAND.

8 THE COURT: THANK YOU. PAUSE AGAIN AT THE TABLE AND

9 BE SWORN IN, DOCTOR.

10 NGUYEN DINH THANG,

11 CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFFS, AND HAVING

12 BEEN PREVIOUSLY DULY SWORN BY THE CLERK, WAS EXAMINED AND

13 TESTIFIED AS FOLLOWS:

14 THE WITNESS: I DO.

15 THE CLERK: PLEASE STATE AND SPELL YOUR FIRST AND

16 LAST NAME FOR THE RECORD.

17 THE WITNESS: T-H-A-N-G, D-I-N-H, N-G-U-Y-E-N.

18 THE CLERK: THANK YOU.

19 THE COURT: THANK YOU VERY KINDLY, DOCTOR. GIVE YOU

20 A COUPLE MOMENTS TO GET SETTLED IN THERE.

21 DIRECT EXAMINATION

22 BY MR. HART:

23 Q MORNING, DR. THANG. THANK YOU FOR BEING HERE

24 AGAIN TODAY.

25 A MORNING.

26 Q TRY TO SHORTEN THIS UP AS MUCH AS WE CAN.

Page 21

1 TELL THE JURY WHETHER OR NOT IN NOVEMBER OF

2 2019 A JUDGMENT WAS ENTERED AGAINST YOU FOR DEFAMATION.

3 A YES.

4 Q AND THE PLAINTIFF IN THAT CASE WAS?

5 A MS. HOLLY NGO.

6 Q YOU SEE HER IN THE COURTROOM TODAY?

7 A YES.

8 Q OKAY. NOW, YOU PROVIDED SOME DOCUMENTATION IN

9 RESPONSE TO OUR REQUEST TO ESTABLISH THE NET WORTH OF YOURSELF

10 AND YOUR ENTITY B.P.S.O.S.?

11 A YES.

12 Q AND SO I BELIEVE THE EXHIBITS ARE IN FRONT OF

13 YOU.

14 CAN YOU TELL US WHAT EXHIBIT 300 IS?

15 A OH, IT IS AN AUDITED FINANCIAL STATEMENT FOR

16 THE YEAR 2023.

17 Q SO THIS IS AS OF THE END OF LAST YEAR?

18 A YES, DECEMBER 31ST.

19 Q AND WHAT WERE THE NET ASSETS OF B.P.S.O.S. AT

20 THE END OF 2023?

21 A THE NET ASSETS, INCLUDING RESTRICTED --

22 Q JUST ASSETS. YOU CAN EXPLAIN ALL THAT --

23 A -- IS \$4,191,101.

24 Q SO THAT NUMBER WE FIND ON PAGE THREE OF

25 EXHIBIT 300?

26 A CORRECT.

Page 22

1 Q AND THAT NUMBER IS TOTAL ASSETS MINUS TOTAL
 2 LIABILITIES; CORRECT?
 3 A CORRECT.
 4 Q AND THAT GIVES US THE NET ASSET NUMBER. THANK
 5 YOU.
 6 LET'S LOOK AT EXHIBIT 301. CAN YOU TELL US
 7 WHAT THIS IS, PLEASE?
 8 A OH, THIS IS BALANCE SHEET AS OF SEPTEMBER 30TH,
 9 THIS YEAR.
 10 Q OKAY. SO ABOUT A MONTH AGO. AND WHAT DOES
 11 THIS BALANCE SHEET CONTAIN? WHAT INFORMATION IS ON HERE?
 12 A IT CONTAINS CURRENT ASSETS, TOTAL FIXED ASSETS,
 13 LIABILITIES, EQUITY, AND TOTAL LIABILITIES PLUS EQUITY.
 14 Q AND THE TOTAL LIABILITIES AND EQUITY IN THIS
 15 PARTICULAR EXHIBIT ARE WHAT AMOUNT?
 16 A IS 4,105,737.06.
 17 Q AGAIN ON PAGE THREE OF EXHIBIT 301?
 18 A YES.
 19 Q ON PAGE ONE OF 301, WE SEE WHAT LOOKS LIKE A
 20 DOZEN OR MORE INDIVIDUAL CHECKING ACCOUNTS. CAN YOU EXPLAIN
 21 WHAT THESE THINGS ARE.
 22 A THESE ARE THE CHECKING ACCOUNTS OF OUR
 23 DIFFERENT BRANCHES AND PROGRAMS.
 24 Q OKAY. SO, FOR INSTANCE, TEXAS HAS 992,000
 25 DOLLARS CASH IN ITS BANK ACCOUNT?
 26 A THAT'S CORRECT.

Page 23

1 Q AND WE SEE THAT EVERYBODY HAS A POSITIVE
 2 BALANCE?
 3 A CORRECT, ON THAT DATE.
 4 Q ACCOUNTS RECEIVABLE, CALIFORNIA, A LITTLE WAYS
 5 DOWN SHOWS A MINUS \$511,000. CAN YOU TELL US WHAT THAT'S
 6 ABOUT?
 7 A THAT IS THE MONEY THAT SHOULD BE BUT HAS NOT
 8 BEEN IN.
 9 Q THAT'S CONTRIBUTIONS THAT HAVEN'T ARRIVED YET?
 10 A LET ME SEE HERE.
 11 Q ARE YOU ABLE TO TELL US WHAT THAT NEGATIVE
 12 \$511,000 NUMBER IS?
 13 A OH, THAT IS THE AMOUNT THAT SHOULD BE
 14 SUBTRACTED.
 15 Q WHY SHOULD 511,000 BE SUBTRACTED FROM CURRENT
 16 ASSETS?
 17 A BECAUSE IT HAD BEEN PAID AND THAT GOES INTO
 18 THE -- IT GOES INTO THE AMOUNT UP ABOVE, THE SECOND LINE.
 19 Q SO THAT'S AN ADJUSTMENT TO THE \$723,000 FIGURE?
 20 A YEAH, SO IT HAS BEEN MOVED FROM RECEIVABLE.
 21 THAT MEANS THAT WE ARE -- WE SHOULD RECEIVE TO WHAT WE HAVE
 22 RECEIVED.
 23 Q OKAY. LET'S MOVE ON TO EXHIBIT 203, PLEASE.
 24 TELL US WHAT THIS IS.
 25 A OH, THIS IS MY W-2 FOR THE YEAR 2023.
 26 Q YOUR PERSONAL W-2?

Page 24

1 A RIGHT.
 2 Q SO LOOKS LIKE YOUR GROSS INCOME IS JUST UNDER
 3 \$90,000 A YEAR?
 4 A CORRECT. OH, I ALSO HAVE \$800 AFTER TAX IN
 5 PENSION FROM THE DATES I WORK FOR THE U.S. NAVY.
 6 Q OKAY. SO IN REALITY, YOUR INCOME IS ALMOST
 7 100,000 A YEAR?
 8 A THAT'S RIGHT.
 9 Q AND HAS IT BEEN THE SAME AS WE SEE ON THIS
 10 DOCUMENT FOR THE LAST FIVE YEARS?
 11 A I THINK GOT SMALL INCREASE, LIKE THREE PERCENT
 12 INCREASE.
 13 Q OKAY. THANK YOU.
 14 MOVING ON TO EXHIBIT 304 -- NO, 303, THE
 15 PENNYMAC STATEMENT. CAN YOU TELL US WHAT THIS IS, PLEASE.
 16 A OH, THIS IS THE MORTGAGE ON MY PRIMARY
 17 RESIDENCE.
 18 Q OKAY. WHAT IS THE AMOUNT OF THE MORTGAGE?
 19 A THE AMOUNT OF MORTGAGE IS 450,000.
 20 Q 450,000?
 21 A YES.
 22 Q OKAY. SO THIS IS YOUR PERSONAL LIABILITY?
 23 A YES.
 24 Q ALL RIGHT.
 25 A OH, THAT DOESN'T COUNT MY HOME EQUITY LOAN OF
 26 \$85,000 ON TOP OF THIS.

Page 25

1 Q SO ABOUT 550- AGAINST THE HOUSE?
 2 A YES.
 3 Q SO LOOKING AT 304 NOW, WHAT DO WE SEE HERE?
 4 A OH, THIS IS MY REAL ESTATE TAX.
 5 Q AND IS THIS AN ANNUAL FIGURE OF \$4,922?
 6 A NO, IT'S EVERY SIX MONTHS.
 7 Q SO YOUR REAL ESTATE TAXES ARE ALMOST 10,000 A
 8 YEAR?
 9 A CORRECT.
 10 Q OKAY. THANK YOU.
 11 LET'S TAKE A LOOK AT EXHIBIT 305 NOW, PLEASE.
 12 AND THIS APPEARS TO BE A REDFIN ESTIMATE FOR THE PROPERTY AT
 13 4155 -- 557 ARLINGTON OAKS DRIVE.
 14 DO YOU SEE THAT?
 15 A YES.
 16 Q IS THAT YOUR PRINCIPAL RESIDENT?
 17 A THAT'S CORRECT.
 18 Q AND IT SHOWS AN ESTIMATED VALUE OF ABOUT
 19 A-MILLION-AND-A-QUARTER. DO YOU SEE THAT ESTIMATE?
 20 A YES, BUT THERE IS A MORE OFFICIAL NUMBER FROM
 21 THE COUNTY. IT'S ON 304.
 22 Q THE COUNTY HAS AN APPRAISED VALUE --
 23 A THAT'S RIGHT.
 24 Q -- CORRECT?
 25 A CORRECT.
 26 Q AND THAT APPRAISED VALUE IS A

Page 26

1 MILLION-ONE-FORTY-FOUR?
 2 A THAT'S CORRECT.
 3 Q AND HOW LONG HAVE YOU LIVED THERE?
 4 A TEN YEARS.
 5 Q SO THERE'S BEEN SOME APPRECIATION IN TEN YEARS?
 6 A THAT'S RIGHT.
 7 Q SO YOU WOULDN'T REALLY ARGUE TOO MUCH WITH A
 8 MILLION-TWO-FIFTY?
 9 A (NO AUDIBLE RESPONSE.)
 10 Q LESS YOUR LIABILITIES?
 11 A THEY MADE A MISTAKE. WE DON'T HAVE FOUR AND A
 12 HALF BATHROOMS. THAT'S WHY THE DIFFERENCE. WE HAVE THREE AND
 13 A HALF BATHROOMS.
 14 Q I'M SORRY. I DIDN'T UNDERSTAND WHAT YOU SAID.
 15 A OH, THEY LIST IT HERE THAT -- THEY MAKE THE
 16 ESTIMATE ON THE ASSUMPTIONS THAT OUR HOUSE HAS FOUR AND A HALF
 17 BATHROOMS, WHICH IS NOT CORRECT.
 18 Q IT ONLY HAS FOUR BATHROOMS?
 19 A THREE AND A HALF.
 20 Q ONE BATHROOM TOO MANY. SO WHAT'S THAT WORTH?
 21 A I DON'T KNOW.
 22 Q A THOUSAND?
 23 A I WOULD GO WITH THE APPRAISAL.
 24 Q ALL RIGHT. SO THAT'S 305.
 25 LET'S LOOK AT EXHIBIT 306. THIS IS A ZILLOW
 26 APPRAISAL. DO YOU SEE THIS?

Page 27

1 A YES.
 2 Q AND DID THEY OVERSTATE THE NUMBER OF BATHROOMS?
 3 A I DON'T SEE THAT THEY LISTED THE BATHROOMS.
 4 THE COURT: AT THE VERY, VERY TOP.
 5 THE WITNESS: OH, YEAH, FOUR, THE SAME.
 6 BY MR. HART:
 7 Q THEY DID IT, TOO?
 8 A THE SAME MISTAKE, YEAH.
 9 Q SO THEIR ESTIMATE WAS ABOUT A
 10 MILLION-AND-A-QUARTER ALSO?
 11 A YEAH, 1,231,032.
 12 Q LOOK AT 307, IF YOU WOULD, PLEASE. THIS IS
 13 ANOTHER REDFIN ESTIMATE.
 14 DO YOU RECOGNIZE THIS PROPERTY, 7400 PARKWOOD
 15 COURT?
 16 A YES.
 17 Q WHAT DO YOU RECOGNIZE THIS PROPERTY TO BE?
 18 A THIS WAS A PROPERTY THAT WE HAD RIGHT AFTER I
 19 GRADUATED FROM VIRGINIA TECH WITH A PH.D. AND JOINED THE U.S.
 20 NAVY AS A RESEARCH ENGINEERING. WE SOLD THAT LONG AGO.
 21 Q HOW LONG AGO?
 22 A IN 1998.
 23 Q SO AT LEAST 25 YEARS AGO?
 24 A (NO AUDIBLE RESPONSE.)
 25 Q DO YOU REMEMBER WHAT YOU SOLD IT FOR?
 26 A NO. THAT'S MY EX-WIFE.

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1 Q OH, OKAY.
 2 A I LEFT IT FOR HER, AND SHE SOLD IT.
 3 MR. HART: VERY GOOD.
 4 NO FURTHER QUESTIONS, YOUR HONOR.
 5 THE COURT: THANK YOU. AND WE'LL TURN IT OVER TO
 6 MR. VOSS.
 7 CROSS-EXAMINATION
 8 BY MR. VOSS:
 9 Q DR. THANG, BEFORE THIS MORNING, HAD YOU SEEN
 10 EXHIBITS 305 AND 306, THE ZILLOW AND REDFIN --
 11 A NO.
 12 Q -- INTERNET ESTIMATES?
 13 A NO.
 14 Q OKAY. I ALSO NOTE THAT BOTH OF THEM ESTIMATE
 15 THE SQUARE FOOTAGE OF YOUR HOME. DO YOU SEE THAT ON TOPS OF
 16 305 AND 306?
 17 A UH-HUH.
 18 Q THEY SEEM TO BE OFF BY ALMOST 1500 SQUARE FEET
 19 ONE TO THE OTHER?
 20 A RIGHT.
 21 Q CAN YOU EXPLAIN WHY THEY WOULD BE -- ONE OF
 22 THEM 1500 SQUARE FEET BIGGER THAN THE OTHER?
 23 A I DON'T KNOW.
 24 Q OKAY. LET'S GO BACK TO THE APPRAISED AMOUNT.
 25 THERE'S NO -- DO YOU KNOW WHAT PROPOSITION 13 IS IN
 26 CALIFORNIA?

Page 29

1 A NO.
 2 Q OKAY. IN THE STATE OF VIRGINIA, DOES THE TAX
 3 ASSESSOR ASSESS THE VALUE OF YOUR HOME EVERY SINGLE YEAR AT
 4 THE FULL AMOUNT THAT THE TAX ASSESSOR BELIEVES IT'S WORTH?
 5 A YES.
 6 Q THEY AREN'T LIMITED TO SOME PERCENTAGE NUMBER
 7 THAT THEY CAN'T INCREASE IT BY IN THE STATE OF VIRGINIA;
 8 RIGHT?
 9 A NO.
 10 Q DR. THANG, JUST REAL BRIEFLY SO THAT THE JURY
 11 HAS A SENSE OF WHO YOU ARE IN TERMS OF PUNITIVE DAMAGES. DO
 12 YOU HAVE A FAMILY?
 13 A YES. I HAVE A WIFE AND SEVEN-AND-A-HALF YEARS
 14 OLD DAUGHTER.
 15 Q DOES YOUR WIFE WORK?
 16 A NO.
 17 Q AND DO YOU HAVE ANY CASH IN THE BANK?
 18 A RIGHT NOW ZERO.
 19 Q IT'S KIND OF UNUSUAL TO BE ZERO. I HAD ASKED
 20 YOU THAT EARLIER TODAY. WHY IS IT NOW ZERO?
 21 A WELL, EVERY YEAR WE HAVE A GIVING TUESDAY
 22 CAMPAIGN TO FUNDRAISE.
 23 MR. HART: OBJECTION. RELEVANCE.
 24 THE COURT: OVERRULED. BUT NOT A LOT OF TIME HERE.
 25 MR. VOSS: JUST TO EXPLAIN WHY IT'S ZERO.
 26 THE COURT: OKAY.

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1 THE WITNESS: SO I PULLED OUT EVERYTHING I HAD AND
 2 BORROW FROM MY OWN HELOC, HOME EQUITY LINE OF CREDIT, TO
 3 CONTRIBUTE TO THAT FUNDRAISING CAMPAIGN OF BOAT PEOPLE S.O.S.,
 4 YEAR-END CAMPAIGN.
 5 BY MR. VOSS:
 6 Q SO ALTHOUGH YOU RECEIVE INCOME FROM THE BOAT
 7 PEOPLE, IS IT ALSO CORRECT TO SAY THAT YOU DONATE BACK TO THE
 8 BOAT PEOPLE?
 9 A YES.
 10 Q DO YOU DO THIS ANNUALLY?
 11 A EVERY YEAR.
 12 Q AND THIS GOES BACK TO WHEN YOU STARTED WITH THE
 13 BOAT PEOPLE. I BELIEVE YOU TESTIFIED, DURING THE TRIAL, ABOUT
 14 WHEN YOU STARTED THERE AND YOU WERE WORKING FOR THE NAVY;
 15 RIGHT?
 16 A YES. I SAVE UP MY PERSONAL SAVINGS AND USE IT
 17 FOR THE FIRST THREE YEARS TO PAY MYSELF AND A HALF-TIME STAFF.
 18 Q DR. THANG, WHAT KIND OF CAR DO YOU DRIVE?
 19 A I DRIVE A TOYOTA COROLLA.
 20 Q WHAT YEAR?
 21 A 2010.
 22 Q SO A 14-YEAR OLD TOYOTA COROLLA; IS THAT
 23 CORRECT?
 24 A CORRECT.
 25 Q ESTIMATE OF WHAT IT'S WORTH?
 26 A MAYBE 3,000.

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1 Q DR. THANG, YOU WERE ASKED WHETHER THERE WAS A
 2 PRIOR DEFAMATION LAWSUIT WITH A JUDGMENT AGAINST YOU.
 3 IN THE JUDGMENT AGAINST YOU, WAS THERE ANY
 4 FINDING OF MALICE AGAINST YOU?
 5 A NO.
 6 Q WERE THERE ANY PUNITIVE DAMAGES AWARDED AGAINST
 7 YOU?
 8 A NO.
 9 Q ISN'T IT ALSO TRUE THAT IN THAT EXACT SAME
 10 PIECE OF LITIGATION THAT YOU SUED MS. NGO FOR DEFAMATION?
 11 A CORRECT.
 12 Q AND ISN'T IT TRUE THAT YOU HAD A JUDGMENT
 13 AGAINST MS. NGO FOR DEFAMATION IN THE SAME TRIAL?
 14 A CORRECT.
 15 Q ISN'T IT ALSO TRUE THAT IN THAT TRIAL MS. NGO
 16 WAS JUDGED TO HAVE DEFAMED YOU?
 17 A CORRECT.
 18 Q AND SHE DID SO WITH MALICE; ISN'T THAT CORRECT?
 19 A CORRECT.
 20 Q AND WERE PUNITIVE DAMAGES AWARDED?
 21 A YES.
 22 Q AGAINST MS. NGO, BUT NOT AGAINST YOU; RIGHT?
 23 A CORRECT.
 24 Q NEXT I'D LIKE TO TURN TO EXHIBIT -- THE
 25 FINANCIAL STATEMENT FOR B.P.S.O.S., 300.
 26 A 300.

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1 THE COURT: THE AUDITED FINANCIAL STATEMENT IS
 2 EXHIBIT 300.
 3 MR. VOSS: THANK YOU.
 4 BY MR. VOSS:
 5 Q ON PAGE SEVEN, THERE'S A PARAGRAPH RELATING TO
 6 CONTRIBUTIONS AND GRANTS.
 7 DO YOU SEE THAT THERE?
 8 A YES.
 9 Q OKAY. SO DOES THAT PARAGRAPH HAVE TO DO WITH
 10 WHAT ARE GENERALLY REFERRED TO AS RESTRICTED FUNDS?
 11 A CORRECT.
 12 Q CAN YOU DESCRIBE TO US WHAT "RESTRICTED FUNDS"
 13 ARE.
 14 A THERE ARE THREE TYPES OF RESTRICTED FUNDS. ONE
 15 IS PERMANENTLY RESTRICTED, AND WE HAVE A SMALL ENDOWMENT FUND
 16 THAT IS MANAGED BY THE DONOR HIMSELF. SO WE HAVE -- WE CANNOT
 17 TOUCH THAT AT ALL, PERMANENTLY RESTRICTED.
 18 AND THEN THERE ARE TEMPORARILY RESTRICTED. IT
 19 MEANS THAT WE ARE SUPPOSED TO SPEND THAT MONEY TO DELIVER
 20 SERVICES FOR OPERATING COSTS. ONCE WE HAVE FULFILLED THAT,
 21 THEN IT BECOME UNRESTRICTED FUNDS.
 22 Q AND IF YOU LOOK AT -- LET'S GO TO THE PAGE
 23 THREE SO WE'RE USING THE SAME PAGE COUNSEL USED. WE'RE ALL
 24 LITERALLY ON THE SAME PAGE.
 25 A YES.
 26 Q SO ON THE -- ROUGHLY THE SIXTH LINE DOWN

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1 THERE'S A LINE THAT SAYS, "INVESTMENT." DO YOU SEE THAT
 2 THERE?
 3 A RIGHT.
 4 Q ARE THOSE THE PERMANENTLY RESTRICTED FUNDS THAT
 5 ARE MANAGED BY THE DONOR?
 6 A YES, THAT'S THE ENDOWMENT FUND.
 7 Q SO THESE ARE NOT FUNDS AVAILABLE FOR USE BY
 8 B.P.S.O.S.; RIGHT?
 9 A RIGHT.
 10 Q AND SHOULD NOT BE USED, IN YOUR OPINION, FOR
 11 NET WORTH; RIGHT?
 12 A WE CAN TOUCH THAT.
 13 Q LIKEWISE, ON THE FIRST TWO LINES, UNDER
 14 "CURRENT ASSETS, CASH AND CASH -- GRANTS AND OTHER RECEIVABLES
 15 NET." DO YOU SEE THOSE LINES?
 16 A RIGHT.
 17 Q CAN YOU TELL ME WHAT THOSE NUMBERS CONSIST OF.
 18 A THESE ARE RENTS AND CONTRIBUTIONS.
 19 Q AND ARE THEY RESTRICTED --
 20 A THEY ARE RESTRICTED, BECAUSE THE CONTRIBUTIONS
 21 ABOUT 800,000 ON THE AVERAGE A YEAR, BUT THEY'RE DONATED TO A
 22 CERTAIN PROJECT, SUCH AS --
 23 Q THOSE PROJECTS PLAY OUT OVER TIME --
 24 A YES.
 25 Q -- AND YOU'RE SPENDING MONEY ON REFUGEE CAUSES,
 26 SHOULD I SAY?

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1 A REFUGEES AND HUMAN-TRAFFICKING VICTIMS.
 2 Q SO THESE, ALSO, ARE NOT MONEY THAT WOULD
 3 BE -- YOU WOULD INCLUDE IN THE NET WORTH OF B.P.S.O.S.; RIGHT?
 4 A NO. ACTUALLY, THE CASH IS ALSO GRANTS MONEY,
 5 BUT IT MEANS THAT -- THIS IS A SNAPSHOT AT THE END OF YEAR,
 6 2023. SO WE DRAW DOWN GRANTS MONEY AND -- INTO CASH. SO IT
 7 HAS BEEN DRAWN DOWN FROM THE GRANTS AWAITING TO BE SPENT THE
 8 FOLLOWING YEAR ON SERVICES AND OPERATING COSTS.
 9 Q SO EXCLUDING MONEY THAT YOU'VE
 10 RECEIVED -- B.P.S.O.S. HAS RECEIVED FROM OTHERS TO DO PROJECTS
 11 AND PROGRAMS RELATED TO CAUSES THAT B.P.S.O.S. SUPPORTS AND
 12 PROVIDES, WHAT'S LEFT THAT'S ACTUALLY THE NET WORTH OF
 13 B.P.S.O.S.? WHERE WOULD I FIND THAT?
 14 A THAT'S PROPERTY AND EQUIPMENT NET. THAT'S ALL
 15 WE HAVE.
 16 Q SO THAT'S THE \$78,467 NUMBER?
 17 A THAT'S CORRECT.
 18 Q SO YOU CAN'T REACH INTO ANY OF THAT OTHER
 19 \$4 MILLION --
 20 A NO.
 21 Q -- AND USE IT FOR WHATEVER YOU WANT?
 22 A NO.
 23 Q THAT'S DESIGNATED FUNDS THAT HAVE TO BE USED IN
 24 A PARTICULAR WAY; RIGHT?
 25 A YES, AND YOU CAN SEE THAT UNDER "NET ASSETS"
 26 HERE, THE PAGE.

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1 Q AND THAT'S WHAT'S BEING DESCRIBED ON PAGE SEVEN
 2 UNDER "CONTRIBUTIONS AND GRANTS"?
 3 A THAT'S CORRECT.
 4 MR. VOSS: I HAVE NOTHING FURTHER OF THIS WITNESS.
 5 REDIRECT EXAMINATION
 6 BY MR. HART:
 7 Q DR. THANG, IN THE HOLLY NGO CASE, SHE WAS
 8 AWARDED 170,000 --
 9 MR. VOSS: OBJECTION, YOUR HONOR.
 10 MR. HART: -- \$170,000 --
 11 MR. VOSS: OBJECTION, YOUR HONOR.
 12 THE COURT: SUSTAINED.
 13 MR. HART: NOTHING FURTHER.
 14 MR. VOSS: REQUEST THE COURT INSTRUCT THE JURY AS TO
 15 THAT STATEMENT.
 16 THE COURT: JUST AS YOU'VE HEARD THROUGHOUT THE TRIAL
 17 AND THE INSTRUCTIONS THAT QUESTIONS ARE NOT EVIDENCE. THEY'RE
 18 NOT TO BE CONSIDERED. THEY'RE NOT FACTS OF ANYTHING. IT IS
 19 ONLY THE RESPONSES AND THAT IS ALL THAT IS TO BE CONSIDER, IS
 20 THE RESPONSES THAT WERE RECEIVED. A QUESTION SHOULD NOT BE
 21 TAKEN -- ANY IMPLICATION OF A QUESTION SHOULD NOT BE TAKEN AS
 22 ESTABLISHING A FACT.
 23 ALL RIGHT. SO THEN DO WE REST IN TERMS OF THE
 24 PRESENTATION OF THE EVIDENCE IN THIS PHASE?
 25 MR. HART: YES, JUDGE.
 26 MR. VOSS: YES, YOUR HONOR.

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1 THE COURT: ALL RIGHT. THEN WOULD YOU LIKE ME TO
 2 READ THE INSTRUCTION BEFORE YOU ARGUE?
 3 MR. HART: YES, JUDGE.
 4 THE COURT: ALL RIGHT. SO WE WILL HAVE ONE
 5 ADDITIONAL -- YOU HAVE ALL THE BASIC BACKGROUND INSTRUCTIONS
 6 THAT YOU RECEIVED YESTERDAY. WE WON'T READ THOSE AGAIN FOR
 7 YOU. BUT THERE IS ONE ADDITIONAL INSTRUCTION THAT IS DIRECTLY
 8 APPLICABLE TO THIS PHASE OF THE TRIAL, AND SO I WILL READ THAT
 9 TO YOU NOW BEFORE WE GET INTO THE CLOSING ARGUMENTS OF COUNSEL
 10 FOR THIS PHASE OF THE TRIAL.
 11 AND THAT ONE INSTRUCTION READS AS FOLLOWS:
 12 YOU MUST NOW DECIDE THE AMOUNT, IF ANY, THAT
 13 YOU SHOULD AWARD LE XUAN KHOA IN PUNITIVE DAMAGES. THE
 14 PURPOSES OF PUNITIVE DAMAGES ARE TO PUNISH A WRONGDOER FOR THE
 15 CONDUCT THAT HARMED THE PLAINTIFF AND TO DISCOURAGE SIMILAR
 16 CONDUCT IN THE FUTURE.
 17 THERE IS NO FIXED FORMULA FOR DETERMINING THE
 18 AMOUNT OF PUNITIVE DAMAGES, AND YOU ARE NOT REQUIRED TO AWARD
 19 ANY PUNITIVE DAMAGES.
 20 IF YOU DECIDE TO AWARD PUNITIVE DAMAGES, YOU
 21 SHOULD CONSIDER ALL OF THE FOLLOWING FACTORS SEPARATELY FOR
 22 EACH DEFENDANT IN DETERMINING THE AMOUNT:
 23 (A): HOW REPREHENSIBLE WAS THAT DEFENDANT'S
 24 CONDUCT?
 25 IN DECIDING HOW REPREHENSIBLE A DEFENDANT'S
 26 CONDUCT WAS, YOU MAY CONSIDER, AMONG OTHER FACTORS:

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1 ONE: WHETHER THE CONDUCT CAUSED PHYSICAL HARM;
 2 TWO: WHETHER THE DEFENDANT DISREGARDED THE
 3 HELD OR SAFETY OF OTHERS;
 4 THREE: WHETHER LE XUAN KHOA WAS FINANCIALLY
 5 WEAK OR VULNERABLE AND THE DEFENDANT KNEW LE XUAN KHOA WAS
 6 FINANCIALLY WEAK OR VULNERABLE AND TOOK ADVANTAGE OF HIM;
 7 FOUR: WHETHER DEFENDANT'S CONDUCT INVOLVED A
 8 PATTERN OR PRACTICE;
 9 AND FIVE: WHETHER THE DEFENDANTS ACTED WITH
 10 TRICKERY OR DECEIT.
 11 (B): IS THERE A REASONABLE RELATIONSHIP
 12 BETWEEN THE AMOUNT OF PUNITIVE DAMAGES AND POTENTIAL HARM TO
 13 LE XUAN KHOA THAT DEFENDANTS KNEW WAS LIKELY TO OCCUR BECAUSE
 14 OF THE CONDUCT?
 15 AND (C): IN VIEW OF THAT DEFENDANT'S FINANCIAL
 16 CONDITION, WHAT AMOUNT IS NECESSARY TO PUNISH THEM AND
 17 DISCOURAGE FUTURE WRONGFUL CONDUCT?
 18 YOU MAY NOT INCREASE THE PUNITIVE AWARD ABOVE
 19 AN AMOUNT THAT IS OTHERWISE APPROPRIATE MERELY BECAUSE THE
 20 DEFENDANT HAS SUBSTANTIAL FINANCIAL RESOURCES. ANY AWARD YOU
 21 IMPOSE MAY NOT EXCEED THAT DEFENDANT'S ABILITY TO PAY.
 22 PUNITIVE DAMAGES MAY NOT BE USED TO PUNISH A
 23 DEFENDANT FOR THE IMPACT OF THEIR ALLEGED MISCONDUCT ON
 24 PERSONS OTHER THAN LE XUAN KHOA.
 25 SO THAT IS THAT NEW INSTRUCTION FOR YOU. AND
 26 WE'LL MAKE COPIES AND SEND THAT IN SO THAT YOU'LL BE ABLE TO

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1 REFER TO THAT DURING THE COURSE OF YOUR DELIBERATION.
 2 AND SO WITH THAT, THEN WE'LL TURN IT OVER TO
 3 MR. HART FOR HIS CLOSING ON THIS MATTER.
 4 MR. HART: THANK YOU, YOUR HONOR. WE'D LIKE TO
 5 PUBLISH PART OF THE INSTRUCTION.
 6 THE COURT: THE ONE THAT WAS JUST READ, THAT IS
 7 ACCEPTABLE.
 8 MR. HART: THANK YOU.
 9 I'M GOING TO TALK ABOUT THE 3949 INSTRUCTIONS
 10 (A) WITH THE SUBPARTS. WHEN YOU CONSIDER THE AMOUNT TO AWARD,
 11 YOU CAN JUDGE FROM THESE DIFFERENT SUBCATEGORIES HOW
 12 REPREHENSIBLE THE CONDUCT WAS.
 13 WHETHER THE CONDUCT CAUSED PHYSICAL HARM IS ONE
 14 OF THEM. AND I THINK WE KNOW THAT IT DID CAUSE PROFESSOR KHOA
 15 PHYSICAL HARM. EMOTIONAL DISTRESS IS CONSIDERED PHYSICAL
 16 HARM.
 17 THE NEXT ONE IS WHETHER OR NOT THE DEFENDANT
 18 DISREGARDED THE HEALTH OR SAFETY OF OTHERS. I DON'T THINK
 19 THAT ONE'S GOING TO APPLY TOO MUCH.
 20 NO. 3: WHETHER THE PLAINTIFF, PROFESSOR KHOA,
 21 WAS FINANCIALLY WEAK OR VULNERABLE AND THE DEFENDANT KNEW HE
 22 WAS WEAK OR VULNERABLE AND TOOK ADVANTAGE OF IT.
 23 PROFESSOR KHOA IS 93 YEARS OLD, AND AT THE TIME
 24 THIS PUBLICATION CAME OUT WAS RECOVERING FROM OPEN-HEART
 25 SURGERY. HE RECOVERED WELL, BUT STILL WAS, YOU KNOW, A
 26 RETIRED AND -- ELDER RETIRED INDIVIDUAL LIVING ON HIS

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1 RETIREMENT AND SOCIAL SECURITY MONEY.
 2 MR. VOSS: OBJECTION.
 3 MR. HART: SO I THINK --
 4 THE COURT: WAIT.
 5 MR. VOSS: OBJECTION. ASSUMES FACTS NOT IN EVIDENCE
 6 AS TO THE KNOWLEDGE OF THAT.
 7 THE COURT: SUSTAINED. THAT WILL BE DISREGARDED.
 8 MR. HART: NO. 4 IS THE ONE THAT'S MOST INTERESTING,
 9 AND I KIND OF ALLUDED TO THIS IN THE ORIGINAL CLOSING
 10 ARGUMENT; THINGS THAT OCCURRED TO ME A LITTLE BIT TOO LATE TO
 11 GET IN THE CASE BELOW; WHETHER THE DEFENDANT'S CONDUCT
 12 INVOLVED A PATTERN OR PRACTICE.
 13 AND SO WHAT I KIND OF CAME TO LATE WAS: THIS
 14 HOLLY NGO DEFAMATION JUDGMENT WAS IN NOVEMBER OF 2019. AND
 15 THIS ACTUALLY WAS THE BEGINNING OF THE PICKLE THAT I TALKED
 16 ABOUT WITH DR. THANG. THAT JUDGMENT WAS PUBLICIZED --
 17 MR. VOSS: OBJECTION. ASSUMES FACTS NOT IN EVIDENCE.
 18 THE COURT: SUSTAINED.
 19 MR. HART: SO IT WAS FOLLOWING THAT JUDGMENT IN
 20 NOVEMBER OF 2019 THAT WE SEE THE DECEMBER 2019 ARTICLE WHERE
 21 HE IS CLAIMING CREDIT FOR THE S.E.A.R.A.C. ACCOMPLISHMENTS.
 22 AND WITH THE KNOWLEDGE AND EXPERIENCE OF HAVING BEEN THROUGH
 23 THE TRIAL THAT WAS RESULTED IN THAT JUDGMENT, HE STILL, IN MAY
 24 OF 2020, AGAIN DEFAMED ANOTHER PERSON.
 25 SO THE LAW PROVIDES FOR THIS ISSUE TO BE
 26 CONSIDERED BY YOU WHEN YOU DECIDE HOW REPREHENSIBLE WAS THIS,

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1 HOW IN NEED OF PUNISHMENT IS THIS CONDUCT.
 2 AND SO HERE IS WHERE THIS POINT FITS IN: ITEM
 3 NO. 5 IS WHETHER THE DEFENDANT ACTED WITH TRICKERY OR DECEIT.
 4 WELL, WE KNOW THERE'S DECEIT, BECAUSE HE
 5 DECEITFULLY CLAIMED THE CREDIT OF S.E.A.R.A.C. AND I
 6 MENTIONED THIS A LITTLE BIT IN THE MAIN TRIAL BELOW; THAT
 7 RESULTS IN MORE OR LESS A FRAUD ON THE DONORS. PEOPLE WHO SAW
 8 THAT AND THOUGHT HE WAS --
 9 MR. VOSS: OBJECTION. ASSUMES FACTS NOT IN EVIDENCE.
 10 AND, YOUR HONOR, CAN WE ASK THAT THE WITNESS BE ABLE TO --
 11 THE COURT: YES. I'M SORRY.
 12 (WITNESS RETURNS TO COUNSEL TABLE.)
 13 THE COURT: GIVE ME ONE MOMENT HERE.
 14 OVERRULED. YOU MAY CONTINUE.
 15 MR. HART: REMEMBER THE PURPOSE WAS TO BE ABLE TO
 16 SOLICIT CHARITABLE FUNDS. AND SO FOR SOME PERIOD OF TIME, HE
 17 WAS DOING THAT HAVING CLAIMED CREDIT FOR THE WORK OF OTHERS.
 18 AND SO I THINK THAT SATISFIES THE DECEIT AND TRICKERY
 19 CATEGORY. SO THE FOUNDATION IS HERE FOR AN AWARD OF PUNITIVE
 20 DAMAGES.
 21 AS WE MOVE ON, THE NEXT ITEM IS: IS THERE A
 22 REASONABLE RELATIONSHIP BETWEEN THE AMOUNT OF PUNITIVE DAMAGES
 23 AND POTENTIAL HARM TO LE XUAN KHOA THAT THE DEFENDANT KNEW WAS
 24 LIKELY TO OCCUR BECAUSE OF THE CONDUCT?
 25 HE KNEW EXACTLY WHAT HE WAS SAYING, AND HE KNEW
 26 WHAT THE EFFECT WAS GOING TO BE. AND THAT'S BOTH WHY HE CHOSE

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1 THOSE WORDS AND THE HARM -- WHY HE DISREGARDED THE HARM TO
 2 PROFESSOR KHOA WHEN HE WAS DOING THAT. THESE ARE THE THINGS
 3 THAT JUSTIFY AN AWARD OF PUNITIVE DAMAGES.
 4 SO WHAT'S THE RIGHT AMOUNT?
 5 YOU'VE SEEN WHAT HIS NET WORTH IS. WE DON'T
 6 SEE ANY EVIDENCE THAT HE HAS A ZERO BANK ACCOUNT, BUT HE DID
 7 TESTIFY TO THAT. REMEMBER, YOU ARE THE JUDGES OF THE
 8 CREDIBILITY HERE.
 9 WHAT WE SEE IS THAT HE HAS A SUBSTANTIAL
 10 RESIDENCE WITH A SUBSTANTIAL EQUITY AND A HUNDRED THOUSAND
 11 DOLLARS A YEAR IN INCOME.
 12 AND WE SEE THAT B.P.S.O.S. HAS A NET WORTH OF 4
 13 OR 5 MILLION DOLLARS, NO MATTER HOW YOU SLICE IT. YOU'RE NOT
 14 SITTING HERE TODAY TO JUDGE WHETHER OR NOT B.P.S.O.S. WILL PAY
 15 OVER ANY OF THIS MONEY, JUST WHAT IT'S WORTH. AND THE
 16 SPREADSHEET PRETTY WELL SHOWS THAT IT'S WORTH OVER \$4 MILLION.
 17 SO HOW DO WE JUDGE THE RIGHT AMOUNT OF MONEY TO
 18 AWARD IN THIS CONSIDERING THE REPREHENSIBILITY CATEGORY, THE
 19 RISK THAT HE TOOK IN TERMS OF HARMING -- KNOWINGLY HARMING
 20 PROFESSOR KHOA?
 21 SOME AMOUNT AGAINST HIM, A DIFFERENT AMOUNT
 22 AGAINST B.P.S.O.S.
 23 THE VERDICT FORM HERE WILL GIVE YOU TWO BLANKS
 24 TO FILL IN AN AMOUNT. AND I WOULD SAY WHATEVER AMOUNT YOU
 25 AWARD TO DR. THANG INDIVIDUALLY, KEEP IN MIND THAT HE
 26 PUBLISHED THIS IN MAY OF 2020, AND THEN ALLOWED IT TO STAND

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1 YEAR, AFTER YEAR, AFTER YEAR UNTIL WE CAME IN HERE TO ASK YOU,
 2 THE JURY, TO UNRING THAT BELL. HE COULD HAVE STOPPED THESE
 3 DAMAGES ANYWHERE ALONG THE WAY, BUT HE DIDNT.
 4 AT HIS ADVANCED AGE, PROFESSOR KHOA SUFFERED
 5 YEAR, AFTER YEAR, AFTER YEAR, RIGHT THROUGH THIS TRIAL, UNTIL
 6 YOU ALL FINALLY JUDGED ALL THE EVIDENCE AND MADE YOUR
 7 DECISION. I THINK THAT'S A FACTOR TO BE CONSIDERED; SOME
 8 AMOUNT EVERY YEAR PROFESSOR KHOA HAD TO SUFFER UNTIL THIS CASE
 9 CAME TO TRIAL.
 10 B.P.S.O.S., IT'S A SUBSTANTIAL CORPORATION WITH
 11 A GOOD BALANCE SHEET. SO WHAT YOU FIGURE HERE IS SOME PORTION
 12 OF THAT NET WORTH NEEDS TO BE SACRIFICED BACK TO PROFESSOR
 13 KHOA. THAT'S WHAT THE LAW PROVIDES FOR THIS. IS IT TEN
 14 PERCENT? IS IT 20 OR 30 PERCENT?
 15 IT SHOULD'NT BE MORE THAN 40 PERCENT, BUT IT'S
 16 SOMEWHERE IN THERE. YOU HAVE ALREADY DEMONSTRATED YOUR
 17 ABILITY TO CORRECTLY MANAGE THESE ISSUES, SO I LEAVE THAT TO
 18 YOU, BUT IT IS ENTIRELY APPROPRIATE TO GIVE A 20 OR 30 PERCENT
 19 PUNITIVE DAMAGE AWARD BASED ON THE NET WORTH OF THE COMPANY.
 20 ALL RIGHT. SO \$100,000 A YEAR EARNED BY
 21 DR. THANG. FOUR AND A HALF YEARS WORTH OF LETTING PROFESSOR
 22 KHOA SUFFER. YOU CALCULATE WHAT THOSE NUMBERS ARE WORTH.
 23 OKAY.
 24 THANK YOU, LADIES AND GENTLEMEN.
 25 THE COURT: MR. VOSS.
 26 MR. VOSS: WE JUST HAD DISCUSSION ABOUT A

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1 SOLICITATION OF FUNDS. THEY WENT ON TO B.P.S.O.S., SOLICITED
 2 FUNDS. SOLICITED FUNDS FOR WHAT?
 3 IT WASN'T FUNDS GOING INTO DR. THANG'S PERSONAL
 4 BANK ACCOUNT. DR. THANG WASN'T GOING ON VACATION WITH THE
 5 FUNDS THAT WERE SOLICITED. DR. THANG DRIVES A 14-YEAR OLD
 6 TOYOTA COROLLA. HE WASN'T PERSONALLY ENRICHED BY THIS THEORY
 7 OF SOMEHOW OF SOLICITATION OF FUNDS.
 8 THE ONLY FUNDS THAT WERE SOLICITED BY ANYONE
 9 HERE ARE SOLICITED BY THE BOAT PEOPLE S.O.S., WHICH, I GUESS
 10 IT'S IRONIC, IS AN ORGANIZATION THAT IS DEDICATED TO THE VERY
 11 SAME CAUSES AS THE PLAINTIFF WAS ENGAGED IN WHEN HE WAS
 12 WORKING FOR VIETNAMESE REFUGEES.
 13 TO THE EXTENT MONEY COMES IN FROM THOSE
 14 SOLICITATIONS, THAT'S NOT PART OF THE VALUE OF B.P.S.O.S. IT
 15 CAN'T SPEND THAT MONEY AS IT SEES FIT. IT CAN'T GIVE HIM A
 16 PAY RAISE AND SAY, "HEY, WE GOT IN \$2 MILLION. LET'S INCREASE
 17 YOUR SALARY."
 18 IT'S RESTRICTED FUNDS. YOU HEARD THAT DIRECT
 19 TESTIMONY. THE NET WORTH OF THE ORGANIZATION, YOU CANNOT
 20 INCLUDE MONEY YOU CANNOT ACCESS. AND THAT'S ALMOST ALL THE
 21 MONEY.
 22 IS THAT A SURPRISE?
 23 IT'S A NON-PROFIT. THIS ISN'T EXXON THAT'S
 24 BEING PENALIZED HERE TO LOOK AND SAY: HOW MUCH MONEY DOES IT
 25 HAVE? WE OUGHT TO DO SOMETHING TO DETER ITS ABILITY TO DO
 26 THINGS.

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1 TO THE EXTENT THAT ANY ADDITIONAL AMOUNT IS
 2 AWARDED BY WAY OF PUNITIVE DAMAGES, YOUR EFFECTIVELY
 3 DESTROYING THE ABILITY OF A NON-PROFIT TO BE ABLE TO DO THE
 4 GOOD WORK FOR THE VIETNAMESE REFUGEES. THERE'S NO VALUE IN
 5 THAT.
 6 I WOULD THINK THAT, AT THIS POINT, NOW THAT
 7 YOU'VE SEEN THE FINANCIALS, YOU WOULD KNOW EVEN THE 500,000
 8 ALREADY AWARDED IS GOING TO BE CRUSHING FOR THESE ENTITIES,
 9 FOR DR. THANG AND FOR B.P.S.O.S. I SURELY DON'T KNOW HOW
 10 THEY'RE GOING TO BEGIN TO BE ABLE TO OVERCOME SOME OF THESE
 11 THINGS.
 12 THE ISSUE HERE YOU HAVE TO LOOK AT ALSO IS THAT
 13 WITH RESPECT TO IT BEING A NON-PROFIT, AS I'VE INDICATED, YOU
 14 GOT WHAT? IF THE COMPANY CLOSED DOWN, EFFECTIVELY YOU'VE GOT
 15 \$78,000 WORTH OF COMPUTERS AND SUCH, FURNITURE AND WHAT HAVE
 16 YOU. THAT'S WHAT IT'S WORTH. IT'S NOT WORTH 4 OR 5 MILLION
 17 DOLLARS. THAT'S MONEY IT'S NOT ALLOWED TO USE.
 18 SO YOU HAVE SOMEBODY WHO IS NOT A WEALTHY GUY,
 19 WHO TAKES HIS OWN MONEY AND GIVES IT BACK. 800 OF THE MONEY
 20 THAT HE EARNS A MONTH IS PENSION MONEY. HE OWNS THIS HOUSE.
 21 HE'S GOT HIS WIFE AND FAMILY IN IT. SO ISN'T THE 500,000
 22 ENOUGH?
 23 THE VERDICT FORM AND THE INSTRUCTION DO NOT
 24 REQUIRE YOU TO AWARD ANOTHER DOLLAR. 500,000, I SUBMIT TO
 25 YOU, LADIES AND GENTLEMEN, WAS ALREADY MORE THAN SUFFICIENT TO
 26 GET THE JOB DONE. AND IF YOU LOOK ON THE FORM, IT TALKS ABOUT

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1 THAT THERE IS "IF ANY." "YOU MUST NOW DECIDE THE AMOUNT, IF
 2 ANY, THAT YOU SHOULD AWARD LE XUAN KHOA."
 3 I'M TRYING TO SUGGEST TO YOU THAT "IF ANY"
 4 SHOULD BE THE PART YOU SHOULD FOCUS ON NOW THAT YOU KNOW THE
 5 FINANCIAL CONDITION OF THIS NON-PROFIT AND THE INDIVIDUAL AND
 6 THE FACT THAT THEY ALREADY HAVE A \$500,000 AWARD AGAINST THEM.
 7 IN TERMS OF SOMEHOW THE PATTERN, I DISAGREE. I
 8 WOULD ARGUE TO YOU THAT THERE IS NO PATTERN THAT CAN BE TAKEN
 9 FROM THE FACT THAT THERE WAS THIS ONE PRIOR LAWSUIT. IT'S NOT
 10 LIKE THERE WERE TEN. AND IN THE ONE PRIOR LAWSUIT, WHAT WE DO
 11 KNOW IS THAT IT WAS A TWO-WAY STREET; THAT HE SUED HOLLY NGO;
 12 HOLLY NGO SUED HIM. BOTH OF THEM SUED FOR DEFAMATION. BOTH
 13 OF THEM WERE FOUND --
 14 MR. HART: YOUR HONOR, I'M GOING TO OBJECT. WE HAD A
 15 RULING ON THIS.
 16 THE COURT: WAIT. AS FAR AS IT'S GONE, OVERRULED,
 17 BUT NO FURTHER.
 18 MR. VOSS: AND THE TESTIMONY OF THE WITNESS BEFORE
 19 YOU, WITHOUT DISCUSSING ANY AMOUNTS, IS THAT THERE WERE, IN
 20 HIS CASE, NO FINDING OF PUNITIVE DAMAGES OR MALICE IN THE
 21 PRIOR CASE. THERE WAS, AS TO MS. NGO, PUNITIVE DAMAGES AND
 22 MALICE AS TO WHAT SHE DID TO HIM.
 23 SO IS THAT REALLY SOMETHING THAT YOU WOULD FIND
 24 THAT SOMEHOW YOU NEED TO AMP UP PUNITIVE DAMAGES FOR HIM IN
 25 THIS CASE?
 26 I WOULD SUBMIT NOT. HE'S NOT A WEALTHY MAN.

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1 HE'S NOT.
 2 YOU KNOW, LADIES AND GENTLEMEN, I ASK FOR YOUR
 3 EMPATHY HAVING ALREADY AWARDED \$500,000. THIS IS A MAN WHO
 4 DRIVES A 14-YEAR OLD TOYOTA COROLLA. NEED I SAY ANYTHING
 5 MORE?
 6 THANK YOU.
 7 THE COURT: FINAL WORD, MR. HART.
 8 MR. HART: THANK YOU, YOUR HONOR.
 9 COUPLE OF THINGS. WE DON'T REALLY KNOW TO WHAT
 10 EXTENT THE QUOTE, UNQUOTE GOOD WORK OF B.P.S.O.S. IS
 11 JEOPARDIZED BY WHAT'S HAPPENING IN THIS TRIAL. WE DO KNOW
 12 THAT -- FROM THE TESTIMONY OF DR. THANG IN THE CASE BELOW,
 13 THAT THEY HAVE A BOARD OF DIRECTORS. AND THE BOARD OF
 14 DIRECTORS IS RESPONSIBLE FOR THE CONDUCT OF B.P.S.O.S. AND
 15 THAT BOARD OF DIRECTORS ALLOWED THIS SCURRILOUS DEFAMATION TO
 16 GO UNCORRECTED FOR FOUR AND A HALF YEARS WHILE PROFESSOR KHOA
 17 SUFFERED.
 18 NOW, THE CORPORATE GOVERNANCE OF THAT
 19 CORPORATION ASSUMED THOSE RISKS. THEY DO NOT GET TO AVOID
 20 THOSE RISKS BECAUSE THEY'RE A 501(C)(3) OR A PUBLIC BENEFIT,
 21 NON-PROFIT.
 22 THEY CHOICE THOSE RISKS. AND WHAT WE'RE HERE
 23 TO DO TODAY IS TO ASSESS THE COST OF HAVING TAKEN THOSE RISKS.
 24 PROFESSOR KHOA SHOULD NOT HAVE TO BEAR THAT BURDEN. AND IT
 25 DOESN'T CORRECT THE PROBLEM BY GIVING THEM A FREE PASS BECAUSE
 26 SOME OF THEIR WORK MIGHT BE CHARITABLE ORIENTED.

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1 THE FACT OF THE PRIOR CASE IS RELEVANT FOR
 2 THIS: HE HAD BEEN FOUND TO HAVE DEFAMED HOLLY NGO IN
 3 NOVEMBER OF 2019. AND RIGHT AWAY IN DECEMBER OF 2019 HE
 4 STARTS BACK TO ESSENTIALLY THE SAME PATTERN OF CONDUCT.
 5 THAT'S WHAT JUSTIFIES WHAT YOU'RE GOING TO
 6 AWARD AS TO PUNITIVE DAMAGES FOR HIM. ALL RIGHT. THANKS VERY
 7 MUCH.
 8 THE COURT: ALL RIGHT. THANKS VERY KINDLY, MR. HART.
 9 ALL RIGHT, LADIES AND GENTLEMEN. IT'S GOING TO
 10 BE THE SIMILAR EXERCISE AS TO LAST TIME, BUT OBVIOUSLY YOU'LL
 11 GET A NEW VERDICT FORM THAT RELATES TO JUST THE QUESTION
 12 PRESENTED IN THIS MATTER. YOU'LL GET A COPY OF THAT NEW
 13 INSTRUCTION AS WELL.
 14 AND JUST LIKE LAST TIME, I JUST WANT TO
 15 EMPHASIZE, WE HAVE ALL THE SAME GENERAL INSTRUCTIONS, BUT I
 16 WANT TO EMPHASIZE WE NEED NINE VOTES FOR ANY SPECIFIC
 17 RESPONSE. AND WE NEED ALL 12 OF YOU TO VOTE ON EVERY QUESTION
 18 IN THAT REGARD. SO YOU'LL GET YOUR OWN PERSONAL COPY THAT YOU
 19 CAN TRACK YOUR OWN PERSONAL VOTE. SO IF THERE'S A NEED TO
 20 POLL AT THE END, WE'LL HAVE THAT ABILITY.
 21 AND WITH THAT, WE'LL ALSO SEND IN, IN JUST A
 22 MOMENT, THE EXHIBITS THAT WERE USED DURING THIS PHASE OF THE
 23 TRIAL SO YOU'LL HAVE THOSE TO REFER TO AS WELL.
 24 SAME PROCESS, TOO. YOU TAKE YOUR BRAKES
 25 WHENEVER YOU WANT. HARD BREAK IS AT NOON, BETWEEN NOON AND
 26 1:30 FOR THE LUNCH. OTHER THAN THAT, YOU GUYS CAN SET YOUR

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1 OWN SCHEDULE.
 2 AND WE'LL HAVE MR. MULDOON -- LET'S SWEAR HIM
 3 IN AGAIN REAL QUICKLY, AND WE WILL THEN HAVE HIM SHOW YOU INTO
 4 THE JURY ROOM.
 5 (COURT ATTENDANT SWORN.)
 6 THE COURT: AND THEN MR. MULDOON WILL SHOW YOU INTO
 7 THE JURY ASSEMBLY ROOM.
 8 (JURORS DELIBERATING.)
 9 THE COURT: SO THE JURORS ARE IN THE DELIBERATION
 10 ROOM. SO MR. BURNS IS GOING TO GET TOGETHER THE EXHIBITS, THE
 11 VERDICT FORM, THE INSTRUCTIONS, JUST LIKE LAST TIME; SHOW IT
 12 TO EVERYBODY, GET EVERYBODY TO SIGN OFF BEFORE ANYTHING GOES
 13 IN THERE SO YOU'LL BE ABLE TO LAY YOUR EYES ON IT, SO WE'RE
 14 ALL ON THE SAME PAGE.
 15 AND SAME RULES APPLY WITH 15 MINUTES GETTING
 16 RIGHT BACK IN HERE. I WOULD PROBABLY ACTUALLY STICK
 17 AROUND -- ASK YOU TO STICK AROUND HERE. RUN DOWN STAIRS AND
 18 GET A CUP OF COFFEE, BUT STICK RIGHT HERE IN THE GENERAL
 19 VICINITY BECAUSE THIS SHOULD NOT TYPICALLY GO HOURS OR
 20 ANYTHING ALONG THOSE LINES.
 21 UNLESS THERE'S ANY QUESTIONS, WE'LL GO OFF THE
 22 RECORD.
 23 MR. HART: THANK YOU, JUDGE.
 24 MR. VOSS: THANK YOU.
 25 THE COURT: OFF THE RECORD.
 26 (OFF THE RECORD.)

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1 SANTA ANA, CALIFORNIA - THURSDAY, NOVEMBER 21, 2024
 2 AFTERNOON SESSION
 3 *****
 4 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT:)
 5 THE COURT: WE'LL GO ON THE RECORD IN KHOA V. THANG.
 6 AND WE HAVE COUNSEL, IF WE CAN GET APPEARANCES.
 7 MR. HART: GOOD AFTERNOON, YOUR HONOR. HOYT HART FOR
 8 THE PLAINTIFF LE XUAN KHOA.
 9 MR. VOSS: DAVID VOSS, VOSS, SILVERMAN & BRAYBROOKE,
 10 ON BEHALF OF DEFENSE.
 11 MR. ERIGERO: STEPHEN ERIGERO, ROPERS & MAJESKI, ALSO
 12 ON BEHALF OF DEFENSE.
 13 THE COURT: THANK YOU. AND WE HAVE -- BOTH PARTIES
 14 ARE PRESENT IN THE COURTROOM AS WELL. SO SOUNDS LIKE WE DO
 15 HAVE THE VERDICT ON THE SECOND PHASE. SO WE'LL GO AHEAD AND
 16 BRING THEM IN, AND THEN WE'LL GO FROM THERE.
 17 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT IN THE
 18 PRESENCE OF THE JURY:)
 19 THE COURT: WE ARE, AGAIN, HERE IN KHOA V. THANG. WE
 20 HAVE BEEN REJOINED BY ALL OF OUR JURORS WHO ARE PRESENT IN THE
 21 JURY BOX. WE HAVE ALL COUNSEL AND PARTIES AS PREVIOUSLY
 22 STATED ON THE RECORD.
 23 SO, MR. HOFFMAN, PRESIDING JUROR, YOU DO HAVE A
 24 VERDICT ON THE SECOND PHASE?
 25 PRESIDING JUROR: WE DO.
 26 THE COURT: THANK YOU. JUST ONE MOMENT. ALL RIGHT.

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1 THEN I WILL ASK THE CLERK TO, PLEASE, READ THE VERDICT FROM
 2 THIS PHASE OF THE TRIAL.
 3 THE CLERK: SUPERIOR COURT IN THE STATE OF
 4 CALIFORNIA, COUNTY OF ORANGE, LE XUAN KHOA, PLAINTIFF V.
 5 NGUYEN DINH THANG, BOAT PEOPLE S.O.S., INC. DEFENDANTS, CASE
 6 NO. 30-2021-01201012, ASSIGNED TO THE HONORABLE DAVID
 7 HESSELTINE, DEPARTMENT C23, VERDICT FORM, PUNITIVE DAMAGES.
 8 WE, THE JURY, IN THE ABOVE-ENTITLED ACTION
 9 ANSWER THE QUESTIONS SUBMITTED TO US AS FOLLOWS:
 10 "WITH REGARD TO DEFENDANT NGUYEN DINH THANG,
 11 WHAT AMOUNT OF PUNITIVE DAMAGES, IF ANY, DO YOU AWARD LE XUAN
 12 KHOA?"
 13 THE AMOUNT IS: "\$2,000."
 14 QUESTION TWO: "WITH REGARD TO BOAT PEOPLE
 15 S.O.S., INC., WHAT AMOUNT OF PUNITIVE DAMAGES, IF ANY, DO YOU
 16 AWARD LE XUAN KHOA?"
 17 THE AMOUNT IS: "\$20,000."
 18 SIGNED MICHAEL HOFFMAN, JURY FOREPERSON.
 19 LADIES AND GENTLEMEN OF THE JURY, IS THIS YOUR
 20 VERDICT?
 21 THE JURY: YES.
 22 THE COURT: THANK YOU VERY MUCH, LADIES AND
 23 GENTLEMEN. ALL RIGHT. THEN I'LL TURN TO COUNSEL.
 24 MR. VOSS: REQUEST JURY POLLING.
 25 THE COURT: THAT WAS THE QUESTION I HAD FOR YOU. ALL
 26 RIGHT. THEN SO SIMILAR DRILL AS YESTERDAY. SO I WILL READ

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1 THE QUESTION AND RESPONSE, AND THEN I'LL ASK FOR A SHOW OF
 2 HANDS IF THAT WAS YOUR INDIVIDUAL VOTE.
 3 SO QUESTION NO. 1 IS WITH REGARD TO DEFENDANT
 4 NGUYEN DINH THANG, WHAT AMOUNT OF PUNITIVE DAMAGES, IF ANY, DO
 5 YOU AWARD LE XUAN KHOA?
 6 AND THE AMOUNT THAT WAS REPORTED ON THE JURY
 7 FORM WAS "\$2,000."
 8 IF THAT WAS YOUR INDIVIDUAL VOTE, PLEASE RAISE
 9 YOUR HAND AND KEEP IT UP.
 10 ALL RIGHT. SO WE HAVE ONE, TWO, FOUR, SIX,
 11 SEVEN, EIGHT, NINE, TEN, 11, 12. THOSE WERE THE JUROR NUMBERS
 12 WHO HAD THEIR HAND RAISED.
 13 AND THEN IF THAT WAS NOT YOUR VOTE, PLEASE
 14 RAISE YOUR HAND.
 15 AND WE HAVE JURORS NUMBER THREE AND FIVE FOR
 16 THAT. SO THAT IS A TEN TO TWO MARGIN ON THAT VOTE. SO THAT
 17 IS APPROPRIATE IN TERMS OF THE NUMBERS.
 18 THEN THE NEXT QUESTION ON THE FORM WAS WITH
 19 REGARD TO BOAT PEOPLE S.O.S., INC.: "WHAT AMOUNT OF PUNITIVE
 20 DAMAGES, IF ANY, DO YOU AWARD LE XUAN KHOA?"
 21 AND THE ANSWER THAT WAS RECORDED ON THE VERDICT
 22 FORM WAS "\$20,000."
 23 IF THAT WAS YOUR INDIVIDUAL VOTE, PLEASE RAISE
 24 YOUR HAND FOR ME. AND, AGAIN, WE HAVE THE SAME TEN THAT VOTED
 25 ON THAT ONE. SO, AGAIN, THAT IS JURORS ONE, TWO, FOUR, SIX,
 26 SEVEN, EIGHT, NINE, TEN, 11, AND 12.

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1 IF THAT WAS NOT YOUR VOTE, IF YOU COULD PLEASE
 2 RAISE YOUR HAND.
 3 AND WE HAVE JURORS THREE AND FIVE.
 4 SO, AGAIN, THAT IS A TEN-TO-TWO AND THAT IS AN
 5 APPROPRIATE VOTE IN TERMS OF NUMBERS OF JURORS.
 6 SO WITH THAT, THEN, I WILL ASK AND DIRECT THE
 7 CLERK TO ENTER AND RECORD THIS VERDICT FROM THE SECOND PHASE
 8 OF THE TRIAL.
 9 AND THEN BEFORE I GET TO DISCHARGING THIS JURY,
 10 ARE THERE ANY OTHER MATTERS FOR THIS JURY TO ADDRESS OR
 11 DECIDE, COUNSEL?
 12 MR. VOSS: NO.
 13 MR. HART: NO, YOUR HONOR.
 14 THE COURT: ALL RIGHT. SO UNLIKE YESTERDAY, THERE
 15 ISN'T ANOTHER PORTION FOR YOU. I DO HAVE ONE FINAL
 16 INSTRUCTION, BUT I WANT TO TAKE A MOMENT TO, AGAIN, THANK YOU
 17 VERY, VERY MUCH FOR YOUR TIME AND SERVICE HERE. IT IS
 18 ABUNDANTLY CLEAR THAT YOU TOOK YOUR JOB AND YOUR ROLE VERY
 19 SERIOUSLY AND WORKED VERY HARD AT IT. AND FOR THAT, WE ARE
 20 VERY, VERY GRATEFUL.
 21 YOU PUT SOME SERIOUS TIME AND EFFORT INTO YOUR
 22 DELIBERATIONS, AND YOU WERE ATTENTIVE THROUGHOUT THIS TRIAL.
 23 SO WE ARE GREATLY APPRECIATIVE OF THAT.
 24 AND IN GENERAL WE'RE APPRECIATIVE BECAUSE THE
 25 SYSTEM DOESN'T WORK WITHOUT CITIZENS LIKE YOURSELVES. SO
 26 WITHOUT YOU BEING HERE, WILLING TO SERVE, MAKING THE



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1 SACRIFICES. WE ALL UNDERSTAND THAT YOU'VE MADE A NUMBER OF
 2 SACRIFICES TO BE HERE, TO BE ABLE TO SERVE. SO WE ARE
 3 GRATEFUL FOR THAT. AND, AGAIN, THE SYSTEM DOESN'T WORK
 4 WITHOUT YOU. I THINK IT'S THE BEST SYSTEM AROUND. MIGHT NOT
 5 BE PERFECT, BUT IT'S THE BEST ONE OUT THERE. BUT IT DOESN'T
 6 FUNCTION WITHOUT OUTSTANDING CITIZENS LIKE YOURSELVES. SO WE
 7 ARE VERY GRATEFUL FOR THAT.
 8 I DO HAVE THAT ONE INSTRUCTION THAT I'M GOING
 9 TO READ IN JUST A MOMENT. AND, AGAIN, YOU WILL, IN JUST A
 10 MOMENT, BE DISCHARGED FROM YOUR SERVICE, WHICH MEANS THEN YOU
 11 ARE FREE TO TALK ABOUT THE CASE, YOUR DELIBERATIONS, WHATEVER
 12 THE CASE MAY BE. YOU HAVE NO OBLIGATION TO DO SO, BUT YOU
 13 MAY. SO IT'S TOTALLY -- EVERY ONE MAKES THEIR OWN
 14 INDIVIDUAL DETERMINATION WHETHER AND HOW THEY WOULD LIKE TO
 15 TALK ABOUT IT.
 16 THE ATTORNEYS ALWAYS WOULD LOVE TO SPEAK WITH
 17 YOU AFTERWARDS, BUT AGAIN IT'S YOUR CHOICE. SOME PEOPLE,
 18 AFTER AN EXPERIENCE LIKE THIS, WANT TO TALK ABOUT; OTHERS DO
 19 NOT. SO IT'S ALL YOUR INDIVIDUAL CHOICE.
 20 SO I WILL NEED TO TALK TO THEM A COUPLE MINUTES
 21 BEFORE I LET THEM OUT ONCE YOU'RE EXCUSED. SO I LIKE TO JOKE,
 22 I GIVE YOU A HEAD START. SO IF YOU'D LIKE TO STICK AROUND AND
 23 TALK, THEY'D LOVE TO HEAR FROM YOU, BUT YOU HAVE NO
 24 OBLIGATION. YOU MAY HIGHTAIL IT TO THE ELEVATORS, IF THERE'S
 25 ONE OUT THERE.
 26 SO LET ME GO AHEAD AND READ THAT FINAL

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1 INSTRUCTION FOR YOU:
 2 MEMBERS OF THE JURY, THIS CONCLUDES YOUR DUTIES
 3 IN THIS CASE. ON BEHALF OF THE PARTIES AND THEIR ATTORNEYS,
 4 THANK YOU FOR YOUR TIME AND YOUR SERVICE. IT CAN BE A GREAT
 5 PERSONAL SACRIFICE TO SERVE AS A JUROR, BUT BY DOING SO YOU
 6 ARE FULFILLING AN EXTREMELY IMPORTANT ROLE IN THE CALIFORNIA
 7 SYSTEM OF JUSTICE. EACH OF US HAS THE RIGHT TO TRIAL BY JURY,
 8 BUT THAT RIGHT WOULD MEAN LITTLE UNLESS CITIZENS SUCH AS EACH
 9 OF YOU ARE WILLING TO SERVE WHEN CALLED TO DO SO.
 10 YOU'VE BEEN ATTENTIVE AND CONSCIENTIOUS DURING
 11 THE TRIAL, AND I AM GRATEFUL FOR YOUR DEDICATION. THROUGHOUT
 12 THE TRIAL I CONTINUED TO ADMONISH YOU THAT YOU COULD NOT
 13 DISCUSS THE FACTS OF THE CASE WITH ANYONE OTHER THAN YOUR
 14 FELLOW JURORS AND THEN ONLY DURING DELIBERATIONS WHEN ALL 12
 15 JURORS ARE PRESENT.
 16 I AM NOW RELIEVING YOU FROM THAT RISK, BUT HAVE
 17 ANOTHER ADMONITION. YOU NOW HAVE THE ABSOLUTE RIGHT TO
 18 DISCUSS OR NOT TO DISCUSS YOUR DELIBERATIONS AND VERDICT WITH
 19 ANYONE. IT IS APPROPRIATE FOR THE PARTIES, THEIR ATTORNEYS OR
 20 REPRESENTATIVES TO ASK YOU TO DISCUSS THE CASE. BUT ANY SUCH
 21 DISCUSSION MAY OCCUR ONLY WITH YOUR CONSENT, AND ONLY IF THE
 22 DISCUSSION IS AT A REASONABLE TIME AND PLACE. YOU SHOULD
 23 IMMEDIATELY REPORT ANY UNREASONABLE CONTACT TO THE COURT.
 24 IF YOU CHOOSE TO DISCUSS THE CASE WITH ANYONE,
 25 FEEL FREE TO DISCUSS IT FROM YOUR OWN PERSPECTIVE, BUT BE
 26 RESPECTFUL OF THE OTHER JURORS AND THEIR VIEWS AND FEELINGS.

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1 THANK YOU FOR YOUR TIME AND YOUR SERVICE AND
 2 YOU ARE DISCHARGED. SO YES, LADIES AND GENTLEMEN, MR. MULDOON
 3 WILL HAVE THOSE FINAL SERVICE SLIPS FOR YOU. YOU CAN LEAVE
 4 YOUR NOTEPADS AND EVERYTHING ON THE CHAIRS, AND THAT WILL BE
 5 COLLECTED AND DESTROYED.
 6 HAVE A WONDERFUL REST OF THE DAY, HOPEFULLY
 7 HOLIDAY SEASON, THANKSGIVING COMING UP. ENJOY TIME WITH
 8 FAMILY AND FRIENDS. THANK YOU AGAIN.
 9 (JURORS DISCHARGED.)
 10 THE COURT: JUST A COUPLE QUICK THINGS AND I'LL LET
 11 YOU HAVE TIME TO SPEAK WITH THE JURORS AND COME BACK AND
 12 FINALIZE.
 13 ONE THING I WANT TO TALK ABOUT IS GETTING THE
 14 JUDGMENT TAKEN CARE OF. CCP DOES PROVIDE FOR A 24-HOUR RULE,
 15 BUT IT DOESN'T PROVIDE ANY CONSEQUENCES FOR GETTING IT IN A
 16 LITTLE BIT LATER. SO I TYPICALLY LIKE TO ASK, FIRST OF ALL,
 17 SCHEDULE FOR BOTH SIDES THAT WORKS FOR EVERYBODY IN TERMS OF
 18 GETTING IT PREPARED, GETTING IT REVIEWED, GIVING EVERYBODY A
 19 REASONABLE AMOUNT OF TIME DEEMED NECESSARY.
 20 SO FIRST OF ALL, IS THERE AN AGREEMENT TO WAIVE
 21 THAT 24-HOUR RULE?
 22 MR. HART: NO. I'M HAPPY TO PREPARE THE FORMAL
 23 JUDGMENT.
 24 THE COURT: THEN WE WILL NEED IT SO THAT IT CAN BE
 25 ENTERED TOMORROW.
 26 MR. HART: RIGHT. I'LL JUST GET A COPY FROM

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1 MR. BURNS OF THE SECOND VERSION AND THOSE WILL BE ATTACHED.
 2 THE COURT: AND WE'LL NEED TO GET IT TO MR. VOSS AS
 3 WELL. SO WE WILL WAIT AS LONG AS WE CAN, BUT WE WILL ENTER IT
 4 AS PROVIDED BY THE CODE. SO I DO ASK THAT THAT BE PROVIDED TO
 5 MR. VOSS FORTHWITH SO THAT HE HAS AN OPPORTUNITY TO REVIEW IT.
 6 AND WE WILL WAIT UNTIL LATE IN THE AFTERNOON TOMORROW BEFORE
 7 ANY SORT OF SIGNATURE OR ANYTHING IN THAT REGARD.
 8 MR. HART: I SHOULD BE ABLE TO HAVE IT TO HIM --
 9 MR. VOSS: IF YOU GET IT TO ME BY 4 O'CLOCK, THAT'S
 10 OBVIOUSLY DISENFRANCHISING US THE OPPORTUNITY TO PROPERLY
 11 RESPOND.
 12 THE COURT: THAT'S WHY I ASKED FOR IT TO BE DONE
 13 FORTHWITH.
 14 MR. VOSS: AS I UNDERSTAND IT, THE COURT IS NOT HERE
 15 NEXT WEEK.
 16 THE COURT: WE ARE DARK NEXT WEEK FOR THE HOLIDAY.
 17 MR. VOSS: SO TO THE EXTENT THAT THERE'S ANY FOLLOWUP
 18 IN THAT REGARD, THERE'S NOTHING WE CAN DO NEXT WEEK?
 19 THE COURT: NOT NEXT WEEK, BUT YOU CAN MAKE WHATEVER
 20 FILING, AND WE WILL DEAL WITH IT IN DUE COURSE.
 21 MR. HART: MY USUAL FORM OF JUDGMENT IS JUST
 22 ATTACHMENT OF THE TWO VERDICT FORMS, SO I MEAN IT'S --
 23 THE COURT: AND IT'S EASY IN THIS CASE WHEN YOU ONLY
 24 HAVE ONE CAUSE OF ACTION. MY POINT IS ALWAYS MAKE SURE WE
 25 HAVE EVERY CLAIM AND EVERY PARTY ACCOUNTED FOR IN THE
 26 JUDGMENT; THAT WE DON'T HAVE ANY THING HANGING OUT THERE

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1 DANGLING. BUT GIVEN THAT THERE'S ONE CAUSE OF ACTION, THAT
 2 SHOULDN'T BE COMPLICATED, BUT THAT'S THE BIG THING, IS WE NEED
 3 TO MAKE SURE WE HAVE EVERYTHING DISPOSED OF.
 4 MR. HART: WE WANTED TO HAVE MS. GAGNON DO IT, THEN
 5 THAT MIGHT --
 6 MR. VOSS: IF YOU WANT TO DO IT IN 24 HOURS, THAT'S
 7 ON YOU.
 8 MR. HART: OKAY.
 9 MR. VOSS: WE HAD DISCUSSED OFFERING, BUT NOT
 10 TOMORROW.
 11 THE COURT: SO THEN WITH THAT, I WILL CHECK BACK IN
 12 WITH YOU ABOUT 2:20 OR SO TO SEE -- I'LL RELEASE YOU TO SEE IF
 13 THERE'S ANY JURORS TO TALK TO. IF YOU WANT TO COME BACK IN
 14 EARLIER, LET MR. BURNS KNOW. I'LL CAN COME BACK OUT, AND WE
 15 CAN FINALIZE IN TERMS OF CUSTODY OF EXHIBITS AND ALL THAT KIND
 16 OF STUFF AT THAT POINT IN TIME.
 17 (OFF THE RECORD.)
 18 THE COURT: LET US GO BACK ON THE RECORD IN THE KHOA
 19 V. THANG MATTER. WE HAVE ALL COUNSEL PRESENT. THE JURORS
 20 HAVE BEEN EXCUSED. THE PARTIES HAVE LEFT THE COURTROOM AS
 21 WELL.
 22 SO WE JUST NEED TO DOT THE I'S AND CROSS THE
 23 T'S HERE. WE ALREADY TALKED ABOUT THE JUDGMENT. SO WE'LL BE
 24 LOOKING FOR THAT THIS EVENING OR FIRST THING IN THE MORNING.
 25 LIKE I SAID, I ORDERED IT FORTHWITH GIVEN THAT THE STATUTE
 26 DOES REQUIRE -- OR DIRECT, I GUESS MIGHT BE A BETTER WORD,

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1 WITHIN 24 HOURS. SO WE'LL HOLD IT TILL LATE TOMORROW. SO IF
 2 WE GET THAT FORTHWITH, THAT GIVES A LITTLE BIT OF OPPORTUNITY.
 3 BUT IT SHOULD BE FAIRLY SIMPLE AND STRAIGHTFORWARD IN TERMS OF
 4 THE JUDGMENT.
 5 THEN WE ALREADY, I THINK, HAVE THE SIGNED
 6 STIPULATION OF WHO WILL BE TAKING CUSTODY OF THE --
 7 MR. ERIGERO: ROPERS MAJESKI WILL.
 8 THE COURT: ALL RIGHT. WILL TAKE CUSTODY OF THE
 9 EXHIBITS.
 10 AND THE I GUESS WE CAN ALSO RETURN THE TRIAL
 11 BINDERS. I BELIEVE THERE AREN'T ANY NOTES OR TABS ON THIS.
 12 MR. VOSS: YOUR HONOR, IT'S MY RECOLLECTION, WE ONLY
 13 HAVE TO MAINTAIN THE ADMITTED EXHIBITS; CORRECT?
 14 THE COURT: I WOULD THINK ANYTHING THAT WAS MARKED,
 15 AT A MINIMUM.
 16 MR. HART: OR DISCUSSED.
 17 MR. VOSS: RIGHT.
 18 THE COURT: IT PROBABLY WOULD BE EASIER, GIVEN THIS
 19 ONE ISN'T ONE WHERE WE GOT 19 BANKER BOXES, JUST TO KEEP THEM
 20 ALL.
 21 MR. VOSS: FAIR ENOUGH.
 22 THE COURT: SO I WILL ALSO RETURN THE TRIAL BINDERS
 23 AS WELL.
 24 IS THERE ANYTHING ELSE FROM -- I'LL START WITH
 25 PLAINTIFF. ANYTHING ELSE FROM PLAINTIFF AT THIS TIME?
 26 MR. HART: NO, JUDGE. WE'RE ALL GOOD.

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1 THE COURT: THANK YOU.
 2 AND FROM DEFENSE?
 3 MR. VOSS: NOT AT THIS TIME.
 4 THE COURT: ALL RIGHT. ONCE WE GET THAT JUDGMENT
 5 ENTERED, AND THEN WE'LL START THE CLOCK ON ANY OTHER FURTHER
 6 PROCEEDINGS THAT WE MAY HAVE.
 7 AND THANK EVERYBODY FOR YOUR HARD WORK, AND I
 8 IMAGINE WE'LL BE SEEING YOU AGAIN.
 9 ALL COUNSEL: THANK YOU, YOUR HONOR.
 10 (PROCEEDINGS ADJOURNED.)
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1 REPORTER'S CERTIFICATE
 2
 3 STATE OF CALIFORNIA)
 4) SS.
 5 COUNTY OF ORANGE)
 6
 7 I, MICHELLE LOTT-MEYERHOFER, CSR NO. 8226, REPORTER
 8 PRO TEMPORE, IN AND FOR THE SUPERIOR COURT OF THE STATE OF
 9 CALIFORNIA, COUNTY OF ORANGE, DO HEREBY CERTIFY;
 10 THAT THE FOREGOING TRANSCRIPT IS A FULL, TRUE AND
 11 CORRECT TRANSCRIPT OF MY SHORTHAND NOTES, AND IS A FULL, TRUE
 12 AND CORRECT STATEMENT OF THE PROCEEDINGS HAD IN SAID CAUSE.
 13
 14 DATED THIS ____ DAY OF _____, 2024.
 15
 16
 17 *Michelle Lott-Meyerhofer*
 18 MICHELLE LOTT-MEYERHOFER, CSR NO. 8226
 19 OFFICIAL REPORTER PRO TEM
 20
 21
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