

1 THE STATE OF OHIO, )  
 ) SS: JOHN O'DONNELL, J.  
 2 COUNTY OF CUYAHOGA.)

3 IN THE COURT OF COMMON PLEAS

4 CIVIL DIVISION

5 ANTHONY L. VIOLA, )  
 )  
 6 Plaintiff, )  
 )  
 7 -v- )  
 ) Case No. CV  
 8 SUSAN KASARIS, et al., )  
 ) 21-951041  
 )  
 9 Defendants. )

10 - - - -

11 TRANSCRIPT OF PROCEEDINGS

12 - - - -

13 APPEARANCES:

14 ANTHONY VIOLA, Plaintiff, Pro Se,

15 REMINGER & REMINGER CO., L.P.A.  
 16 CLIFFORD MASCH, ESQ.,

17 on behalf of Deft John Patrick.

18 BONEZZI, SWITZER, POLITO & HUPP CO., L.P.A.  
 19 DAVID COMSTOCK, ESQ.,

20 On behalf of Defendants Susan Kasaris,  
 21 Kelly Connors, DeMina O'Shea-Moran,  
 22 Kathryn Clover.

23 Lisa Hrovat, RPR  
 24 Official Court Reporter  
 25 Cuyahoga County, Ohio

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14 BE IT REMEMBERED, that at the MAY  
15 A.D., 2022 term of said Court, to-wit,  
16 commencing on THURSDAY, JUNE 2, 2022, this  
17 cause came on to be heard before the Honorable  
18 JOHN O'DONNELL, in Courtroom No. 18-D, Courts  
19 Tower, Justice Center, Cleveland, Ohio, upon  
20 the pleadings filed heretofore.

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I N D E X

WITNESSES:

PLAINTIFF'S:	Direct	Cross	Redirect	Recross
Robert Frederick (Via Zoom)	18	29	--	--
Kelly Patrick	32	--	--	--

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1 THURSDAY MORNING SESSION, JUNE 2, 2022

2 THE COURT: We are on the  
3 oral record in Anthony Viola versus Susan  
4 Kasaris, et al., Case No. CV 21-951041. Today  
5 is a hearing on requests by several Defendants  
6 for sanctions; namely, Defendants John  
7 Patrick, Jaye Schlachet, Rose Kapturasky,  
8 Kelly Connors, Susan Kasaris, Demina  
9 O'Shea-Moran, and Kathryn Clover.

10 Is anybody here today for John  
11 Patrick?

12 MR. MASCH: I am, your  
13 Honor.

14 THE COURT: Mr. Masch.

15 MR. MASCH: Yes.

16 THE COURT: Anybody else on  
17 your side, Mr. Masch?

18 MR. MASCH: No.

19 THE COURT: Is there anybody  
20 here today for Mr. Schlachet?

21 STAFF ATTORNEY: He's in trial.

22 THE COURT: I have been  
23 informed by the staff attorney that he is in  
24 trial, so Mr. Schlachet is not present. Is  
25 there anybody here today for Miss Kapturasky?

1 Is anybody here today for Miss Connors?

2 MR. COMSTOCK: I am, your  
3 Honor. David Comstock.

4 THE COURT: Is anybody here  
5 for Miss Moran and/or Ms. Kasaris? I think  
6 they probably appear to have more or less  
7 joint interest.

8 MR. COMSTOCK: I am.

9 THE COURT: Mr. Comstock?

10 MR. COMSTOCK: Yes.

11 THE COURT: Is there anybody  
12 here for Miss Clover?

13 MR. COMSTOCK: I am as well,  
14 your Honor.

15 THE COURT: I will also note  
16 Mr. Viola is here. He, throughout this case,  
17 has represented himself and is doing so today.

18 Mr. Masch, do you expect to proffer  
19 evidence today or make your arguments based  
20 upon the entire record up to today?

21 MR. MASCH: Your Honor, my  
22 focus of our sanctions are going to be based  
23 on the record that's established. If the  
24 Court deems it necessary to prove woefulness,  
25 we will call Mr. Viola to the stand. I don't

1 believe it is even necessary as relates to our  
2 allegation which is focused on the insertion  
3 of scandalous allegation in the complaint.

4 THE COURT: Same question  
5 for you, Mr. Comstock. I set this as a  
6 hearing, I believe as an evidentiary hearing,  
7 because I didn't know whether any movant  
8 expected to need evidence outside the record  
9 or that was not already part the record. Same  
10 question for you, Mr. Comstock.

11 MR. COMSTOCK: Your Honor, I  
12 believe the Court can decide this case based  
13 on the record itself.

14 THE COURT: Okay. We will  
15 dispense then with the presentation of  
16 evidence, and this will essentially be an oral  
17 argument.

18 I'll be happy to hear -- This is no  
19 particular order. I guess it's just the order  
20 that I looked at the names this morning. I  
21 will be happy to hear an oral arguments,  
22 Mr. Masch, on your August 24th, 2021, motion  
23 for sanctions.

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## 1 DEFT PATRICK'S OPENING STATEMENT

2 MR. MASCH: Thank you, your  
3 Honor. As the Court is well aware, the  
4 Plaintiff filed a complaint alleging six  
5 claims against all the Defendants, including  
6 my client, John Patrick. While all the  
7 allegations are wholly without merit and no  
8 basis, in addition to asserting these claims,  
9 he alleged in Complaint Paragraph 101 an  
10 allegation that John Patrick was involved with  
11 sexual relations with someone --

12 THE COURT: We'll go off the  
13 record.

14 - - - - -

15 (Thereupon, a discussion was held  
16 off the record.)

17 - - - - -

18 (Thereupon, the following proceedings  
19 were had in open court.)

20 - - - - -

21 THE COURT: So we are back  
22 on the record. Sorry for the interruption,  
23 Mr. Masch.

24 MR. MASCH: No problem, your  
25 Honor. So The allegation in Complaint

1 Paragraph 101 was an allegation Mr. Patrick  
2 had sexual relations with a staff member at  
3 the Reminger law firm.

4 This allegation had absolutely  
5 nothing to do with any of the claims set forth  
6 in the complaint. It was not referenced in  
7 any of the claims set forth in the complaint.  
8 And we submit it was inserted for the improper  
9 purposes of embarrassment and harassment.

10 Under Civil Rule 11, the rule  
11 provides where there is insertion of  
12 scandalous or indecent material in a pleading  
13 is a basis for sanctions.

14 The law in Ohio, and we've cited this  
15 law in the brief filed with the Court, under  
16 the Jackson versus Bellomy case and the  
17 Horizon versus Butler case, when a sanction is  
18 predicated on the insertion of scandalous and  
19 indecent material, a finding of woefulness is  
20 not even necessary. All this Court needs to  
21 determine is whether the allegation had any  
22 bearing whatsoever on the claims filed in the  
23 complaint.

24 We would respectfully submit there is  
25 no basis that have any relevancy to that



1 scandalous claim to any of the meritless  
2 claims inserted in the complaint.

3 Separate and apart, I submitted an  
4 affidavit in the brief before this Court.  
5 Since the dismissal of this case, Mr. Viola  
6 has entered into a campaign of sending  
7 postcards to Reminger lawyers in Ohio,  
8 Kentucky, and Indiana. Some of these  
9 postcards reference this case number with the  
10 allegation Mr. Patrick has a porn addiction.

11 This is further evidence of improper  
12 reliance of allegations set forth in the  
13 complaint used by Mr. Viola, and further basis  
14 for sanctioning under Civil Rule 11.

15 On that record, we would respectfully  
16 submit that this Court is well within its  
17 discretion to award sanctions based upon the  
18 meritless actions of Mr. Viola.

19 THE COURT: Any additional  
20 argument on behalf of Mr. Patrick, Mr. Masch?

21 MR. MASCH: No, your Honor.

22 THE COURT: Thank you,  
23 Mr. Masch. Mr. Comstock?

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DEFT'S OPENING STATEMENT

MR. COMSTOCK: Thank you. On behalf of the Defendants that I am here representing, we're pursuing motions for sanction pursuant to Rule 11 and R.C. 2323.51. The basis for the motion is predicated solely upon the law and not the facts.

The Defendants filed either motions to dismiss pursuant to Civil Rule 12(B) or 12(C). And I'm asking this Court to rule on their claims as a matter of law.

As this Court knows, the Court in ruling on those motions views the evidence most favorably to the Plaintiff.

In this case, there's absolutely no valid cause of action against any of the Defendants. That's predicated on a number of defenses, but all of which were outlined in the Defendants' motions to dismiss.

The Court has ruled on those, so I don't think that I have to sit here now and argue whether or not the complaints set forth a cause of action. The Court has already ruled on that.

The issue here that the Court needs

1 to review is to determine whether or not the  
2 filing of the complaint constitutes frivolous  
3 conduct. I think it's important to note that  
4 I cited one of the cases in a motion  
5 addressing subpoenas that were filed in this  
6 case, but it is the Lloyd versus Thornsbery  
7 case, which is an 11th District Court of  
8 Appeals case within which they cite another  
9 case, Krlich, K-R-L-I-C-H, v Shelton, which is  
10 at 2019 Ohio 3441.

11 In that it says R.C. 2323.51 does not  
12 require evidence of intent. Instead, the  
13 conduct obviously serves merely to harass or  
14 maliciously injure another party.

15 They talk in reviewing both the  
16 standard for determining maliciousness or  
17 harm, but also with respect to the frivolous  
18 nature of the conduct.

19 It's an objective standard. The  
20 Court can simply view the overall conduct in  
21 this case. And I think it's important to not  
22 only view the complaint in this case, but the  
23 subsequent conduct as well, particularly after  
24 this Court ruled on the various parties'  
25 motions to dismiss.

1 I would point out the conduct  
2 includes filing motions against this Court, as  
3 well as myself, seeking sanctions on matters  
4 that were not even related to the pleadings in  
5 a point that the Court has heard truly nothing  
6 but to harass.

7 Finally, in viewing the intent to  
8 harass, I think it is important that this  
9 Court view other cases. There's an additional  
10 one that I failed to attach to my motion.  
11 These are all cases that I believe the Court  
12 can, as a matter of record, take into  
13 consideration finding that Mr. Viola has  
14 entered into a campaign to harass Mr. Kasaris  
15 and anybody associated with his prosecution,  
16 the witnesses, and now his family members.

17 All of the arguments that I expect  
18 will be presented on behalf of the Plaintiff  
19 were previously expressly rejected by the  
20 trial court, Judge Nugent, in the United  
21 States v Viola at 2015 U.S. District Lexis  
22 155221, 2015 Westlaw 7259783.

23 Subsequent to that time, in three  
24 different courts, judges have found that  
25 Mr. Viola has basically entered into this

1 campaign to go after everybody. I think just  
2 the most recent one being within the last  
3 couple months.

4 I think this case is just one more  
5 example of this ongoing campaign to harass  
6 Mr. Kasaris and anybody associated with him as  
7 evidenced in this case.

8 With that, your Honor, I move to  
9 rest.

10 THE COURT: Thank you,  
11 Mr. Comstock. Mr. Viola, I trust that you  
12 oppose these motions; am I right?

13 MR. VIOLA: Well, yes, your  
14 Honor. I also prepared evidence --

15 THE COURT: Hold on.

16 MR. VIOLA: Yes, I do.

17 THE COURT: All right. What  
18 do I need to know?

19 - - - - -

20 PLAINTIFF'S OPENING STATEMENT

21 MR. VIOLA: Well, as an  
22 initial matter, I called the staff attorney,  
23 and I spoke with the pro se help, Ms. Laura  
24 Creed, and both said in an evidentiary hearing  
25 that I could present evidence.

1           And I have a private investigator who  
2           has investigated these claims. And I  
3           indicated to the Court in an earlier filing  
4           that I'm talking about having Mr. Frederick  
5           appear for 10, 15 minutes. I also have Kelly  
6           Patrick, a family member of Mr. Kasaris, who  
7           would like to testify as well.

8           So I am respectfully asking the Court  
9           to allow the introduction of evidence to show  
10          that the claims we have made are in good  
11          faith. May I please present evidence?

12           THE COURT:                    So they will be  
13          able to testify that you have acted in good  
14          faith in filing these complaints, or you're  
15          saying they will be able to confirm some of  
16          the allegations, or many of them, that you  
17          made in the complaint are true?

18           MR. VIOLA:                    Both. They will  
19          show there is an investigation going on to  
20          obtain credible information, and they will  
21          also explain the factual basis for the  
22          complaint which, as you know, your Honor, that  
23          is the question. Is this litigation  
24          frivolous, designed to harass, or does it have  
25          a substantive basis in fact and law? We

1 believe it has a substantive basis in fact and  
2 law.

3 THE COURT: That issue has  
4 been decided by the rulings on the motion to  
5 dismiss.

6 Now, the question of whether  
7 basically the mere filing of the lawsuit and  
8 the conduct post filing was frivolous, that is  
9 at issue here. If you have witnesses who have  
10 competent evidence bearing on that issue, you  
11 are welcome to call such witnesses.

12 MR. VIOLA: Thank you. I  
13 believe that I do. I appreciate the  
14 opportunity to do that. I was going to make  
15 some brief opening remarks, and then I was  
16 going to ask Bob Frederick to just give a  
17 brief overview of what he's done.

18 So, your Honor, we have a very  
19 unusual situation. There are two bodies of  
20 law developing about me. I'm either innocent,  
21 wrongfully convicted, and the Government lied  
22 about evidence; or, I'm guilty in harassing  
23 people with litigation.

24 I was put on trial twice on the same  
25 charges by the same prosecution team. A

1 subsequent acquittal utilized substantially  
2 different evidence. So some of my exhibits  
3 are that I have had currently the law firm of  
4 Covington & Burling, one of the largest law  
5 firms in the world, representing me in Federal  
6 Court on some matters.

7 We have had multiple Courts appoint  
8 counsel to assist me, and we've had admissions  
9 by the Government that false statements were  
10 made about evidence before my first trial.

11 THE COURT: May I interrupt  
12 you for one moment? Remember, my motions to  
13 dismiss were granted. They were ruled on as  
14 if every word in your pleadings was true. And  
15 even construing every word as true, you didn't  
16 state a cause of action against any of the  
17 Defendants who are moving for sanctions here  
18 today.

19 So the truth of what you claim in the  
20 complaint is essentially, for today's  
21 purposes, conceded, admitted, taken as  
22 accurate.

23 What your opponents are claiming is  
24 that you are not -- even assuming everything  
25 is true, first of all, you did not have any



1 legal recourse against any of them and,  
2 therefore, your conduct in filing the lawsuit  
3 was frivolous.

4 So I am not sure how much evidence we  
5 need to receive about the truth of your  
6 allegations because, for today's purposes,  
7 they are considered to be true.

8 The question is, did the filing of  
9 the causes of action against the particular  
10 Defendants you chose to pursue constitute  
11 frivolous conduct. Try to keep your focus on  
12 whether the mere assertion of claims in this  
13 lawsuit was frivolous even conceding that  
14 every fact is true.

15 MR. VIOLA: I would like to  
16 have Bob Frederick for ten minutes, and Kelly  
17 Patrick for ten minutes, and have concluding  
18 remarks, and not take up much of the Court's  
19 time. But I feel it's relevant to introduce  
20 Bob Frederick.

21 THE COURT: Mr. Comstock?

22 MR. COMSTOCK: My thought,  
23 based on what the Court has indicated, and for  
24 purposes of judicial economy and efficiency,  
25 before we go through this whole process, I

1 think --

2 THE COURT: Here is what I  
3 am going -- He's going to call a witness. If  
4 you object to a question, or some questions,  
5 or all questions, interpose an objection.

6 Mr. Viola.

7 - - - - -

8 DIRECT EXAMINATION OF ROBERT FREDERICK

9 BY MR. VIOLA:

10 Q. Good morning, Bob. Can you hear us? Bob, can  
11 you hear me?

12 A. I can hear you now.

13 Q. Thank you for your time.

14 THE COURT: Mr. Viola, try  
15 not to interfere with the court reporter's  
16 sight line and speakers, so you might need to  
17 move the podium out of the way. It may help  
18 her to be able to see him as well the Court's  
19 hearing.

20 Q. Good morning, Bob. Can you hear us?

21 A. Yes.

22 Q. Why don't you give us some background on your  
23 professional experiences and how we connected?

24 A. My background is the FBI. I was with the FBI  
25 until 1986. I worked organized crime. From that

1 point forward, I have been a private investigator.

2 Q. Was there a time where you obtained emails  
3 between former Cuyahoga County prosecutor Dan Kasaris  
4 and Kathryn Clover?

5 A. Yes, there was. I submitted a Sunshine Law  
6 request to the County and received the emails.

7 Q. Was there a time that you started  
8 investigating Dawn Pasela and her role in my case?

9 A. At your request we did do some investigation  
10 of her.

11 Q. And you met with Dawn's family members; is  
12 that correct?

13 A. Yes.

14 Q. Based on your background and experience, an  
15 office manager for the Cuyahoga County Prosecutor's  
16 Office being asked to wear a wire to obtain defense  
17 trial strategy information, what are your thoughts  
18 about that? Is that something as a law enforcement  
19 professional that you started seeing before?

20 MR. COMSTOCK: Objection.

21 THE COURT: Sustained. Go  
22 on to the next question, Mr. Frederick.

23 Q. Can you describe our efforts to ask the Ohio  
24 Supreme Court to investigate the death of Dawn Pasela  
25 and the relationship between Kathryn Clover and Mr.

1 Kasaris?

2 MR. COMSTOCK: Objection.

3 Relevance.

4 THE COURT: What is the  
5 relevance to whether filing the complaint was  
6 frivolous conduct, Mr. Viola?

7 MR. VIOLA: I want to show  
8 we were exhausting all avenues, all legal  
9 remedies, to have the misconduct that's  
10 identified in this filing here, this complaint  
11 that everyone deems is true, to have it  
12 investigated by a proper authority so I am not  
13 the person litigating the matter.

14 THE COURT: I know. What I  
15 would say is this. You talk about all -- and  
16 I'm sorry. I'm paraphrasing -- all legal  
17 remedies.

18 The argument that you are facing  
19 today with the motion for sanctions, even  
20 assuming everything that you claim is true,  
21 you didn't have -- don't have the legal remedy  
22 that you sought in the complaint.

23 So whether Mr. Frederick was able to  
24 persuade the Ohio Supreme Court to investigate  
25 Dawn Pasela, which I'm not even sure what that

1 means, because the Supreme Court is not an  
2 investigative body, what does that have to do  
3 with whether it was proper for you to file the  
4 causes of action that you did in this case?

5 MR. VIOLA: Your Honor, my  
6 argument is that I shouldn't have to file any  
7 lawsuits. I shouldn't have to engage in this  
8 type of litigation at all because these  
9 gentlemen here know Kathryn Clover had an  
10 affair, a sexual relationship, with a  
11 Government witness that went on for years.

12 These gentlemen know that the  
13 Government intruded into my trial preparation  
14 by having the office manager in the Cuyahoga  
15 County Prosecutor's Office wear a wire to  
16 obtain confidential and trial strategy.

17 The Rules of Professional Conduct are  
18 very clear that a romantic relationship  
19 between a prosecutor and a witness is a  
20 blatant conflict of interest. I have pursued  
21 all legal remedies --

22 THE COURT: May I interrupt  
23 you? Look. I'm going to tell you that I  
24 concur that if the conduct that you described  
25 is true, it's probably nothing short of



1 did you not state a cause of action, but your  
2 conduct was frivolous and you should be  
3 sanctioned for that.

4 What we need to hear in today's  
5 hearing is evidence tending to suggest your  
6 conduct was not frivolous, even though, as it  
7 happens, the complaint did turn out to be  
8 insufficient and the amended complaint  
9 insufficient to the stated cause of action.

10 I don't know what Frederick or, for  
11 that matter, your other witness would have to  
12 say on that, but let's keep the focus on that.

13 MR. VIOLA: Your Honor, what  
14 I am trying to do is two things. I'm trying  
15 to show there is a reasonable factual basis  
16 for bringing the complaint, and I'm going to  
17 conclude by citing some legal cases that I  
18 filed. That's what I was trying to do.

19 THE COURT: On the first  
20 point, the reasonable factual basis, we agree  
21 in the context of where this case stands now,  
22 motions to dismiss that have been granted,  
23 every fact alleged in each -- in the complaint  
24 and the amended complaint, if I am recalling  
25 correctly, are all true.

1                   MR. VIOLA:                   If the facts of  
2                   my complaint are true, there's a criminal  
3                   conspiracy to obstruct justice and hide a  
4                   romantic relationship, and this is a civil  
5                   conspiracy.

6                   I ask for declaratory judgment. And,  
7                   clearly, I'm asking the Court to identify  
8                   the -- how the law governs these licensed  
9                   attorneys, who are aware of a romantic  
10                  relationship with a Government witness, and a  
11                  prosecutor who the Government said committed  
12                  the perjury.

13                  If we are saying everything is true,  
14                  okay. I guess the point that I am making is a  
15                  frivolous litigator doesn't employ a former  
16                  FBI agent to investigate and test all the  
17                  claims, and make sure we have proper evidence,  
18                  and proper documentary support for any  
19                  allegation that we make in court.

20                  Now, I understand these gentlemen  
21                  don't like what we have said, but everything  
22                  we've said is true in our case. So I asked  
23                  Mr. Frederick this morning to just speak about  
24                  how he has proceeded. He represented and  
25                  worked with me for almost a decade on this



1 case, and how we've come up with some of the  
2 facts because the complaint is not something  
3 that I am saying. We're quoting Mr. Patrick,  
4 Mr. Kasaris, Susan Kasaris. We're quoting  
5 Kelly Connors.

6 Let me say this. I never heard of  
7 Kelly Connors in my life until she called me  
8 and started making allegations she had sexual  
9 relations with Mr. Kasaris, and was in  
10 possession of evidence concerning Dawn Pasela.  
11 I did not know who she was, and I asked her to  
12 provide it to me and she refused.

13 This litigation followed these  
14 individuals contacting me on an unsolicited  
15 basis. Lisa Lau is a Defendant in this case.  
16 Her children contacted me and said they had  
17 taken DNA tests to determine whether or not  
18 Dan Kasaris was their father because he had a  
19 sexual relationship with their mother.

20 I never heard of these people. And I  
21 never heard of Rose Kapturasky or these  
22 characters until people contacted me with  
23 witness information.

24 I asked Mr. Frederick to diligently  
25 investigate these leads, and he has done so.

1 And we came to court to seek redress as for  
2 what we think is serious misconduct.

3 THE COURT: When you come to  
4 court, you have to articulate a duty that a  
5 Defendant owes to you, a breach of that duty  
6 and result in damages.

7 In this case the element of duty has  
8 been found not to exist for the particular  
9 conduct that you claim.

10 Again, I think your opponents would  
11 stipulate, for purposes of today's argument,  
12 everything that you say in the pleading is  
13 true.

14 They would also go on to say, as they  
15 did in their motions to dismiss, that,  
16 nevertheless, that conduct doesn't arise to  
17 cause of action in your favor for damages  
18 against these individuals.

19 I think they would also stipulate,  
20 and I can observe, that it is clear you have  
21 collected materials from hither and yon,  
22 apparently with the assistance of Mr.  
23 Frederick and others. So the fact that you  
24 were diligent in obtaining and getting  
25 information in support of your allegations, or

1 to lead you to realize that you would like to  
2 make these allegations, that is evident.

3 So I am not sure that -- Well, my  
4 point is, if objections continue to be  
5 interposed to Mr. Frederick's testimony,  
6 they're likely to be sustained unless you  
7 focus on whether the mere filing of the  
8 lawsuit fell within the category of frivolous  
9 conduct. If Mr. Frederick has anything to say  
10 on that subject, he is welcome to say it.

11 So I have spoken too long. You are  
12 welcome to continue, so please continue.

13 MR. VIOLA: Your Honor, I  
14 like to come to court prepared. I'm trying to  
15 be respectful, and I'm trying to provide you  
16 information. If it is later disregarded by  
17 the Court, or not found relevant, I understand  
18 that and I respect that.

19 I only had a couple questions for  
20 Mr. Frederick. The last question I had was,  
21 is there anything that you feel is important  
22 that the Court should be aware of. And I have  
23 one other witness. I am going to ask four or  
24 five questions and have concluding remarks.

25 Q. So Bob, is there anything else -- And the

1 Judge has indicated that he is looking for the way  
2 that I have comported myself in this litigation.

3 Are there any other facts or points that you  
4 feel are relevant that you should call to the Court's  
5 attention this morning?

6 A. The one thing that I thought was relevant was  
7 the fact the Discipline Committee of the Supreme  
8 Court did an investigation which I thought was pretty  
9 superficial.

10 One of the things they did say with regards to  
11 the allegations made, there was a sheriff's report  
12 that conducted an investigation of his allegations.  
13 There was no -- I went to the Sheriff's Department  
14 here in Cuyahoga County. There was no report.

15 Q. So you feel there is a reason to continue to  
16 investigate these leads we have developed as an  
17 investigator?

18 A. As an investigator, yes.

19 MR. VIOLA: Thank you.

20 THE COURT: Hold on one  
21 moment. Do you have any cross-examine,  
22 Mr. Masch?

23 MR. MASCH: No, your Honor.

24 THE COURT: Mr. Comstock?

25 MR. COMSTOCK: Just a second,

1 your Honor.

2 - - - - -

3 CROSS-EXAMINATION OF ROBERT FREDERICK

4 MR. COMSTOCK:

5 Q. Sir, you are not a practicing attorney; is  
6 that correct?

7 A. That's correct, sir.

8 Q. And you understand the Office of Disciplinary  
9 Counsel did not find any wrongdoings on behalf of the  
10 counsel; specifically, Mr. Kasaris?

11 A. I'm having a little bit difficulty hearing  
12 you, sir.

13 THE COURT: Mr. Comstock,  
14 your microphone is not on.

15 Q. You are aware, in providing your testimony,  
16 that the Office of Disciplinary Counsel did not find  
17 any wrongdoings on behalf of Mr. Kasaris. Are you  
18 aware of that?

19 A. Yes, sir.

20 Q. And do you understand the Office of  
21 Disciplinary Counsel, unless they find something  
22 wrong and file it, it becomes a public record, that  
23 all investigations by Ohio law are confidential. Do  
24 you understand that?

25 A. Yes.

1                   MR. COMSTOCK:            I have nothing  
2 further.

3                   THE COURT:                Thank you, Mr.  
4 Comstock. Do you have any redirect based on  
5 the cross-examine, Mr. Viola?

6                   MR. VIOLA:                No, your Honor.

7                   THE COURT:                Mr. Frederick,  
8 thank you so much for being here. I suppose  
9 that you are welcome to remain as a spectator,  
10 but you are not required to stay on the line.  
11 If you hang up, that's fine. If you do stay  
12 on, make sure that you mute yourself.

13                  THE WITNESS:            Thank you,  
14 Judge. I think that I am going to go back to  
15 work.

16                  THE COURT:                Sure. Thank  
17 you.

18                  MR. VIOLA:                Thank you, Bob.

19                               - - - - -

20                   (Thereupon, the witness was excused.)

21                               - - - - -

22                  THE COURT:                Do you have  
23 another witness?

24                  MR. VIOLA:                I have a  
25 witness, Kelly Patrick. I would like to have

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her briefly testify to a couple questions.

THE COURT: I should apologize. I have been pronouncing your name with a long I. Is that first I pronounced as a long I, or a long E? Is it Veola, or Viola?

MR. VIOLA: My Italian relatives would tell you the I in Italy is pronounced like an E. Either is fine, your Honor.

THE COURT: I have been mispronouncing it, and I apologize.

MR. VIOLA: It's okay.

THE COURT: Do you have a witness then?

MR. VIOLA: Yes. I would like to have Kelly Patrick testify very briefly this morning.

- - - - -

The PLAINTIFF, to maintain the issues on their part to be maintained, called as a witness, KELLY PATRICK, who, being first duly sworn, was examined and testified as follows:

- - - - -

1 DIRECT EXAMINATION OF KELLY PATRICK

2 BY MR. VIOLA:

3 Q. Good morning, Kelly. Thank you for being  
4 here.

5 Can you tell us briefly about yourself?

6 A. First, I have a hearing loss. It is hard for  
7 me to hear with a mask on. I might ask you to repeat  
8 stuff.

9 THE COURT: Here is what we  
10 will do. Mr. Viola, if you can stand at the  
11 table so you are not really near anybody, so  
12 the witness can see your mouth move, you're  
13 welcome, while standing over there, to keep  
14 your mask off. But please stay over there  
15 because you don't know how comfortable or not  
16 people are, so let's not infringe on anybody.

17 Please continue.

18 Q. Good morning, Kelly. Thank you for being  
19 here. Just give us a brief background about  
20 yourself.

21 A. My name is Kelly Patrick. I was married to  
22 Reminger attorney John Patrick.

23 Q. How were you related to Dan Kasaris, Susan  
24 Kasaris, and Kelly Connors?

25 A. Dan Kasaris is John's brother, is my former



1 brother-in-law. Susan is Dan's wife. And Kelly  
2 Connors is Dan and John's second cousin.

3 Q. Okay. Was there a time that Susan Kasaris  
4 reached out to you to talk to you about Mr. Kasaris's  
5 affair with Government witness Kathryn Clover?

6 A. Yes. In 2016 she reached out to me via  
7 Facebook.

8 Q. Are these the Facebook messages back and forth  
9 between you and Susan where you discussed this affair  
10 between Mr. Kasaris and Mrs. Clover?

11 A. Yes.

12 Q. You are familiar with those?

13 A. Yeah. We talked for an entire year.

14 Q. Is there any question in your mind that  
15 Mr. Kasaris had a romantic relationship with  
16 Government witness Kathryn Clover?

17 A. No.

18 MR. MASCH: Objection, your  
19 Honor.

20 MR. COMSTOCK: Objection, your  
21 Honor.

22 THE COURT: Hold on a  
23 second. Based on what?

24 MR. MASCH: Your Honor,  
25 we're not getting into any issues that are

1 relevant to whether or not the allegations in  
2 the complaint are either scandalous, or  
3 indecent, or recognized under Ohio law as  
4 being frivolous.

5 Mr. Viola is attempting to get into  
6 the merits of the case, which this Court  
7 already dismissed on the rulings on the motion  
8 to dismiss. I respectfully submit this entire  
9 line of examination is irrelevant to the  
10 sanction hearing before the Court.

11 THE COURT: Here is what  
12 we'll do. The particular objection is  
13 overruled. The testimony has already been  
14 given.

15 Mr. Viola, focus on whether the  
16 filing of the complaint amounted to frivolous  
17 conduct. That would be good.

18 Q. Couple more questions. Who is Rose  
19 Kapturasky?

20 A. Rose is a family friend of John's and Dan's.

21 Q. Okay.

22 A. They all grew up together.

23 Q. Has your former husband, John, ever discussed  
24 the, quote, "murder" of Dawn Pasela?

25 MR. MASCH: Objection, your

1 Honor.

2 A. Yes.

3 THE COURT: Overruled.

4 A. Yes. We discussed it in my driveway one day.

5 Q. He discussed it with your children as well;  
6 correct?

7 A. Correct.

8 Q. Okay. Based on what you know, do you think  
9 there should be a renewed investigation into the  
10 circumstances surrounding the death of Dawn Pasela?

11 A. Absolutely.

12 Q. Is there anything else that you want to tell  
13 the Court that you think is relevant concerning  
14 today's proceedings?

15 A. Not at this time, no.

16 MR. VIOLA: Thank you,  
17 Kelly.

18 THE COURT: One moment,  
19 ma'am. Thank you, Mr. Viola. Do you have any  
20 cross-examine, Mr. Masch?

21 MR. MASCH: No, your Honor.

22 THE COURT: Mr. Comstock,  
23 same question.

24 MR. COMSTOCK: No, your Honor.

25 THE COURT: Thank you for

1 coming down. Appreciate it. You are welcome  
2 to depart.

3 - - - - -

4 (Thereupon, the witness was excused.)

5 - - - - -

6 THE COURT: Do you have any  
7 additional witnesses or other evidence?

8 MR. VIOLA: No, your Honor.  
9 I would like to make a closing argument if  
10 that's okay.

11 THE COURT: Let's do this.  
12 You rest on the evidence front?

13 MR. VIOLA: Yes. I'm going  
14 to provide to the court reporter at the  
15 conclusion the exhibits that have been  
16 referenced this morning.

17 THE COURT: Nothing has been  
18 admitted. You don't have to give her anything  
19 then. Are you proffering something into  
20 evidence?

21 MR. VIOLA: Yes. I have  
22 these communications between Susan Kasaris and  
23 Kelly Patrick. I mentioned earlier several  
24 Courts have appointed counsel that found merit  
25 in my case. I wanted to provide the Court

1 with those additional Court rulings.

2 Mr. Comstock referenced adversary  
3 Court rulings, and there are many, but there  
4 are quite a bit of positive Court rulings  
5 saying the legal work that I have provided is  
6 not only meritorious but warrants appointment  
7 of counsel.

8 THE COURT: If I may  
9 interrupt you? Let's go one at a time.

10 The documents that you wanted to get  
11 into evidence through Patrick are the Facebook  
12 communications.

13 MR. VIOLA: Yes.

14 THE COURT: I have a  
15 recollection those are already of record. Am  
16 I wrong?

17 MR. VIOLA: I believe they  
18 were submitted earlier.

19 THE COURT: They're part of  
20 the pleadings in this case.

21 MR. VIOLA: Okay.

22 THE COURT: You're  
23 proffering them as evidence here?

24 MR. VIOLA: She  
25 authenticated them, so I thought it would

1 be --

2 THE COURT: Are you  
3 proffering them?

4 MR. VIOLA: Yes. I would  
5 like to have them.

6 THE COURT: Object or not,  
7 Mr. Masch?

8 MR. MASCH: I would object  
9 again.

10 THE COURT: Hold on. So you  
11 do object. And let me ask your colleague. Do  
12 the other Defendants also object, Mr.  
13 Comstock?

14 MR. COMSTOCK: I would today,  
15 your Honor. They are part of the record so it  
16 seems not only to be duplicative, but  
17 irrelevant as I discussed earlier.

18 THE COURT: The objections  
19 are sustained. They're not going to be  
20 received as an evidentiary exhibit here today.  
21 But it is worth noting they are part of the  
22 record upon which the question of frivolous  
23 conduct or not will be judged.

24 Then you have -- I'm not sure that I  
25 would call these evidence, but you want me to

1 know about a few cases. How about if you give  
2 me the citations, Mr. Viola?

3 MR. VIOLA: Sure.

4 THE COURT: Go relatively  
5 slowly because I have to write them down.

6 MR. VIOLA: Yes. The law  
7 firm of Covington & Burling, LLP, has been  
8 appointed to assist me by the United States  
9 Court of Appeals for the Third Circuit, Case  
10 No. 18-2573.

11 THE COURT: 18-2573 in the  
12 U.S. Third?

13 MR. VIOLA: U.S. Court of  
14 Appeals for Third Circuit.

15 THE COURT: What is the name  
16 of the case?

17 MR. VIOLA: Anthony Viola  
18 versus U.S. Department of Justice, et al.

19 THE COURT: Okay. What  
20 else?

21 MR. VIOLA: Covington's  
22 legal brief is on that docket, and they  
23 outline serious misconduct that has taken  
24 place.

25 Also, in the Western District of

1 Pennsylvania where I was incarcerated more  
2 than the better part of a decade, Judge Susan  
3 Paradise Baxter appointed counsel to assist  
4 me. The case number is 15-242, Western  
5 District of Pennsylvania, and that case is  
6 also Anthony Viola versus Department of  
7 Justice, et al.

8 THE COURT: Okay.

9 MR. VIOLA: Now, while we're  
10 talking about me being sanctioned here, Judge  
11 Hollie Gallagher set a trial date for a case  
12 that I have about the spoliation and  
13 destruction of evidence. That's an  
14 October 12th trial date. That's CV 20-936897.  
15 I have a ruling that the complaint stated a  
16 claim for relief.

17 THE COURT: Okay.

18 MR. VIOLA: I have a letter  
19 from Judge Daniel Gaul that states that I am  
20 wrongfully convicted, and that Dan Kasaris  
21 committed misconduct in my case.

22 THE COURT: I have seen  
23 that. I have seen some opinion in the 242  
24 case out of Pennsylvania. The fourth one I  
25 have seen, and I know I have seen the others.



1 And what else?

2 MR. VIOLA: I have  
3 affidavits from Karen and Edward Pasela, the  
4 parents of Dawn Pasela, dated May 25th, 2022,  
5 asking for an investigation into the death of  
6 their daughter. I'd like to provide that.

7 THE COURT: Asking who?

8 MR. VIOLA: Any responsible  
9 authority to refer what is going on for review  
10 by the appropriate authorities, not me and Bob  
11 Frederick. I defer to your wisdom, your  
12 Honor. I don't know.

13 THE COURT: I would say on  
14 that matter, first, it's difficult for me to  
15 see the relevance.

16 MR. VIOLA: Okay.

17 THE COURT: Second, if it  
18 somehow bears on whether the filing of this  
19 lawsuit was frivolous, the affidavits are --  
20 sounds like they were made a week or so ago.  
21 The conduct in filing the lawsuit was a year  
22 or so ago, so I probably won't receive those.

23 What else?

24 MR. VIOLA: The only other  
25 point that I wanted to make --

1 THE COURT: Hold on.

2 MR. VIOLA: I wanted you to  
3 know, your Honor --

4 THE COURT: Hold on. What I  
5 will do is I'll give the movants time to make  
6 closing arguments, then you have closing  
7 argument.

8 MR. VIOLA: Okay. Okay.  
9 Fair point.

10 THE COURT: We've discussed  
11 all the evidence proposed and admitted that  
12 you have?

13 MR. VIOLA: Yes, your Honor.  
14 That concludes the evidence or citations that  
15 I wanted to call to your attention.

16 THE COURT: You are the  
17 Plaintiff in the lawsuit, but you are, in  
18 essence, the Defendant on the motion for  
19 sanctions. The Defendant on the motions has  
20 rested.

21 Based upon the evidence proffered and  
22 admitted by the Defendant on the motions;  
23 namely, the Plaintiff, Mr. Viola, do you have  
24 any rebuttal evidence, Mr. Masch?

25 MR. MASCH: None, your

1 Honor.

2 THE COURT: Same question,  
3 Mr. Comstock.

4 MR. COMSTOCK: No, your Honor.  
5 The only other question that I had --

6 THE COURT: Do you have  
7 evidence?

8 MR. COMSTOCK: No.

9 THE COURT: Now it is time  
10 for closing arguments. Same order. Mr.  
11 Masch?

12 - - - - -

13 DEFENDANT PATRICK'S CLOSING ARGUMENT

14 MR. MASCH: Thank you, your  
15 Honor. With respect to the true focus of our  
16 motion for sanctions, which was the irrelevant  
17 assertion of a scandalous matter in  
18 Plaintiff's complaint, I've heard no evidence  
19 presented by Mr. Viola, or any of the  
20 witnesses, as to how that allegation has any  
21 relevancy to any of the claims set forth in  
22 the complaint, any other arguments or  
23 suggestions it was asserting for any other  
24 reason but to embarrass or harass Mr. Patrick.

25 Likewise, I heard no evidence or

1 testimony from any of the witnesses that  
2 Mr. Viola's citation of this case and  
3 postcards mailed to Reminger lawyers is  
4 anything -- was done for any other purpose  
5 than to harass Mr. Patrick.

6 THE COURT: Let us imagine,  
7 upon deliberations here, I find that it is  
8 true that these postcards have been mailed.  
9 Your motion, though, was filed August 24th,  
10 2021.

11 As I understand what you said  
12 earlier, these postcards were sent out  
13 somewhat recently?

14 MR. MASCH: After the Court  
15 dismissed the case.

16 THE COURT: Are you saying  
17 they're irrelevant because they show Mr. Viola  
18 has the habit of merely trying to embarrass,  
19 or are you saying that the sending of the  
20 postcards is frivolous conduct which can be  
21 sanctioned under Rule 11?

22 MR. MASCH: I'm saying some  
23 of the postcards, and this is where I deem  
24 them relevant, cite this Court's case as  
25 alleged support for the allegation that Mr.

1 Patrick has a porn addiction.

2 I believe it is further evidence of  
3 Mr. Viola's utilization of this litigation for  
4 improper purposes of harassment and  
5 embarrassment.

6 THE COURT: Okay. The idea  
7 being that even though the sending of the  
8 postcards was post filing of the lawsuit, it's  
9 as if to say the lawsuit was filed with what  
10 you call scandalous allegations, and Mr. Viola  
11 used the mere filing of a lawsuit to amplify  
12 the claims by saying, hey, look, these  
13 allegations are at issue in the lawsuit.

14 MR. MASCH: That is  
15 absolutely correct.

16 THE COURT: I interrupted  
17 you. Please continue.

18 MR. MASCH: Under Civil Rule  
19 11, the insertion of scandalous and indecent  
20 material that can be established to have no  
21 relevancy to the claims justifies this Court's  
22 imposition of sanctions.

23 That's the basis for our dispute. We  
24 respectfully submit we've heard no evidence  
25 put on by Mr. Viola, or any of the witnesses,



1 a vacuum. I previously cited United States v  
2 Viola. Judge Nugent addressed the same  
3 arguments in detail again in 2015 U.S.  
4 district Lexis 155221, and said there's  
5 absolutely no evidence, and rejected that, and  
6 yet Mr. Viola did not stop, as evidenced by  
7 the other cases I filed with this Court,  
8 demonstrating that Mr. Viola continues to wage  
9 a campaign of judicial terror on the Kasaris  
10 family and anybody associated with his case.

11 Mr. Viola's best response was that  
12 other judges have found some merit to his  
13 case, and has provided citations to you. In  
14 many other pleadings he has misstated the  
15 findings of those Courts. You don't have far  
16 to look, but the case of Viola v Clover which  
17 is pending in Judge Hollie Gallagher's court.

18 THE COURT: The 20 number  
19 that Mr. Viola gave me earlier?

20 MR. COMSTOCK: You're correct,  
21 your Honor. There was a motion to dismiss  
22 filed on behalf of the Defendant which was  
23 overruled on a service issue. The motion to  
24 dismiss on the merits has not yet been ruled  
25 upon by the Court. In fact, there was a

1 hearing scheduled, and that hearing was  
2 continued giving the Court the opportunity to  
3 actually rule on the merits. No decision has  
4 been made in that case.

5 And I think if the Court looks at the  
6 other cases as well, they will find nothing  
7 that provides any substance to Mr. Viola's  
8 substantive issues in this case as to whether  
9 or not he had a good faith legal basis which  
10 to file his action.

11 When you look at the history of this  
12 case, both the pleadings before this Court and  
13 the actions before this Court, and all the  
14 other cases addressing these same identical  
15 arguments, there has been numerous rulings on  
16 the exact issues that have been raised here  
17 today, the Court can come but to one  
18 conclusion, and that is not only are the  
19 pleadings frivolous, but Mr. Viola filed his  
20 pleadings to harass all Defendants in this  
21 case.

22 I have nothing further, your Honor,  
23 other than to ask if this Court does rule in  
24 the movant's favor, that counsel be given the  
25 opportunity to submit cost bills or fee bills



1 for further consideration.

2 THE COURT: Thank you,  
3 Mr. Comstock. Do you have a closing argument  
4 Mr. Viola?

5 MR. VIOLA: Yes. Yes, your  
6 Honor. Thank you.

7 THE COURT: Of course.

8 - - - - -

9 PLAINTIFF'S CLOSING ARGUMENT

10 MR. VIOLA: Well, Mr.  
11 Comstock, I'll make you aware of this. On  
12 November 30th, 2020, the Court ruled the claim  
13 proceeding in Judge Gallagher's courtroom  
14 stated a claim for relief. This was not a  
15 service issue.

16 The Plaintiff's complaint, though  
17 inartfully drafted, does state claims of  
18 intentional infliction of emotional distress  
19 and spoliation, and requests monetary relief.  
20 They have tried to dismiss it repeatedly, but  
21 the Court has upheld the merits of that claim.

22 We have a situation that only Franz  
23 Kafka could have imagined where, in this same  
24 building, I'm being requested to be sanctioned  
25 for frivolous conduct while a judge upstairs

1 says I'm innocent, and another judge is  
2 letting one of these cases go to trial.

3 The complaint has a legal basis. It  
4 cites negligence. We had a duty of care  
5 towards each other. I can't get in the car  
6 and drive 400 miles an hour and hurt somebody.

7 When Kelly Connors called me and said  
8 she had information concerning the death of  
9 Dawn Pasela, and the romantic relationship  
10 between Kathryn Clover, and she decided later  
11 not to provide that information, I maintained  
12 that is a cause of action. This directly  
13 relates to my efforts to clear my name.

14 Same thing with these other  
15 Defendants where we have become aware of  
16 highly improper or criminal activities. Your  
17 Honor, could you imagine a juror sitting in  
18 judgment of a criminal Defendant, and later  
19 finding out the prosecutor was actually having  
20 a sexual relationship with a witness in court?

21 There could be no greater mockery of  
22 any type of fundamental fairness, or rule of  
23 law, or confidence in our judicial system, to  
24 have a prosecutor having a sexual relationship  
25 with a witness that, according to the

1 Government, testified falsely in my case.

2 I went to jail for a decade. I am on  
3 a quest to legally clear my name. I'm  
4 accessing the Courts to clear my name, to  
5 obtain evidence to clear my name. There is no  
6 greater insult or tragedy to have the death of  
7 a 26-year-old woman, Dawn Pasela.

8 Dan Kasaris thought it would be a  
9 good idea to wire up this young lady, have her  
10 pretend she was a criminal justice graduate  
11 student offering to help my defense, and join  
12 our defense trial preparation before trial.

13 When Ms. Pasela became aware that the  
14 prosecutors were suppressing, or for whatever  
15 reason not producing evidence, she provided me  
16 evidence that I used at a second trial on the  
17 same charges, and I was exonerated.

18 What type of Sixth Amendment right to  
19 counsel is there if the prosecutor can wire up  
20 their secretary and send them into the  
21 Defense's trial preparation? Everyone is  
22 saying everything that I am saying is true,  
23 but there's nothing anyone can do about it. I  
24 don't understand how on earth this could  
25 continue.

1                   THE COURT:                   Without cutting  
2                   off your ability to continue your argument, I  
3                   want to make it clear that I think what your  
4                   opponents are agreeing to is, for purposes of  
5                   this hearing, the truth of your allegations is  
6                   accepted. That, of course, was the situation  
7                   on the motion to dismiss.

8                   Your allegations, if true, are -- how  
9                   shall I put it politely -- disturbing. What  
10                  they don't do is state a cause of action or  
11                  the causes of action that you tried to assert  
12                  in the lawsuit. That's the underlying  
13                  problem.

14                 MR. VIOLA:                   Understood.

15                 THE COURT:                   I interrupted  
16                  you, and you may continue.

17                 MR. VIOLA:                   I just want to  
18                  say we have a factual basis for what we  
19                  presented in this complaint and a legal basis.

20                 Let me just address this briefly  
21                  because perhaps I have been too focused on the  
22                  facts.

23                 One claim for relief was failure to  
24                  report crimes. Another one was civil  
25                  conspiracy. A third was negligence. And

1 fourth was a request for declaratory judgment.

2 These are basic fundamental legal  
3 principles. This complaint was grounded in  
4 the law. We conducted legal research to  
5 determine what obligation, if any, somebody  
6 like Kelly Connors, who claims to have  
7 relevant information concerning these matters,  
8 who contacted me on unsolicited basis.

9 The question was, is there an action  
10 that can be brought in good faith? So I would  
11 maintain, your Honor, regardless of the  
12 dismissal of the claim, or how the case ended  
13 up resolving itself, the initial claim was  
14 filed in good faith.

15 I would conclude by saying nobody has  
16 objected or contested any of these facts.  
17 Yes, I have been interviewed in the media.  
18 Yes, there is a website about my case. Yes,  
19 we mail postcards. Everything we're saying is  
20 true. Everything we're saying is true. And  
21 the public awareness campaign has been  
22 extremely helpful.

23 Exhibit A is Kelly Patrick who came  
24 forward to help me, and others who came  
25 forward when they heard about this case. They

1 had relevant information. We are not doing  
2 anything to harass anyone. We are trying to  
3 use the Courts to obtain proper evidence.

4 In a pretrial that you held, I think  
5 probably about six or seven months ago, your  
6 Honor, you asked if the case could be  
7 resolved. I said yes. I want some of these  
8 documents and information. And I feel that I  
9 have acted in good faith to bring the case,  
10 which is based on these legal principles and a  
11 factual basis in the complaint, with all sorts  
12 of attachments so the Court would not have to  
13 take my word for it. And that we try to  
14 follow these legal principles of negligence  
15 and so forth which is the basis for a  
16 litigation.

17 So I would conclude by saying that  
18 I've acted in good faith. And, you know, I  
19 wouldn't wish what happened to me on anybody.  
20 But I ask each and every person in this  
21 courtroom to ask yourself if you were put on  
22 trial twice, and you were convicted and then  
23 subsequently acquitted, and you had a letter  
24 from a judge that said that you are innocent,  
25 and you had Courts appointing lawyers to help

1           you, and you have the largest law firm in the  
2           world, Covington & Burling -- God knows what  
3           the bill should be. They're doing it pro  
4           bono. They assigned six lawyers to assist me.

5           The idea that we're just supposed to  
6           forget about what happened, and forget about  
7           the death of Dawn Pasela, and all that's gone  
8           on in this case, when we have Defendants in  
9           this case that have knowledge and information  
10          directly related to my claims.

11          I ask each and every one of you, if  
12          you were put in jail for ten years, and had  
13          your career destroyed, and reputation  
14          destroyed, and lost your house, and clothes,  
15          and your car, and you have lost your friends,  
16          and you lost your family and everything, what  
17          would you do?

18          Your Honor, I'm fighting for justice  
19          to clear my name and I'm fighting for Dawn  
20          Pasela.

21          Thank you.

22          THE COURT:                    Thank you,  
23          Mr. Viola. I can say without hesitation that  
24          I, at a minimum, agree with one thing that you  
25          said, which was to the effect because a motion

1 to dismiss is granted, it does not mean the  
2 filing of the complaint was therefore  
3 sanctionable under Rule 11. I'm paraphrasing.  
4 You didn't say those exact words. That is  
5 definitely true. Just because a motion to  
6 dismiss is found to be well taken and granted  
7 does not indicate that the filing of the  
8 complaint was frivolous.

9 Your opponents think the complaint  
10 was frivolous. That is why they filed motions  
11 for sanctions. But you are certainly correct  
12 that the mere granting of a motion to dismiss  
13 does not equate to a finding of frivolous  
14 conduct under Rule 11.

15 It is your motion, Mr. Masch, so you  
16 are welcome, if you wish, to a final rebuttal  
17 argument, if you wish.

18 MR. MASCH: Your Honor, I'll  
19 stand on my closing argument.

20 THE COURT: Same offer to  
21 the other Defendants, Mr. Comstock?

22 - - - - -

23 DEFENDANTS FINAL CLOSING ARGUMENT

24 MR. COMSTOCK: Your Honor, the  
25 basis for the Plaintiff's entire argument is



1 that he was found innocent in State Court and,  
2 therefore, he was wronged in the Federal Court  
3 trial. It has been addressed, and again  
4 rejected by Judge Nugent.

5 Mr. Kasaris was part and parcel of  
6 the State Court action, and it was in that  
7 case that he was found innocent. If Mr.  
8 Kasaris -- if Mr. Viola has an issue, it is  
9 with the Federal Government, the case in which  
10 he was actually found guilty.

11 The issues here seem to be, however,  
12 directed at Mr. Kasaris. But that's not who  
13 was sued. He sued everybody else. One of the  
14 things that I find ironic, he claims in his  
15 complaint that Mr. Kasaris stole money from  
16 Kathryn Clover, and that he stole money from  
17 the trust, and that she's a victim. Yeah, if  
18 you believe she's been a victim twice because  
19 Mr. Viola sued her, too.

20 These folks were as innocent in this  
21 case as Mr. Viola claims that he was in his  
22 prosecutions. They are just standby folks  
23 that have nothing to do with his guilt or  
24 innocence. And, quite frankly, this Court is  
25 not the avenue, and this litigation is not the

1 proper place to try to prove his innocence.  
2 That was in Federal Court.

3 He has tried to prove that a number  
4 of times. If he really believes that he has  
5 the evidence to do so, he's welcome to go back  
6 to Judge Nugent and file an action there with  
7 his new evidence. But trying to circumvent  
8 that process by filing suits against people in  
9 this Court, and using this forum as a means to  
10 try to prove that, is just unbelievable.

11 It wouldn't be as bad if we did not  
12 have other people having to go through this  
13 process being dragged along simply because he  
14 doesn't like the outcome of a federal  
15 litigation.

16 Finally, I'm going to point out Judge  
17 Gaul's letter has been waved all over the  
18 place as to innocence. It is not necessarily  
19 what he says in that letter. But that letter  
20 was improper, and I'm sure Mr. Viola has  
21 failed to point out there is a case pending  
22 before the Office of the Disciplinary Counsel  
23 that they found wrongdoing by Judge Gaul.

24 That letter shouldn't be taken into  
25 consideration. It's not proper. It has

1 nothing to do with this. And I appreciate  
2 this Court focusing on the actual pleadings in  
3 evaluating the pleadings as filed.

4 THE COURT: I want to say  
5 thank you to all three of you. I appreciate  
6 your time and efforts this morning. I'm going  
7 to mark the motions as heard and submitted.

8 I will rule. I cannot tell you when.  
9 As quick as I can. Sometimes that is quite  
10 quick, other times not so quick, so keep your  
11 eye on the docket. Appreciate it.

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13 (Thereupon, the proceedings were concluded.)

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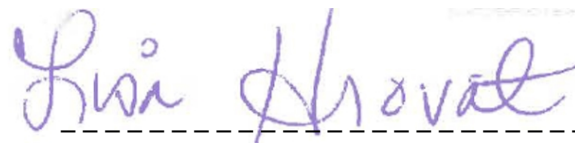
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C E R T I F I C A T E

I, Lisa Hrovat, Official Court Reporter for the Court of Common Pleas, Cuyahoga County, Ohio, do hereby certify that as such reporter I took down in stenotype all of the proceedings had in said Court of Common Pleas in the above-entitled cause; that I have transcribed my said stenotype notes into typewritten form, as appears in the foregoing Transcript of Proceedings; that said transcript is a complete record of the proceedings had in the trial of said cause and constitutes a true and correct Transcript of Proceedings had therein.



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Lisa Hrovat, RPR  
Official Court Reporter  
Cuyahoga County, Ohio