

IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT
DU PAGE COUNTY, ILLINOIS

IN RE THE MARRIAGE OF:)
THOMAS NEAL,)
Petitioner,)
and) No. 22 DC 915
MARIO NEAL,) Motions
Respondent.)

REPORT OF PROCEEDINGS had at the
hearing of the above-entitled cause, before the
Honorable LOUIS B. ARANDA, Judge of said court,
recorded on the DuPage County Computer-Based Digital
Recording System, DuPage County, Illinois, and
transcribed by THERESA HARRIS, Certified Shorthand
Official Court Reporter, commencing on the 30th day of
May, 2023.

1 PRESENT:

2 ROBERTS, PC, by
3 MR. CHUCK ROBERTS and
3 MR. RICK ROBERTS,

4 appeared on behalf of THOMAS NEAL,
5 Petitioner;

6 CHERNY LAW OFFICES, PC, by
7 MR. WILLIAM D. CHERNY,

8 appeared on behalf of MARIO NEAL,
9 Respondent;

10 ESP KREUZER CORES, LLP, by
11 MS. WENDY MUSIELAK (via Zoom),

12 Guardian Ad Litem on behalf of the minor
13 children.

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1 THE COURT: Good afternoon. Let the record
2 reflect that this is case No. 2022 DC 915, In Re: The
3 Marriage of Thomas Neal and Mario Neal.

4 Counsel, would each of you be so kind as to
5 introduce yourselves and who you represent?

6 MR. C. ROBERTS: Judge, Chuck Roberts for Tom
7 Neal.

8 MR. CHERNY: Good afternoon, your Honor. Bill
9 Cherny for Mario Neal.

10 MR. R. ROBERTS: And good afternoon, Judge. Rick
11 Roberts for Tom Neal as well.

12 THE COURT: Thank you.

13 Mr. Neal, would you kindly introduce
14 yourself?

15 MR. M. NEAL: Yeah, Mario Neal.

16 THE COURT: Thank you.

17 Sir, would you introduce yourself?

18 MR. T. NEAL: Thomas Neal.

19 THE COURT: Thank you.

20 And the matter comes before the Court for
21 hearing on the petitioner's petition for declaratory
22 judgment and the respondent's motion to set child
23 support.

24 And are the parties prepared to proceed to

1 hearing?

2 MR. C. ROBERTS: Yes.

3 MR. CHERNY: We are, your Honor.

4 THE COURT: I believe it makes sense, not only
5 because of the dates of filing but the progression of
6 that, to hear the petitioner's motion for declaratory
7 judgment first.

8 And, Mr. Roberts, this is your client's
9 motion. Do you wish to have an opening argument?

10 MR. C. ROBERTS: Judge, briefly, we'd have a
11 couple remarks, if I might, before we dive into that.

12 THE COURT: Yes.

13 MR. C. ROBERTS: And I'd advise the Court that
14 Ms. Musielak is on Zoom and she had hoped that perhaps
15 she could very briefly advise the Court before we start
16 the proceedings.

17 THE COURT: Thank you for letting me know that,
18 Mr. Roberts.

19 (Zoom recording started.)

20 THE COURT: Good afternoon, Ms. Musielak. Would
21 you be so kind as to introduce yourself?

22 MS. MUSIELAK: Good afternoon, your Honor. Wendy
23 Musielak. I'm the guardian ad litem.

24 THE COURT: Thank you. And the matter, as

1 indicated, comes before the Court for the petitioner's
2 petition for declaratory judgment and the respondent's
3 motion to set child support.

4 Before we get into those hearings,
5 Ms. Musielak, is there anything that you wish to report
6 relative to your investigation?

7 MS. MUSIELAK: Judge, I just wanted to advise your
8 Honor that the CAC still has an open investigation, so
9 we are waiting for them to finish their investigation,
10 so we'll need a status date to see where they're at
11 with that.

12 And I understand that the parties are still
13 looking into potential counselors. I have -- we have
14 not been able to select one yet.

15 THE COURT: All right. And, counsels, anything
16 that you wish to advise the Court relative to that
17 report?

18 MR. C. ROBERTS: No, Judge. I think that's
19 accurate.

20 MR. CHERNY: We're still working on finding a
21 therapist, your Honor.

22 THE COURT: All right. So that being the
23 situation, Ms. Musielak, we will select a -- a future
24 status date. We can maybe do that now while we have

1 Ms. Musielak on the line.

2 What is the -- what do the parties suggest
3 relative to a future status date after the hearings
4 this afternoon?

5 MR. C. ROBERTS: If we could go into --

6 MS. MUSIELAK: I understand that CAC tends to do
7 their meetings about what's going to happen next in the
8 middle of a month, so, like, probably the week -- week
9 of June 19th would be when they would be doing any kind
10 of meeting, so I think the earliest we would have any
11 true feedback from them would be the end of June.

12 THE COURT: Got it. And then just so that the
13 parties are aware, I have an all-week trial the end of
14 June, and then the first week of July I am out, so then
15 after, what is the parties' suggestion relative to --
16 to a future date?

17 MR. C. ROBERTS: Week of July 10th, Judge?

18 THE COURT: Let's see what I have. I think I have
19 July 11th. Is that available for everyone?

20 MR. C. ROBERTS: It's good here.

21 MR. CHERNY: I can't do the 11th, your Honor.
22 That's the only day that week.

23 THE COURT: And I believe that might be the only
24 week that I am available -- or the only day that week

1 that I am available. Let me just triple check.

2 MS. MUSIELAK: Judge, I'm out the 12th through the
3 14th of July.

4 THE COURT: Okay. So then let's maybe look at the
5 following week. How about July 18th at 11:10?

6 MR. C. ROBERTS: That's fine.

7 MS. MUSIELAK: That works for me.

8 MR. CHERNY: Me, too.

9 THE COURT: Wonderful. July 18th at 11:10 for
10 further status.

11 And, Ms. Musielak, we will include that in
12 today's order. So to that extent, unless there's
13 something else, or you wish to remain on for purposes
14 of the hearing on the petition for declaratory judgment
15 or the motion to set child support, you're otherwise
16 welcome to go.

17 MS. MUSIELAK: Judge, I'll sign off so that it
18 doesn't cost the parties any money for me to be here.

19 THE COURT: All right. Sounds good.

20 MS. MUSIELAK: Thank you.

21 THE COURT: Thank you, Ms. Musielak. Enjoy your
22 day.

23 MS. MUSIELAK: You, too.

24 THE COURT: Thank you. Bye-bye.

1 MR. C. ROBERTS: Judge, before we start I have two
2 oral motions.

3 | THE COURT: Yes, sir.

4 MR. C. ROBERTS: One is to exclude witnesses.

5 THE COURT: Certainly. To the extent that there's
6 any witnesses in the gallery that will be called, you
7 will be excused and the attorneys will come out and get
8 you.

9 MR. CHERNY: I would ask that -- I believe these
10 are Mr. Neal's, Tom Neal's parents and his sister. I
11 would ask that they be excused.

12 | THE COURT: Will they be called as witnesses?

13 | MR. C. ROBERTS: No.

14 MR. CHERNY: I may call them as witnesses.

15 THE COURT: You may?

16 MR. CHERNY: I may.

17 | THE COURT: All right. Then we will excuse you.

18 If you wish to go outside, Mr. -- Mr. Roberts will come
19 out and get you in the event that you'll be called.

20 UNIDENTIFIED SPEAKER: All right. Thank you,
21 Judge.

22 | THE COURT: Thank you. And anything further?

23 (Whereupon, the potential witnesses
24 left the courtroom.)

1 MR. CHERNY: My other oral motion is, your Honor,
2 that on May 25th Mr. Roberts, on behalf of Tom Neal,
3 filed a memorandum of law in support of Thomas Neal's
4 motion for declaratory judgment.

5 I'm not aware of any court standing orders
6 that those would be allowed. I wasn't given the
7 opportunity to -- to file any such memorandum of law,
8 so unless the Court is willing to -- to grant me an
9 opportunity to file findings of fact and conclusions of
10 law at the end of this hearing, I would ask that that
11 memorandum of law be stricken from the record.

12 THE COURT: And, I'm sorry, when was that filed?

13 MR. CHERNY: May 25th.

14 THE COURT: All right. I'm just pulling it up
15 because I didn't get a copy of it, so I'm not --

16 MR. C. ROBERTS: Judge, it was sent over to the
17 Court that day.

18 THE COURT: I just had something on this last
19 pretrial that I didn't get either, so it's quite
20 possible I didn't receive it, but I do see it filed on
21 May 25th.

22 I can certainly take the matter under
23 advisement and give counsel the opportunity to also
24 submit a memorandum of law, if that's what the parties

1 wish.

2 MR. C. ROBERTS: It's okay with me.

3 MR. CHERNY: That's fine.

4 One other thing, your Honor. I believe that
5 Mr. Roberts's clerk is sitting right behind me. I
6 would ask that she -- because my laptop is right here
7 that she move someplace else.

8 THE COURT: Oh, sure.

9 MR. C. ROBERTS: Sure. Come on over, Jen.

10 THE COURT: All right. What I'll do is at the end
11 of the hearing when the matter is taken under
12 advisement, I'll give time for counsel to submit his
13 own memorandum of law.

14 Mr. Cherny, what I'll do is then, since I
15 didn't receive Mr. Roberts' is ask him -- ask
16 Mr. Roberts to provide a courtesy copy to the Court at
17 that time.

18 MR. C. ROBERTS: Of course.

19 THE COURT: All right. And, again, my apologies,
20 as both of you may or may not know, but my secretary is
21 retiring after 33 years, so --

22 MR. C. ROBERTS: I'm surprised the Court is
23 permitting that, but --

24 THE COURT: So we're in that bit of a transition

1 where, like I just said, I had a pretrial just now that
2 one of the memos never made it, too, so maybe it turned
3 out for the best.

4 All right. Anything else, Mr. Cherny or
5 Mr. Roberts?

6 MR. CHERNY: No, your Honor.

7 MR. C. ROBERTS: No, sir.

8 THE COURT: All right. So, then, Mr. Roberts, any
9 opening statement that you wish to make?

10 MR. R. ROBERTS: Yes, Judge. We're set for
11 hearing this afternoon to determine the validity and
12 enforceability of the postnuptial agreement that was
13 signed and entered into by the parties on
14 September 19th, 2019.

15 The agreement was straightforward, easy to
16 understand, and was reached with little negotiation
17 between the parties. It was premised on the idea that
18 each party essentially walk away from the marriage with
19 what they brought into it; that Mario would receive the
20 sum of around 66 percent of the marital residence,
21 should it be sold, and that both parties waive their
22 right to come after maintenance, should the parties go
23 through a divorce.

24 Throughout the brief negotiation process,

1 both parties were represented by counsel. Both counsel
2 were experienced in the law, and their names were
3 Andrew Harger who represented Tom and Jaclyn DeSana who
4 represented Mario.

5 The Court will hear from Mr. Harger this
6 afternoon who will testify that the negotiation was
7 brief, that he submitted a draft postnuptial agreement
8 to Ms. DeSana who then sent some revised comments,
9 which were all agreed to by Mr. Tom Neal.

10 Thereafter, the parties signed the agreement
11 at Mr. Mario Neal's attorney's office. There was no
12 objection raised by Ms. DeSana at that time, no
13 objection raised by Mr. Mario Neal at that time, no
14 objection at all, just a few simple edits and a final
15 signing.

16 In determining the validity of this
17 agreement, the Court must look simply to contract law,
18 to 750 ILCS 502, and pursuant to Section 502 -- and
19 pursuant to Section 502, the agreement must be binding
20 and upheld by the Court unless there is any kind of
21 unconscionability that your Honor should find.

22 There are two types of unconscionability,
23 procedural, in that Mr. Mario Neal or Mr. Tom Neal were
24 deprived of a true choice in entering into this

1 agreement; or, substantively, which in that the terms
2 of the agreement were so offensively one-sided that no
3 rational man would have entered into the agreement.

4 This was not a complicated agreement. The
5 parties both had simple W-2 incomes and real property
6 and some bank accounts, that's it.

7 Based on the evidence that will be presented
8 this afternoon, an order should be entered holding the
9 September 19, 2019, postnuptial agreement valid and
10 enforceable and should be binding upon both of the
11 parties and the Court. Thank you.

12 THE COURT: Thank you.

13 Mr. Cherny, I'll similarly give you the
14 opportunity for an opening statement.

15 MR. CHERNY: I'll waive opening, your Honor, since
16 the Court is going to give us an opportunity to file
17 closing briefs.

18 THE COURT: Very well. All right. Just one
19 second. I wanted to write down that future date in my
20 notes.

21 And, Mr. Roberts, do you wish to call a first
22 witness?

23 MR. C. ROBERTS: Judge, if you'll permit me, I'll
24 step out. He's out in the hall. I'll be right back --

1 | THE COURT: Of course.

2 MR. C. ROBERTS: -- with Mr. Harger.

3 | THE COURT: Please.

4 And, sir, if you could kindly approach the
5 witness stand, remain standing, raise your right hand,
6 and be sworn.

7 (Witness sworn.)

8 THE COURT: Thank you, sir. That chair is --

9 THE WITNESS: I'm going to put this here. It's a
10 Kindle, so it's not --

11 | THE COURT: Understood. Thank you, sir.

12 That chair has got wheels on it. Just be
13 careful as you're getting in and out.

14 THE WITNESS: Thank you.

15 THE COURT: All right. When you're ready,
16 Mr. Roberts.

17 MR. C. ROBERTS: Thank you, Judge.

18 | ANDREW HARGER,

19 called as a witness on behalf of the Petitioner, having
20 been first duly sworn, was examined and testified as
21 follows:

22 DIRECT EXAMINATION

23 BY MR. C. ROBERTS:

24 Q. Sir, would you state your full name and spell

1 your last name for the Court?

2 A. Andrew Harger, H-a-r-g-e-r.

3 Q. And, Mr. Harger, you're appearing this
4 afternoon pursuant to a subpoena?

5 A. No, I did not receive a subpoena, just
6 voluntarily. You called and told me the date, and so
7 here I am.

8 Q. And what do you do for a living?

9 A. I'm an attorney.

10 Q. Are you licensed to practice in Illinois?

11 A. I am.

12 Q. And how long have you been so licensed?

13 A. 21 years in Illinois.

14 Q. Are you employed by a law firm?

15 A. I am self-employed.

16 Q. And is your practice at least primarily or
17 somewhat in the area of family law?

18 A. Primarily. Probably 85 or 90 percent.

19 Q. And if I could direct your attention now back
20 in time to September of 2019, were you similarly
21 engaged at that time?

22 A. I was, yes.

23 Q. And did you have occasion during the summer
24 of 2019 to represent Thomas Neal?

1 A. I did.

2 Q. And do you recognize him as the gentleman who
3 is here to my immediate right?

4 A. Correct.

5 Q. I'm going to show you what's been marked for
6 the record as Exhibit 1. It's actually probably
7 identified as Plaintiff's 1. I'll tender a copy to
8 Mr. Cherny.

9 MR. C. ROBERTS: With your permission, Judge, may
10 I approach?

11 THE COURT: You may.

12 MR. C. ROBERTS: Thank you, sir.

13 BY MR. C. ROBERTS:

14 Q. Would you please take a look at that and tell
15 the Court if you recognize that Plaintiff's Exhibit 1.

16 A. I do recognize it.

17 Q. And what is it, sir?

18 A. It looks like to be the postnuptial agreement
19 that was entered into by Tom Neal and Mario Neal.

20 Q. Let me ask you, if you would, please, to turn
21 back toward the end of the document. Mr. Harger, let's
22 take you back to page -- well, first of all, Page 14 of
23 the document.

24 A. Correct, I'm there.

1 Q. And on Page 14 do you recognize the signature
2 of Thomas Neal?

3 A. I don't recognize that as his signature, but
4 I watched him sign this document.

5 Q. The document at Page 14, has it been
6 witnessed?

7 A. It has been witnessed by two different
8 people.

9 Q. And are you familiar with either of those
10 individuals?

11 A. I believe they are employed by Mr. Mario
12 Neal's law office.

13 Q. And if I could, sir, I'd ask you to then look
14 at Page 15, the following page.

15 A. Yes.

16 Q. And now I bet I've got a signature here that
17 you'll recognize.

18 A. My signature I recognize, yes.

19 Q. And was the document also executed by an
20 attorney acting on behalf of Mario Neal?

21 A. Yes.

22 Q. Are there certain representations that are
23 made at the bottom of Page 14?

24 A. There are.

1 Q. And those are the representations of both
2 yourself and the attorney who represented Mario?

3 A. Correct.

4 Q. Did you prepare the first draft of this
5 document?

6 A. I prepared the first draft, yes.

7 Q. And is the document in essentially the same
8 form that it was in on the day on which it was
9 apparently signed by both Tom and Mario Neal?

10 A. Is this Exhibit 1? Yes, it appears to be,
11 yes.

12 MR. C. ROBERTS: Judge, I'd offer Exhibit 1.

13 THE COURT: Any objection to the admission of
14 Petitioner's Exhibit No. 1?

15 MR. CHERNY: No objection.

16 THE COURT: All right. Petitioner's Exhibit No. 1
17 is admitted.

18 MR. C. ROBERTS: A copy for the Court.

19 THE COURT: Thank you.

20 BY MR. C. ROBERTS:

21 Q. At my request, Mr. Harger, did you send me a
22 copy of the email traffic between you and the attorney
23 representing Mario Neal?

24 A. Yes.

1 Q. I'm going to hand you what's now been marked
2 as Plaintiff's Exhibit No. 2.

3 And do you recognize this, sir, as a
4 photocopy of the email traffic between you and
5 Ms. DeSana who was acting on behalf of Mario Neal?

6 A. I do, yes.

7 Q. If I could start with the first page which
8 has actually been Bates stamped Neal and a whole series
9 of zeros and then the number one.

10 Do you see that down at the bottom right-hand
11 corner?

12 A. Yes, I do.

13 Q. And is this a copy of the transmittal email
14 that you sent to Ms. DeSana?

15 A. Yes, it is. The -- at the bottom there it
16 is.

17 Q. And it enclosed a copy of the draft of the
18 postnup that you had prepared?

19 A. Correct.

20 Q. If I could, sir, I'm going to direct you back
21 to Bates No. 24.

22 A. On Exhibit 2?

23 Q. Yes, sir.

24 A. I'm there.

1 Q. And is this document a copy of the red-line
2 draft that Ms. DeSana sent back to you?

3 A. It appears to be, yes.

4 Q. In particular, there were some changes that
5 were requested on behalf of Mario Neal; is that right?

6 A. I assume they were requested on behalf of
7 Mario Neal. They were certainly requested by his
8 attorney.

9 Q. And, in particular, the changes adjusted the
10 percentage of the proceeds of the sale of the house in
11 the event that the property was liquidated, Page 6?

12 A. I think that was the most substantial change,
13 yes.

14 Q. Were there any changes requested by
15 Ms. DeSana on behalf of Mario Neal that were rejected
16 by Tom or by you?

17 A. No, I believe we accepted 100 percent of
18 their changes, as is reflected by the final document.

19 Q. And, in fact, sir, if I turn you -- direct
20 your attention to Bates Stamp 22.

21 A. Yeah, I'm there.

22 Q. Is this a copy of the September 10, 2019,
23 email from yourself to Ms. DeSana which states at the
24 first line, these changes are fine?

1 A. Yes.

2 Q. And turning your attention to Bates Stamp 21.

3 A. Yes, I'm there.

4 Q. Is that a September 13, 2019, email from
5 yourself to Ms. DeSana?

6 A. Yes, it is.

7 Q. And does this email transmit Exhibits A and C
8 to the document?

9 A. Yes, it does.

10 Q. And what are Exhibits A and C to the postnup?

11 A. I believe Exhibit A was Tom Neal's balance
12 sheet and C was the marital balance sheet.

13 Q. And at that time, sir, do you further ask
14 about Ms. DeSana's availability to sign the document
15 the following week?

16 A. Yes.

17 Q. Does it appear to you, sir, that Plaintiff's
18 Exhibit 2 is a true and accurate copy of your email
19 traffic between yourself and Ms. DeSana related to the
20 Neal postnup matter?

21 A. It does.

22 MR. C. ROBERTS: Judge, I'd offer Plaintiff's 2.

23 THE COURT: Any objection?

24 MR. CHERNY: No, your Honor.

1 THE COURT: All right.

2 MR. CHERNY: No objection.

3 THE COURT: Thank you, Mr. Cherny. Plaintiff's
4 Exhibit No. 2 is admitted.

5 MR. C. ROBERTS: Judge, I have a copy for the
6 Court.

7 THE COURT: Thank you, sir.

8 BY MR. C. ROBERTS:

9 Q. Was there, in fact, a meeting of yourself,
10 Ms. DeSana, Mr. Neal, and Mr. Neal that occurred on
11 September 19th of 2019?

12 A. I think it was the three of us and then a
13 different lawyer, not Ms. DeSana. It was another
14 partner in the firm that was there.

15 Q. On behalf of Mario Neal?

16 A. Yes.

17 Q. So you actually went to was it Ms. Blacha's
18 office?

19 A. Correct. In Naperville, I think. I think I
20 took the train out from the city. I live in the city.

21 Q. The document was signed that day?

22 A. It was signed that day.

23 Q. By both Neals?

24 A. Correct.

1 Q. By yourself?

2 A. Correct.

3 Q. And Ms. DeSana?

4 A. Not Ms. DeSana.

5 Q. I'm sorry. I keep saying that, and you keep
6 correcting me.

7 A. I think it was O'Connor I think was the name.
8 I'm not a hundred percent sure. I know it says on the
9 document, but another --

10 Q. On behalf of Mario Neal, correct?

11 A. Correct.

12 Q. And by the witnesses?

13 A. Correct.

14 Q. Was there any objection that was voiced by
15 anyone that day at Ms. Blacha's office to executing the
16 document at that time?

17 A. None.

18 Q. And at any time during the process between
19 your initial consultation with Tom Neal all the way
20 through the date at Blacha's office that the document
21 was executed, was there ever a claim of duress by
22 either Mario Neal or his lawyers that was voiced to
23 you?

24 A. No.

1 Q. Was there ever a claim that was voiced to you
2 of unfairness either by Mario Neal or by anyone acting
3 on his behalf?

4 A. No.

5 Q. Did anyone ever tell you during the process
6 that there were threats or that Mr. Mario Neal thought
7 threats had been made?

8 A. No.

9 Q. Were you ever made aware of any objection to
10 this document by either Mario Neal or anyone acting on
11 his behalf?

12 A. No one objected to it.

13 Q. Did you arrange for Ms. DeSana or anyone at
14 the Blacha Law Office to represent Mario Neal?

15 A. No.

16 Q. Did you pay Ms. DeSana's fee or
17 Ms. O'Connell's fee or anyone else acting on behalf of
18 Mario Neal?

19 A. No.

20 MR. C. ROBERTS: May I have just a moment, Judge?

21 THE COURT: You may.

22 BY MR. C. ROBERTS:

23 Q. Do you by any chance remember, sir -- you
24 said you took the train out from the city. Would that

1 | be to Naperville?

2 A. Yes, I think that was the stop, Naperville.

3 Q. And how did you get back to the city that day
4 after the signing?

5 A. The train as well.

6 Q. Did you get a ride to the train station?

7 A. When I was leaving the office, you know, Tom
8 Neal was there, and he asked how I was getting back to
9 the city, and I said I was taking the train, and it was
10 about a 15-minute walk, I think. And he said, we can
11 give you a ride, and Mario said that was okay, and I
12 got in the car and they drove me to the train station.

13 Q. They being Mario and Tom Neal?

14 A. Correct.

15 MR. C. ROBERTS: Nothing further at this time.

16 | Thank you.

17 | THE COURT: Thank you.

18 Mr. Cherny, any cross?

19 | CROSS-EXAMINATION

20 BY MR. CHERNY:

21 Q. Mr. Harger, you said that 85 percent of your
22 practice was family law; is that correct?

23 A. Correct.

24 Q. How much -- what percentage of your family

1 law practice is drafting postnuptial agreements?

2 A. It's hard to say. I do a few a year.

3 Q. How many pre -- premarital agreements,
4 prenuptial agreements?

5 A. The same, a few a year.

6 Q. All right. So let's go through the process.
7 Have you ever had one contested?

8 A. No.

9 Q. How long have you been practicing?

10 A. The first place I was admitted to practice
11 law was in Nebraska in the fall of 1995, so I have been
12 practicing almost 28 years.

13 Q. Have you taken any courses or done any CLEs
14 regarding prenuptial agreements or postnuptial
15 agreements?

16 A. I'm sure I have. I cannot specifically refer
17 to one, but I always -- always take a number of family
18 law CLE courses.

19 Q. All right. I'm assuming you went to law
20 school, so prior to law school did -- what -- where did
21 you get your undergraduate degree?

22 A. University of Nebraska Lincoln.

23 Q. And what was the degree in?

24 A. Philosophy.

1 Q. Do you have any accounting or financial
2 training whatsoever?

3 A. I do.

4 Q. And what is that?

5 A. My second job out of law school I worked at
6 what is now known as TD Ameritrade, which is an online
7 broker/dealer. I was a registered representative with
8 them, and then I passed the principal examination which
9 made me a principal of Ameritrade, and then I believe I
10 also passed the options principal examination as well.

11 Q. Do you still hold those licenses?

12 A. I haven't been employed by a broker/dealer
13 for 23 years, and it's required that you be employed to
14 hold the license, so the answer is no.

15 Q. All right. Now, there was apparently a
16 scrivener's error on Page 6?

17 A. Of Exhibit 1?

18 Q. Of Exhibit 2 -- or Exhibit 1.

19 Was the division of the marital residence
20 70 percent -- or 70/30 or two-thirds/one-third?

21 A. If you're referring to Exhibit 1 on Page 6, I
22 don't know what you're talking about.

23 Q. Not the Bates stamp page but the numbered
24 page.

1 A. This is Exhibit 1 and it says No. 6.
2 Q. At the bottom.
3 A. Right. I'm not sure what you're referring
4 to. Are you referring to Exhibit 2, the red-line
5 draft?

6 Q. No, I'm referring to letter D, paragraph D,
7 the last paragraph.

8 A. Okay. I don't --

9 THE COURT: So hold on.

10 MR. CHERNY: Which says --

11 THE COURT: So, Mr. Cherny, I apologize. I'm
12 lost. So which exhibit are we looking at and what
13 page?

14 MR. CHERNY: This is Plaintiff's Exhibit 1.

15 THE COURT: Yes, sir.

16 MR. CHERNY: Page number at the bottom, 6.

17 THE COURT: So Page 6 of Exhibit 1?

18 MR. CHERNY: It's not the Bates stamped page,
19 it's --

20 THE WITNESS: Right. I don't -- I don't know what
21 you mean by a scrivener's error on that page is what
22 I'm -- what my confusion is.

23 MR. CHERNY: I'm sorry. I don't mean to interrupt
24 you.

1 BY MR. CHERNY:

2 Q. The division of the house, the proceeds from
3 the sale of the house, was it 70/30 or
4 two-thirds/one-third?

5 A. 70/30, that's what it says.

6 Q. Okay. Now, on Page 8, and this is Roman
7 Numeral XII, Paragraph B, do you see that at the
8 bottom?

9 A. I do see that.

10 Q. All right. That's not correct?

11 A. I think that that probably should say
12 70 percent to Mario, 30 percent to Thomas. I think
13 that's a change that Mario's lawyer did not make when
14 they sent back the red-line copies.

15 Q. So you didn't review the red-line copy?

16 A. I did review it.

17 Q. Okay. So you missed it, too?

18 A. I don't have a specific recollection one way
19 or the other. Obviously it's in there.

20 Q. Now, when you draft postnuptial/prenuptial
21 agreements, I'm drawing your attention to the last page
22 of the postnup.

23 A. The last page meaning which doc -- the last
24 page of the Exhibit A?

1 Q. Yes.

2 A. Okay.

3 Q. Which says Exhibit A, Exhibit B, Exhibit C.

4 A. Sure.

5 Q. Is this standard?

6 A. It is.

7 Q. So did you do anything to verify any of these
8 amounts?

9 A. I -- I'm not sure how to answer that. I
10 don't believe my client, as far as I know, has waived
11 attorney-client privilege, so I don't think I can
12 answer it for that reason.

13 THE COURT: My understanding of the question was
14 it was a yes or no, not an explanation.

15 THE WITNESS: Fair. Yes, I did.

16 BY MR. CHERNY:

17 Q. You did review it?

18 A. You asked me -- the question I believe was
19 did I do anything to verify the accuracy.

20 Q. Yes.

21 A. And the answer is yes.

22 Q. What did you do?

23 A. That I cannot answer.

24 THE COURT: And --

1 MR. C. ROBERTS: Judge, I'll tell you -- I'm
2 sorry. You were in the middle of a sentence. I
3 apologize.

4 THE COURT: I was just going to ask the witness,
5 Mr. Harger, that if the explanation would lead to
6 Mr. Harger disclosing attorney-client privileges, is
7 that's what's being stated?

8 THE WITNESS: It would, yes.

9 THE COURT: Mr. Roberts?

10 MR. C. ROBERTS: We'll make it easy. We waive.

11 THE COURT: All right. Then Mr. Tom Neal, I saw
12 you nodding your head in the affirmative. Can you
13 speak that affirmative answer out?

14 Do you waive your attorney-client privilege
15 relative to the question at hand as it relates to what
16 Mr. Harger did to confirm the information on Exhibit A?

17 MR. T. NEAL: Yes.

18 THE COURT: All right. Based upon Mr. Tom Neal
19 waiving his attorney-client privilege relative to this
20 particular question, and we'll take them question by
21 question to ensure --

22 MR. CHERNY: Sure.

23 THE COURT: -- that the privilege is waived
24 relative to that answer.

1 Mr. Harger, then you're directed to answer
2 the question.

3 THE WITNESS: Sure. On Exhibit A, I confirmed
4 with Mr. Neal -- or Tom Neal and discussed the various
5 entries. He had some questions about the value of the
6 real estate and the equity, et cetera. We discussed
7 how you would calculate that, and I had a number of
8 discussions with him about it, so I can't remember a
9 specific detail, but generally that's what I did.

10 BY MR. CHERNY:

11 Q. Did you review the account numbers that
12 matched the Chase account -- the two Chase accounts,
13 the Edward Jones account, the post accounts?

14 A. I did not review account numbers, to the best
15 of my recollection. I don't believe there's even
16 account numbers on this exhibit.

17 Q. Who provided you with these numbers?

18 A. Tom Neal provided me with the number --
19 provided the numbers on Exhibit A and C, and I believe
20 on Exhibit B that was from Mario Neal and his attorney,
21 so I don't know who provided those numbers.

22 Q. Did you do these numbers on a spreadsheet, on
23 an electronic spreadsheet by chance?

24 A. That's another issue I'm going to -- you said

1 you wanted to go question by question.

2 THE COURT: I do, sir.

3 THE WITNESS: That would be an attorney-client
4 privilege as well.

5 It's along the same line, but I'm just
6 following your law bringing it to your attention.

7 THE COURT: Thank you. And I guess I wanted to
8 just mention, and I'm not sure of the -- of the
9 attorney-client privilege thus far.

10 Mr. Cherny is asking whether you had created
11 an Excel spreadsheet.

12 THE WITNESS: I did not create an Excel
13 spreadsheet. I'm always one step ahead. My apologies.

14 THE COURT: No worries.

15 BY MR. CHERNY:

16 Q. Did you add the numbers up?

17 A. I may have. I do not recall.

18 Q. In the course of preparing these types of
19 documents, is it standard operating procedure for you
20 to confirm the numbers, make sure the math is correct?

21 A. I don't see any math on this document, but it
22 is certainly standard operating procedure to speak with
23 your client to make sure that the numbers are accurate
24 and that they understand that they are accurate, and --

1 because that's the entire point of it.

2 Q. You testified that you were present at the
3 meeting --

4 THE COURT: I'm sorry, Mr. Cherny. One quick
5 second.

6 (Discussion held off the record.)

7 THE COURT: Mr. Cherny, can the Court have two
8 minutes, please?

9 MR. CHERNY: Absolutely.

10 THE COURT: All right. Thank you.

11 (Whereupon, the Court attended to other
12 matters on the call, after which the
13 following proceedings were had herein:)

14 THE COURT: Mr. Cherny, sir, when you're ready.
15 My apologies.

16 BY MR. CHERNY:

17 Q. Mr. Harger, you said you were present at the
18 meeting where the parties got together and signed this
19 document; is that correct?

20 A. Correct.

21 Q. Were you able to observe Mario Neal at the
22 signing?

23 A. Yes.

24 Q. And could you observe his demeanor at the

1 signing?

2 A. Yes.

3 Q. And what was that?

4 A. Normal, unaffected.

5 Q. Did he appear to be upset?

6 A. Not at all.

7 Q. Did he ever -- during that time did he ever
8 ask to take a break and go talk to his attorney?

9 A. The meeting commenced with a -- the parties
10 and their attorneys meeting separately in two different
11 rooms. I think that was maybe five or ten minutes.

12 After that five or ten minutes, Mario Neal's
13 attorney informed me they were ready to proceed. There
14 were no breaks thereafter. The rest of the meeting was
15 maybe another five or ten minutes at the most.

16 Q. You never met Mario before; is that correct?

17 A. Not before that date, correct.

18 Q. Have you met him subsequent, other than
19 taking a ride to --

20 A. No.

21 MR. CHERNY: I have nothing further.

22 THE COURT: Thank you. Any redirect?

23 MR. C. ROBERTS: Briefly.

1 REDIRECT EXAMINATION

2 BY MR. C. ROBERTS:

3 Q. Do you still have Exhibit 1 in front of you,
4 sir?

5 A. I do.

6 MR. C. ROBERTS: Judge, I don't want to belabor
7 the point. Is it all right as the afternoon progresses
8 if I just approach the witness without --9 THE COURT: You may. And, Mr. Cherny, you will
10 have the same privilege.

11 MR. CHERNY: Thank you, your Honor.

12 MR. C. ROBERTS: Thank you, Judge.

13 THE COURT: You bet.

14 BY MR. C. ROBERTS:

15 Q. If you could go back to Exhibit 1, sir.

16 A. Sure.

17 Q. At Page 6.

18 A. Page 6.

19 Q. Subparagraph D.

20 A. Correct.

21 Q. That paragraph addresses what happens in the
22 event that the property in Naperville is sold during
23 the term of the marriage; is that correct?

24 A. That's correct.

1 Q. And the division of the proceeds of the house
2 in the event of a sale during the marriage would be
3 70 percent to Mario and 30 percent to Tom?

4 A. That's absolutely correct, yes.

5 Q. And then if we could fast forward to Page 8,
6 Section 12, Paragraph 12, Subparagraph D that provides
7 for what happens in the event of a divorce to the
8 proceeds from the house; is that correct?

9 A. You are absolutely correct. There -- that
10 refreshes my recollection about this and that there's
11 no inconsistency between the two, because they're --
12 they're talking about different things, the
13 consequences of different events happening.

14 Q. So if I could summarize it, it would be 70/30
15 in the event of just an outright sale, but
16 two-thirds/one-third in the event of a divorce?

17 A. Correct.

18 MR. C. ROBERTS: I have nothing further.

19 THE COURT: Thank you.

20 Mr. Harger, I'll just remind you that that
21 chair has got wheels on it. Just be careful, but I
22 appreciate you coming and testifying.

23 THE WITNESS: Thank you. Am I excused?

24 THE COURT: You are excused.

1 THE WITNESS: I'm going to leave these exhibits
2 here. Thank you.

3 | THE COURT: Thank you.

4 (Witness excused.)

5 THE COURT: Mr. Roberts, do you have another
6 witness you wish to call?

7 MR. C. ROBERTS: I do. I call Mario Neal as an
8 adverse witness.

9 THE COURT: Mr. Neal, would you be so kind --

10 THE WITNESS: Sure.

11 THE COURT: -- as to approach the witness stand,
12 remain standing, and raise your right hand to be sworn.

13 (Witness sworn.)

14 THE COURT: Mr. Neal, that chair has got wheels on
15 it. Just be careful.

16 | THE WITNESS: All right.

17 | THE COURT: Thank you.

18 And I'm going to explain that to everybody
19 that there's a dip off of that witness stand. I just
20 want everybody to be --

21 | THE WITNESS: Thanks.

22 | THE COURT: Thank you.

23 Mr. Roberts, sir, when you're ready.

24 MR. C. ROBERTS: Thank you.

1 MARIO NEAL,
2 Respondent herein, called by the Petitioner herein
3 under the provisions of Section 5/12-1102 of the
4 Illinois Code of Civil Procedure, having been first
5 duly sworn, was examined and testified as follows:

EXAMINATION

7 | BY MR. C. ROBERTS:

8 Q. Sir, can you state your full name and spell
9 your last name for the Court?

10 A. Mario Cruz Neal, N-e-a-1 last name.

11 Q. And how old a man are you?

12 A. 40.

13 Q. Where do you live?

14 A. Naperville.

15 Q. I'm going to have you take a look, if you
16 would, please, at Exhibit 1 which I think is still in
17 front of you.

18 A. Exhibit 1, would that be this one here?

19 Q. The postnup, sir.

20 A. Just -- am I looking at a particular page?

21 Q. I'm sorry, Mr. Neal. Hang on one second.

22 It's the document that's labeled Plaintiff's Exhibit 1.
23 It says postnuptial agreement.

24 Is that what you have in front of you?

1 A. Yes, I do.

2 Q. Okay. Let me have you turn, if you would,
3 please, to Page 14.

4 A. Yes.

5 Q. Do you have it in front of you?

6 A. I do.

7 Q. And about halfway down the page do you see
8 the signature of Thomas T. Neal?

9 A. I do.

10 Q. And is that your husband?

11 A. Yes.

12 Q. And you recognize his signature?

13 A. Yes.

14 Q. And immediately to the right of the signature
15 of Thomas T. Neal there's a line that says Mario Neal.

16 Do you see that?

17 A. Yes, I do.

18 Q. And is that your signature above that line?

19 A. Yes, that is my signature.

20 Q. And this document is dated September 19th of
21 2019; is that correct?

22 A. That is correct.

23 MR. C. ROBERTS: If I could have just a moment,
24 Judge.

1 THE COURT: You bet.

2 BY MR. C. ROBERTS:

3 Q. Mr. Neal, back in that 2018-2019 time
4 frame --

5 A. Yes.

6 Q. -- did you and your husband file joint tax
7 returns?

8 A. Yes.

9 Q. And the two of you prepared those returns
10 together?

11 A. I -- not together. I was never privy to any
12 of the information on the taxes; he did them solely.

13 Q. You signed them?

14 A. He would take my -- it was electronic, so I
15 would -- he would just ask for my driver's license, and
16 I would provide that to him, but I did not sign them.

17 Q. And it's your testimony that those returns
18 were filed without you ever reviewing them?

19 A. I -- I have not once reviewed a single tax
20 return.

21 Q. You don't remember sitting in the basement
22 with Tom Neal while the two of you worked on Turbo Tax
23 to prepare returns?

24 A. The only time that I would be sitting with

1 him is if he had any questions regarding, like, my W-2,
2 anything regarding to my information that I was
3 providing, but beyond that there was nothing else
4 discussed.

5 Q. Tom knew what your income was?

6 A. Yes, he did.

7 Q. And you knew what Tom's income was?

8 A. No, I do not.

9 Q. You never knew at any time --

10 A. He never --

11 Q. Hang on.

12 You never knew at any time during your
13 marriage until this divorce was underway how much money
14 Tom Neal made?

15 A. There was one instance where I walked in his
16 office and I found his W-2, and then I confronted him
17 about it. I said, you make this much money, and he
18 said that -- no, that includes my expenses that I get
19 per year, which I was surprised because I know that a
20 W-2 does not include expenses.

21 Q. The last page of Exhibit 1 --

22 A. Yes.

23 Q. -- reflects Tom Neal's assets and
24 liabilities?

1 A. One second.

2 Q. Take your time.

3 A. Okay. Exhibit A. Yes.

4 Q. It's got Tom Neal's assets and liabilities
5 listed, correct?

6 A. That is correct, as far as I know.

7 Q. And then Exhibit B is your assets and
8 liabilities?

9 A. That -- that is correct.

10 Q. And with your testimony today being that you
11 didn't know what Tom Neal's income was at the time that
12 this document was signed --

13 A. Yes.

14 Q. -- you signed it without requiring that
15 income be added to Exhibit A or B, didn't you?

16 A. Well --

17 Q. Mr. Neal, let's just -- let's just try to
18 stick with the question.

19 You signed this document --

20 A. Correct.

21 Q. -- without knowing what Tom Neal's income
22 was, is that your testimony?

23 A. That is correct.

24 Q. You were represented in the negotiations and

1 execution of the postnuptial by Jackie DeSana?

2 A. That is correct.

3 Q. Jackie is -- at that time was a lawyer in
4 Naperville, Illinois?

5 A. Yes, that is correct.

6 Q. You found her on your own?

7 A. Yes, that is correct.

8 Q. Through an internet search of some sort?

9 A. Yes.

10 Q. You paid Jackie DeSana?

11 A. I did.

12 Q. You and Tom Neal had separate checking
13 accounts at that time?

14 A. Yes, we did, but he had access --

15 Q. Money from your income --

16 A. Correct.

17 Q. -- your wages went into your separate
18 checking account?

19 A. But he had access to my account because we
20 were --

21 Q. Mr. Neal, you were paid for your work?

22 A. Yes, that is correct.

23 Q. And your wages went into your separate
24 checking account?

1 A. It was a mut -- we both had our names on the
2 checking account. I did not have my name on his
3 account, but he had it on mine.

4 Q. That account is the one that you used to pay
5 Jackie DeSana?

6 A. That is correct.

7 Q. You wrote a check to her?

8 A. I -- you know what, I don't remember exactly
9 how the payment was, with a credit card or that.

10 Q. In any event, Tom Neal didn't pay your
11 lawyer, did he?

12 A. Well, it was -- at that point it was marital
13 assets, so it was combined, whatever, it was part of
14 the marriage.

15 Q. You paid Jackie DeSana yourself?

16 A. Yeah, I was the one that provided the
17 payment.

18 Q. You trusted Ms. DeSana?

19 A. Yes, as far as -- as far as -- yeah, I guess
20 so, yes.

21 Q. You liked her?

22 A. For the most part, yes.

23 Q. And, in fact, when this divorce was filed,
24 you hired her to represent you in this divorce, didn't

1 you?

2 A. That is correct. And can I ask --

3 THE COURT: Sir, hold on. Understand that
4 Mr. Roberts is going to be asking you questions.

5 THE WITNESS: Yeah.

6 THE COURT: And you'll be answering those
7 questions.

8 THE WITNESS: Okay.

9 THE COURT: Your attorney will be able to
10 follow --

11 THE WITNESS: Okay.

12 THE COURT: -- with any redirect questions at that
13 point.

14 THE WITNESS: Thank you.

15 THE COURT: We'll get through this so much quicker
16 if you just simply answer --

17 THE WITNESS: Okay.

18 THE COURT: -- the questions posed.

19 THE WITNESS: Thank you.

20 THE COURT: Thank you, sir.

21 BY MR. C. ROBERTS:

22 Q. In September of 2019 you were employed?

23 A. That is correct.

24 Q. You were a teacher?

1 A. Yes, I am.

2 Q. And in September of 2019 you were a teacher?

3 A. Yes, I believe so. I don't remember -- gosh,
4 yes, I believe so.

5 Q. At the time of the postnup.

6 A. Yes, I was.

7 Q. In fact -- in fact, one of the assets on
8 Exhibit C is your teacher's pension from District 203
9 over in Naperville?

10 A. Correct.

11 Q. Your understanding of this postnuptial
12 agreement is that in the event of a divorce, you get
13 two-thirds of the marital house?

14 A. Correct.

15 Q. And that's in addition to the other assets
16 that are on Exhibit C; is that correct?

17 A. Yes, that is correct.

18 Q. At the time that you signed this document,
19 September of 2019, you also had ownership interest in a
20 house in California?

21 A. I -- interest? I'm sorry.

22 Q. Did you own a house in California?

23 A. I did at one point, yes.

24 Q. And that's not listed on this exhibit, is it?

1 A. No, because I already sold it.

2 Q. It was sold at the time that this was entered
3 into?

4 A. I used the money to buy the house.

5 THE COURT: I'm sorry. I didn't hear that, sir.

6 THE WITNESS: We used the money from the sale from
7 California to buy our house in Naperville, so yeah,
8 that --

9 BY MR. C. ROBERTS:

10 Q. Do you know if your name is still on the
11 title to the California house?

12 A. It is right now, but -- and the only
13 reason -- oh, I guess it is, the title.

14 Q. So you still have ownership in the California
15 real estate?

16 A. Well, my sister bought it from me, and the
17 only reason why is because when we tried to do it, I
18 had to be there in person to change because it was
19 going to change her taxes liability, so I told her that
20 at one point --

21 Q. So I'm going to stop you there, sir.

22 So the point is, your name is still on the
23 title?

24 A. There's a loan on it, yes.

1 Q. Okay.

2 A. She took the loan. I'm not on the loan.

3 Q. Did anyone force you on the day that you
4 signed this postnuptial agreement to sign it?

5 A. I believe -- I was not -- I was threatened to
6 do it.

7 Q. And who threatened you, sir?

8 A. Pam Neal, Jim Neal, and Thomas Neal.

9 THE COURT: I'm sorry. So I missed the first --
10 can you repeat the names again?

11 THE WITNESS: Thomas Neal --

12 THE COURT: What I'd ask you is this, if you could
13 sit closer to what appears to be a microphone --

14 THE WITNESS: Okay, yeah.

15 THE COURT: -- but not so close that it muffles
16 your words.

17 THE WITNESS: All right.

18 THE COURT: Can you repeat the names of those
19 individuals again?

20 THE WITNESS: Yes. Thomas Neal, Pam Neal, and Jim
21 Neal.

22 BY MR. C. ROBERTS:

23 Q. Now, were Pam Neal or Jim Neal at the signing
24 of this document?

1 A. No, they were not.

2 Q. So it's your testimony that they threatened
3 you from a distance?

4 A. They had been living in our house for a
5 month.

6 Q. I'm sorry, sir?

7 A. Yeah, they had been living in our house for a
8 month until I signed it.

9 Q. Did you tell anyone on the day of the signing
10 that you were being threatened or forced or coerced
11 into signing this?

12 A. I had expressed concerns to my immigration
13 attorney, my therapist.

14 Q. Mr. Neal, let's just talk about the day that
15 you signed this. You went over to Blacha Law Office?

16 A. Yes, that is correct.

17 Q. You met with Ms. O'Connell who is a partner
18 over there?

19 A. That is correct.

20 Q. She's a lawyer?

21 A. That is correct.

22 Q. Did you tell anyone at the signing that you
23 were being forced, threatened, or coerced into signing
24 this document?

1 A. Not -- not at the day of the signing at the
2 court -- I mean at the office.

3 Q. You just went ahead and signed it?

4 A. Correct.

5 Q. And then you and your husband took his lawyer
6 to the train station?

7 A. Yeah, and I had refused, and he had tried
8 to -- he told me that it was --

9 Q. Mr. Neal?

10 A. Yes.

11 Q. Do you know what happened --

12 A. Yes.

13 Q. -- you signed the document, and then you
14 took --

15 A. Yes.

16 Q. -- the gentleman who was here a few minutes
17 ago to the train station and delivered him --

18 A. That is correct.

19 Q. -- to -- okay.

20 MR. C. ROBERTS: That's all I have at this point,
21 Judge.

22 THE COURT: Thank you.

23 Mr. Cherny, sir?

24

1 EXAMINATION

2 BY MR. CHERNY:

3 Q. Mario, Mr. Roberts asked you about the
4 payment out of the checking account.

5 Do you recall what checking account that was?

6 A. Yes. At that point I only had one checking
7 account.

8 Q. And where was the checking account at?

9 A. Chase.

10 Q. Do you recall the last four digits of the
11 account number?

12 A. 5409, 5408, something like that.

13 THE COURT: I'm sorry. Sir, sometimes you tail
14 off on your words. I can't hear what you're saying.15 THE WITNESS: So I don't remember exactly, but I
16 think it's 5802 or 08.

17 BY MR. CHERNY:

18 Q. Could it be 4205?

19 A. Yeah, sorry, that is correct. Sorry.

20 Q. All right. Do you hold that -- or at the
21 time did you hold that account with anybody else?

22 A. Well, with Tom Neal.

23 Q. So he had access to that account; is that
24 correct?

1 A. Yes, he did.

2 Q. And he could write checks out of that
3 account, correct?

4 A. Yeah, that is correct.

5 Q. Did he indeed write checks out of that
6 account?

7 A. I don't recall him doing it.

8 Q. All right. Are you aware if he had access to
9 that account, to the checking account?

10 A. He -- he did because he would always bring up
11 every time there was something that he questioned.

12 Q. And besides writing a check to Ms. DeSana's
13 law firm, what was that account used for?

14 A. For just my direct deposits from work.

15 MR. C. ROBERTS: Sorry, Judge. I couldn't make
16 that out.

17 THE COURT: Yeah.

18 THE WITNESS: Sorry.

19 THE COURT: So you continue to tail off, and it's
20 okay. It's all right. It's, you know -- you're doing
21 your best, but if you can keep your voice up and
22 clearly so that we can all hear.

23 THE WITNESS: Okay. I will try it again. I'm
24 sorry. Can you repeat your question again?

1 MR. C. ROBERTS: It wasn't my question.

2 BY MR. CHERNY:

3 Q. What was that account used for?

4 A. So that account was where I had my direct
5 deposits from work, and so in that account I used to
6 pay all the credit cards.

7 Q. Did Tom Neal deposit his income checks, the
8 checks from his employer in that account?

9 A. No, he did not.

10 Q. You said you were threatened into signing the
11 postnup by Pam Neal, Tom Neal, and Jim Neal; is that
12 correct?

13 A. That is correct.

14 Q. And where were -- where did they threaten
15 you? Where were you located?

16 A. At the 929 Spindletree home.

17 Q. All right.

18 THE COURT: I'm sorry.

19 MR. CHERNY: You have to speak slower.

20 THE COURT: What did you say before the home?

21 THE WITNESS: Yes, I just -- the address,
22 929 Spindletree, our house.

23 BY MR. CHERNY:

24 Q. Your house?

1 A. Yes.

2 Q. And when you say your house, whose house was
3 it?

4 A. Tom and mine.

5 Q. All right. Did Pam and Jim Neal live
6 someplace else?

7 A. (Indiscernible) Michigan.

8 Q. Where at in Michigan?

9 A. East Lansing.

10 Q. And why were they at the house prior to you
11 signing the postnup?

12 A. Because they -- they were there to make sure
13 that I signed it.

14 Q. All right. They're here today; is that
15 correct?

16 A. That is correct.

17 Q. What did they say to you and what did you say
18 to them?

19 A. Well --

20 MR. C. ROBERTS: Could we find out when that
21 conversation was, Judge? Objection to the foundation.

22 THE COURT: Sustained.

23 If we can get a time period as to when that
24 happened.

1 BY MR. CHERNY:

2 Q. When do you recall the first time they
3 threatened you?

4 A. So that -- that summer, I believe it was in
5 July, end of July.

6 Q. All right. And did you -- where was the
7 meeting at?

8 A. At our house.

9 Q. All right. Who else -- who was at the
10 meeting?

11 A. The -- they were all at the house together,
12 but every time that -- the one that when Pam mentioned
13 one of them, Tom was present.

14 Q. And was Jim Neal present as well?

15 A. No.

16 Q. All right. So when do you recall the first
17 time you had the meeting?

18 A. Well, it wasn't more of a meeting, but Tom
19 said that if I didn't sign it that I was not going to
20 see the kids, and then Pam at that point said, that's
21 right, unless you sign it, you won't see the kids.

22 MR. C. ROBERTS: Objection. Hearsay.

23 THE WITNESS: And they took --

24 THE COURT: Hold on. Hold on, sir. Anytime you

1 hear the word objection, I need you to stop.

2 THE WITNESS: Okay.

3 THE COURT: Yes, Mr. Roberts?

4 MR. C. ROBERTS: Objection as to what Pam said.

5 THE COURT: And the objection is hearsay?

6 MR. C. ROBERTS: Yes, sir.

7 THE COURT: Yes.

8 MR. CHERNY: They are present here, your Honor.

9 They could be called as witnesses.

10 THE COURT: My understanding is that Mr. Roberts
11 is not calling them as a witness, so at this point it
12 is hearsay.

13 BY MR. CHERNY:

14 Q. The house in California, Mario --

15 A. Yes.

16 Q. -- when did -- when was the house sold to
17 your sister, do you recall?

18 A. It was right before we moved into the
19 Spindletree home, so I would -- two thousand -- I don't
20 have the exact -- it was a date -- it was right before
21 we bought the house, so I think we bought the house in
22 March of 2018, so I probably sold it to my sister in
23 January of that year, if I -- somewhere around there.

24 Q. All right. And did you receive money for the

1 sale of the house?

2 A. Yes, I did.

3 Q. Do you recall about how much you received?

4 A. I believe it was somewhere around \$160,000,
5 \$170,000.

6 Q. What did you do with that money?

7 A. I deposited it into a -- to my investment
8 account with Charles Schwab.

9 Q. All right. Is it still in the Charles Schwab
10 account?

11 A. No, it's no longer there.

12 Q. What happened to the money?

13 A. I wrote a check and handed it to Thomas Neal.

14 Q. Do you know what Thomas Neal did with the
15 check?

16 A. He deposited it to Chase, his Chase account.

17 Q. All right. Was any of that money used to buy
18 the house on Spindletree?

19 A. Yes, all of it.

20 Q. All of it was?

21 MR. CHERNY: I don't have any further questions
22 subject to direct, your Honor.

23 THE COURT: Yes, sir.

24 Mr. Roberts, any redirect, sir?

1 EXAMINATION

2 BY MR. C. ROBERTS:

3 Q. So as a result of the coercion, threats, and
4 force exerted upon you --

5 A. Yes.

6 Q. -- by Pam and Jim and Thomas, they forced you
7 to sign an agreement under which you'd get 70 percent
8 of the house and Tom would get 30 percent of the house
9 if it got sold, is that what you're saying here?

10 MR. CHERNY: Objection. Misstates the testimony.

11 THE COURT: Mr. Roberts?

12 MR. C. ROBERTS: I think it states exactly what
13 this gentleman is now claiming.14 THE COURT: I think the way it's phrased, the way
15 the question was phrased, it appears to have
16 characterized Mr. Mario's testimony in that regard. I
17 think that's different than what was admitted into
18 evidence as the agreement, which he's not yet testified
19 to.20 On that basis and the way the question was
21 phrased, the objection is sustained.

22 MR. C. ROBERTS: Let me see if I can fix it.

23 THE COURT: Thank you.

24

1 BY MR. C. ROBERTS:

2 Q. As a result of this tremendous coercion that
3 was exerted upon you by the three individuals, I won't
4 run through their names again, you entered into a
5 postnup whereby in the event of a divorce, you get
6 two-thirds of the house and Tom gets one-third; is that
7 correct?

8 MR. CHERNY: Objection. Misstates the testimony.
9 That's not what he testified to, your Honor.

10 THE COURT: I think this question is different
11 than the last. The last question was phrased you're
12 saying that or your testimony is that.

13 This is saying under the -- under the
14 prenuptial agreement that was signed September of 2019,
15 it states that he receives that amount, so I think this
16 question is different than the last. The objection is
17 overruled.

18 Sir, you may answer the question.

19 THE WITNESS: Yes, because that was the money I
20 put into the house.

21 THE COURT: I'm sorry. I did not hear the last
22 part. Yes?

23 THE WITNESS: Yes, because that was the money I
24 put into the house. That was my money.

1 BY MR. C. ROBERTS:

2 Q. And they forced you to take your money back
3 under the terms of the postnup?

4 A. They forced me to sign a commitment that I
5 was not comfortable with.

6 Q. Which forced you to take back, depending on
7 whether it's a divorce or an outright sale, either
8 two-thirds or 70 percent?

9 MR. CHERNY: Objection. Asked and answered.

10 THE COURT: This is a different question.
11 Overruled.

12 THE WITNESS: Correct.

13 MR. C. ROBERTS: Okay. That's it. Thank you.

14 THE COURT: All right. Mr. Neal, you may stand
15 down, sir, and sit back with your attorney if you wish.
16 Just be careful getting out of the chair.

17 (Witness excused.)

18 THE COURT: And, Mr. Roberts, any other witnesses
19 you wish to call?

20 MR. C. ROBERTS: Judge, I call Thomas Neal.

21 THE COURT: Mr. Neal, if you'd approach the
22 witness stand, remain standing, and raise your right
23 hand to be sworn.

24 (Witness sworn.)

1 THE COURT: Mr. Neal, that chair's got wheels on
2 it, so if you could be careful getting in.

3 THE WITNESS: Okay. Thank you.

4 THE COURT: Thank you, sir.

5 Mr. Roberts, when you're ready, sir.

6 THOMAS T. NEAL,

7 called as a witness on behalf of the Petitioner, having
8 been first duly sworn, was examined and testified as
9 follows:

10 DIRECT EXAMINATION

11 BY MR. C. ROBERTS:

12 Q. State your full name and spell your last
13 name?

14 A. Thomas T. Neal, N-e-a-l.

15 Q. You're married to Mario Neal?

16 A. Yes, I am.

17 Q. The two of you were married in June of 2014?

18 A. Yes.

19 Q. How old are you?

20 A. 38.

21 Q. Is Exhibit 1 still up there on the --

22 A. Yes.

23 Q. -- on the ledge in front of you, Mr. Neal?

24 A. It is.

1 Q. Do you recognize that document?

2 A. Yes.

3 Q. What is it?

4 A. Postnuptial agreement.

5 Q. And let's turn to about two pages before the
6 end of that, which I think is about Page 14.

7 Do you have that in front of you?

8 A. Yes.

9 Q. About halfway down the page, sir, on the left
10 side, is there a signature?

11 A. Yes.

12 Q. Whose signature is it?

13 A. Mine.

14 Q. And off to the right is there another
15 signature?

16 A. Yes.

17 Q. Whose signature is it?

18 A. Mario's.

19 Q. Mario Neal?

20 A. Yes.

21 Q. Your husband?

22 A. Correct.

23 Q. And you've had occasion over the years to see
24 Mario Neal's signature?

1 A. Yes, I have.

2 Q. This document was signed September 19th of
3 2019?

4 A. Yes.

5 Q. And where was the document executed?

6 A. At a law office on the north side of
7 Naperville, Blacha Law Office.

8 Q. And who was there that day?

9 A. I was there with Mario, we drove there, each
10 of our attorneys, a couple of people who were
11 identified as the witnesses to do the seal.

12 Q. You and Mario drove there together?

13 A. Yes, we did.

14 Q. Was there any fighting in the car?

15 A. No.

16 Q. Any arguments or anything else --

17 A. No argument.

18 Q. -- on the way over?

19 A. No.

20 Q. How long in total were you at the Blacha Law
21 Office that day?

22 A. Maybe 20, 30 minutes.

23 Q. Did you pay your lawyer?

24 A. Yes.

1 Q. That was Mr. Harger?

2 A. Yes.

3 Q. Did you pay Mario's lawyer?

4 A. No.

5 Q. Did you find Mario's lawyer for him?

6 A. No.

7 Q. You heard Mario's answers to Mr. Cherny's
8 questions about a Chase account.

9 Do you remember that?

10 A. Yes.

11 Q. Mr. Cherny suggested that the last four
12 digits of the Chase account were 4205.

13 Are you familiar with that account?

14 A. I'm aware that Mario has a Chase account. I
15 have never had access to any of his accounts. I've
16 never made deposits or debits from any account
17 attributed to Mario.

18 Q. Well, you heard Mario Neal say that your name
19 is on the account.

20 A. I don't currently have an account with any
21 name shared with Mario's accounts.

22 Q. But I'm trying to take you back to September
23 of 2019. Let's put aside what might be happening
24 today. Okay?

1 So for purposes of my question, do you know
2 if your name was on Mario's account in September
3 of 2019?

4 A. I don't recall. I'm not sure.

5 Q. In September of 2019 when this document was
6 executed, were you employed?

7 A. Yes.

8 Q. Where were you employed?

9 A. National Pasteurized Eggs.

10 Q. Is that a business enterprise?

11 A. Yes.

12 Q. Was Mario employed?

13 A. Yes.

14 Q. What did Mario do in September of 2019?

15 A. School teacher.

16 Q. And that's that District 203 job?

17 A. Yes.

18 Q. In September of 2019 where did Mario's
19 employment income go?

20 A. To an account pertaining to Mario. I -- I
21 couldn't tell you what account it is. I don't know
22 that information.

23 Q. Where did your employment income go?

24 A. To my checking account.

1 Q. You heard Mario testify that he had no idea
2 how much money you made in September of 2019. You
3 heard that testimony?

4 A. I did.

5 Q. Did you know how much money Mario made?

6 A. I did.

7 Q. How did you know?

8 A. Because we prepared taxes jointly.

9 Q. What do you mean by jointly?

10 A. The federal and state tax returns, we
11 selected the married filing jointly option which means
12 that we needed to file together.

13 Q. All right. Now we're about to get accused of
14 the same thing that Mario was doing. You've got to
15 keep your voice up so everybody can hear you, okay,
16 because you're starting to tail off a little bit at the
17 end of your answers.

18 A. Okay. Sorry about that.

19 Q. So please do your best. Keep your voice up
20 so we can all hear you. Okay?

21 A. Understood.

22 Q. So you knew how much money Mario made. Did
23 Mario know how much money you made?

24 A. Yes.

1 Q. How would Mario have known that?

2 A. We frequently discussed such information. We
3 prepared taxes together.

4 MR. CHERNY: Objection. Foundation.

5 THE COURT: The answer to that point had already
6 been given to the question, but any further response is
7 objected to based upon foundation.

8 The objection as to any further response is
9 sustained due to foundation objection.

10 BY MR. ROBERTS:

11 Q. Did you and Mario prepare a joint tax return
12 for tax year 2019?

13 A. Yes, we did.

14 Q. And when you say yes, we prepared it, what do
15 you mean? How -- how mechanically was the return
16 prepared?

17 A. We used Turbo Tax software.

18 Q. Where?

19 A. In our home office, we both have a desk in
20 there. We sat in there and did that.

21 Q. Did you do it together or separately?

22 A. Together over the course of a few days.

23 Q. You heard Mario testify that you wouldn't
24 allow him to see any of the -- any of your tax returns.

1 You heard that?

2 A. I heard that.

3 Q. Do you agree with that?

4 A. I do not agree with that.

5 Q. For tax year 2018, was there a joint return
6 prepared?

7 A. Yes, there was.

8 Q. Was it done the same way as the 2019?

9 A. Yes.

10 Q. Did you tell -- for 2018, did you tell Mario
11 how much money you made?

12 A. Yes, I did.

13 Q. Did he see your W-2?

14 A. Yes.

15 Q. Did you know how much money Mario made --

16 A. Yes.

17 Q. -- for 2018?

18 A. Yes.

19 Q. Did you see his W-2?

20 A. Yes.

21 Q. If you, sir, would look at the last page of
22 Exhibit 1, is that the Schedule A, B, and C document?

23 A. Yes, it is.

24 Q. And does Exhibit A -- and does Schedule A

1 disclose your assets and liabilities?

2 A. Yes, it does.

3 Q. And if I come down about -- do you have that
4 in front of you, sir?

5 A. Yes, I do.

6 Q. Okay. If I come down about a third of the
7 way down that last page of Exhibit 1, there's an entry?

8 MR. CHERNY: Exhibit 1?

9 MR. C. ROBERTS: Exhibit 1 is the -- Plaintiff's
10 Exhibit 1 is the document that Mr. Neal is referring
11 to.

12 BY MR. C. ROBERTS:

13 Q. And a third of the way down that attachment,
14 sir, that last page, there's an entry called liability
15 type.

16 Do you see that?

17 A. Yes, I do.

18 Q. And what is that?

19 A. That's a personal loan that I have.

20 Q. And what was the purpose of that?

21 A. To partially fund the purchase of the marital
22 residence in Naperville.

23 Q. So let's talk about how that acquisition was
24 funded. All right?

1 You put some money in and Mario put some
2 money in, correct?

3 A. Correct.

4 Q. And did Mario put in more money than you did?

5 A. Yes, he did.

6 Q. And is it your understanding, sir, that in
7 the event of a divorce that this Plaintiff's Exhibit 1
8 would give more than 50 percent of the house proceeds
9 to Mario?

10 A. Yes, it is.

11 Q. And, in fact, the actual percentage is set
12 forth in the document, isn't it?

13 A. Yes.

14 Q. And what is that percentage?

15 A. Two-thirds, one-third.

16 Q. And out of that one-third in the event of a
17 divorce that would come back to you, you would be
18 solely responsible for this entry that says personal
19 loan, wouldn't you?

20 A. That's correct.

21 Q. Mario doesn't have to pay any of that, does
22 he?

23 A. No.

24 Q. And at the time this postnup was entered

1 into, the amount that was owed was 101,000?

2 A. Yes, that's correct.

3 Q. Let's look down on Exhibit B of this last
4 page of Plaintiff's 1.

5 Do you see those entries under Exhibit B?

6 A. Yes, I do.

7 Q. The last entry under Exhibit B says
8 Naperville 203 pension, correct?

9 A. Yes.

10 Q. Is that Mario's pension?

11 A. Yes, it is.

12 Q. Do you know how much that was worth at the
13 time?

14 A. I don't know.

15 Q. And then, Mr. Neal, if you'd follow down with
16 me even further down on this piece of paper, there's an
17 entry that says marital liabilities.

18 Do you see that?

19 A. Yes.

20 Q. And then a subparagraph one, and it says
21 none --

22 A. Yes.

23 Q. -- right?

24 And is that in your mind consistent with your

1 testimony that Mario would not have to pay back any
2 portion of that personal loan?

3 A. That's correct.

4 Q. In the event of a divorce?

5 A. Yes.

6 Q. Okay. Now, you also heard about threats from
7 yourself and threats from Jim Neal and threats from Pam
8 Neal to apparently compel Mario to enter into this
9 agreement.

10 You heard that testimony?

11 A. I heard that.

12 Q. And do you agree with that or disagree with
13 that?

14 A. I disagree with that.

15 Q. All right. Let's take you first. Did you
16 threaten, force, or coerce in any way Mario Neal to
17 enter into this deal?

18 A. No, I did not.

19 Q. Did you ever see or were you ever told that
20 Jim Neal had in some manner compelled Mario to do this?

21 A. No.

22 MR. CHERNY: Objection. Hearsay.

23 THE COURT: Mr. Roberts, the objection is hearsay.

24 MR. C. ROBERTS: It's a pretty good objection.

1 Let me see if I can fix it, Judge.

2 THE COURT: All right.

3 MR. C. ROBERTS: I'll withdraw the question.

4 THE COURT: All right. So the question is
5 withdrawn. The answer that came after the objection is
6 stricken.

7 Mr. Roberts, when you're ready.

8 BY MR. C. ROBERTS:

9 Q. Did Mario Neal ever tell you that he had been
10 threatened, forced, or coerced by Jim Neal to enter
11 into this postnup?

12 A. No, he did not tell me that.

13 Q. And if I asked you the same question but I
14 substituted Pam Neal for Jim Neal, what would your
15 answer be?

16 A. No.

17 MR. C. ROBERTS: That's all I have at this time,
18 Judge.

19 THE COURT: Thank you.

20 And, Mr. Cherny, cross-examination, sir?

21 MR. CHERNY: I'm sorry, Judge?

22 THE COURT: Cross-examination?

23

24

CROSS-EXAMINATION

BY MR. CHERNY:

Q. Now, Mr. Neal, you said you never had access to the account No. 4205, the Chase account; is that correct?

A. That's correct.

Q. And do you believe that -- or do you know if that was a joint account or not a joint account?

A. I don't know.

Q. Drawing your attention to the last page of Exhibit 1, do you see that where it has Thomas Neal's assets and liabilities? Let me back up.

What's your highest level of education?

A. I have a BA.

Q. In?

A. In international relations.

Q. All right. What do you do for a living?

A. I ' m a salesman .

Q. And what does that entitle -- or entail?

A. I sell products for my employer.

Q. Do you prepare spreadsheets as part of that work?

A. I do occasionally.

Q. This Exhibit A on the last page, did you

1 prepare this Exhibit A?

2 A. Yes, I did.

3 Q. And did -- how did you go about preparing it?

4 A. Well, my attorney, Andy Harger, requested
5 this information, so I pulled each account that
6 pertains to me, and I identified the value as of that
7 date.

8 Q. Okay. So let's go through these accounts.

9 So when I ask you the same questions you recall on
10 direct, we get the right account numbers.

11 So the first checking account, the Chase
12 account, is that the account that ends in 2328?

13 A. I don't see an account number there.

14 Q. All right. But you've accessed an account
15 and that's how you came up with those numbers; is that
16 correct?

17 You took a look somewhere and you found what
18 that number, that thirty-eight eighty-three
19 seventy-nine number; is that correct?

20 A. Yes, I did.

21 Q. Okay. And the same with the next one,
22 there's an account?

23 A. Yes, that's my savings account.

24 Q. That's your savings account.

1 Does Mario have access to that savings
2 account?

3 A. Not at this time.

4 Q. Did he ever?

5 A. I don't recall.

6 Q. And the checking account, did he ever have
7 access to that checking account?

8 A. I don't believe so.

9 Q. All right. The Edward Jones account, the
10 Roth IRA, is that -- is that an account that's in your
11 name?

12 A. Yes, it is.

13 Q. The post 401K account, is that an account
14 that's in your name?

15 A. Yes, it is.

16 Q. And I'll just go through these.

17 So all these accounts, you accessed something
18 to come up with those numbers; is that correct?

19 A. Yes, that's correct.

20 Q. And what did you access?

21 A. Well --

22 Q. How did you go about coming up with these
23 numbers?

24 A. How did I find the numbers?

1 Q. Yes.

2 A. I looked at the statement of account.

3 Q. And the statement of accounts is something
4 that you normally keep?

5 A. Yes.

6 Q. The \$101,000 real estate loan, who was that
7 loan -- who is that loan made through?

8 A. That's a personal loan from my father and
9 mother.

10 Q. Now, you own another property; is that
11 correct? You own another house besides the Spindletree
12 house?

13 A. Yes, I do.

14 Q. All right. And that's listed here as well,
15 correct?

16 A. Yes, it is.

17 Q. Did you add these numbers up?

18 A. I did not.

19 Q. Okay. You just put them down on paper?

20 A. Yes.

21 Q. Now, you said you never threatened Mario; is
22 that correct?

23 A. That's correct.

24 Q. When you signed this agreement, this postnup,

1 do -- do you know what Mario's status in this country
2 was, his citizenship status?

3 A. At the time of the postnup, I believe Mario
4 in 2019 would have been a Green Card holder.

5 Q. Did you sponsor his Green Card?

6 A. I believe so through -- through marriage I --
7 yes.

8 Q. Okay. And you never threatened to revoke his
9 Green Card; is that right?

10 A. I have never threatened anything of that
11 nature.

12 MR. CHERNY: I'll reserve the rest of my questions
13 for direct, your Honor. I have nothing further.

14 THE COURT: Thank you. Any redirect?

15 REDIRECT EXAMINATION

16 BY MR. C. ROBERTS:

17 Q. What's your understanding of when the
18 conditions on Mario's Green Card would have been
19 removed as a result of your marriage?

20 A. My recollection is that that would have been
21 a two-year -- okay. So we were married in June
22 of 2014, and then I believe the conditions on a Green
23 Card relative to marriage to a U.S. citizen is two
24 years, which means that any provision will have been

lifted by 2016.

Q. And what year was this document signed?

A. This document was signed in 2019.

Q. And, Mr. Neal, in these negotiations why would you have given Mario two-thirds of the house?

A. Because Mario brought forth the money to -- he provided that money as a -- as funding for the purchase of a family home.

Q. At the time that this document was entered into, this Plaintiff's Exhibit 1, what was the value of the house, this Spindletree house?

A. The purchase price was 600,000.

Q. And how long before this document had you purchased the house?

A. Approximately a year and a half.

MR. C. ROBERTS: Nothing further at this time.

THE COURT: Thank you. Mr. Neal, you may step down. Just be careful of that chair.

THE WITNESS: Thank you.

(Witness excused.)

THE COURT: Mr. Roberts, any other witnesses you wish to call?

MR. C. ROBERTS: Judge, I don't think so, but I had that second Diet Coke at lunch. I wonder if

1 perhaps this would be an all right time to take about a
2 five-minute break. I'll confer with Mr. Neal, and --

3 THE COURT: Sure.

4 MR. C. ROBERTS: -- I suspect that wraps up our
5 part of the case.

6 | THE COURT: Very well.

7 MR. C. ROBERTS: Thank you.

8 THE COURT: We'll take five minutes, Mr. Cherny,
9 and we'll be back at quarter after.

10 MR. C. ROBERTS: Great. Thank you.

11 THE COURT: Thank you.

12 | (Whereupon, a break was taken.)

13 THE COURT: Good afternoon. We're back on case
14 No. 2022 DC 915, In Re: The Marriage of Thomas Neal
15 and Mario Neal.

18 MR. C. ROBERTS: Judge, Chuck Roberts for Tom
19 Neal.

20 MR. CHERNY: Bill Cherny for Mario Neal.

21 | MR. R. ROBERTS: And Rick Roberts for Tom Neal.

22 | THE COURT: Thank you.

23 Mr. Neal?

24 MR. M. NEAL: Mario Neal.

1 THE COURT: Thank you.

2 | And sir?

3 MR. T. NEAL: Thomas Neal.

4 THE COURT: Thank you, sir.

5 We took a break, and, Mr. Roberts, you were
6 at the point where you were going to advise the Court
7 whether you rest or --

8 MR. C. ROBERTS: Thank you, Judge. On behalf of
9 Tom Neal we rest.

10 THE COURT: Thank you.

11 | Mr. Cherny, this leaves the matter to you.

12 MR. CHERNY: Call -- your Honor, I'd call Tom Neal
13 as an adverse witness.

14 THE COURT: Thank you.

15 Mr. Neal, would you make your way back to the
16 witness stand? And, again, we're going to reswear you
17 in, so if you'd kindly remain standing and raise your
18 right hand to be sworn.

19 (Witness sworn.)

20 THE COURT: And, again, the chair's got wheels on
21 it.

22 | THE WITNESS: Okay.

23 THE COURT: Thank you.

24 Mr. Cherny, when you're ready, sir.

EXAMINATION

7 | BY MR. CHERNY:

8 Q. Now, Mr. Neal, I'll draw your attention to
9 Petitioner's Exhibit No. 1 for identification. Is it
10 still in the --

11 A. Exhibit 1?

12 Q. Yes.

13 A. Yes.

14 Q. Now, let's go to the -- let's go to the last
15 page. When Mr. Roberts called you as a witness, we --
16 you and I had talked about the listing of the assets
17 that you had provided to your attorney; is that
18 correct?

19 A. Yes.

20 Q. And you used -- you referenced some accounts
21 information to generate these numbers; is that correct?

22 A. Yes.

23 Q. Did you add the numbers up?

24 A. I did not add the numbers up.

1 Q. I'd like you to add the numbers up right now.
2 Do you have a cell phone where you can add the numbers?

3 A. Cell phones are not allowed in here.

4 MR. CHERNY: Do we have a calculator somewhere?

5 THE COURT: We do not.

6 MR. CHERNY: I have a calculator, if I can
7 approach the witness.

8 THE COURT: If you wish to.

9 THE CLERK: I don't.

10 BY MR. CHERNY:

11 Q. Can you add those numbers up, those numbers
12 that you provided?

13 A. You're asking me to add the --

14 Q. Exhibit A numbers.

15 A. -- values? Okay. One moment, please.

16 Q. And then, of course, the Spindletree is
17 30 percent. What number that's there.

18 THE COURT: Mr. Neal, if you could advise when
19 you're ready, sir.

20 THE WITNESS: Yes, I'm ready.

21 BY MR. CHERNY:

22 Q. What number did you come up with?

23 A. I have \$764,000 -- 764,178.64.

24 Q. Does that include the real estate, your --

1 your one-third -- or 30 percent on the real estate?

2 A. Yes.

3 Q. That's interesting because I come up with
4 966,678.64.

5 MR. C. ROBERTS: Objection. It's an assertion by
6 Mr. Cherny but hardly a --

7 THE COURT: Was that a statement or a question,
8 Mr. Cherny?

9 MR. CHERNY: It's a statement.

10 THE COURT: All right.

11 MR. C. ROBERTS: Then I move to strike.

12 THE COURT: The motion to strike is sustained.

13 BY MR. CHERNY:

14 Q. I'm showing you what's been marked as
15 Respondent's Exhibit No. 1 for identification.

16 Now, if you compare that to the -- to the
17 list that you made in Exhibit A, are all those numbers
18 included there?

19 A. Please repeat your question.

20 Q. Are all the numbers correct on Respondent's
21 Exhibit 1, do they match up with your Thomas Neal's
22 assets, Exhibit No. A?

23 A. No, they do not.

24 Q. Where do they not?

1 A. I guess I'm confused where you have
2 identified the value of the marital residence at
3 \$790,000.

4 MR. C. ROBERTS: Judge, before they go further,
5 I'm going to object. He's trying to -- Mr. Cherny is
6 trying to use a demonstrative exhibit and to
7 cross-examine my client against something that my
8 client was not involved in the preparation of. That's
9 fundamentally unfair cross-examination.

10 THE COURT: And I'm not exactly sure what
11 Respondent's Exhibit No. 1 is. It's not even been
12 asked to be identified, so it's pretty tough for me to
13 rule upon an objection when I don't even know what
14 Respondent's Exhibit No. 1 is.

15 BY MR. CHERNY:

16 Q. All right. Let's go through this
17 Respondent's Exhibit 1 line by line in the columns.

18 THE COURT: Well, is -- are you asking Mr. Thomas
19 Neal to identify Respondent's Exhibit No. 1?

20 MR. CHERNY: No, I'm not. I'm asking him to
21 confirm that the numbers match the numbers on the
22 Petitioner's Exhibit -- Exhibit -- Petitioner's
23 Exhibit 1, Exhibit A.

24 MR. C. ROBERTS: In essence, he's asking -- he's

1 asking the witness to read from an exhibit that's not
2 in evidence. It's a demonstrative exhibit. It doesn't
3 have any value standing alone, and that's wholly unfair
4 to the witness.

5 THE COURT: At this point, and the reason the
6 Court had asked the question, I'm going to sustain the
7 objection. I don't know what Respondent's Exhibit
8 No. 1 is, so at this point the objection is sustained.

9 BY MR. CHERNY:

10 Q. When you added up the numbers, do you recall
11 the number you came up with?

12 A. Just now with your calculator?

13 Q. With my calculator, yeah.

14 A. I believe it was \$764,000.

15 Q. Is it your -- is it your contention that
16 that's all nonmarital assets, all these where it says
17 asset value?

18 A. Yes.

19 Q. And Mario's Exhibit B, you -- it's your
20 belief that those are nonmarital assets as well; is
21 that correct?

22 A. That's correct.

23 Q. Let's talk about the Edward Jones Roth IRA.
24 Where did that income -- where did that money come from

1 to go into the IRA?

2 A. That came from my W-2 earnings.

3 Q. All right. While you were married? Let me
4 back up. I'll withdraw the question.

5 Who do you work for?

6 A. I work for National Pasteurized Eggs.

7 Q. When did you become employed by National
8 Pasteurized Eggs?

9 A. 2012.

10 Q. All right. Before you got married?

11 A. Yes.

12 Q. About two years before you got married?
13 About two years prior to your marriage?

14 A. I believe so, yes.

15 Q. Were you able to separate out your premarital
16 income -- or your premarital Roth IRA from the
17 contributions you made to the IRA when you were
18 married?

19 A. Please repeat your question.

20 Q. When you -- when you put down \$102,569.18,
21 how much of that was earned or deposited into that
22 account while you were married?

23 A. I do not know.

24 Q. Do you have a way of figuring it out?

1 A. I imagine I would. I had this account open
2 for many years prior to my marriage to Mario.

3 Q. All right. And the Edward Jones investment
4 account, same thing, you had this account before you
5 got married to Mario?

6 A. I think I probably opened it around 2006 or
7 2007.

8 Q. And since you've been married, you've
9 deposited money into those accounts?

10 A. Yes, I have.

11 Q. And where did that money come from that you
12 deposited in the accounts?

13 A. My earnings as an employee at my company.

14 Q. You didn't inherit the money or your parents
15 didn't give you money to put into that account, things
16 like that?

17 A. I have inherited money.

18 Q. All right. Did you put it into these
19 accounts?

20 A. Yes.

21 Q. Did you -- were you able to delineate what
22 inherited money went into the accounts and what didn't?

23 MR. C. ROBERTS: And, Judge, at this point I'll
24 object to the relevance of this. There's no -- there's

1 no obligation to segregate marital from nonmarital.

2 The purpose of the attachment to Plaintiff's
3 Exhibit 1 is to set forth the gross value of the
4 assets, not to say this would be nonmarital, this would
5 be marital, here's a different characterization. It
6 mischaracterizes the purpose of the attachment.

7 THE COURT: Mr. Cherny, your response to the
8 objection?

9 MR. CHERNY: Well, it goes to how he came to the
10 opinion that these were nonmarital assets. If this was
11 earned during the marriage, according to the statute,
12 at least a portion of them would have been marital
13 assets.

14 Why would this -- a postnuptial agreement
15 decide or delineate these particular assets as
16 nonmarital assets if they were earned during the
17 marriage and deposited into accounts during the
18 marriage?

19 THE COURT: That wasn't the question asked. The
20 question asked was can he delineate the inheritance
21 from income otherwise earned, and that's when the
22 objection was raised, so --

23 MR. CHERNY: Judge, this goes to commingling of
24 what, apparently, is marital and nonmarital assets.

1 MR. C. ROBERTS: Judge, if I might, that's not an
2 issue for the Court to deal with today. That's not an
3 issue that's framed by the dec action.

4 MR. CHERNY: I disagree, your Honor. It goes to
5 unconscionability. I mean, it goes under the
6 two-pronged determination this Court has to make as to
7 procedural and substantive unconscionability.

8 THE COURT: I don't disagree that there is a
9 two-prong approach as to the unconscionability of the
10 postnuptial agreement, but the question is as to the
11 substantive argument that is unconscionable as to the
12 result being one-sided.

13 I think that your question relative to the
14 inheritance versus earned income that was put into a
15 retirement account that was opened in 2006 to 2007,
16 many years before the date of the marriage, is what's
17 being objected to as relevant, and at this point I'm
18 going to sustain the objection.

19 BY MR. CHERNY:

20 Q. Mr. Neal, when you entered into this
21 postnuptial agreement, did you know how much Mario made
22 annually?

23 A. Yes, I did.

24 Q. How much is that?

1 A. I believe around -- for W-2 income, I believe
2 that would be around \$50,000.

3 Q. And what was your income that year?

4 A. Probably around 120.

5 Q. Is it possible it could have been 136,000?

6 A. In year 2018 or 2019?

7 Q. 2019.

8 A. That's possible.

9 Q. Now, these accounts that -- let me go to --
10 if you look on Page No. 5 which was Article 7, sub A,
11 and this is Plaintiff's Exhibit 1, do you see that
12 article?

13 A. Okay. Are you on Page 5, 7A?

14 Q. Yeah, where it says specific obligations
15 during the marriage.

16 A. Okay.

17 Q. And it says, the parties agree that it shall
18 be expected the party earning the higher income at the
19 time maintenance to the marital property is required to
20 be responsible for the higher percentage.

21 Do you see that?

22 A. Yes.

23 Q. Now, maintenance to the marital property
24 would be the residence; is that correct?

1 A. Yes.

2 Q. Is that marital property?

3 A. Yes.

4 Q. All right. Let's just go back to last month.

5 The taxes -- well, this month the taxes, the property
6 taxes are due.

7 MR. C. ROBERTS: Objection. Relevance.

8 THE COURT: Mr. Cherny, the objection is
9 relevance.

10 MR. CHERNY: Well, it goes to whether to abide by
11 the terms of the postnuptial agreement or not.

12 MR. C. ROBERTS: That's a different issue, Judge.

13 THE COURT: The matter before the Court today is
14 declaratory judgment relative to the enforceability of
15 the prenuptial agreement, whether the parties after the
16 postnuptial agreement abided by each of these terms is
17 not before the Court at this point, and as a result,
18 the objection is sustained.

19 BY MR. CHERNY:

20 Q. Now, during the course of the negotiations,
21 Tom, did you -- did you give your attorney any pay
22 stubs or W-2s relating to your income for 2019 or 2018?

23 A. Yes, I did.

24 Q. All right. Is there some reason it's not

1 disclosed in a postnuptial agreement?

2 A. That what is not disclosed?

3 Q. That your -- your income for those years, as
4 a disclosure.

5 A. I do not know.

6 Q. Did your attorney ask you for that?

7 A. Did he ask me for what?

8 Q. What your income was on the date that you --
9 on or about the date -- your gross income for that year
10 on or about the day you signed the postnuptial
11 agreement.

12 A. I think he probably did.

13 Q. Is there some reason you didn't tender it to
14 him?

15 MR. C. ROBERTS: Objection. That's not what his
16 testimony was. He said that he did tender it.
17 Mischaracterizes.

18 BY MR. CHERNY:

19 Q. When did you tender it to him?

20 THE COURT: So hold on. I didn't rule on the
21 objection yet.

22 The objection is sustained as
23 mischaracterization of the testimony.

24 Yes, Mr. Cherny, you're welcome to ask that

1 follow-up question.

2 BY MR. CHERNY:

3 Q. About when did you tender that to Mr. Harger?

4 A. You're asking what date did I provide him
5 with my W-2 stub?

6 Q. Or any indication of your income.

7 A. Okay. So if the postnup was dated in
8 September of 2019, I believe we had negotiating going
9 on for about two months, so -- I can't say a specific
10 date. I would say maybe July or August of 2019.

11 Q. Now, Mario testified that your parents were
12 at the house prior -- for a month prior to the signing
13 of the postnuptial agreement; is that correct?

14 A. No.

15 Q. They weren't at the house?

16 A. My parents may have visited, but I was
17 surprised -- I think I heard correctly Mario say that
18 they were living there. My parents were not living at
19 the family home during that time.

20 Q. Did you ever -- did you ever have a
21 conversation with your parents about the postnuptial
22 agreement?

23 A. I shared with my parents, yes, that this was
24 going on.

1 Q. What did you tell them?

2 A. I don't recall exactly.

3 Q. All right. What was the -- was it -- did you
4 decide to do the postnuptial agreement or did Mario
5 decide to do the postnuptial agreement?

6 A. I think Mario -- it was mutual, yet Mario was
7 very eager to protect the money that he invested in the
8 house, which was about \$400,000.

9 Q. That was the whole point of the postnuptial
10 agreement it's your understanding?

11 A. I think that was a major part of it.

12 Q. So if he was just willing to protect his part
13 of the house, why did you list all these other assets
14 in your Exhibit A as being nonmarital assets?

15 MR. C. ROBERTS: Objection, Judge. It doesn't say
16 nonmarital on the exhibit. It identifies the assets
17 and it identifies their value. It does not make a
18 characterization.

19 THE COURT: Mr. Cherny?

20 MR. CHERNY: I believe it does say in the
21 agreement that those assets were segregated out.

22 MR. C. ROBERTS: It specifies how those assets
23 would be treated in the event of a dissolution, but the
24 document itself does not identify marital or

1 nonmarital.

2 MR. CHERNY: Well, I don't think there's a
3 distinction. I mean, they wouldn't know. They're not
4 attorneys.

5 THE COURT: Now, unless you can point to the
6 definition of those assets as being listed as
7 nonmarital, I think the agreement speaks for itself
8 relative to how those assets would be dealt with in
9 certain circumstances of either the sale or divorce,
10 because I think to that extent the document speaks for
11 itself, but the way the question was asked, I
12 sustained -- I'll sustain the objection that it was --
13 it mischaracterized how Exhibits A, B, and C are
14 labeled.

15 MR. CHERNY: If I may approach.

16 THE COURT: You certainly may, sir.

17 BY MR. CHERNY:

18 Q. I'm showing you what's been previously marked
19 as Respondent's Exhibit No. 2.

20 Have you seen that document before?
21 Actually, it's a series of documents. Have you seen
22 that before?

23 (Whereupon, Mr. Cherny's microphone
24 turned off.)

1 THE WITNESS: I -- I mean, this appears to be a
2 series of printouts from several of my financial
3 accounts.

4 BY MR. CHERNY:

5 Q. And these are the printouts that are your
6 records that you rely upon to create -- this is from
7 account No. 2328, correct?

8 A. Page 1 appears from account 2328.

9 Q. Can you look through the rest of them?

10 A. Looks like there's about 500 pages here.

11 Q. You looked through them as quick as you
12 could?

13 A. Yes, they appear to all --

14 Q. They appear to be from your account No. 2328?

15 A. All of these?

16 Q. Yes.

17 A. No, they're not. I -- I see things here from
18 Edward Jones and multiple other things. I -- I
19 identified Page 1 as account 2328.

20 Q. Where do you see the Edward Jones?

21 MR. C. ROBERTS: Mr. Cherny, is that different
22 from what you gave me, what you just handed him?

23 MR. CHERNY: (Indiscernible).

24 MR. C. ROBERTS: Judge, I don't want to get in the

1 middle of what's happening.

2 THE COURT: You may approach. I think Mr. Cherny
3 wants you to confirm.

4 MR. C. ROBERTS: Judge, these are documents that
5 go way beyond that September of 2019 time frame. They
6 couldn't possibly have any relevance to what --

7 THE COURT: And, again, I'm not sure. Is this
8 part of discovery? What -- I don't -- I don't know
9 what this is relative to the identification by
10 Mr. Thomas Neal, if he's identified Page 1 thus far as
11 relating to account No. 2328, but it's a group exhibit.
12 And, again, I'm not hearing where this came from.

13 If, Mr. Cherny, you're asking Mr. Neal to
14 review all of the pages, he can certainly do so.

15 MR. C. ROBERTS: I have no idea what this is,
16 Judge.

17 THE COURT: Are you asking --

18 BY MR. CHERNY:

19 Q. (Indiscernible) this record, sir? Are those
20 records that you keep in the normal course of your
21 personal business?

22 A. Regarding my employer?

23 THE COURT: Hold on, Mr. Neal. I think -- so we
24 have a group exhibit. I was anticipating that it was

1 going to be brought forth as discovery that was had,
2 and you're asking Mr. Neal to identify a group exhibit
3 that he's unfamiliar with. If you're asking him to
4 review each of these pages and identify them, then
5 that's fine, if that's what you wish to do, then I
6 think we need to give Mr. Neal the opportunity to do
7 that.

8 Is that what you're asking Mr. Neal to do?

9 MR. CHERNY: I'll withdraw the question.

10 BY MR. CHERNY:

11 Q. Mr. Neal, is that the 2328 account, is that
12 the one -- is that the account that you used to get an
13 asset value of thirty-eight eighty-three seventy-nine?

14 A. Repeat, please.

15 Q. On Exhibit A, Petitioner's Exhibit No. 1,
16 account No. 2328.

17 A. Okay.

18 Q. Is that -- that first page, is that account
19 No. 2328?

20 A. Yes, I believe so.

21 MR. CHERNY: I'll withdraw the exhibit.

22 BY MR. CHERNY:

23 Q. Showing you what's been previously marked as
24 Respondent's Exhibit No. 3. Have you seen that

1 document before?

2 A. Page 1 appears to be my Edward Jones Roth
3 IRA.

4 Q. And did you (indiscernible) your Edward Jones
5 Roth IRA (indiscernible)?

6 A. Are you asking me to compare and contrast --

7 Q. I'm just asking you if this is what you used,
8 if you accessed this account, however you came up with
9 the number (indiscernible)?

10 A. I think what I would have done to provide the
11 number in Exhibit A was log into these accounts on the
12 day that my attorney asked it, and I see here that I've
13 overstated the value of my Roth IRA on Exhibit A
14 compared to what this is, perhaps. I -- I don't know.

15 Q. When you accessed this account, were you able
16 to determine how much income you earned prior to the
17 marriage and subsequent to the marriage for this
18 account?

19 A. Can you say your question --

20 Q. The funds in this account, are some of the
21 account -- some of the funds in the account prior to
22 being married to Mario?

23 A. Yes, I think I opened this around 2006, maybe
24 around that year.

1 MR. CHERNY: Okay. I'll withdraw the exhibit.

2 BY MR. CHERNY:

3 Q. Showing you what's been marked as
4 Respondent's Exhibit No. 4, have you seen that document
5 before?

6 A. Yes.

7 Q. And that is, as well, an Edward Jones
8 account; is that correct?

9 A. Yes, that's correct.

10 Q. Which account was that -- was that compared
11 to your list of assets and liabilities?

12 A. I believe this applies to Line No. 4
13 designated as mutual funds.

14 Q. I don't see a mutual funds. I see an
15 investment account.

16 A. Yeah, I think it's asset type, mutual funds;
17 asset name, Edward Jones investment account. Line
18 No. 4 I think is what this lineup of paper is.

19 Q. Line No. 4 on your sheet here on the postnup,
20 line No. 4, this relates to line No. 4?

21 A. I believe so.

22 MR. CHERNY: I'll withdraw the exhibit.

23 BY MR. CHERNY:

24 Q. Sir, you continued to deposit into these

1 accounts; is that correct?

2 MR. C. ROBERTS: Objection, Judge. Relevance.

3 THE COURT: Mr. Cherny, the objection is
4 relevance.

5 MR. CHERNY: It shows the unconscionability of
6 the -- of this agreement in total. Mr. Neal is allowed
7 to -- Tom Neal is allowed to increase the value of
8 these assets but Mario doesn't. They're not Mario's
9 assets.

10 MR. C. ROBERTS: Which could only happen, your
11 Honor, on a date after the execution of the postnup
12 which is, as you've already indicated, is not relevant
13 to what we're doing today. It might be a question for
14 another day, but not today.

15 THE COURT: And I think that, Mr. Cherny, that the
16 objection is relevance as to the motion before the
17 Court today, which is a declaratory judgment motion
18 seeking the Court's determination of the enforceability
19 of the postnuptial agreement that is -- that was
20 entered into September 19th, 2019.

21 And as it relates to the unconscionability at
22 the time of the entering of the agreement, I believe
23 that is fully relevant, but the issue as to what's
24 occurred since then is more an issue of enforceability,

1 as you brought up, and the -- and any pleadings that
2 relate to the time period subsequent to the entry of
3 the September 19th, 2019, postnuptial agreement, and I
4 think that's what's the disconnect in some instance or
5 maybe what rises -- may be better stated what rises to
6 the objection that's being -- that had been made and is
7 being made.

14 MR. CHERNY: I have nothing further, your Honor.

15 THE COURT: Thank you. And, Mr. Roberts,
16 cross-examination, sir?

17 MR. C. ROBERTS: Judge, I don't think so. I don't
18 have any clarification. Thank you.

19 THE COURT: All right. Mr. Neal, again, the chair
20 has got wheels on it, but you can make your way off the
21 witness stand.

22 | THE WITNESS: Thank you.

23 THE COURT: Thank you.

24 (Witness excused.)

1 THE COURT: And, Mr. Cherny, any other witnesses
2 you wish to call sir?

3 MR. CHERNY: Mario Neal.

4 THE COURT: Mr. Mario Neal, would you be so kind
5 as to approach the witness stand, sir, and remain
6 standing to be sworn? And, sir, will you kindly raise
7 your right hand to be sworn?

8 (Witness sworn.)

9 THE COURT: Thank you, sir. Again, that chair's
10 got wheels on it. Please be careful. All right.
11 Mr. Cherny, when you're ready, sir.

12 MARIO NEAL,
13 called as a witness on behalf of the Respondent, having
14 been first duly sworn, was examined and testified as
15 follows:

16 DIRECT EXAMINATION

17 BY MR. CHERNY:

18 Q. Mario, please state your name and spell your
19 last name.

20 A. Mario Neal, N-e-a-l.

21 Q. You're the respondent in this case; is that
22 correct?

23 A. That is correct.

24 | Q. You're married to Thomas Neal; is that

1 correct?

2 A. That is correct.

3 Q. What's your highest level of education?

4 A. Master's degree.

5 Q. When did you obtain your master's degree?

6 A. 2008, I believe.

7 THE COURT: I'm sorry, sir.

8 THE WITNESS: 2018. I'm sorry.

9 MR. CHERNY: You've got to speak up.

10 THE COURT: Yes. Thank you, Mr. Cherny.

11 So, Mr. Neal, what I heard was master's
12 degree, and then again you tailed off, and my apologies
13 that the Court continues to have to ask you to keep
14 your voice up, but that's to ensure two things, sir:
15 A, that the Court can hear your answers; and, B, it is
16 being recorded by CourtSmart, otherwise they alert us
17 that they can't hear your answers, so it couldn't be
18 able to be transcribed later if needed.

19 THE WITNESS: (Indiscernible).

20 THE COURT: Can you repeat what you said, sir,
21 after master's degree?

22 THE WITNESS: And I believe it's 2018.

23 BY MR. CHERNY:

24 Q. And when were you married?

1 A. 2014, June 28th of 2014.

2 Q. And you're married to Thomas Neal; is that
3 correct?

4 A. That is correct.

5 Q. The petitioner, correct?

6 A. I'm sorry? Yes, that is correct.

7 Q. All right. Now, the agreement was entered
8 into, the postnup, do you recall the postnup agreement
9 and negotiations that involved the postnup agreement?

10 A. Yes.

11 Q. What is your first recollection? When did
12 you first know about this postnuptial agreement?

13 A. I found out right after -- maybe like the
14 second week of July.

15 Q. And who did you find that out from?

16 A. From Tom.

17 Q. What did he say to you and what did you say
18 to him?

19 A. He -- we were in the living room, and his mom
20 and dad were present, and the -- he -- Tom said that --
21 at that point Tom said that he was planning to divorce
22 me unless we went on to, you know, sign an agreement to
23 protect his assets.

24 Q. Okay. And what did you -- what did he tell

1 you regarding his assets?

2 A. Well, he didn't say much. He just said that
3 it's -- all he said was we're going to come up with an
4 agreement that just says that you keep your stuff and I
5 keep my stuff, that's pretty much all he said.

6 And then I didn't -- and then a couple of
7 weeks later, he then presented to me the actual
8 postnuptial agreement to me, and I remember that he
9 handed it to me, and then I went about reading it, and
10 then I went back to him and I said, this is not what we
11 agreed, I'm not signing it.

12 Q. What did he say to you and what did you say
13 to him?

14 A. Then he said, you're going to sign it.

15 Q. Was that a threat?

16 A. Yeah.

17 Q. Had he threatened you before?

18 A. Many times.

19 Q. When was the first time he threatened you?

20 MR. C. ROBERTS: Objection, Judge.

21 Characterization. Are we talking about threats related
22 to the postnup, threats related to a divorce, threats
23 related to -- it could be any number of things.

24 THE COURT: Is the objection foundation as to when

1 we're speaking of?

2 MR. C. ROBERTS: It is, Judge. I have no idea
3 what we're talking about.

4 THE COURT: All right. Mr. Cherny, the objection
5 is foundation.

6 MR. CHERNY: I'll rephrase the question.

7 THE COURT: Thank you, sir.

8 BY MR. CHERNY:

9 Q. During the course of the marriage, who
10 managed the money and the household (indiscernible)?

11 A. Tom, my husband.

12 Q. Who paid the bills?

13 A. Tom, my husband.

14 Q. And what accounts did he pay those out of?

15 A. Through the account that he had his -- you
16 know, one of his accounts.

17 Q. One of his accounts?

18 A. The one that he -- I had no access to it,
19 yeah.

20 Q. And what happened with your income?

21 A. My income was made to pay all the household
22 expenses that included, you know, providing food, you
23 know, the kids, diapers, clothes. When there were
24 trips, I was asked to contribute to the payment of it

1 because he had miles, and anything that came with cash,
2 I would pay, and he would use miles and other stuff to
3 pay for the rest.

4 Q. Did you ever have access to Tom's accounts?

5 A. Never.

6 Q. (Indiscernible)?

7 A. Never, no.

8 Q. Did you ever have access to his investment
9 accounts?

10 A. No, never. In fact, I had -- I never saw any
11 of them because he would get the mail, and he had a
12 filing cabinet in the office where it was locked and I
13 never -- I could never access it.

14 Q. Tom mentioned about a home office.

15 A. Correct.

16 Q. Did you share a home office?

17 A. Well, I mean, I don't -- he -- that was
18 mainly his, because he worked from home, so he -- that
19 was mainly his office. I did have a desk there, but I
20 mean, as a teacher, I would just basically grade papers
21 and so forth, and that was not -- I didn't need a space
22 like that, but there was -- I did have a computer, but
23 it was mainly his office.

24 Q. And when you mentioned the Turbo Tax, the tax

1 returns were filed, did you ever see his W-2s before
2 the tax returns were filed?

3 A. Never.

4 Q. When was the first time you saw any of his
5 W-2s, if you did see them?

6 A. I -- I saw the W-2s maybe about two years ago
7 for the first time.

8 Q. What was the purpose of when you saw them?

9 A. Well --

10 MR. C. ROBERTS: Objection. Relevance.

11 THE COURT: Mr. Cherny, the objection is to the
12 relevance of seeing the W-2s two years ago.

13 MR. CHERNY: Well, it gets to the postnuptial
14 agreement, Judge. The formation (indiscernible) saw
15 before the postnup was drafted or subsequent to the
16 postnup.

17 THE COURT: I -- I don't disagree with that, but
18 the question is what was the purpose of seeing them two
19 years later. I think that's the question that's being
20 objected to.

21 MR. CHERNY: I'll rephrase the question.

22 THE COURT: Thank you, sir.

23 BY MR. CHERNY:

24 Q. When did you first see Tom's W-2?

1 A. 2021.

2 Q. And how did you come to see them?

3 A. I --

4 MR. C. ROBERTS: Objection. Again, Judge, it's
5 not relevant.

6 THE COURT: Mr. Cherny --

7 MR. CHERNY: I'll rephrase the question.

8 THE COURT: Thank you, sir.

9 BY MR. CHERNY:

10 Q. Did you see -- did you see Tom Neal's W-2s
11 prior to the signing of the postnuptial agreement?

12 A. No.

13 Q. Did you see any of his checking account
14 statements or any of his account statements prior to
15 signing the postnuptial agreement?

16 A. No.

17 Q. Why was that?

18 A. He just never -- never wanted to share
19 anything, and every -- there was a couple of times
20 where I will ask, and he would always give me an
21 excuse.

22 MR. C. ROBERTS: Objection. Foundation.

23 THE COURT: Mr. Cherny, the objection is
24 foundation.

1 MR. CHERNY: I'll rephrase. I'll just ask another
2 question.

3 THE COURT: Okay. Thank you, Mr. Cherny.

4 BY MR. CHERNY:

5 Q. When was the first time you asked to see his
6 W-2? Let me rephrase that. Before 2019, September of
7 2019.

8 A. The first time I asked to see them, because I
9 needed them, was when I was applying to become a U.S.
10 citizen.

11 THE COURT: I'm sorry. You tailed off again, sir.
12 When I was applying -- I thought you said applying.

13 THE WITNESS: Applying to become a U.S. citizen,
14 yes.

15 THE COURT: Applying to become a U.S. citizen?

16 THE WITNESS: Yes.

17 THE COURT: Thank you, sir.

18 BY MR. CHERNY:

19 Q. And why did you need to see them when you
20 were applying to become a U.S. citizen?

21 A. Because my immigration attorney had asked for
22 our taxes and any supporting documents that went with
23 it to prove that I was still married to Thomas, that --
24 obviously that would have his address and my address

1 and prove that we were living and married together.

2 Q. Did he produce his W-2s?

3 A. No, not to me.

4 Q. Who did he produce it to?

5 A. He -- he repeatedly objected to give the
6 taxes or his W-2s to me or anything when I said I was
7 going to apply to become a citizen, and it was until
8 when I -- once I told him that -- he said -- he was
9 just like, immigration doesn't need them, doesn't need
10 that information. And I said, they do.

11 And he said -- and so my immigration attorney
12 then said, if he doesn't provide them to you, we'll get
13 them directly from the IRS. And so I told that to
14 Thomas, and I said, if you don't give me the taxes,
15 (indiscernible) is going to get them directly. And he
16 said, I will send them, but I will send them myself,
17 and then he grabbed a UPS envelope one day and sent
18 them without me seeing what was in it.

19 Q. Do you recall when that was, what day or the
20 year?

21 A. It was -- it was last year.

22 MR. C. ROBERTS: Then I object and move to strike,
23 Judge. Once again, we're off in the realm of --

24 MR. CHERNY: It couldn't have been last year.

1 THE WITNESS: Well, when I became a citizen.

2 THE COURT: Hold on, hold on. Wait a second. But
3 that was the testimony. Sir, shh. Sir, we have an
4 objection I need to rule upon.

5 THE WITNESS: Okay. I'm sorry.

6 THE COURT: Okay.

7 MR. CHERNY: Let me rephrase my question.

8 THE COURT: So the objection is sustained. The
9 answer is stricken. Yes.

10 BY MR. CHERNY:

11 Q. When did you apply for citizenship in the
12 United States?

13 A. So the exact date, I don't remember the
14 exact --

15 Q. The month and the year.

16 A. So I became a citizen in February of -- God,
17 was it last year? I believe so. It must have been
18 like six months prior to that.

19 Q. Do you recall what year?

20 A. I'm nervous. Sorry. It's 2021?

21 Q. And when did you -- what year did you ask Tom
22 for the tax returns (indiscernible) it had to have been
23 before 2021, right?

24 A. Yes, I had asked for the past couple of

1 years. I think --

2 Q. Was that before or after the signing of the
3 postnup?

4 A. It was after.

5 Q. Did Thomas ever threaten to pull his
6 sponsorship of you if you didn't sign the postnup?

7 A. He would say that -- he would say that it was
8 a fraudulent marriage, which could be said at any time
9 during the Green Card holders.

10 Q. And that was prior to signing the postnup?

11 A. That is correct.

12 Q. That was a threat? Did you take that as a
13 threat?

14 A. Yes, and I did call my attorney to
15 question -- to ask about it.

16 Q. Is that one of the reasons you signed the
17 postnup?

18 A. Yeah.

19 Q. Were there other reasons you signed the
20 postnup?

21 A. Yeah, because he had said that he would take
22 the kids from me.

23 MR. C. ROBERTS: Objection. Foundation.

1 BY MR. CHERNY:

2 Q. When did he tell you --

3 THE COURT: Hold on. The objection is sustained.

4 If you can lay a foundation, Mr. Cherny.

5 BY MR. CHERNY:

6 Q. When did he tell you he would take the kids
7 from you, what month or year?

8 A. Probably July of 2019, prior to the signing.

9 Q. Did you believe him?

10 A. Yes.

11 Q. The day that you signed the agreement, can
12 you describe your -- (indiscernible) at that time?

13 A. So that morning when we woke up, I said, Tom,
14 that I didn't want to sign it. And then he started
15 telling me it's going to be okay because, you know,
16 it's just -- nothing is going to change, and he said,
17 and if you want to, you know, try to stay married to
18 me, it's just what's going to happen.

19 And then we got in the car, and I was crying
20 all the way there, and I said, I'm probably going to
21 need a car pretty soon, and I don't have the money for
22 it. He said, I'll pay for it, but you're going to sign
23 it.

24 When we got to the signing at the law

1 offices, I was sitting there, and he just kept staring
2 at me with that look, and we had the -- before the
3 signing, the attorneys, we had a break -- no, not a
4 break, it was just -- and the attorney took me to the
5 back and she said, you know, Mario, I can tell you're
6 uncomfortable. You know, you don't have to sign this
7 if you don't want to. And I said, I understand. She's
8 like but -- and she's like, Mario, you don't have to
9 sign it.

10 We went back into the room, and then all I
11 could see is Tom staring at me, and then I signed it.
12 And in regards to the drive --

13 MR. C. ROBERTS: Objection, Judge, to the
14 narrative.

15 THE COURT: Mr. Neal, if you could wait until the
16 next question, sir. Thank you.

17 BY MR. CHERNY:

18 Q. How soon after the -- you signed the
19 agreement did Tom file for divorce?

20 A. What was it, two, three years later I guess.

21 MR. CHERNY: I have nothing further.

22 THE COURT: Thank you.

23 Mr. Roberts, cross, please.

24

CROSS-EXAMINATION

BY MR. C. ROBERTS:

Q. At some point, Mr. Neal, you filed an application for a Green Card, didn't you?

A. That is correct.

Q. It was a provisional Green Card that was issued, right?

A. What's issued is a Green Card that basically just you have to stay married for those two years.

Q. It's dependent on your marriage to Tom?

A. Correct, and also --

Q. Now, let's go back and you can tell the Court, if you would, please, when was that original Green Card application made?

A. I'm trying to remember the dates, but --

Q. It had to be after the marriage, didn't it?

A. Yes. Well, yeah, we couldn't -- yes, that is correct.

Q. And you had to stay married for two years to get the provisional restriction off there?

A. Correct.

Q. So if you were married in 2014 --

A. Yes.

Q. -- the provisional restriction could have

1 been lifted, then, in 2016?

2 MR. CHERNY: Objection. Calls for speculation.

3 THE COURT: Mr. Roberts?

4 MR. C. ROBERTS: Well, we certainly wouldn't want
5 him to speculate. Let me try it another way.

6 THE COURT: Okay.

7 BY MR. C. ROBERTS:

8 Q. Was the provisional restriction lifted?

9 A. Yes, it was.

10 Q. Approximately two years after your marriage
11 to Thomas?

12 A. Well, if I remember correctly, we didn't
13 apply until the year after we were married.

14 Q. I'm sorry, sir. I lost the whole thing.

15 A. We -- I didn't apply for the Green Card until
16 a year after we were married.

17 Q. Okay. So -- so the provisional restriction
18 could have been lifted three years after the marriage?

19 A. That probably would be correct.

20 Q. All right. And when you applied to remove
21 the provisional restriction, you had to submit tax
22 returns, didn't you?

23 A. I didn't have to submit tax return.

24 Q. But you did?

1 A. I don't remember what I submitted.

2 Q. And you were concerned about your ability to
3 apply to become a U.S. citizen, is that your testimony?

4 A. That is correct.

5 Q. And you're asking the Court to believe that
6 that was because of a threat that Tom made to you?

7 A. Are you referring to the Green Card or the
8 U.S. citizenship?

9 Q. The U.S. citizenship.

10 A. Well, but --

11 Q. Is it because of a threat made by Tom?

12 A. I'm not sure I understand your question.

13 Q. Well, you testified that Tom threatened you.

14 A. Correct.

15 Q. You said that Tom told you that he was going
16 to claim fraud in the marriage and remove the
17 sponsorship.

18 A. Correct.

19 Q. Do you remember that testimony?

20 A. I do remember that.

21 Q. And you testified that Tom told you he was
22 going to take the kids away from you if you don't sign
23 this thing?

24 A. That is very correct.

1 Q. What you were really concerned about at that
2 point in time was the DCFS investigation that had been
3 brought against you?

4 MR. CHERNY: Objection. Argumentative.

5 THE COURT: Mr. Roberts?

6 MR. C. ROBERTS: Well, it's not argumentative,
7 Judge, if, in fact, that was -- that was the reason for
8 why he was concerned about his ability to prosecute his
9 citizenship.

10 THE COURT: And I -- I don't disagree with that,
11 and this isn't a topic that had been previously brought
12 up or it was sought to go over ground that had already
13 been made, so I'm going to overrule the objection.

14 You may answer the question.

15 THE WITNESS: No, that was not a concern because
16 that does not impact immigration status.

17 BY MR. C. ROBERTS:

18 Q. You had been investigated in 2018 by DCFS for
19 endangering the safety of your children, hadn't you?

20 MR. CHERNY: Objection. Relevance.

21 THE COURT: Mr. Roberts, the objection is
22 relevance.

23 MR. C. ROBERTS: As that relates to his concerns
24 about his ability to either maintain his Green Card

1 status or prosecute an application for citizenship, if
2 that --

3 MR. CHERNY: That misstates the testimony, your
4 Honor. He should have asked that when he called him as
5 an adverse witness.

6 MR. C. ROBERTS: Judge, we didn't hear about all
7 of the current flavor of the so-called threats until
8 when he was called as a witness in his own case.

9 MR. CHERNY: Mr. Roberts could have asked him that
10 just as easily on his own direct. Not a surprise.

11 THE COURT: But the question doesn't relate to --
12 let me rephrase that.

13 Mr. Neal on direct examination was asked, is
14 there another basis other than Tom's threat that the
15 marriage -- that he would say the marriage was a fraud,
16 and Mr. -- Mr. Mario Neal indicated, yes, that he would
17 take the kids away from me.

18 Mr. Roberts asked the question, isn't it the
19 case that you were worried that the kids would be taken
20 away from you as a result of the 2018 DCFS
21 investigation.

22 I think that did come out in direct
23 examination, and I'm going to allow the question. The
24 objection is overruled.

1 You may answer the question.

2 THE WITNESS: So the investigation had been closed
3 prior to the -- prior of the signing of the postnuptial
4 agreement.

5 BY MR. C. ROBERTS:

6 Q. Let's go back to my question, if we could,
7 Mr. Neal.

8 A. Yes.

9 Q. You were investigated by DCFS in mid-2018 for
10 endangering the safety of your eldest daughter?

11 A. It was unfounded, and it was closed within a
12 month later.

13 MR. C. ROBERTS: Judge, I move to strike the
14 volunteered portion of that. All I'm asking is if, in
15 fact, he was investigated in mid-2018.

16 THE COURT: Sustained.

17 So, Mr. Neal, Mr. Mario Neal, we'll be able
18 to get through this a lot quicker, sir, if you just
19 simply answer the questions posed. Understand that
20 your attorney will be able to redirect after the
21 questions that are being asked. Okay? Thank you.

22 THE WITNESS: Correct.

23 BY MR. C. ROBERTS:

24 Q. So the DCFS investigation related to your

1 contributing to the delinquency of a minor, correct?

2 A. Correct.

3 Q. And that arose out of two retail theft
4 arrests that you had?

5 A. There was no two arrests. One.

6 Q. You had two separate charges of retail theft?

7 A. There was one charge.

8 Q. Well, do you remember what you were arrested
9 for stealing?

10 MR. CHERNY: Objection. Asked and answered. It's
11 not relevant. (Indiscernible).

12 THE COURT: All right. Mr. Roberts, the
13 question -- the objection is relevance.

14 BY MR. C. ROBERTS:

15 Q. Was it a retail -- at least one retail theft
16 arrest?

17 MR. CHERNY: Objection. Relevance.

18 THE COURT: Mr. Roberts, the same objection. The
19 objection is relevance.

20 MR. C. ROBERTS: Judge, there wouldn't be an
21 investigation by DCFS in the abstract or in a vacuum.

22 THE COURT: I --

23 MR. C. ROBERTS: I'm simply laying the foundation
24 for it, Judge, and I'll move on.

1 THE COURT: And to the extent the foundation is
2 being laid for the DCFS investigation, I'll give you
3 some latitude to that extent, and the objection is
4 overruled.

5 You may answer the question, sir.

6 THE WITNESS: Thank you.

7 BY MR. C. ROBERTS:

8 Q. Do you agree, sir, there was at least one
9 retail theft arrest?

10 A. Yes.

11 Q. Okay. When you went to sign the postnup, you
12 told your lawyer about your concerns?

13 A. I did tell Jackie my concerns.

14 Q. You told -- your lawyer suggested -- told you
15 that you don't have to sign this?

16 A. No, my attorney was not present at the
17 signing.

18 Q. Were you told by an attorney at the time of
19 the signing that you did not have to sign the document?

20 A. That is correct.

21 Q. And you were free to go?

22 A. Correct.

23 Q. Could have walked out the door?

24 A. I -- correct, yes.

1 Q. But you signed it?

2 A. Correct.

3 MR. C. ROBERTS: That's it, Judge. Thank you.

4 THE COURT: Mr. Cherny, redirect, sir?

5 REDIRECT EXAMINATION

6 BY MR. CHERNY:

7 Q. Regarding the DCFS investigation
8 (indiscernible), what was the outcome of the
9 investigation?

10 A. It was unfounded.

11 Q. Did you ever -- were you ever investigated by
12 DCFS subsequent?

13 A. Well, no, not that I'm aware of.

14 Q. And when you applied for citizenship, as part
15 of the application, did the DCFS investigation ever
16 come up?

17 A. It -- they do a criminal investigation, and I
18 don't have, including the arrest was -- was strikened
19 or -- so there's no -- so I have a clean criminal -- so
20 no, it wasn't ever brought up or -- and it was not
21 needed, but I think it's a civil matter.

22 Q. The retail theft, what was the outcome of the
23 retail theft?

24 A. It was -- it was -- it was strikened.

1 Q. (Indiscernible.)

2 THE COURT: I'm sorry. I didn't hear that, sir.

3 My apologies. It was?

4 THE WITNESS: Stricken or stricken or something.

5 THE COURT: Stricken. It was stricken.

6 BY MR. CHERNY:

7 Q. It was stricken, so you were never convicted?

8 A. No, never, never.

9 MR. CHERNY: I don't have any further questions.

10 THE COURT: All right. Mr. Neal, you're welcome
11 to sit back down again, sir. Just be careful with
12 exiting that chair.

13 Mr. Cherny, any other witnesses you wish to
14 call?

15 MR. CHERNY: I do not. I rest, your Honor.

16 THE COURT: All right. Both sides rest.

17 Mr. -- Mr. Roberts, any closing argument you
18 wish to argue to the Court?

19 MR. C. ROBERTS: Judge, if you're going to have us
20 submit written closings, should we just give you a
21 paragraph or two summarizing our position within that?
22 I know Mr. Cherny gets an opportunity to do his own
23 memorandum.

24 THE COURT: Sure.

1 MR. C. ROBERTS: And at whatever point it -- at
2 whatever point in time you determine that should be
3 submitted, we'll give you a paragraph or two in
4 closing.

5 THE COURT: That's fine. Mr. Cherny, that way
6 you -- since you're going to do the memorandum of law,
7 I'll have both sides submit a brief closing argument
8 with the memorandum of law.

9 So I'll turn to you, Mr. Cherny. How long
10 will you need to do that memorandum of law, sir?

11 MR. CHERNY: Well, Judge, June is my month that I
12 take off.

13 THE COURT: Okay.

14 MR. CHERNY: So I'm not going to be around a lot
15 in June, so if we could go into July, I can get it done
16 sooner, but I also have other obligations to file
17 briefs. I don't think there's any urgency as to this
18 declaratory judgment since there's plenty of other
19 issues with this case, so if I could have it to July
20 (indiscernible) findings of fact and conclusions of
21 law, whatever your Honor would like.

22 THE COURT: All right. So into July, as I
23 understand. We gave it the status date of July 18th.
24 Can we have it in before then so that the Court then at

1 that point will give the parties a date for entry of
2 ruling? Can we do that?

3 MR. C. ROBERTS: That's fine here.

4 THE COURT: All right. So my apologies. Let me
5 just take a look for what day July 18th is. July 18th
6 is a Tuesday.

7 So, Mr. Cherny, giving you through that
8 weekend, can you submit your memorandum of law and
9 closing statement by the 17th of July? That way I know
10 it's in.

11 MR. CHERNY: I can.

12 THE COURT: All right. Then why don't we do that.
13 The closing and memorandum of law from Mr. Cherny by
14 July 17th.

15 Mr. Roberts, you'll have through the same
16 date for your closing, July 17th, and then on the 18th
17 when we do the status, I will advise of a future date
18 for entry of the Court's ruling on this matter.

19 We'll have to reset the hearing date for the
20 petition for temporary child support as it relates to
21 the declaratory judgment and any waiving of maintenance
22 which would be a component of the child support.

23 MR. C. ROBERTS: That's all fine, Judge. We've
24 had Mr. Neal begin making voluntary payments. We may

1 have a little quarrel about the dollar amount, but it's
2 in the right ballpark for support.

3 THE COURT: All right.

4 MR. CHERNY: It's -- it's in the range.
5 (Indiscernible).

6 THE COURT: Okay. All right. Well, I'm glad at
7 least as we're speaking of the urgency of the matter,
8 I'm glad that there is some child support being paid,
9 then we can certainly address and set that hearing --
10 or reset that hearing on July 18th for a future date
11 for the Court's entry of ruling and then the hearing on
12 the temporary -- the petition for temporary child
13 support.

14 All right. Everyone has had a long day.
15 I'll be happy to enter that order then this afternoon
16 granting each party the time to, Mr. Roberts, submit
17 your closing by July 17th; Mr. Cherny, your closing and
18 memorandum of law by July 17th, and indicate that
19 future status date of July 18th at 11:10. All right?

20 MR. C. ROBERTS: We'll handwrite an order real
21 quick, Judge?

22 THE COURT: I can prepare the order, that's what
23 I'm saying.

24 MR. C. ROBERTS: Is that okay?

1 THE COURT: Yeah. No worries. I'll take care of
2 it.

3 MR. C. ROBERTS: Thank you.

4 THE COURT: I've got some other orders to do, so
5 as long as I'm at it, I'll add this on.

6 MR. C. ROBERTS: Something about no --

7 MR. CHERNY: Thank you for your time, your Honor.

8 THE COURT: Thank you all. Thank you all and have
9 a good afternoon.

10 | MR. C. ROBERTS: You too.

11 (Which were all of the proceedings had
12 in the above-entitled matter.)

IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT
DU PAGE COUNTY, ILLINOIS

I, THERESA HARRIS, hereby certify the foregoing to be a true and accurate transcript of the computer-based digitally recorded proceedings of the above-entitled cause to the best of my ability to hear and understand, based upon the quality of the audio recording, pursuant to Local Rule 1.03(c).

Teresa Harris

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