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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

REDMOND RIDGE EAST HOMEOWNERS)
ASSOCIATION,) No. 14-2-27071-2 SEA
Plaintiff,)
vs.) COA 79497-3
JAYAKRISHNAN NAIR, ET ANO.,)
Defendants.)
_____)

VERBATIM TRANSCRIPT OF PROCEEDINGS
OF
A HEARING
BEFORE THE HONORABLE KEN SCHUBERT
10/26/2018

APPEARANCES

For Plaintiff: Douglas Cameron
For Defendant: Charles Diesen
Also Present: N/A

Transcribed at the Request of Jayakrishnan Nair

Transcribed by Brian Killgore

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1 (Proceedings of 10/26/2018)

2 MR. CAMERON: Good afternoon, your honor.

3 THE COURT: Hi.

4 MR. CAMERON: Doug Cameron on behalf of judgment
5 creditor Redmond Ridge East.

6 THE COURT: Okay.

7 MR. DIESEN: Charles Diesen on behalf of
8 defendant.

9 THE COURT: All right.

10 MR. NAIR: I was here yesterday, as well.

11 THE COURT: Okay. Thank you. And you were here
12 yesterday completely unrelated?

13 MR. NAIR: On a violation matter.

14 THE COURT: Yeah. Completely unrelated to this?

15 MR. NAIR: Yes. But we are going -- Mr. Diesen
16 and me are going to meet my mom after this matter.

17 [UNINTELLIGIBLE] the violation matter.

18 THE COURT: Okay. Well, just make sure you are
19 familiar with all of the court's orders before you have any
20 contact with anyone in that guardianship proceeding.

21 MR. NAIR: Yes.

22 THE COURT: Okay?

23 All right, so we are here on what turned into a little
24 bit more than I was envisioning, a motion for fees.

25 I had just, in an order entered back in -- July 27,

1 2017 --

2 It is a whole year and three months ago. Mr. Nair had
3 come in, I believe, if I recall, vaguely correctly, pro se.
4 He walked in and wanted a stay.

5 MR. NAIR: Yes, I had gone to the sheriff's
6 department and they asked -- they told me that it is not
7 \$9000 to redeem the property, to stop the sale. It is going
8 to be something very close to \$80,000. That's why I came to
9 the court.

10 THE COURT: Yeah.

11 And so I said -- I denied the motion to stay, but I was
12 surprised at the amount of fees from the face of the
13 judgment, but I thought, Okay, before they get their fees
14 paid, someone should have a determination of whether or not
15 they are reasonable. We shouldn't just have an award of
16 fees that no one has ever blessed had been my concern and if
17 I recall correctly, that day I probably surprised an
18 attorney in their office by saying, "Well hold on, let me
19 see if I can get the other side," because he had given
20 notice to no one for a motion for stay, and you're supposed
21 to give notice -- in my opinion, at least two days' notice
22 before seeking a stay.

23 So I get a hold of an attorney that was very kind to
24 get on the phone with me on such short notice, i.e., no
25 notice, and we chatted a bit, and I said, "Well," you know,

1 "There's a judgment that has those fees, but no court has
2 ever made a determination if those fees were reasonable. It
3 seems to me we should do that."

4 And I expected within a short time to just see a motion
5 for award of fees or a motion regarding my order saying,
6 "Here's the fees we incurred; do they look good to you,
7 judge?" And I would have looked them over and I would have
8 said yes or no or whatever, but then I would have had some
9 basis for thinking, Okay, that made sense, because I was a
10 little bit initially surprised by the amount of it when it
11 looked, on its face at least, like such an innocuous or easy
12 case to win. If he is not paying his fees to a condo
13 association, it's usually a slam-dunk. So why would it cost
14 \$80,000 to prosecute or whatever it was?

15 So that had been a history, and so here we are now over
16 a year later and someone is addressing the issue.

17 MR. CAMERON: Yes, your honor.

18 THE COURT: And so I think that person is you?

19 MR. CAMERON: It is me, your honor, and it was me
20 you talked to on the phone.

21 THE COURT: Yeah. Thank you for taking the call.

22 MR. CAMERON: And I was shocked, but no problem
23 taking the call.

24 Your honor, you're absolutely right; association
25 collection matters are simple. They should be simple. I do

1 many of them.

2 This was no simple matter though, your honor.

3 Mr. Nair has not paid his dues since January 2011.
4 That was eight years ago, almost 8 years ago. The
5 association made demand on Mr. Nair; he ignored those
6 demands. The association -- then of course the next natural
7 step is to issue, or excuse me, initiate a collection and
8 foreclosure action.

9 Mr. Nair was served, I think it was via mail, in that
10 case. We got a default and judgment for a decree of
11 foreclosure in that case. That judgment was entered in
12 February 2015.

13 The judgment terms -- I am reading it right here, your
14 honor -- said this, among other things: "This judgment
15 shall automatically include all additional assessments, late
16 fees, reasonable attorney's fees and costs incurred in this
17 matter, until this judgment is paid in full."

18 Of course there's the "reasonable" term right here and
19 we are here for that and I understand why.

20 Back to the judgment, your honor -- entered in February
21 2015. Two months thereafter Mr. Nair filed bankruptcy. He
22 started in a chapter 13. He shouldn't have been there in
23 the first place because his debt limits were too high. The
24 chapter 13 trustee then got it converted to an 11.

25 Mr. Nair spent -- I think it was -- oh, at least a year

1 in an 11.

2 Throughout this case in bankruptcy, it turns out that
3 Mr. Nair has five total properties that he owns. He
4 operates Airbnbs out of all of them, and he has mortgages
5 with all of them -- on all of them -- and he has got a
6 couple of HOA's on some of those houses.

7 It turns out he wasn't paying any of them. Maybe a
8 few, but the record shows, in bankruptcy court, he wasn't
9 really paying any of them.

10 I had conversations with his bankruptcy counsel at the
11 time named Richard Symmes, who admittedly he was not
12 experienced in bankruptcy. My goal -- I want to get my
13 client paid. Mr. Nair needs to enter a cash collateral
14 order so he can use those funds, use his rents to operate
15 his Airbnb business and give us money in the meantime while
16 he does that.

17 Two orders were entered for him to -- authorizing him
18 to use cash collateral.

19 These were agreed orders. "I agree that I am going to
20 do this. I am going to use your cash collateral. I am
21 going to pay you."

22 He didn't do either of those things. He violated both
23 of those orders.

24 He proposed a plan that he wasn't going to -- in his
25 plan he wasn't going to pay any of his creditors what they

1 were owed. Many of them had -- had arrears owing. I
2 think -- what I said in my motion is 11 different motions
3 for relief from stay were filed by multiple creditors, my
4 client included, and so he proposes a Chapter 11 plan. It
5 is insufficient. We object. Many creditors object. He is
6 sent back to the drawing board, or Judge Austin, the
7 bankruptcy judge, sent him back to the drawing board. He
8 said, "Give me a plan that I can confirm."

9 Mr. Nair didn't do anything for about six or seven
10 months, so -- and we still weren't getting paid, so we file
11 a motion to dismiss or convert. We get the case converted.
12 Again, about three or four creditors joined us in that.

13 He's not paying anybody, your honor, is the problem at
14 the time.

15 So the case is converted, Mr. Nair appeals that; we go
16 through an appeal. He does not prevail on appeal. We had
17 our relief from stay granted among four or five other
18 creditors. Everybody starts foreclosing. Like I said, I
19 think the appeal gets dismissed. We end up at the sheriff's
20 sale, and then, your honor, you have already mentioned what
21 happened the day before, and to get to your question of --
22 or the comment of why didn't we file our motion for
23 attorney's fees right after, we had a whole redemption
24 period to go through, and given the issues that we had had
25 with Mr. Nair over the past 2 1/2, 3 years, I knew there was

1 going to be more issues. And our judgment included,
2 automatically includes all additional assessments, late
3 charges and reasonable attorney's fees.

4 More things came up. Mr. Nair tried to redeem the
5 property five or six times. He finally did and here we are
6 today, your honor, on this motion for attorney's fees and
7 costs.

8 Your honor, the association, as I have set out in my
9 motion, has prevailed on every single one of its motions.

10 The fees are all reasonable. They are all within the
11 ranges of attorneys in the Seattle and Bellevue area. There
12 has been no duplicative time. There has been a lot of time.
13 There really has. That is because Mr. Nair won't pay.

14 Your honor, the other basis for the attorney's fees is
15 64.38.050, prevailing party attorney's fees for HOA's.

16 Again, we have prevailed on every aspect of this case.

17 There is no basis for any reduction in the fees, and we
18 do ask that the court enter judgment for the fees we have
19 spent to have this motion for attorney's fees, and that is
20 because Mr. Nair walked in here unannounced the day before
21 the sheriff's sale.

22 I have submitted to the court -- I did file an order,
23 proposed order. It was pretty bare bones, but even the --
24 Mr. Nair's late filed reply, and I do ask that it is
25 stricken because it is just filled with so many salacious

1 things; many of them are not true.

2 I have provided a proposed order striking that
3 declaration, whether the court wants to strike it entirely
4 or strike pieces of it. Of course I leave that to you, but
5 back to the order on attorney's fees, your honor.

6 THE COURT: Yeah?

7 MR. CAMERON: I have submitted a more robust order
8 with multiple findings --

9 THE COURT: Is that different than this one?

10 MR. CAMERON: It is.

11 This one is -- no, this is the one I just handed
12 to your honor.

13 THE COURT: Okay, that's what I thought.

14 MR. CAMERON: Yes, the other one, it was similar,
15 but --

16 THE COURT: I think --

17 MR. CAMERON: Let me see.

18 Yes, this is the more robust one, your honor. And I
19 will hand them --

20 THE COURT: It seemed you have what you need in
21 here. I'm not going to let him look at the copy I have got.

22 MR. CAMERON: I have another copy here.

23 THE COURT: I am sure you do, but this one can --
24 the suspense won't kill him in the meantime.

25 MR. CAMERON: The one I had proposed when we filed

1 the motion a week or two ago did not have -- it simply cited
2 to RPC 1.5A, without the additional citations to lodestar
3 analysis and things like that.

4 THE COURT: Well you want a belt and suspenders?

5 MR. CAMERON: That's exactly -- I want a belt and
6 suspenders on this, your honor, because whatever --

7 MR. DIESEN: Belt and suspenders?

8 THE COURT: You're not familiar with that phrase?

9 MR. DIESEN: Well I am, but not in the context you
10 are talking about.

11 THE COURT: Okay.

12 MR. CAMERON: Your honor, I think he knew what I
13 meant -- I do know what you mean, and whatever you end up
14 ruling on here, whether it is the full amount, less than the
15 full amount, I am expecting appeal, and I don't want to have
16 to deal with losing on appeal. I would like you to make the
17 absolute most findings you can in this case, your honor.

18 And I do want to mention, Ms. Dawn Burton, the property
19 manager, is here today. I asked that she come down, just so
20 she can see what's going on in this case.

21 THE COURT: And hopefully she might see some
22 finality today.

23 MR. CAMERON: That's what I'm hoping for.

24 THE COURT: Counsel?

25 MR. DIESEN: I have been on this case for less

1 than a week, so I don't have a background, but I have some
2 things to say about it.

3 The principal judgment --

4 THE COURT: Did your client file -- did you file
5 an actual response?

6 MR. DIESEN: Yes, in your --

7 THE COURT: I saw his long, rambling declaration.
8 Is there something in addition to that that you had?

9 MR. DIESEN: No, there is not.

10 THE COURT: Right. So that's the response was
11 just his declaration? There was no legal response from you
12 and no brief, right? I just want to make sure I didn't miss
13 it.

14 MR. DIESEN: I have only been on this case for
15 less than a week so I don't have a brief.

16 THE COURT: I just wanted to make sure what I got.

17 MR. DIESEN: Okay.

18 THE COURT: I got -- I got this long declaration
19 that had all kinds of, "Look over here, look over here, look
20 over here" arguments or statements in it that didn't make a
21 lot of sense to me, and the reason why I am considering it
22 and not striking it, to make our record clear, is there were
23 so many things in it that were contrary to other things in
24 the record that the credibility is just at zero.

25 And so I think it is -- rather than striking it,

1 because it is in conflict with other parts of the record, as
2 was pointed out in the motion to strike -- to me that is a
3 compelling reason to think this is not a credible man when
4 he says these things.

5 So anyhow, back to you. I just want to make sure that
6 your response is solely based on his declaration, and it is,
7 so go ahead, counsel.

8 MR. DIESEN: So we have a judgment entered in
9 February of -- five years ago for some unpaid fees.

10 THE COURT: Um-hum?

11 MR. DIESEN: And some attorney's fees -- less than
12 \$10,000.

13 THE COURT: Right. Yeah well, I think it was just
14 a touch over.

15 What was it? Let me see. It was \$9991.58. That's
16 what you're talking about?

17 MR. DIESEN: Yes.

18 THE COURT: Yeah, I am with you so far.

19 MR. DIESEN: Now my client has tendered to the --
20 to the other side \$93,000, 10 times what the judgment was,
21 and the question is, is it reasonable or is it fair to be
22 collected?

23 Now and the issue has been the redemption of the
24 property.

25 Now I know you can't conclude that the title of the

1 statute is conclusive, but it said -- there is a statute on
2 redemption, just the amount to be paid, and you've got to
3 pay the judgment, and you've got to pay the assessments, but
4 it doesn't say anything about paying any more attorney's
5 fees for people fooling around in Chapter 11's and 13's.

6 THE COURT: Just to make it clear, the person that
7 was fooling around in Chapter 11's and 13's was your client.

8 MR. NAIR: No, I wasn't [UNINTELLIGIBLE]. It
9 was -- my attorney was [UNINTELLIGIBLE]. It is very obvious
10 to anybody who [UNINTELLIGIBLE].

11 THE COURT: I read your declaration, sir. I
12 didn't find it credible.

13 MR. NAIR: But that's --

14 THE COURT: Go ahead, counsel.

15 MR. DIESEN: All right.

16 So we have been fighting about the amount to redeem --

17 THE COURT: Yeah. What statute did you want me to
18 look at?

19 MR. DIESEN: 63.020.

20 THE COURT: It can't be. We are missing
21 something.

22 MR. CAMERON: 623.020.

23 THE COURT: We are missing something. 623. All
24 right.

25 I've got -- I can look it up here.

1 MR. DIESEN: Okay.

2 THE COURT: So you are trying to attack any fees
3 as part of this?

4 MR. DIESEN: No -- well, it -- we must pay the
5 amount of the judgment and we have to pay any assessments or
6 taxes that the purchaser has paid, and any payments to
7 mortgagors that were necessary. And that's it. A
8 redemption.

9 He may have some other claim, some other lawsuit, but
10 in terms of the redemption, we have --

11 THE COURT: I am confused now. I thought you said
12 he already successfully redeemed this property?

13 MR. DIESEN: It has been redeemed.

14 MR. CAMERON: Your honor, yes, Mr. Nair had
15 tendered to us \$93,000, and we are holding it in trust.

16 MR. DIESEN: But they did not file a certificate
17 of redemption.

18 MR. CAMERON: I believe, if you look at the case
19 record, we filed a certificate of sale, and Mr. Nair should
20 have title to the property back.

21 I was looking on my phone, your honor.

22 THE COURT: Yeah, that's okay.

23 MR. CAMERON: Since I have it up here.

24 THE COURT: That's okay.

25 MR. DIESEN: But they haven't filed a certificate

1 of redemption. The property has been redeemed.

2 THE COURT: Certificate of purchase, I see two
3 filed 8/24 and 9/5/2018.

4 MR. CAMERON: If it is a matter of simply filing
5 a certificate of redemption, then we can do that.

6 THE COURT: Okay.

7 MR. CAMERON: I acknowledge in my -- and even in
8 the order I proposed, it is the property -- I wanted to make
9 it clear to the court that the property is redeemed. He has
10 paid the \$92,000. We are only here, as you say --

11 THE COURT: Yeah?

12 MR. CAMERON: -- to determine the reasonableness of
13 the attorney's fees.

14 THE COURT: That is exactly right. That is the
15 issue before me. Are these fees reasonable? If yes, you
16 are going to pay it out of the \$93,000 that has been done
17 and he can get the rest of it. I assume he can get the
18 rest. I don't know who else would have a right to it -- so
19 that he would get, what, 12,000 bucks, or something like
20 that, wouldn't he?

21 MR. CAMERON: The additional -- the -- if you are
22 speaking of the 12,000, it is -- we are talking 93 that he
23 paid in late July, and the additional 12 for July now, with
24 a motion for attorney's fees and whatnot, and we do propose
25 a judgment for that amount.

1 THE COURT: So would he get back anything?

2 MR. DIESEN: We owe taxes and assessments. We
3 don't owe for attorney's fees as part of the redemption
4 price.

5 THE COURT: The issue on -- the judgment includes
6 additional assessments and attorney's fees.

7 MR. CAMERON: Right. And by redeeming it, he has
8 got to pay off the judgment, doesn't he?

9 THE COURT: Yes, he does.

10 MR. CAMERON: That's where I think we are missing
11 each other.

12 MR. DIESEN: Well they have admitted it has been
13 redeemed, but there's no judgment. You've got the cart
14 before the horse.

15 MR. NAIR: Judge, can I say something?

16 THE COURT: No, because your attorney is arguing
17 for you, sir.

18 Okay, so your argument is that because it has been
19 redeemed, what?

20 MR. DIESEN: That you look at what the statute
21 says as to what we have to pay to redeem and determine that
22 amount. It includes assessments and taxes that they have
23 paid. It doesn't say anything about having to pay their
24 attorney's fees.

25 We haven't really discussed the bankruptcy and I would

1 like to address that for a minute if I could?

2 THE COURT: Well it says: "Within eight months
3 after the date of sale, if the sale is pursuant to judgment
4 and decree," blah, blah, blah, blah. Okay? "Purchaser must
5 pay the amount of the bid, with interest thereon at the rate
6 provided in the judgment at the time of the redemption,"
7 together with these other things, as well -- but isn't that
8 saying the amount of the bid -- isn't that saying you have
9 got to pay the judgment? Whatever the judgment consists of,
10 you have got to pay it?

11 If the judgment consists of attorney's fees, you have
12 got to pay the fees.

13 MR. DIESEN: But there has been no -- there was a
14 judgment entered five years ago. There hasn't been a
15 judgment entered for any more fees, and furthermore, we are
16 talking about what -- what we have to pay to redeem the
17 property.

18 THE COURT: Right?

19 MR. DIESEN: If he has some other claims, post
20 judgment, then they are subject to arbitration.

21 THE COURT: You are losing me fast.

22 I'm sorry, this is probably because I'm slow. You look
23 surprised that you lost me, but it is just -- I am trying to
24 keep up, believe me.

25 MR. DIESEN: Well --

1 THE COURT: So they want a judgment right now for
2 their attorney's fees and costs. Right? You understand
3 that?

4 MR. DIESEN: I understand that and you -- you had
5 said --

6 THE COURT: That's based on me determining whether
7 or not their fees are reasonable.

8 MR. DIESEN: A year ago you would look at that and
9 see if they were reasonable.

10 THE COURT: Right. I'm doing it now.

11 MR. DIESEN: Okay, can I address that?

12 THE COURT: Sure.

13 MR. DIESEN: Okay.

14 I have practiced somewhat in bankruptcy court. I know
15 what a 13 is, I know what an 11 is. Both of those
16 proceedings are a plan to pay your creditors.

17 These people had a judgment and a judgment lien on the
18 property. They were 100% secured and they are futzing
19 around in bankruptcy court, filing all of these motions and
20 whatnot, for no apparent reason other than to line their
21 pockets.

22 THE COURT: How would that -- how -- what? How do
23 you -- I don't understand how you can say that they did that
24 to line their pockets?

25 MR. NAIR: That's \$100,000 --

1 THE COURT: If you can't contain yourself, you
2 will be out of this courtroom. Do you understand?

3 MR. NAIR: Okay.

4 THE COURT: Are you suggesting this is how the
5 attorneys decide that they want to make money in the world?

6 MR. DIESEN: Yes.

7 THE COURT: Counsel? Who decided to go to
8 bankruptcy? Your client.

9 MR. NAIR: No, my attorney.

10 THE COURT: Sir, last warning or you are going to
11 be out of this courtroom. You can't interrupt these
12 proceedings. You are disrupting the court. It is the
13 administration of justice. You can't do that, sir.

14 MR. NAIR: I'm sorry.

15 MR. DIESEN: He makes a good argument that he
16 should never have been in bankruptcy -- because he doesn't
17 know what the system is and he got talked into filing a
18 bankruptcy that he should never have filed.

19 But having filed it -- and a 13 and 11 are plans to pay
20 the creditors. Why would they have to go to court over and
21 over again when there's a plan in place to have them all
22 paid? They have a judgment lien.

23 THE COURT: It doesn't make their fees
24 unreasonable, sir, if you disagree with their strategy. It
25 doesn't make them unreasonable in my opinion.

1 MR. CAMERON: Your honor, to be clear, to make the
2 record straight on this, Mr. Nair never confirmed a plan.

3 Certainly the -- you file chapter 13 -- you file
4 Chapter 11 as a plan to try to pay your creditors, but he
5 never did.

6 His argument that there is a judgment against the
7 property and essentially, "Well that should just be enough
8 because there is enough equity" doesn't -- doesn't satisfy
9 the ongoing expenses of Redmond Ridge East Association.

10 The association has common area expenses it has to keep
11 up.

12 A judgment sitting against property is not creating any
13 money -- doesn't pay those common expenses.

14 THE COURT: Okay.

15 Why is he wrong?

16 MR. DIESEN: Well he is not wrong in saying that
17 the fees are incurred by the association to maintain the
18 property, but my client has paid those fees and he has even
19 tendered two years in advance.

20 THE COURT: Okay.

21 MR. CAMERON: Your honor? What counsel is
22 speaking to is this afternoon we received -- the property
23 manager received this letter from Mr. Nair, purporting that
24 a check is in the mail. There is no check copy attached to
25 that.

1 I really don't know what to do with that, your honor.
2 It doesn't resolve the fact that there is \$92,000 sitting in
3 our trust account waiting for you to make a determination on
4 where it goes.

5 MR. DIESEN: He's not going to do that.

6 MR. CAMERON: If he gets current and he makes that
7 payment then I -- he is current, I guess. I don't really --
8 I just don't really know what to do with that, your honor,
9 and I don't even know if the court has even considered it or
10 even seen it yet, so --

11 THE COURT: Is this in the court file anywhere?

12 MR. DIESEN: No.

13 THE COURT: Okay.

14 MR. DIESEN: He just sent it two days ago. He's
15 paying the dues two years in advance to get away from these
16 people.

17 THE COURT: Well what is this proof of?

18 MR. NAIR: May I speak, judge?

19 THE COURT: No.

20 It's not proof of anything, though. It is just a proof
21 of him saying what he has done. There is no proof that he
22 actually did it.

23 Where's the check? Where's the negotiated check?
24 Where's the proof that they received it and took the money?
25 Where do we see that he actually gave it to them?

1 MR. NAIR: Judge?

2 THE COURT: There's nothing.

3 Sir, I don't know why you keep on wanting to talk to
4 me. This isn't an evidentiary hearing.

5 MR. DIESEN: There is not enough time for that to
6 have occurred.

7 THE COURT: This says he paid it in September. It
8 is October.

9 MR. DIESEN: No, no, no it doesn't.

10 THE COURT: "I have paid for September."

11 MR. CAMERON: The date of the letter, your honor,
12 is --

13 MR. DIESEN: October 24, 2018.

14 MR. CAMERON: -- this past Wednesday.

15 THE COURT: Okay.

16 MR. DIESEN: Today is the 27th.

17 MR. CAMERON: 26th.

18 THE COURT: Okay so what weight would I possibly
19 give that? There's not proof of anything.

20 THE COURT: And what does it have to do with all
21 of the fees that they have incurred for the last -- what --
22 how many years dealing with him?

23 MR. CAMERON: Four years.

24 MR. DIESEN: He has been trying to pay and
25 because --

1 THE COURT: No, he has gone through bankruptcy to
2 avoid paying.

3 MR. DIESEN: No, a chapter 13 is not a plan to --
4 a 7 is when you want to avoid paying. A 13 is a plan to pay
5 your creditors. An 11 is a plan to pay your creditors. He
6 did not --

7 THE COURT: So your understanding is under a
8 Chapter 11 all of the creditors were going to get 100% of
9 what they are owed?

10 MR. DIESEN: Yes. And eventually he just
11 dismissed the bankruptcy because he didn't need bankruptcy
12 protection.

13 THE COURT: Why are you having such a hard time,
14 sir?

15 MR. NAIR: I need to say something important. Can
16 I?

17 THE COURT: Well you are almost bursting at the
18 seams, so go ahead and tell me what you need to say, sir,
19 briefly.

20 MR. NAIR: As soon as I realized that I was being
21 scammed by these [UNINTELLIGIBLE], I immediately filed my --
22 my previous counsel, Symmes, who advised me to file
23 bankruptcy -- I filed a legal malpractice claim against him,
24 and I have also filed complaints against Mr. Cameron and Mr.
25 Symmes with the prosecutor and the FBI. And they are

1 currently -- an investigation is pending.

2 This is a clear case of -- clear scam. Any reasonable
3 person with intelligence can look at the -- the document,
4 the docket, and read the motions and the responses and see
5 that they are just -- basically just a joke. They are just
6 basically -- nothing but an attempt to make a complete show
7 of [UNINTELLIGIBLE] -- because I have a \$5 million net
8 worth.

9 I said I don't need any bankruptcy protection, and I
10 don't need to pay \$100,000 to -- in attorney's fees for a
11 \$75 [UNINTELLIGIBLE] -- why would anybody pay \$100,000 in
12 attorney's fees for paying a \$75 [UNINTELLIGIBLE] that I'm
13 only happy to pay, anyways?

14 And I have been -- I have been buying homes from 2001
15 all the way until 2011, January. I did not miss a single
16 payment. But [UNINTELLIGIBLE]. I never received any
17 service. I never received anything. I have not received
18 any service. I would have paid the simple \$75.

19 There is absolutely no reason for any motion or
20 response or anything. Any -- and the whole bankruptcy was a
21 scam. And that's why I filed this malpractice case against
22 my attorney. Why would I file a malpractice case against my
23 attorney if I didn't -- if I didn't believe it was a scam?

24 It is still -- that suit is still pending in court.
25 And Mr. Symmes and Mr. Cameron, they are colluding and

1 making a complete -- you know, complete joke, a complete
2 mockery of the court system.

3 And you are a judge. You should be protecting the
4 integrity of the court. That is your job.

5 But any reasonable person can read through this docket
6 and see that this is a scam.

7 [UNINTELLIGIBLE] to read this -- his document in the
8 bankruptcy and the responses and see that it is a
9 [UNINTELLIGIBLE].

10 I beg you -- I really encourage you to please read
11 that.

12 THE COURT: Okay. I -- I have read what I needed
13 to read. I have read the submissions of the parties in this
14 case.

15 MR. NAIR: Sir, Mr. Symmes --

16 THE COURT: I don't have the same interpretation
17 that you do. Maybe that makes me an idiot.

18 MR. NAIR: Sir, Mr. Symmes and Mr. Cameron have --
19 Mr. Symmes asked me to file bankruptcy when I have \$5
20 million in assets, and this guy is -- you know, he is a very
21 protected creditor with \$75 per month. These two guys have
22 \$100,000 in attorney's fees.

23 Anybody who understands these facts can see what is
24 going on. It doesn't need to be a [UNINTELLIGIBLE] person
25 or a Superior Court judge [UNINTELLIGIBLE].

1 THE COURT: All right.

2 So you have now had your say, right?

3 MR. NAIR: Yes, sir.

4 THE COURT: Okay.

5 We are going to turn things over to your attorney
6 again. I am not going to hear again from you. You
7 understand that, right?

8 MR. NAIR: I believe that -- if it was presented
9 in front of an arbitrator, or somebody who reads all of the
10 documents in the bankruptcy court documents - any
11 [UNINTELLIGIBLE] person who reads all of the documents will
12 clearly see that a \$75 creditor claim, \$100,000 in
13 attorney's fees, by colluding with a bankruptcy attorney,
14 who persuaded a \$5 million multimillionaire to file a
15 bankruptcy -- everything -- you know he turns out to -- you
16 know, he is trying to make [UNINTELLIGIBLE], you know? Make
17 some -- you know, make -- like this kind of -- a story that
18 only [UNINTELLIGIBLE].

19 THE COURT: Okay.

20 Now I want to make sure -- you are done now, right,
21 sir?

22 MR. NAIR: Yes, sir.

23 THE COURT: Okay.

24 MR. DIESEN: What I want to say is he makes a lot
25 of sense. This thing --

1 THE COURT: What you just heard makes sense?

2 MR. DIESEN: Well --

3 THE COURT: It sure didn't to me.

4 MR. DIESEN: Well conceptually --

5 THE COURT: All your client had to do was just pay
6 off what was owed to the homeowners and he would have --

7 MR. NAIR: It was --

8 THE COURT: Sir, remember? I let you speak after
9 telling you not to repeatedly, because you were just
10 bursting at the seams, and then just seconds ago I said,
11 "Are you done now, sir?" And you said yes.

12 You are done now, sir.

13 MR. NAIR: Okay.

14 THE COURT: You have had your chance.

15 MR. NAIR: But --

16 THE COURT: No. You are done now.

17 MR. NAIR: You said an incorrect statement.

18 That's why I responded.

19 THE COURT: But see, that's the thing; you don't
20 get to do that.

21 MR. NAIR: Okay.

22 THE COURT: You don't get to do that.

23 Your attorney can say, "Your honor, this is our view
24 and we think that you have got it wrong," but just because
25 you don't agree with what I say doesn't mean that you get to

1 jump up and interrupt. You don't.

2 MR. NAIR: And furthermore, there's a \$10 million
3 lawsuit against Mr. Cameron and [UNINTELLIGIBLE] that I'm
4 filing for their scam.

5 THE COURT: Do whatever you need to do, sir. That
6 is not before me. That has nothing to do with anything that
7 I'm doing right now, but I will tell you, you have
8 interrupted the proceedings for the last time. You do it
9 again, I am calling the deputies upstairs and they are going
10 to have you removed from this courtroom. Do you understand
11 that?

12 MR. NAIR: I understand.

13 THE COURT: We will see.

14 MR. DIESEN: As an experienced attorney, when you
15 have a \$10,000 judgment, how do you spend another \$75,000
16 trying to collect it when it is secured? It doesn't make
17 any sense.

18 THE COURT: They showed me how.

19 MR. DIESEN: Well --

20 THE COURT: They jumped through hoops after hoops
21 after hoops that your client put in front of them. All he
22 had to do was pay it and it would've been game over, done.
23 He chose not to. He chose to draw this out to ludicrous
24 lengths.

25 He is blaming everyone else in the world for it. "I

1 had a horrible lawyer that convinced me to do this, even
2 though I was worth \$5 million."

3 People that are worth \$5 million pay a \$10,000 judgment
4 and move on with their lives. They don't do what he did for
5 the last four years.

6 You might disagree with their strategy -- no. You
7 might disagree with their strategy and not think that they
8 needed to do it.

9 I think the fees that they spent are reasonable. I
10 don't have any problems with what they did because they did
11 it all in reaction to what your client was doing, sir.

12 That's where we part company.

13 MR. DIESEN: Yeah.

14 THE COURT: We just see things differently. There
15 is no disrespect intended, but I now have the proof that I
16 wanted last -- not this last July, but the July before that,
17 because I was supposed to be making a determination, as I
18 read the documents, to see that the fees were reasonable.

19 I have now found that they are. I am going to enter
20 this judgment.

21 MR. NAIR: Your honor?

22 THE COURT: Can you please call the deputy?

23 MR. NAIR: [UNINTELLIGIBLE].

24 MR. DIESEN: How much is this judgment going to
25 be?

1 THE COURT: So they get their fees, what they have
2 asked for, and so they initially had -- I want to make sure
3 that I have got all of this right.

4 Because the fees as of last July were what, like
5 \$73,000, weren't they?

6 MR. CAMERON: Yeah, something like that, your
7 honor. And then if you look at the order --

8 THE COURT: I have got an order awarding costs and
9 attorney's fees.

10 MR. CAMERON: We are holding \$93,069.69 in trust.
11 That was the redemption amount.

12 THE COURT: Right.

13 MR. CAMERON: Of that amount, \$23,306.30 is
14 assessments, etc., that --

15 THE COURT: Late fees, interest and fines. I have
16 got that.

17 MR. CAMERON: Yes.

18 Let's see. I asked for an award of \$76,216.50 in
19 attorney's fees, costs of \$3012.56, and then \$4500 in
20 attorney's fees for this motion, bringing a total award to
21 \$83,729.06.

22 And the proposal I had in this order was -- there is
23 still about \$70,000 sitting in our trust account, after the
24 \$23,000 goes out to the association. We would take our fees
25 from the \$70,000 and then the judgment --

1 THE COURT: Is the math right then on the
2 judgment? I think that needs to be updated.

3 And normally what I will say is for the \$4500 that you
4 want to bring this motion, normally you would get your fees
5 to bring a motion when you are entitled to fees. You
6 normally don't get fees spent in defending your fees, so you
7 get your fees in the initial motion, but here you weren't
8 defending the reasonableness of your fees. Instead what you
9 were doing was again having to try to address the same
10 allegations that went to your right to fees to begin with,
11 not the reasonableness of your fees.

12 There has never -- in his declaration, page after page
13 of it, he didn't go into the reasonableness; it went into,
14 "My lawyer was a crook and this is why I did this and this
15 is why all this happened."

16 So I think you are entitled to the fees that you spent
17 prosecuting this motion in its entirety because none of
18 those fees were spent justifying your fees, i.e., defending
19 them; they were spent justifying your entitlement to the
20 fees, which is the basis for bringing a motion for the fee
21 award. So I don't have a problem with that.

22 MR. CAMERON: Okay. Okay.

23 Your honor, I think the math is correct on this.

24 THE COURT: I wanted to make sure because --

25 MR. CAMERON: Yeah.

1 -- the \$4500 that I mentioned, that was an estimate
2 that I had for right after I filed the motion.

3 THE COURT: He can talk to his client as long as
4 he is not -- or his attorney. I am not going to kick him
5 out for talking to his attorney, but if he starts going on
6 the record again --

7 MR. CAMERON: So I believe that is correct, your
8 honor.

9 I would like to add into the judgment one word, and I
10 will show you -- let's see.

11 (Brief Pause in Proceedings. Discussion between
12 defendant and his counsel.)

13 MR. CAMERON: Your honor, so what I -- and I will
14 show you in a moment here, counsel.

15 What I added was -- so findings and conclusions, but I
16 wasn't sure if the court then also wanted to -- I said
17 responses, if any; replies, if any. If the court wanted
18 to --

19 THE COURT: Where are you talking about now?

20 MR. CAMERON: See the handwriting I have there?
21 It is at the top of page 2 -- I think -- on the judgment?

22 MR. DIESEN: He's not going to listen --

23 THE COURT: I always listen, counsel. Don't say
24 that about me. That's not fair.

25 MR. NAIR: Can I say something?

1 THE COURT: But I am happy to listen to the
2 advocate.

3 If you wanted to represent yourself, sir, you shouldn't
4 have hired an attorney. Okay?

5 When you are represented by an attorney, he does the
6 arguing, not you. You present evidence if you need to if it
7 is a hearing.

8 MR. DIESEN: What we want an answer to is why --
9 if the CCR's say attorney's fees subject to mandatory
10 arbitration, why we don't get that?

11 THE COURT: Because you haven't asked for it.
12 Where is your demand for arbitration?

13 MR. DIESEN: Well --

14 THE COURT: Where have you followed any of the
15 procedures to demand arbitration at any time?

16 MR. NAIR: I asked my attorney for arbitration.

17 MR. DIESEN: Well --

18 THE COURT: When have you? Can you answer that
19 question? It is a simple --

20 MR. DIESEN: Yes, I can. Yes, I can.

21 THE COURT: But you're not.

22 MR. DIESEN: But I will.

23 THE COURT: Go for it.

24 MR. DIESEN: All right.

25 There was a judgment for attorney's fees and costs, and

1 that is past the point of arbitration.

2 When it comes to future fees, post judgment, we are
3 entitled to arbitration and to put that, as Mr. Nair's --

4 THE COURT: Declaration?

5 MR. DIESEN: Yes, his declaration.

6 THE COURT: Right?

7 Okay. There has been no formal demand for arbitration
8 that I am aware of in this case. A declaration in
9 opposition to a motion for fees is not a demand for
10 arbitration, counsel.

11 MR. DIESEN: I understand that, but --

12 MR. NAIR: I asked my attorney for arbitration. I
13 want to protect my rights. And there is mandatory
14 arbitration.

15 THE COURT: Whatever you ask your attorney for is
16 up to you and your attorney, not me.

17 I need the judgment back here. I was just handing it
18 to you to see the interlineation.

19 MR. NAIR: It has got a mandatory arbitration --

20 THE COURT: I just wanted you to see the
21 interlineation.

22 It is hard to hear me over your client, probably, but
23 on the second page there you will see something. See it?
24 No, you have passed it.

25 There. Do you see? I just wanted you to see the

1 interlineation by counsel.

2 MR. NAIR: Your honor, can I have a motion for
3 reconsideration with mandatory arbitration, because the
4 CCR's say mandatory arbitration? It is not up to
5 [UNINTELLIGIBLE].

6 (Brief Pause in Proceedings)

7 MR. CAMERON: Your honor, just two quick matters
8 to clean up. Would the court like to at least enter an
9 order denying my motion to strike?

10 THE COURT: I have.

11 MR. CAMERON: Okay.

12 THE COURT: I haven't entered it, but I wrote it.

13 MR. CAMERON: Thank you.

14 THE COURT: So I am going to give all of these
15 back to you folks.

16 MR. DIESEN: You denied it?

17 THE COURT: I did, because I wanted to consider
18 it -- for the exact reasons why I have already discussed --
19 considered as to your client's credibility and I considered
20 it as to the reasonableness of the attorney's fees, because
21 if anything, a further example of why those fees were
22 incurred.

23 MR. CAMERON: Thank you, your honor.

24 THE COURT: You're welcome.

25 MR. CAMERON: And then I wanted to get -- the

1 other thing -- let's see, the original judgment here. I
2 will take this up for recording and get it filed. You need
3 to sign this.

4 THE COURT: While you are doing that, I am just
5 going to make a record that Rob and Jolie in La Fink? La
6 Fink?

7 (The court addresses another matter)

8 (End of proceedings)

9 (End of proceedings for 10/26/2018)

10 (End of transcript)

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C E R T I F I C A T E

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Dated March 8, 2019.

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