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COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT

BARNSTABLE, SS

SJC NO.: DAR-28814
APPEALS COURT NO: 2022-P-0231
Lower Court No:2172-CV-00304

ABRHAM KASPARIAN JR.
APPELLANT/PLAINTIFF

V.

FORMER ADA, SETH G. ROMAN, ESQ.
STEVEN S. DeYOUNG, ESQ.
JEREMY M. CARTER, ESQ.
CATTER DeYOUNG ATTORNEYS AT LAW
APPELLEES/DEFENDANTS

APPELLANT'S SUPPLEMENTAL FILING PURSUANT TO REQUIREMENTS
THE MASSACHUSETTS SUPREME JUDICIAL COURT, ("SJC"),
EMAIL ENTRY ON MAY 2, 2022

NOW COMES, the Appellant/Plaintiff, Abraham Kasparian Jr., pro se, ("Kasparian"), and respectfully supplements his request of the SJC for Direct Appeal, dated April 28, 2022, as the Honorable SJC has required of him on May 2, 2022 in an Order enter onto the SJC's Direct Appeal Review docket number assigned by the SJC as No.: DAR-28814 requiring that Kasparian provide additional documents, which are hereto attached as exhibits which are listed below and cited below:

In support Supplemental filings of Kasparian's Application for Direct Appellate Review, ("the Application"), Kasparian the documents required by the Honorable SJC on May 2, 2022, as follows:

1. The SJC required that Kasparian submit "[a]ny written decision, memorandum, findings, rulings, or report of the lower court relevant to appeal." as part of the email received by Kasparian dated: Mon, May 2, 2022 at 4:00PM to meet that part of the requirement Kasparian provides the following documents attached hereto as exhibits A, B, and C.

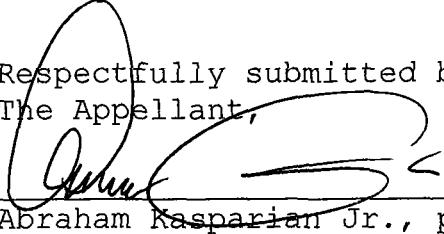
Exhibit A - is the Clerk's Notice and Ruling by His Honor Thomas J. Perrino dated November 16, 2021 [see the blue divider marked as Exhibit A];

Exhibit B - is the Barnstable County Superior Court Public Docket Report dated and printed on April 14, 2022 [see the blue divider marked as Exhibit B]; and

Exhibit C - is the Transcript of the Rule 12 Hearing before His Honor Thomas J. Perrino, on November 4, 2021 by Judy Bond, CERT of Bond Court Reporting [see the blue divider marked as Exhibit C].

WHEREFORE, for the reasons set forth herein,
Abraham Kasparian Jr., pro se, respectfully requests that
his/the Supplemental filing of the requested and required
documents be added to his filed Application be **ALLOWED**.

Respectfully submitted by
The Appellant,



Abraham Kasparian Jr., pro se
154 Weir Road
Yarmouth Port, MA 02675
Phone: (508) 737-3271
Fax: 1-774-994-8992
abekasparianjrprose@gmail.com

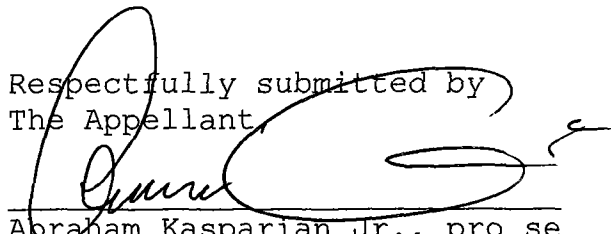
DATED: May 4, 2022

CERTIFICATE OF SERVICE:

I, Abraham Kasparian Jr., pro se, hereby certify that, pursuant to Mass. R.A.P. 13(d), under the penalties of perjury, that on this date of May 4, I have made service of copy of the above Request/Application for Direct Appellate Review, and the Supplemental filing of Documents requested by SJC, by Abraham Kasparian Jr., pro se, upon the attorney of record for each party, or if the party has no attorney, then I made service directly to self-represented party by first class mail, and directed to:

La Tanzi, Spaulding and Landreth
**FORMER ADA, SETH G. ROMAN, ESQ., & Defendant, pro se
and Counsel for the other Defendant Attorneys/Appellees**
8 Cardinal Lane
POB 2300
Orleans, Massachusetts 02653

Respectfully submitted by
The Appellant,



Abraham Kasparian Jr., pro se
154 Weir Road
Yarmouth Port, MA 02675
Phone: (508) 737-3271
Fax: 1-774-994-8992
abekasparianjrprose@gmail.com

DATED: May 4, 2022

EXHIBIT "A"

EXHIBIT "A"

EXHIBIT "A"

EXHIBIT "B"

EXHIBIT "B"

EXHIBIT "B"



**COMMONWEALTH OF MASSACHUSETTS
BARNSTABLE COUNTY
Public Docket Report**

2172CV00304 Kasparian, Jr., Abraham vs. Roman, Esq., Seth G. et al

| | |
|--|-------------------------------------|
| CASE TYPE: Torts | FILE DATE: 08/23/2021 |
| ACTION CODE: B99 | CASE TRACK: F - Fast Track |
| DESCRIPTION: Other Tortious Action | |
| CASE DISPOSITION DATE: 11/29/2021 | CASE STATUS: Open |
| CASE DISPOSITION: Disposed by Court Finding | STATUS DATE: 08/23/2021 |
| CASE JUDGE: | CASE SESSION: Second Session |

PARTIES

| | |
|---|--|
| Plaintiff Kasparian, Jr., Abraham 154 Weir Road Yarmouthport, MA 02675-0268 | Self Represented PROPER Pro Se Massachusetts Bar Added Date: 08/23/2021 |
| Defendant Carter DeYoung, Attorneys at Law | Private Counsel 638700 Seth G Roman La Tanzi, Spaulding and Landreth LLP La Tanzi, Spaulding and Landreth LLP 8 Cardinal Way Post Office Box 2300 Orleans, MA 02653-2300 Work Phone (508) 255-2133 Added Date: 09/07/2021 |
| Defendant Carter, Esq , Jeremy M. | Private Counsel 638700 Seth G Roman La Tanzi, Spaulding and Landreth LLP La Tanzi, Spaulding and Landreth LLP 8 Cardinal Way Post Office Box 2300 Orleans, MA 02653-2300 Work Phone (508) 255-2133 Added Date: 09/07/2021 |
| Defendant DeYoung, Esq , Steven S. | Private Counsel 638700 Seth G Roman La Tanzi, Spaulding and Landreth LLP La Tanzi, Spaulding and Landreth LLP 8 Cardinal Way Post Office Box 2300 Orleans, MA 02653-2300 Work Phone (508) 255-2133 Added Date: 09/07/2021 |
| Defendant Roman, Esq , Seth G. | Private Counsel 638700 Seth G Roman La Tanzi, Spaulding and Landreth LLP La Tanzi, Spaulding and Landreth LLP 8 Cardinal Way Post Office Box 2300 Orleans, MA 02653-2300 Work Phone (508) 255-2133 Added Date: 09/07/2021 |



**COMMONWEALTH OF MASSACHUSETTS
BARNSTABLE COUNTY
Public Docket Report**

| FINANCIAL DETAILS | | | | | |
|-------------------|---|---------------|---------------|-------------|-------------|
| Date | Fees/Fines/Costs/Charge | Assessed | Paid | Dismissed | Balance |
| 08/23/2021 | Civil Filing Fee (per Plaintiff) Receipt. 16414 Date: 08/23/2021 | 240.00 | 240.00 | 0.00 | 0.00 |
| 08/23/2021 | Civil Security Fee (G L. c. 262, § 4A) Receipt 16414 Date. 08/23/2021 | 20.00 | 20.00 | 0.00 | 0.00 |
| 08/23/2021 | Civil Surcharge (G.L. c 262, § 4C) Receipt: 16414 Date. 08/23/2021 | 15.00 | 15.00 | 0.00 | 0.00 |
| 08/23/2021 | Fee for Blank Summons or Writ (except Writ of Habeas Corpus) MGL 262 sec 4b Receipt: 16414 Date 08/23/2021 | 20.00 | 20.00 | 0.00 | 0.00 |
| Total | | 295.00 | 295.00 | 0.00 | 0.00 |



**COMMONWEALTH OF MASSACHUSETTS
BARNSTABLE COUNTY
Public Docket Report**

INFORMATIONAL DOCKET ENTRIES

| Date | Ref | Description | Judge |
|------------|-----|--|--------|
| 08/23/2021 | 1 | Original civil complaint filed. with Jury Demand | |
| 08/23/2021 | 2 | Civil action cover sheet filed. | |
| 08/23/2021 | | EDocument sent: A Tracking Order was generated and given in hand on 8/23/21 along with four (4) original Summons to Plaintiff. Abraham Kasparian, Jr. 154 Weir Road, Yarmouthport, MA 02675-0268 | |
| 09/01/2021 | 3 | Service Returned for Defendant Roman, Esq., Seth G. Service made at last and usual, 59 Dove Cottage Road, Falmouth, MA 02540 on August 23, 2021 | |
| 09/01/2021 | 4 | Service Returned for Defendant DeYoung, Esq., Steven S : Service made at last and usual; 691 Willow Street, South Yarmouth, MA 02664 on August 24, 2021 | |
| 09/01/2021 | 5 | Service Returned for Defendant Carter, Esq., Jeremy M.: Service made at last and usual; 54 Thornberry Circle, Mashpee, MA 02649 on August 24, 2021 | |
| 09/01/2021 | 6 | Service Returned for Defendant Carter DeYoung, Attorneys at Law. Service through person in charge / agent; in hand to Melanie Kobylenski, agent at Carter DeYoung, 270 Winter Street, Hyannis, MA 02601 on August 24, 2021 | |
| 09/07/2021 | 7 | Defendants Seth G. Roman, Esq., Steven S. DeYoung, Esq., Jeremy M. Carter, Esq., Carter DeYoung, Attorneys at Law's Notice of Motion to Dismiss | |
| 09/16/2021 | 8 | Plaintiff Abraham Kasparian, Jr 's EMERGENCY Motion to extend time to file opposition to defendant's motion to dismiss | |
| 09/17/2021 | | Endorsement on Motion to extend time to file opposition to defendants' motion to dismiss (#8.0): ALLOWED There being no opposition, the extension of time is allowed - plaintiff shall serve any opposition to the defendants' motion to dismiss on or before 10/15/2021. Hearing on the motion is set for 11/04/2021 at 2:00 p.m. Clerk's Notice emailed to SGR and mailed first class to AK on 09/20/2021 | Gildea |
| 09/20/2021 | | NOTICE TO APPEAR FOR HEARING ON Defendants' Motion to Dismiss, to be held IN PERSON, on 11/04/2021 at 2:30 p.m., mailed on 09/20/2021 to AK and SGR. | |
| 10/18/2021 | 9 | Certificate of Compliance (w/cert or ser.). Applies To. Kasparian, Jr., Abraham (Plaintiff) | |



**COMMONWEALTH OF MASSACHUSETTS
BARNSTABLE COUNTY
Public Docket Report**

| | | | |
|------------|------|--|---------|
| 10/20/2021 | | Pleading titled, Plaintiff's Verified Notice of Compliance with Court Order Docket NO 8 and Request for the correct name of Counsel of record and/or that Attorney's correct address for reasons stated below, filed with the court on 10/18/2021, returned to Pro Se Abraham Kasparian, Jr. Refile your (request for the correct name of counsel of record and/or that attorney's correct address for reasons stated below) needs to be filed in accordance with Superior Court Rule 9A. | |
| 10/20/2021 | 10 | Rule 9A list of documents filed. | |
| 10/20/2021 | 10.1 | Defendants Seth G. Roman, Esq., Steven S. DeYoung, Esq., Jeremy M. Carter, Esq., Carter DeYoung, Attorneys at Law's Motion to dismiss all counts | |
| 10/20/2021 | 10.2 | Opposition to P #10.1 filed by Abraham Kasparian, Jr. | |
| 10/20/2021 | 10.3 | Abraham Kasparian, Jr.'s Memorandum in support of P #102. | |
| 10/20/2021 | 10.4 | Plaintiff Abraham Kasparian, Jr.'s Cross Motion to amend the original complaint | |
| 10/20/2021 | 10.5 | Opposition to P #10/4 filed by Seth G. Roman, Esq., Steven S. DeYoung, Esq., Jeremy M. Carter, Esq., Carter DeYoung, Attorneys at Law | |
| 10/20/2021 | 10.6 | Request for hearing filed | |
| | | Applies To: Kasparian, Jr., Abraham (Plaintiff) | |
| 11/04/2021 | | Rule 12 Hearing scheduled on 11/04/2021. Held - Under advisement Comments: 2nd Session. FTR (CMH) Appeared. Plaintiff - Abraham Kasparian, Jr. Defendant - Seth G. Roman, Esq. | Perrino |
| 11/16/2021 | | Endorsement on Motion to dismiss all counts (#10.1). ALLOWED After hearing argument and after careful consideration of the relevant documents, the complaint, the motion and memorandum and the opposition, the motion to dismiss is ALLOWED as to all counts and claims asserted. For the reasons set forth in the motion and memorandum, as a matter of law the allegations, taken as true, fail to state a plausible claim for relief, and therefore the complaint fails to state a claim upon which relief may be granted. Clerk's Notice emailed to SGR on 11/16/2021 and mailed to AK on 11/16/2021 | Perrino |
| | | Judge. Perrino, Hon. Thomas J | |
| 11/29/2021 | 11 | JUDGMENT on Defendants, Seth G. Roman, Esq., Steven S. DeYoung, Esq., Jeremy M. Carter, Esq., Carter DeYoung, Attorneys at Law 12(b) motion to dismiss against Plaintiff(s) Abraham Kasparian, Jr It is ORDERED and ADJUDGED that the Complaint of the Plaintiff, Abraham, Kasparian, Jr., be and hereby is dismissed Certified copy to AK, SGR on 11/29/21 | Perrino |
| 11/29/2021 | | Disp for statistical purposes | |

EXHIBIT "C"

EXHIBIT "C"

EXHIBIT "C"

Volume: I
Pages: 1-32
Exhibits: 0

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

ABRAHAM KASPARIAN, JR.,

Plaintiff,

v.

SETH G. ROMAN, Esq., et al,

Defendant.

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Docket No. 2172CV00304

RULE 12 HEARING

BEFORE THE HONORABLE THOMAS J. PERRINO

APPEARANCES:

For the Plaintiff:

Abraham Kasparian, Jr., *pro se*
154 Weir Road
Yarmouthport, MA 02675-0268

For the Defendants:

La Tanzi , Spaulding and Landreth LLP
8 Cardinal Way
Post Office Box 2300
Orleans, MA 02653-2300
By: Seth G. Roman, Esq.

Barnstable, Massachusetts
Courtroom 2
November 4, 2021

Proceedings recorded by electronic sound recording,
transcript produced by an Approved Court Transcriber.

Judy Bond, CERT
Approved Court Transcriber
judy@bondcourtreporting.com

1 (Case called.)

2 (2:18 p.m.)

3 THE CLERK: The next matter is number three on our list:
4 2172CV304, Abraham Kasparian, Junior, vs. Seth G. Roman
5 Esquire, et al.

6 Your Honor, a motion to dismiss with opposition.

7 And counsel and Mr. Kasparian, would you please identify
8 for the record?

9 MR. ROMAN: Your Honor, Seth Roman representing myself as
10 well as Attorney Steven DeYoung and Attorney Jeremy Carter.

11 THE COURT: Good afternoon.

12 MR. ROMAN: Good afternoon.

13 MR. KASPARIAN: Your Honor, Abraham Kasparian, Junior.
14 I'm Plaintiff and representing myself.

15 THE COURT: Good afternoon, Mr. Kasparian.

16 So, Attorney Roman, this is your motion to dismiss -- or
17 -- to dismiss.

18 MR. ROMAN: Thank you, Your Honor. This is a motion to
19 dismiss filed by all three defendants, myself included.

20 Basically, in background, this case -- the present case
21 arises out of a case that's pending in Barnstable District
22 Court. I represent the defendants in Barnstable District Court
23 named Jack Duffy, Daniel Morris and Cycle SERVICES JD Signs
24 LLC.

25 In connection with that litigation, the plaintiff took a

1 deposition of one of my clients, Daniel Morris. During that
2 deposition there was a -- Mr. Kasparian was asking for home
3 address information of my client, and I instructed my client
4 not to testify and objected to the question.

5 After some back and forth I indicated to Mr. Kasparian
6 that the reasons why I didn't want him to produce that
7 information was, among other things, the fact that he had been
8 convicted of manslaughter previously and had gone to state
9 prison.

10 It turns out that Mr. Kasparian was not convicted of
11 manslaughter. He was convicted of armed assault with intent to
12 murder, so that was an error on my part.

13 In addition, subsequently after the deposition concluded,
14 Mr. Kasparian in district court filed essentially a motion to
15 compel further deposition and for sanctions for my
16 representations in the course of the deposition.

17 During that --

18 In opposition to that I filed a pleading in opposition to
19 his motion for sanctions and to compel. I may be -- in my
20 motion is the exact name of the opposition.

21 But in opposition to this motion which is yet to be heard
22 I filed a document which included reference to the armed
23 assault conviction. It also included reference to the fact
24 that -- or the allegation that Mr. Kasparian was subject to a
25 permanent guardianship hearing --

1 THE COURT: Let me interrupt you. The district court
2 motion that addresses some of these issues has not been heard
3 yet?

4 MR. ROMAN: No. It's scheduled for November 12, Your
5 Honor.

6 THE COURT: And what's the --

7 I'll ask Mr. Kasparian this when it's his turn, but
8 what's the remedy being sought in that motion?

9 MR. ROMAN: Among other things --

10 It's multifaceted, but I believe he's looking for costs
11 and attorney's fees, and he's also trying to compel
12 continuation of the deposition. I may be missing something.

13 THE COURT: Well, I'm getting to the --

14 You know, is that something that --

15 Okay. All right. Thank you. Go ahead.

16 MR. ROMAN: So it also made reference and quoted
17 documents from the Hampden County Probate & Family Court
18 indicating that Mr. Kasparian was subject to this permanent
19 guardianship order and was mentally ill with specific
20 diagnoses. Specifically, it said since 2008 the plaintiff has
21 been under guardianship by reason of mental illness -- with the
22 Court and docket number -- having previously been committed
23 pursuant to the statute -- mental health commitment statute.
24 He was diagnosed with schizoaffective disorder bipolar type,
25 cocaine abuse and heroin dependence with symptoms including

1 psychosis, mania, grandiosity, delusional thinking, and
2 assaultive and combative behavior treated by antipsychotic
3 medication by court order.

4 Mr. Kasparian took exception to this and, you know, filed
5 some replies in the district court. The issue being that
6 there's another individual named Abraham Kasparian the Third
7 rather than junior who is the person who had been committed and
8 was under a permanent guardianship out of that court.

9 It is explained in the hearings the issue was that the
10 criminal docket for the assault with intent to murder charge
11 made reference to mental health commitments. That was out of
12 Hampden County. It was transferred to Barnstable County on
13 probation issues. Because of that --

14 This isn't that important to the motion, but I want to
15 give you the background.

16 I concluded, apparently erroneously, that it was the same
17 Abraham Kasparian that was subject to those orders when, in
18 fact, it was a different Abraham Kasparian in the same county.

19 It might be his son. I'm not -- I'm not certain given
20 the junior versus the third.

21 The basis for the motion --

22 So that's the basis for the lawsuit.

23 The plaintiff argues in his lawsuit, one, essentially
24 that he was defamed; that, two, that I unlawfully obtained
25 information concerning his criminal history through my prior

1 employment with the Cape and Islands District Attorney's
2 Office, and that I improperly disclosed to third parties
3 confidential health records. So false statement, improper
4 access to CORI and violation of HIPAA laws or medical
5 non-disclosure laws.

6 Mr. Kasparian contends that my conduct was intended to
7 interfere with his political career as well as his business
8 relationship with the stenographer that was used at the
9 deposition, caused harm to his reputation and caused him to
10 suffer emotional distress. And then, of course, because
11 Attorney Carter and Attorney DeYoung were the named partners in
12 the firm that I was employed at at the time, they are also
13 liable.

14 So addressing those points, Your Honor. The first one,
15 with regard to the statements, all of the facts in the
16 complaint need to be assumed true for purposes of the motion.
17 So the allegation is that, A, Mr. Kasparian was -- never took
18 anyone's life and was not ever convicted of manslaughter as was
19 stated in the deposition; and B, that he was not under a
20 guardianship and had not been diagnosed with those particular
21 mental health issues that were referenced in the written
22 pleading that was filed with the Barnstable District Court.

23 In my motion I cite to case law discussing the absolute
24 litigation privilege which basically deals with two things.
25 One is that when you're dealing with third parties as an

1 attorney outside of the attorney-client relationship, that is,
2 opposing parties, there's no duty of an attorney to that
3 particular client -- non-client. That is to say, I had no
4 specific duty as an attorney to Mr. Kasparian.

5 The second and more important prong is that the -- based
6 on the same policy that underlies that, attorneys are not
7 liable for any statements that they make in the context of
8 litigation.

9 The statements in this case were made during a
10 deposition, and they were made in a legal pleading that was
11 filed with the Court in opposition to a motion that had been
12 filed by the defendant.

13 I think it's absolutely clear that the absolute
14 litigation privilege applies in this case. There are no
15 exceptions to this privilege that are relevant to the
16 particular case.

17 Now, Mr. Kasparian does make reference to other
18 exceptions in this Commonwealth and other Commonwealths to the
19 absolute litigation privilege. One is just because you're an
20 attorney doesn't mean you can say whatever you want in whatever
21 context.

22 So if I were to go to the newspaper and say that my
23 neighbor was unlawfully cutting down my trees and that was not
24 a fact, I might be held liable because this is outside the
25 context of litigation.

1 There are also --

2 It applies usually but not always in the context of
3 prelitigation discussions, negotiations and things like that.

4 If I sent a 93A demand letter --

5 THE COURT: The case doesn't have to be in suit.

6 MR. ROMAN: Right.

7 THE COURT: But it has to be about a particular case.

8 MR. ROMAN: Yes, correct.

9 I believe, but I won't speak for him, that Mr. Kasparian
10 points to other facets of the privilege, talking about good
11 faith. And the good-faith analysis deals with whether you
12 intend in good faith to bring suit in the future when you write
13 that 93A demand letter or whatever.

14 The absolute litigation privilege otherwise is -- is
15 absolute.

16 My motivation as an attorney doesn't really matter. I
17 might want to cause some kind of disrepute to the opposing
18 party.

19 But in the scheme of how our society is set up, the court
20 process, it's appropriate for people to be going back and forth
21 in an adversarial manner, and if mistakes are made or
22 intentional misrepresentations are made, they're not actionable
23 by the party to the extent that they're raised during
24 litigation or in the context of litigation.

25 Mr. Kasparian might also argue that, well, these comments

1 really did not relate to the present litigation, it related to
2 other litigation, they related to other things that were going
3 on and were designed -- were irrelevant to this litigation
4 privilege.

5 The difficulty, though, with that argument is, A, it's
6 not true, and B, there's no exception based on that. It's not
7 what the comments are about; it's where they were made or in
8 what context they were made.

9 The statements in this case --

10 THE COURT: Does it matter whether the statement turned
11 out to be false?

12 MR. ROMAN: It's irrelevant.

13 So the absolute litigation privilege protects both true
14 and false statements.

15 THE COURT: Unless -- isn't there some fraud on the Court
16 exception?

17 MR. ROMAN: I'm sorry?

18 THE COURT: Isn't there some fraud on the Court
19 exception? I'm not suggesting that's what happened here,

20 MR. ROMAN: There may be, Your Honor. I'm not -- I'm not
21 entirely certain.

22 THE COURT: It definitely covers statements made during
23 the course of litigation --

24 MR. ROMAN: Right.

25 THE COURT: -- in court or out, so.

1 MR. ROMAN: Whether they're true or they're false.

2 THE COURT: Whether true or false, and we'll leave it at
3 that.

4 MR. ROMAN: Now, the second issue that comes up is the
5 criminal history information. So in the -- it's actually Count
6 1 of the complaint.

7 Mr. Kasparian indicates that I unlawfully obtained
8 information concerning his criminal history in violation of the
9 statute which is Chapter 6, Section 172.

10 That statute restricts access to and dissemination of
11 CORI information that is compiled and maintained in a database
12 by the Department of Criminal Justice Information Services. So
13 it prevents me from disclosing or unlawfully obtaining a
14 criminal record, but it doesn't mean that any information
15 concerning a criminal case is protected.

16 So in this case what was disclosed was available through
17 public record searches. We have, as the Court is aware, a
18 program called MassCourts in which members of the public as
19 well as attorneys are permitted to type in a name within a
20 certain county or a certain court and determine what kind of
21 civil and/or criminal cases have been brought against that
22 person.

23 In this case most relevant is the Hampden Probate &
24 Family Court documentation that was appended to this motion.

25 Now, there's an exhibit to the motion to dismiss that

1 actually is the pleading that was filed in the district court
2 and contains all the exhibits to that pleading, and what is
3 shown in that pleading is that these weren't just statements
4 that were made; they were statements that were made in the
5 pleading itself, but they were also -- the background
6 MassCourts information was attached.

7 And what happened -- what the allegation is is that the
8 only way that that information could have been obtained is
9 through a criminal records search; whereas, in this particular
10 case it wasn't particularly difficult to run a search of Mr.
11 Kasparian's name in the Barnstable Superior Court, learn that
12 he had a probation transferred from Hampden County, look up the
13 docket number in the Hampden County case, and then search other
14 records in other courts in Hampden County to determine what was
15 found.

16 Now, copies of these MassCourts printouts with all of the
17 cases were part of this motion, and I don't think that there
18 can be any dispute that the information that was disclosed was
19 part of this MassCourts search, not discovered and disseminated
20 as a criminal record.

21 The third issue that comes up in this case is the medical
22 record documentation. As an initial matter, I would say that
23 Mr. Kasparian lacks standing to complain that I accessed and
24 disseminated a third party's medical records. None of the
25 statutes referenced in Count 4 of the verified complaint which

1 deals with this issue create a private right of action for
2 disclosure of another person's medical records, and there is no
3 --

4 THE COURT: Do they create a private right of action for
5 disclosure of someone else's?

6 MR. ROMAN: Someone else's medical record?

7 THE COURT: Like your own. Or his own. Whatever --

8 We're talking about mental health records here; correct?

9 MR. ROMAN: So if I went to the hospital, obtained some
10 medical records from Mr. Kasparian and then -- and then
11 disseminated them, there would be an issue.

12 If I went to the hospital and obtained records of this
13 other Mr. Kasparian, he might have a suit against me, but
14 certainly this Mr. Kasparian doesn't.

15 The third issue is that no medical records were
16 disclosed. As the Court, again, can see from the Exhibit A,
17 the pleading that was filed with the Barnstable District Court,
18 that what was disclosed was a quote from an order that was
19 entered by the Hampden County Probate & Family Court, not any
20 particular medical record.

21 Now, this public document concerning the guardianship
22 which is available for public view did talk about medical
23 issues, but that's not what the statutes protect. There's no
24 statute that says you can't talk about anyone's medical issues.

25 What it says is that you can't take medical records that

1 are protected and then unlawfully disclose them without
2 permission.

3 So I think the confusion here is that the assumption that
4 Mr. Kasparian makes is that if something that has to do with
5 medical diagnoses or treatment is referenced, then it's
6 automatically a violation when, in fact, that is not what's
7 protected.

8 So the final issue is the liability of Attorney Carter
9 and DeYoung and just pointing out to the Court that the --
10 there's no individual allegations against them. It's simply
11 that because I worked for a firm that they also were principals
12 in, that they're also liable for my conduct.

13 But interestingly, there's no specific allegation or --
14 evidence that they were even aware of this deposition or that
15 the motion for sanctions or the opposition had been filed in
16 the district court.

17 So in conclusion, because the activity forming the basis
18 for the verified complaint is protected by the absolute
19 litigation privilege, and because the plaintiff's criminal
20 conviction is public information, because no private medical
21 records were ever disclosed, I'm asking the Court to dismiss
22 this case.

23 THE COURT: Thank you. All right.

24 Mr. Kasparian? Please.

25 MR. KASPARIAN: Thank you, Your Honor. First of all,

1 just to --

2 THE COURT: I got to tell you. I've read most of the
3 material.

4 MR. KASPARIAN: Right.

5 THE COURT: And you've been before me on other cases.

6 MR. KASPARIAN: I have.

7 THE COURT: This is pretty thin. This one is pretty
8 thin.

9 MR. KASPARIAN: Well, I don't see it as thin when I read
10 the case law that I presented to the Court. And the fact that
11 the Massachusetts Supreme Court is taking up the absolute
12 privilege --

13 THE COURT: They are.

14 MR. KASPARIAN: -- of attorneys as well as the Florida
15 court has taken that up and there's a ruling that came against
16 Giuliani when he defamed a company --

17 THE COURT: The issue before the Supreme Judicial Court
18 now, as I understand it, involves one of a potential fraud on
19 the Court.

20 MR. KASPARIAN: Well, I think that --

21 THE COURT: Not -- not statements, which I don't know
22 that they're going to get into. But I'm not going to debate
23 it.

24 MR. KASPARIAN: No, I understand, Your Honor. I'm just
25 trying to make my --

1 THE COURT: Yeah. I'm going to hear you.

2 MR. KASPARIAN: -- limited knowledge of the law argument
3 in this situation and how --

4 THE COURT: So let's start with -- let's start with Mr.
5 DeYoung and Mr. Carter. What's -- what's -- what's --

6 MR. KASPARIAN: I have --

7 THE COURT: -- your theory of liability there?

8 MR. KASPARIAN: I have some knowledge that Mr. Roman was
9 a partner of that firm, not just an employee, and that the
10 partners usually met on all cases before they were filed.

11 THE COURT: All right. So you've made that allegation
12 which I have to accept as true. So for purposes of now,
13 Attorney Roman was a partner with DeYoung and Carter.

14 But how does that get to them for his conduct?

15 MR. KASPARIAN: If, in fact, that they met, they reviewed
16 his motions --

17 THE COURT: I didn't see that alleged in your complaint.

18 MR. KASPARIAN: Say again?

19 THE COURT: I did not see in your complaint where it was
20 alleged that they met.

21 MR. KASPARIAN: And that's why I've also filed a request
22 for Rule 15 to amend the complaint to include that.

23 I thought it was just an understanding and the complaint
24 was a brief written notice of the complaint, and so if that
25 needs to be added, I've asked to amend under Rule 15A to amend

1 the complaint to include more details that would suffice for
2 them to understand.

3 But I think they understand clearly where I'm coming from
4 and they understand the liability that I attach to the firm.

5 The other thing I would suggest, Your Honor --

6 THE COURT: Let me back up a little bit.

7 So even assuming that you need to amend the complaint to
8 add additional facts, that presumes --

9 Their liability would only be as a partner, so it would
10 only be vicarious liability. There's no --

11 You're not claiming that they engaged in any conduct.

12 MR. KASPARIAN: Well, my belief is that at the hearing
13 all of this came out --

14 I'm sorry. At their meeting, their partner meeting.

15 He's not just an employee; he's a partner.

16 That they discussed all of the issues of each of their
17 cases --

18 THE COURT: But what if they did? Why wouldn't the
19 argument that we just heard Attorney Roman make apply equally
20 to Mr. Carter and Mr. DeYoung?

21 MR. KASPARIAN: It would apply, because they allowed the
22 motion to go forward.

23 THE COURT: Right. So --

24 MR. KASPARIAN: They allowed --

25 THE COURT: -- wouldn't the litigation privilege apply,

1 and why wouldn't the argument that what was disclosed was not
2 confidential information, it was all public information and
3 that no medical records were actually disclosed, why wouldn't
4 those same arguments work as against them?

5 MR. KASPARIAN: Well, certainly because the issue in the
6 opposition that he wrote to the Court which is entered into all
7 the computer systems throughout the Commonwealth and as he's
8 eloquently said, anybody can access, so now you in Western
9 Mass. can look up that case regarding me and see that I was a
10 habitual drug user, have all these other problems, had some
11 kind of person overseeing my affairs, that's out there. That
12 doesn't change because we're in a digital age now. It's not --
13 the papers are not restricted to just this Court. It's in the
14 computer system. Anybody can review it, so that's how the harm
15 comes to me.

16 And it's signed not by Attorney Roman by himself; it's
17 signed by the three parties involved.

18 THE COURT: All right.

19 MR. KASPARIAN: And they have not --

20 Neither one of them has signed an affidavit stating that
21 they're -- nothing took place like that, that they did not
22 know. It's a self-serving statement by Roman --

23 THE COURT: Well, they don't --

24 Well, I'm not going to argue it, but it's not their
25 burden to prove it. You have to prove the allegations, so.

1 MR. KASPARIAN: I understand. And that's why --

2 THE COURT: So I got off track here.

3 Go ahead. Let's get back to the merits of the motion to
4 dismiss and of your complaint which really come out of things
5 that arose in the litigation.

6 So what do you have to say about the -- whether or not
7 the absolute litigation privilege operates to defeat your
8 complaint?

9 MR. KASPARIAN: Well, I've made that fairly clear in my
10 opposition under case law that they don't have absolute
11 privilege as he's outlined, that there is a difference, and the
12 difference is good faith and bad faith.

13 Attorney Roman knows me. Even if he looked only at the
14 documents that he received from the probate court, he would see
15 that the date -- birth date of that individual is not my birth
16 date. That should have drawn some question as to whether or
17 not he was applying reasonable information to the Court.
18 That's --

19 THE COURT: So your argument is --

20 Doesn't the -- the bad-faith exception works against him
21 on that?

22 MR. KASPARIAN: Say again? I'm sorry.

23 THE COURT: The exception to absolute litigation
24 privilege relating to bad faith is in play here.

25 MR. KASPARIAN: Absolutely it's in bad faith.

1 He knows me personally outside and before he filed that.
2 He knows that. His clients know that. They've known me for
3 five years. There is no way that they can mistake my birth
4 date. There's a 20-year difference. If you look at the
5 document from the Hampden County probate court that shows the
6 date of birth of the other individual, Abraham Kasparian the
7 Third, it's not my birth date. They have my birth date with
8 his clients. There's no way you could mistake that.

9 Obviously there was fraud on the Court. The fraud was to
10 create a situation for me in the courthouse to get their motion
11 to deny my -- get their opposition to deny my motion for
12 further litigation. That's the fraud. It was perpetrated on
13 the district court and on me. They used other person's medical
14 records.

15 Your Honor, if I attached a medical record and found
16 someone with your name who was in some kind of situation and
17 said this is the judge that's representing our county, I think
18 Your Honor would have a very good case to come after me and
19 force me either to remove that statement and take it off the
20 record or -- and you would probably have a lawsuit against me.

21 That's the situation we have here. He did not act in
22 good faith. It was malice directly aimed to hurt me and my
23 relationship either as a political figure -- because if
24 anybody, as he said, can access these records, if I run for
25 office which I intend to this upcoming year again and the

1 newspaper accesses that filing, I know what's going to be read
2 in the newspapers: ADA Roman says this about Mr. Kasparian.
3 There is record to believe that he's a drug user and abuser,
4 under a conservatorship. He has all these psychological
5 issues. And I'm going to have to deal with that.

6 So it does have an effect on my political career.

7 I was a county commissioner at one point. I ran again
8 this past year, and I expect to run again. So this does have
9 an overwhelming effect.

10 And the Court should not --

11 THE COURT: That -- that goes to damages, if any.

12 MR. KASPARIAN: Correct.

13 THE COURT: I'm dealing with whether or not you even get
14 that far. Right now the only thing --

15 MR. KASPARIAN: I understand, Your Honor, but --

16 THE COURT: -- that's before me is whether or not -- is
17 whether or not you stay here.

18 MR. KASPARIAN: I'm just trying to explain --

19 THE COURT: I get it. But I'm trying to get you focused
20 on what the actual issue is that I have to decide.

21 MR. KASPARIAN: All right. And I apologize.

22 THE COURT: -- which is --

23 No, don't. Lawyers do it all the time. Everybody --

24 You weren't here five minutes ago. Maybe you were. I
25 had to refocus those attorneys a couple times.

1 MR. KASPARIAN: Okay. I'm sorry.

2 THE COURT: So it's just by the job.

3 And everybody wants an opportunity to be heard, and
4 they're entitled to it. So I want to make sure I hear your
5 arguments as to why his motion to dismiss should be denied.

6 I've got the absolute privilege one.

7 What about the argument that the statutes that you cite
8 in your complaint regarding CORI --

9 Let's start with that one. Were these records that were
10 disclosed all available publicly, or did he access the criminal
11 record offender board --

12 MR. KASPARIAN: We don't know until we have a deposition
13 of Mr. Roman --

14 THE COURT: No. That's not good enough. You got to tell
15 me whether or not --

16 You're alleging a violation of that statute.

17 MR. KASPARIAN: I will --

18 THE COURT: -- based on information which you know is
19 available.

20 MR. KASPARIAN: Right.

21 THE COURT: You know what information he disclosed. Did
22 that come from the CORI board, or did it come from public
23 sources?

24 MR. KASPARIAN: I believe he entered into CORI through
25 his connections with the DA's office. Because when you look

1 specifically at the way it was written in the footnote which
2 was a pretty long footnote, and Your Honor will look at that
3 I'm sure at one point and make a decision that that footnote is
4 too specific to just be pieces from either the newspaper. As
5 he alleges, the public knows --

6 THE COURT: He alleges MassCourts. He typed your name in
7 MassCourts --

8 MR. KASPARIAN: And MassCourts. Well, I haven't --

9 THE COURT: Or somehow led --

10 Somehow the trail led back to your Hampden County case.

11 MR. KASPARIAN: But certainly if he was looking at
12 MassCourts --

13 THE COURT: Which has a vast amount of details in it, as
14 you know.

15 MR. KASPARIAN: I understand.

16 But if he looked at MassCourts, you would find that the
17 other thing that he attached and put in the body of his motion
18 -- or his opposition and attached was not me. So he --

19 THE COURT: That's the mental health stuff. Let's just
20 talk about the criminal --

21 MR. KASPARIAN: Correct.

22 THE COURT: Let's talk about the manslaughter versus the
23 actual conviction.

24 MR. KASPARIAN: Well, like I said, I still look at that
25 actual document that he submitted, and it looks like it was

1 extrapolated from a CORI record that was obtained.

2 THE COURT: All right. And now as to the medical
3 records.

4 MR. KASPARIAN: Excuse me, Your Honor?

5 THE COURT: The medical records.

6 MR. KASPARIAN: The medical records are the documents
7 that were submitted, that even though they're not my records,
8 he's attached them as if they are my records. And that, I
9 think, is actionable. You can't --

10 Like I said earlier, Your Honor, if I said Your Honor was
11 addicted to cocaine, used heroin and all these other things;
12 Your Honor, I think, would have a good case to come after me
13 for slander.

14 So maybe there isn't a piece of litigation currently that
15 addresses --

16 THE COURT: So I have to admit I did not look at all the
17 statutes that you cited. I wrote them down and made notes on
18 them, but I did not go look at them.

19 But my very first question was, even without reading
20 them, is do any of these statutes give anybody a private right
21 to sue for a violation of them, or are they just regulatory in
22 the sense that they prohibit this and prohibit that, but nobody
23 -- nobody really can -- there's no real remedy for a violation
24 or at least not an individual remedy?

25 MR. KASPARIAN: Well, I think the remedy comes not from

1 maybe those individual things, but just citing them. But the
2 remedy is based on the other count in the suit which is --
3 which is liable.

4 THE COURT: Right. So you may have all of that and those
5 are all common law things, but you are particularly alleging in
6 --

7 I didn't bring my notes out with me.

8 Various counts violate --

9 You specifically allege violations of those statutes. I
10 think it's Count 8 or 9. I'm not -- I don't remember.

11 MR. KASPARIAN: I certainly would bow to Your Honor to
12 make --

13 THE COURT: Well, I'm going to read the statute, --

14 MR. KASPARIAN: Right.

15 THE COURT: -- and if the statute says there's a private
16 right of action under the circumstances, then you got it. If
17 --

18 MR. KASPARIAN: Right.

19 THE COURT: -- it says no, then you're out. It's not --
20 You know, that's what I need to go through.

21 MR. KASPARIAN: No, I understand completely. But I don't
22 think every count would be out, because the slander is there.

23 THE COURT: Well, the slander --

24 His argument on the slander is that comes out under the
25 absolute privilege, not necessarily the other ones. But maybe

1 there's some overlap.

2 MR. KASPARIAN: But I think --

3 THE COURT: I guess there could be.

4 MR. KASPARIAN: But I think that it becomes an issue for
5 a jury to decide whether it was offered in good faith or in bad
6 faith, and I think if it's --

7 And I attached the standard of good faith by Black Law's
8 dictionary to -- to my opposition.

9 And I think that becomes the battle. Do lawyers have the
10 absolute privilege to say whatever they want in any -- in a
11 context of a court setting and be allowed to get unscathed by
12 perpetrating things that are completely outrageous.

13 I think that if we as a society want to make sure that
14 people trust the legal system, one thing we can't do is
15 whitewash the fact that a lawyer went out of his way to
16 besmirch somebody fraudulently, and that create --

17 I think creates a major problem when people are trying to
18 trust the civil justice system. Or the criminal justice system
19 for that matter.

20 THE COURT: All right.

21 MR. KASPARIAN: If this was in a criminal case and he was
22 an ADA, which means he's elevated beyond just the normal
23 attorney that just graduated --

24 THE COURT: If this were a criminal case and a defendant
25 were on the witness stand, most -- there's a lot of things that

1 are fair game.

2 MR. KASPARIAN: Oh, I understand.

3 But if it came out in a criminal case a false document
4 was used against that defendant in a criminal case, I think
5 there would be hell to pay.

6 THE COURT: Well, that may be a different story.

7 So anything else as to the motion?

8 MR. KASPARIAN: The only thing I can say, Your Honor, is
9 that the fraud --

10 If you take everything else out, the fraud and the --

11 THE COURT: Bad faith.

12 MR. KASPARIAN: Well, bad faith, but also the fact that
13 there was an attempt to lie and cause me great harm in the
14 civil and criminal --

15 THE COURT: Let me ask what I started out with.

16 Attorney Roman, I'll end with you.

17 The motion in district court you're seeking some remedy
18 or relief for the same conduct.

19 MR. KASPARIAN: No, I'm not.

20 THE COURT: Okay.

21 MR. KASPARIAN: Only thing I am -- because --

22 And I want to take it back. That deposition --

23 And I told the civil --

24 THE COURT: Not the deposition. There's some motion
25 pending over in the district court --

1 MR. KASPARIAN: The motion --

2 There is a motion pending for \$500 for the cost of the
3 deposition, not because of what he said, because he walked out
4 of the deposition.

5 THE COURT: Okay.

6 MR. KASPARIAN: Told his --

7 THE COURT: All right. Okay. All right.

8 MR. KASPARIAN: He told the --

9 And that's where he didn't tell you that. He told his
10 client his two hours are up, we're leaving.

11 THE COURT: Well, litigation's a rough and tumble world.

12 MR. KASPARIAN: Oh, it is. It is.

13 THE COURT: As you know.

14 MR. KASPARIAN: I don't disagree with that.

15 But when you're trying to --

16 THE COURT: And there's recourse for that. You don't
17 file a new lawsuit for that. There's recourse for what.

18 MR. KASPARIAN: Well, the recourse is I asked for the
19 judge to review that, compel the deposition to go forward --

20 THE COURT: Yep.

21 MR. KASPARIAN: -- and to pay for it.

22 But when he filed his opposition in that case, that's
23 when I think the line was seriously crossed and went beyond
24 absolute litigation privilege.

25 THE COURT: All right. I generally give the moving party

1 on opportunity to rebut with stuff I haven't already heard.
2 So, Attorney Roman, briefly. If you wish. You're not
3 compelled to.

4 MR. ROMAN: I didn't attach the actual motion. I only --

5 THE COURT: I was looking for it.

6 MR. ROMAN: -- attached the opposition to the motion.

7 THE COURT: Yeah.

8 MR. ROMAN: I do have the motion. I don't know if Mr.
9 Kasparian has any objection --

10 THE COURT: It's not important. I just am curious as to
11 --

12 It sounds to me like that's in the context of that
13 litigation, which even if there is some overlap wouldn't
14 preclude any relief that may or may not be available to him
15 here.

16 So I think I'm good with that. That was the purpose of
17 my question.

18 MR. ROMAN: Your Honor, I just want to address the
19 good-faith/bath-faith issue again. Apart from --

20 I know we're discussing this case that I'm embarrassed to
21 say everybody seems to know about other than me.

22 The good-faith/bad-faith distinction that Mr. Kasparian
23 is making is based upon a -- I'm not saying intentional, but a
24 misreading of the case law that he cites.

25 So basically, there is a line of cases that talks about

1 whether a case is in suit or a case is not in suit dealing with
2 this 93A letter type of conduct, whether the privilege applies
3 to prelitigation discussions or disclosures or statements.

4 So the issue is whether the communication relates to a
5 proceeding which is contemplated in good faith and which is
6 under serious consideration. That's where the good faith
7 language comes into this analysis.

8 It doesn't apply to the present case, where we're talking
9 about an actual lawsuit.

10 And to add another layer to that, defense of a lawsuit
11 not bringing the lawsuit.

12 So the --

13 THE COURT: So it doesn't go to the conduct of the
14 attorney; it goes to the merits of the underlying claim that
15 somebody might be threatened.

16 MR. ROMAN: Right. So if you're bringing an unwarranted
17 claim or threatening to bring a claim that you have no
18 intention of bringing or which is false, then your conduct as
19 an attorney might fall outside of the scope of the absolute
20 litigation privilege.

21 THE COURT: All right.

22 MR. ROMAN: But once you're in --

23 You know, the absolute litigation privilege is often used
24 in cases of malicious prosecution. That would be one count
25 where somebody would bring. Obviously it doesn't apply to this

1 case, because, again, we're defending.

2 But a malicious prosecution claim basically states that
3 the attorney brought the suit maliciously and made statements
4 that were -- that were false in there. So that just deals with
5 the good-faith/bad-faith.

6 The other thing that I would point out, Mr. Kasparian did
7 a lot of research in connection with this case, and he cites a
8 number of different cases. He even brought up the Giuliani
9 case. None of these cases deal with the issue that we're
10 talking about.

11 So the Giuliani case was an out-of-court statement that
12 was made by another lawyer involved in the ballot issue case;
13 not an in-court statement by any of them, not a statement in
14 connection with the litigation, but a press statement that was
15 made where they say these ballot counting machines are
16 admittedly -- you know, the company admits -- Dominion admits
17 that they don't work correctly, and with a flip of the switch
18 you can get rid of a million votes.

19 So it didn't deal with the litigation itself; it dealt
20 with statements that were made to the press.

21 Similarly, some of the other cases, again quotes are
22 taken, but they're a little bit out of context, because they
23 relate to prospective proceedings and use that language of good
24 faith in connection with that.

25 THE COURT: All right.

1 Very briefly.

2 MR. KASPARIAN: Very briefly. With regards to the
3 in-court statement, I don't see how the documents attached to
4 my name relates to the civil action against -- against his
5 clients Cycle Services for the repair of a motorcycle. I don't
6 see how those parts that he cited against me using someone
7 else's name to site against me was in relation to anything to
8 do with that civil lawsuit, which started here in this court
9 and was transferred to the district court.

10 So I find that very problematic for him to say absolute
11 privilege, because it was involved directly related to that
12 civil lawsuit.

13 THE COURT: All right. I'll take it under advisement.

14 Thank you, both.

15 MR. ROMAN: Thank you, Your Honor.

16 MR. KASPARIAN: Thank you, Your Honor.

17 (Hearing adjourned at 2:58 p.m.)

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|---|--|--|
| ----- A ----- | adversarial 8:21 advisement 31:13 affairs 17:11 affidavit 17:20 afternoon 2:11,12,15 age 17:12 ago 20:24 ahead 4:15; 18:3 aimed 19:22 al 1:17; 2:5 allegation 3:24; 6: 17; 11:7; 13:13; 15:11 allegations 13:10; 17:25 allege 24:9 alleged 15:17,20 alleges 22:5,6 alleging 21:16; 24:5 allowed 16:21,24; 25:11 already 28:1 amend 15:22,25; 16:7 among 3:7; 4:9 amount 22:13 analysis 8:11; 29:7 another 5:6; 12:2; 29:10; 30:12 antipsychotic 5:2 anybody 17:8,14; 19: 24; 23:20 anyone's 6:18; 12:24 Apart 28:19 apologize 20:21 apparently 5:16 APPEARANCES 1:25 appended 10:24 applies 7:14; 8:2; 29:2 apply 16:19,21,25; 29:8,25 applying 18:17 appropriate 8:20 Approved 1:48; 32:3, 30 argue 8:25; 17:24 argues 5:23 | argument 9:5; 15:2; 16:19; 17:1; 18:19; 21:7; 24:24 arguments 17:4; 21:5 arises 2:21 armed 3:11,22 arose 18:5 assault 3:11,23; 5: 10 assaultive 5:2 assumed 6:16 assuming 16:7 assumption 13:3 attach 16:4; 28:4 attached 11:6; 19: 15; 22:17,18; 23:8; 25:7; 28:6; 31:3 attempt 26:13 attorney's 4:11; 6:1 attorney-client 7:1 attorneys 7:6; 10: 19; 14:14; 20:25 audio 32:5 automatically 13:6 available 10:16; 12: 22; 21:10,19; 28:14 aware 10:17; 13:14 ----- B ----- |
| above-entitled 32:7 ABRAHAM 1:11,28; 2: 4,13; 5:6,17,18; 19:6 absolute 6:23; 7:13, 19; 8:14,15; 9:13; 13:18; 14:11; 18:7, 10,23; 21:6; 24:25; 25:10; 27:24; 29: 19,23; 31:10 absolutely 7:13; 18: 25 abuse 4:25 abuser 20:3 accept 15:12 access 6:4; 10:10; 17:8; 19:24; 21:10 accessed 11:23 accesses 20:1 accurate 32:4 act 19:21 action 12:1,4; 24: 16; 31:4; 32:13,15 actionable 8:22; 23: 9 activity 13:17 actual 20:20; 22:23, 25; 28:4; 29:9 actually 10:5; 11:1; 17:3 ADA 20:2; 25:22 add 16:8; 29:10 added 15:25 addicted 23:11 addition 3:13 additional 16:8 address 3:3; 28:18 addresses 4:2; 23:15 addressing 6:14 adjourned 31:17 Administrative 32:9 admit 23:16 admits 30:16 admittedly 30:16 | | back 3:5; 8:20; 16: 6; 18:3; 22:10; 26: 22 background 2:20; 5: 15; 11:5 bad 18:12,24,25; 25: 5; 26:11,12 bad-faith 18:20; 28: 22; 30:5 ballot 30:12,15 BARNSTABLE 1:7,42; 2:21,22; 5:12; 6: 22; 11:11; 12:17 based 7:5; 9:6; 21: 18; 24:2; 28:23 Basically 2:20; 6: 24; 28:25; 30:2 |

| | | |
|----------------------|----------------------|----------------------|
| basis 5:21,22; 13:17 | 23; 11:10,13,21; | comments 8:25; 9:7 |
| bath-faith 28:19 | 13:22; 14:10; 17:9; | commissioner 20:7 |
| battle 25:9 | 18:10; 19:18; 22: | commitment 4:23 |
| becomes 25:4,9 | 10; 23:12; 25:21, | commitments 5:11 |
| behavior 5:2 | 24; 26:3,4; 27:22; | committed 4:22; 5:7 |
| belief 16:12 | 28:20,24; 29:1,8; | common 24:5 |
| believe 4:10; 8:9; | 30:1,7,9,11,12 | COMMONWEALTH 1:5; 7: |
| 20:3; 21:24 | cases 10:21; 11:17; | 18; 17:7 |
| besmirch 25:16 | 14:5; 15:10; 16:17; | Commonwealths 7:18 |
| beyond 25:22; 27:23 | 28:25; 29:24; 30:8, | communication 29:4 |
| bipolar 4:24 | 9,21 | company 14:16; 30:16 |
| birth 18:15; 19:3,6, | cause 8:17; 26:13 | compel 3:15,19; 4: |
| 7 | caused 6:9 | 11; 27:19 |
| bit 16:6; 30:22 | CERT 32:29 | compelled 28:3 |
| Black 25:7 | certain 5:19; 9:21; | compiled 10:11 |
| board 21:11,22 | 10:20 | complain 11:23 |
| body 22:17 | certainly 12:14; 17: | complaint 6:16; 10: |
| Bond 32:3,8,11,28,29 | 5; 22:11; 24:11 | 6; 11:25; 13:18; |
| bondcourtreporting | certify 32:4,8,11 | 15:17,19,22,23,24; |
| 32:32 | change 17:12 | 16:1,7; 18:4,8; 21: |
| both 9:13; 31:14 | Chapter 10:9 | 8 |
| bow 24:11 | charge 5:10 | completely 24:21; |
| Box 1:35 | circumstances 24:16 | 25:12 |
| brief 15:24 | cite 6:23; 21:7 | compliance 32:9 |
| briefly 28:2; 31:1,2 | cited 23:17; 31:6 | computer 17:7,14 |
| bring 8:12; 24:7; | cites 28:24; 30:7 | concerning 5:25; 10: |
| 29:17,25 | citing 24:1 | 8,15; 12:21 |
| bringing 29:11,16,18 | civil 10:21; 25:18; | concluded 3:13; 5:16 |
| brought 10:21; 30:3, | 26:14,23; 31:4,8,12 | conclusion 13:17 |
| 8 | claim 29:14,17; 30:2 | conduct 6:6; 13:12; |
| burden 17:25 | claiming 16:11 | 15:14; 16:11; 26: |
| business 6:7 | clear 7:13; 18:9 | 18; 29:2,13,18 |
| ----- | clearly 16:3 | confidential 6:3; |
| C | CLERK 2:3 | 17:2 |
| ----- | client 3:3; 7:3; 27: | confusion 13:3 |
| called 2:1; 10:18 | 10 | connection 2:25; 30: |
| came 14:15; 16:13; | clients 3:1; 19:2,8; | 7,14,24 |
| 26:3 | 31:5 | connections 21:25 |
| Cape 6:1 | cocaine 4:25; 23:11 | conservatorship 20:4 |
| Cardinal 1:34 | com 32:32 | consideration 29:6 |
| career 6:7; 20:6 | combative 5:2 | contains 11:2 |
| Carter 2:10; 6:11; | come 18:4; 19:18; | contemplated 29:5 |
| 13:8; 15:5,13; 16: | 21:22; 23:12 | contends 6:6 |
| 20 | comes 10:4; 11:21; | context 7:7,21,25; |
| Case 2:1,20,21; 6: | 17:15; 23:25; 24: | 8:2,24; 9:8; 25:11; |
| 23; 7:9,14,16; 8:5, | 24; 29:7 | 28:12; 30:22 |
| 7; 9:9; 10:15,16, | coming 16:3 | continuation 4:12 |

| | | |
|--|--|--|
| convicted 3:8,10,11; 6:18 | date 18:15,16; 19:4, 6,7; 32:29 | difficulty 9:5 |
| conviction 3:23; 13: 20; 22:23 | deal 20:5; 30:9,19 | digital 17:12 |
| copies 11:16 | dealing 6:25; 20:13; 29:1 | Directive 32:10 |
| CORI 6:4; 10:11; 21: 8,22,24; 23:1 | deals 6:24; 8:11; 12:1; 30:4 | directly 19:22; 31: 11 |
| correct 8:8; 12:8; 20:12; 22:21 | dealt 30:19 | disagree 27:14 |
| correctly 30:17 | debate 14:22 | disclose 13:1 |
| cost 27:2 | decide 20:20; 25:5 | disclosed 6:2; 10: 16; 11:18; 12:16, 18; 13:21; 17:1,3; 21:10,21 |
| costs 4:10 | decision 22:3 | disclosing 10:13 |
| Count 10:5; 11:25; 24:2,10,22; 29:24 | defamed 5:24; 14:16 | disclosure 12:2,5 |
| counting 30:15 | defeat 18:7 | disclosures 29:3 |
| counts 24:8 | Defendant 1:19; 7: 12; 25:24; 26:4 | discovered 11:19 |
| County 4:17; 5:12, 18; 10:20; 11:12, 13,14; 12:19; 19:5, 17; 20:7; 22:10 | Defendants 1:32; 2: 19,22 | discussed 16:16 |
| couple 20:25 | defending 30:1 | discussing 6:23; 28: 20 |
| course 3:16; 6:10; 9:23 | defense 29:10 | discussions 8:3; 29: 3 |
| courthouse 19:10 | definitely 9:22 | dismiss 2:6,16,17, 19; 10:25; 13:21; 18:4; 21:5 |
| Courtroom 1:43 | delusional 5:1 | disorder 4:24 |
| courts 11:14 | demand 8:4,13 | dispute 11:18 |
| covers 9:22 | denied 21:5 | disrepute 8:17 |
| create 12:1,4; 19: 10; 25:16 | deny 19:11 | disseminated 11:19, 24; 12:11 |
| creates 25:17 | DEPARTMENT 1:7; 10: 12; 32:6 | dissemination 10:10 |
| criminal 5:10,25; 10:5,8,12,14,15,21; 11:9,20; 13:19; 21: 10; 22:20; 25:18, 21,24; 26:3,4,14 | dependence 4:25 | distinction 28:22 |
| crossed 27:23 | deposition 3:1,2,13, 15,16; 4:12; 6:9, 19; 7:10; 13:14; 21:12; 26:22,24; 27:3,4,19 | distress 6:10 |
| curious 28:10 | designed 9:3 | District 2:21,22; 3: 14; 4:1; 5:5; 6:1, 22; 11:1; 12:17; 13:16; 19:13; 26: 17,25; 31:9 |
| currently 23:14 | details 16:1; 22:13 | Docket 1:14; 4:22; 5:10; 11:13 |
| cutting 7:23 | determine 10:20; 11: 14 | document 3:22; 12: 21; 19:5; 22:25; 26:3 |
| Cycle 2:23; 31:5 | DeYoung 2:10; 6:11; 13:9; 15:5,13; 16: 20 | documentation 10:24; 11:22 |
| ----- | diagnosed 4:24; 6:20 | documents 4:17; 18: 14; 23:6; 31:3 |
| D | diagnoses 4:20; 13:5 | Dominion 30:16 |
| ----- | dictionary 25:8 | down 7:23; 23:17 |
| DA's 21:25 | difference 18:11,12; 19:4 | |
| damages 20:11 | different 5:18; 26: 6; 30:8 | |
| Daniel 2:23; 3:1 | difficult 11:10 | |
| database 10:11 | | |

| | | |
|----------------------|----------------------|----------------------|
| drawn 18:16 | exception 5:4; 9:6, | first 6:14; 13:25; |
| drug 17:10; 20:3 | 16,19; 18:20,23 | 23:19 |
| Duffy 2:23 | exceptions 7:15,18 | five 19:3; 20:24 |
| During 3:1,17; 7:9; | Excuse 23:4 | flip 30:17 |
| 8:23; 9:22 | exhibit 10:25; 12:16 | Florida 14:14 |
| duty 7:2,4 | Exhibits 1:3; 11:2 | focused 20:19 |
| ----- | expect 20:8 | footnote 22:1,2,3 |
| E | explain 20:18 | force 19:19 |
| ----- | explained 5:9 | foregoing 32:4,8 |
| each 16:16 | extent 8:23 | Format 32:10 |
| earlier 23:10 | extrapolated 23:1 | forming 13:17 |
| effect 20:6,9 | ----- | forth 3:5; 8:20 |
| either 19:19,23; 22: | F | forward 16:22; 27:19 |
| 4 | ----- | found 11:15; 19:15 |
| electronic 1:47 | facets 8:10 | fraud 9:15,18; 14: |
| elevated 25:22 | fact 3:7,23; 5:18; | 18; 19:9,12; 26:9, |
| eloquently 17:8 | 7:24; 13:6; 14:10; | 10 |
| else's 12:5,6; 31:7 | 15:15; 25:15; 26:12 | fraudulently 25:16 |
| embarrassed 28:20 | facts 6:15; 16:8 | further 3:15; 19:12; |
| emotional 6:10 | fair 26:1 | 32:8,11,13 |
| employed 6:12; 32:12 | fairly 18:9 | future 8:12 |
| employee 15:9; 16:15 | faith 8:11,12; 18: | ----- |
| employment 6:1 | 12,24,25; 19:22; | G |
| end 26:16 | 25:5,6,7; 26:11,12; | ----- |
| engaged 16:11 | 29:5,6; 30:24 | game 26:1 |
| enough 21:14 | fall 29:19 | generally 27:25 |
| entered 12:19; 17:6; | false 6:3; 9:11,14; | getting 4:13 |
| 21:24 | 10:1,2; 26:3; 29: | Giuliani 14:16; 30: |
| entirely 9:21 | 18; 30:4 | 8,11 |
| entitled 21:4 | Family 4:17; 10:24; | give 5:15; 23:20; |
| equally 16:19 | 12:19 | 27:25 |
| erroneously 5:16 | far 20:14 | given 5:19 |
| error 3:12 | February 32:28 | good-faith 8:11; 28: |
| Esq 1:17 | fees 4:11 | 19,22; 30:5 |
| Esq. 1:37 | figure 19:23 | got 14:2; 18:2; 21: |
| Esquire 2:5 | file 27:17 | 6,14; 24:16 |
| essentially 3:14; 5: | filed 2:19; 3:14,18, | graduated 25:23 |
| 23 | 22; 5:4; 6:22; 7: | grandiosity 5:1 |
| et 1:17; 2:5 | 11,12; 11:1; 12:17; | great 26:13 |
| even 13:14; 16:7; | 13:15; 15:10,21; | guardianship 3:25; |
| 18:13; 20:13; 23:7, | 19:1; 27:22 | 4:19,21; 5:8; 6:20; |
| 19; 28:13; 30:8 | filing 20:1 | 12:21 |
| Everybody 20:23; 21: | final 13:8 | guess 25:3 |
| 3; 28:21 | financially 32:14 | ----- |
| everything 26:10 | find 22:16; 31:10 | H |
| evidence 13:14 | firm 6:12; 13:11; | ----- |
| exact 3:20 | 15:9; 16:4 | habitual 17:10 |

| | | |
|---|---|--|
| Hampden 4:17; 5:12; 10:23; 11:12,13,14; 12:19; 19:5; 22:10 happened 9:19; 11:7 harm 6:9; 17:14; 26: 13 health 4:23; 5:11; 6:3,21; 12:8; 22:19 hear 15:1; 21:4 heard 3:21; 4:2; 16: 19; 21:3; 28:1 HEARING 1:23; 3:25; 16:12; 31:17; 32:13 hearings 5:9 held 7:24 hell 26:5 hereby 32:3 heroin 4:25; 23:11 himself 17:16 HIPAA 6:4 history 5:25; 10:5,8 home 3:2 Honor 2:6,9,13,18; 4:5; 6:14; 9:20; 13:25; 14:24; 16:5; 19:15,18; 20:15; 22:2; 23:4,10,12; 24:11; 26:8; 28:18; 31:15,16 HONORABLE 1:24 hospital 12:9,12 hours 27:10 hurt 19:22 ----- I ----- identify 2:7 ill 4:19 illness 4:21 important 5:14; 7:5; 28:10 improper 6:3 improperly 6:2 in-court 30:13; 31:3 include 15:22; 16:1 included 2:19; 3:22, 23 | including 4:25 indicated 3:5 indicates 10:7 indicating 4:18 individual 5:6; 13: 10; 18:15; 19:6; 23:24; 24:1 information 3:3,7; 5:25; 10:5,8,11,12, 14; 11:6,8,18; 13: 20; 17:2; 18:17; 21:18,21 initial 11:22 instructed 3:3 intend 8:12; 19:25 intended 6:6 intent 3:11; 5:10 intention 29:18 intentional 8:22; 28:23 interested 32:14 interestingly 13:13 interfere 6:7 interrupt 4:1 involved 17:17; 30: 12; 31:11 involves 14:18 irrelevant 9:3,12 Islands 6:1 isn't 5:14; 9:15,18; 23:14 issue 5:5,9; 10:4; 11:21; 12:1,11,15; 13:8; 14:17; 17:5; 20:20; 25:4; 28:19; 29:4; 30:9,12 issues 4:2; 5:13; 6: 21; 12:23,24; 16: 16; 20:5 itself 11:5; 30:19 ----- J ----- Jack 2:23 JD 2:23 Jeremy 2:10 job 21:2 | JR 1:11 Jr. 1:28 judge 19:17; 27:19 Judicial 14:17 Judy 32:3,8,11,28, 29,32 Junior 2:4,13; 5:7, 20 jury 25:5 Justice 10:12; 25:18 ----- K ----- KASPARIAN 1:11,28; 2:4,7,13,15; 3:2,5, 10,14,24; 4:7,18; 5:4,6,17,18; 6:6, 17; 7:4,17; 8:9,25; 10:7; 11:23; 12:10, 13,14; 13:4,24,25; 14:4,6,9,14,20,24; 15:2,6,8,15,18,21; 16:12,21,24; 17:5, 19; 18:1,9,22,25; 19:6; 20:2,12,15, 18,21; 21:1,12,17, 20,24; 22:8,11,15, 21,24; 23:4,6,25; 24:11,14,18,21; 25: 2,4,21; 26:2,8,12, 19,21; 27:1,6,8,12, 14,18,21; 28:9,22; 30:6; 31:2,16 Kasparian's 11:11 kind 8:17; 10:20; 17:11; 19:16 knowledge 15:2,8 known 19:2 knows 18:13; 19:1,2; 22:5 ----- L ----- La 1:33 lacks 11:23 Landreth 1:33 language 29:7; 30:23 |
|---|---|--|

| | | |
|--|---|--|
| law 6:23; 14:10; 15:2; 18:10; 24:5; 28:24 | lot 25:25; 30:7 | might 5:19; 7:24; 8:17,25; 12:13; 29:15,19 |
| Law's 25:7 | ----- M | million 30:18 |
| laws 6:4,5 | MA 1:30,36 | minutes 20:24 |
| lawsuit 5:22,23; 19:20; 27:17; 29:9,10,11; 31:8,12 | machines 30:15 | misreading 28:24 |
| lawyer 25:15; 30:12 | made 4:16; 5:11; 7:9,10; 8:21,22; 9:7,8,22; 11:4; 15:11; 18:9; 23:17; 30:3,12,15,20 | misrepresentations 8:22 |
| Lawyers 20:23; 25:9 | | missing 4:12 |
| layer 29:10 | | mistake 19:3,8 |
| learn 11:11 | maintained 10:11 | mistakes 8:21 |
| least 23:24 | major 25:17 | Morris 2:23; 3:1 |
| leave 10:2 | malice 19:22 | most 10:23; 14:2; 25:25 |
| leaving 27:10 | malicious 29:24; 30:2 | motion 2:6,16,18; 3:14,19,20,21; 4:2,8; 5:14,21; 6:16,23; 7:11; 10:24,25; 11:17; 13:15; 16:22; 18:3; 19:10,11; 21:5; 22:17; 26:7,17,24; 27:1,2; 28:4,6,8 |
| led 22:9,10 | maliciously 30:3 | |
| legal 7:10; 25:14 | mania 5:1 | motions 15:16 |
| letter 8:4,13; 29:2 | manner 8:21 | motivation 8:16 |
| liability 13:8; 15:7; 16:4,9,10 | manslaughter 3:8,11; 6:18; 22:22 | motorcycle 31:5 |
| liable 6:13; 7:7,24; 13:12; 24:3 | Mass. 17:9 | moving 27:25 |
| lie 26:13 | MASSACHUSETTS 1:5,42; 14:11 | multifaceted 4:10 |
| life 6:18 | MassCourts 10:18; 11:6,16,19; 22:6,7,8,12,16 | murder 3:12; 5:10 |
| limited 15:2 | | myself 2:9,14,19 |
| line 27:23; 28:25 | material 14:3 | ----- N |
| list 2:3 | matter 2:3; 8:16; 9:10; 11:22; 25:19; 32:7 | name 3:20; 10:19; 11:11; 19:16; 22:6; 31:4,7 |
| litigation 2:25; 6:24; 7:8,14,19,25; 8:14,24; 9:1,2,3,13,23; 13:19; 16:25; 18:5,7,23; 19:12; 23:14; 27:24; 28:13; 29:20,23; 30:14,19 | mean 7:20; 10:14 | named 2:23; 5:6; 6:11 |
| litigation's 27:11 | means 25:22 | necessarily 24:25 |
| little 16:6; 30:22 | medical 6:4; 11:21,24; 12:2,6,10,15,20,22,24,25; 13:5,20; 17:3; 19:13,15; 23:2,5,6 | need 6:16; 16:7; 24:20 |
| LLC 2:24 | medication 5:3 | needs 15:25 |
| LLP 1:33 | meeting 16:14 | negotiations 8:3 |
| long 22:2 | members 10:18 | neighbor 7:23 |
| look 11:12; 17:9; 19:4; 21:25; 22:2,24; 23:16,18 | mental 4:21,23; 5:11; 6:21; 12:8; 22:19 | Neither 17:20; 32:11 |
| looked 18:13; 22:16 | mentally 4:19 | never 6:17 |
| looking 4:10; 22:11; 28:5 | merits 18:3; 29:14 | new 27:17 |
| looks 22:25 | met 15:10,15,20 | |

| | | |
|--|--|--|
| newspaper 7:22; 20:1; 22:4 | opposing 7:2; 8:17 | 24:5 |
| newspapers 20:2 | opposition 2:6; 3:18,20,21; 7:11; 13:15; 17:6; 18:10; | parties 6:2,25; 7:2; 17:17; 32:12 |
| next 2:3 | 19:11; 22:18; 25:8; 27:22; 28:6 | partner 15:9,13; 16:9,14,15 |
| nobody 23:22,23 | order 4:19; 5:3; 12:18 | partners 6:11; 15:10 |
| non-client 7:3 | orders 5:17 | parts 31:6 |
| non-disclosure 6:5 | Orleans 1:36 | party 8:18,23; 27:25 |
| None 11:24; 30:9 | other 3:7; 4:9; 7:17,18; 8:10; 9:2; 11:13,14; 12:13; | party's 11:24 |
| nor 32:12,14 | 14:5; 16:5; 17:10; 19:6,13; 22:17; 23:11; 24:2,25; 28:21; 30:6,21 | past 20:8 |
| normal 25:22 | otherwise 8:14; 32:14 | pay 26:5; 27:21 |
| notes 23:17; 24:7 | out 2:21; 3:10; 5:8,11; 9:11,25; 13:9; 16:13; 17:11; 18:4; 24:7,19,22,24; 25:15; 26:3,10,15; 27:3; 30:6,22 | pending 2:21; 26:25; 27:2 |
| nothing 17:21 | out-of-court 30:11 | people 8:20; 25:14,17 |
| notice 15:24 | outcome 32:14 | permanent 3:25; 4:18; 5:8 |
| November 1:44; 4:4 | outlined 18:11 | permission 13:2 |
| number 2:3; 4:22; 11:13; 30:8 | outrageous 25:12 | permitted 10:19 |
| ----- | outside 7:1,24; 19:1; 29:19 | perpetrated 19:12 |
| 0 | over 26:25 | perpetrating 25:12 |
| ----- | overlap 25:1; 28:13 | PERRINO 1:24 |
| objected 3:4 | overseeing 17:11 | person 5:7; 10:22; 17:11 |
| objection 28:9 | overwhelming 20:9 | person's 12:2; 19:13 |
| obtained 5:24; 10:7; 11:8; 12:9,12; 23:1 | own 12:7 | personally 19:1 |
| obtaining 10:13 | ----- | piece 23:14 |
| Obviously 19:9; 29:25 | P | pieces 22:4 |
| offender 21:11 | ----- | place 17:21 |
| offered 25:5 | p.m. 31:17 | Plaintiff 1:13,27; 2:14,25; 4:20; 5:23 |
| Office 1:35; 6:2; 19:25; 21:25; 32:5,9 | Pages 1:2 | plaintiff's 13:19 |
| often 29:23 | papers 17:13 | play 18:24 |
| Okay 4:15; 21:1; 26:20; 27:5,7 | part 3:12; 11:17,19 | pleading 3:18; 6:22; 7:10; 11:1,2,3,5; 12:17 |
| once 29:22 | particular 6:20; 7:3,16; 8:7; 11:9; 12:20 | please 2:7; 13:24 |
| one 3:1; 5:23; 6:14,25; 7:19; 14:7,18; 17:20; 20:7; 21:6,9; 22:3; 25:14; 29:24 | particularly 11:10; | point 20:7; 22:3; 30:6 |
| ones 24:25 | | pointing 13:9 |
| only 11:8; 16:9,10; 18:13; 20:14; 26:8,21; 28:4 | | points 6:14; 8:10 |
| operates 18:7 | | policy 7:6 |
| opportunity 21:3; 28:1 | | political 6:7; 19:23; 20:6 |
| | | Post 1:35 |
| | | potential 14:18 |
| | | preclude 28:14 |

| | | |
|--|---|--|
| prelitigation 8:3; 29:3 | protects 9:13 | 17:3; 19:14,24; 21: 9; 23:3,5,6,7,8 |
| present 2:20; 9:1; 29:8 | prove 17:25 | recourse 27:16,17,18 |
| presented 14:10 | provided 32:5 | reference 3:22,23; 4:16; 5:11; 7:17 |
| press 30:14,20 | psychological 20:4 | referenced 6:21; 11: 25; 13:5 |
| presumes 16:8 | psychosis 5:1 | refocus 20:25 |
| pretty 14:7; 22:2 | public 10:17,18; 12: 21,22; 13:20; 17:2; 21:22; 22:5 | regard 6:15 |
| prevents 10:13 | publicly 21:10 | regarding 17:9; 21:8 |
| previously 3:8; 4:22 | purpose 28:16 | regards 31:2 |
| principals 13:11 | purposes 6:16; 15:12 | regulatory 23:21 |
| printouts 11:16 | pursuant 4:23 | relate 9:1; 30:23 |
| prior 5:25 | put 22:17 | related 9:1,2; 31: 11; 32:12 |
| prison 3:9 | ----- | relates 29:4; 31:4 |
| private 12:1,4; 13: 20; 23:20; 24:15 | Q | relating 18:24 |
| privilege 6:24; 7: 14,15,19; 8:10,14; 9:4,13; 13:19; 14: 12; 16:25; 18:7,11, 24; 21:6; 24:25; 25:10; 27:24; 29:2, 20,23; 31:11 | question 3:4; 18:16; 23:19; 28:17 | relation 31:7 |
| pro 1:28 | quote 12:18 | relationship 6:8; 7: 1; 19:23 |
| probably 19:20 | quoted 4:16 | relevant 7:15; 10:23 |
| Probate 4:17; 10:23; 12:19; 18:14; 19:5 | quotes 30:21 | relief 26:18; 28:14 |
| probation 5:13; 11: 12 | ----- | remedy 4:8; 23:23, 24,25; 24:2; 26:17 |
| problem 25:17 | R | remember 24:10 |
| problematic 31:10 | raised 8:23 | remove 19:19 |
| problems 17:10 | ran 20:7 | repair 31:5 |
| proceeding 29:5 | rather 5:7 | replies 5:5 |
| Proceedings 1:47; 30:23; 32:7 | read 14:2,9; 20:1; 24:13 | represent 2:22 |
| process 8:20 | reading 23:19 | representations 3:16 |
| produce 3:6 | real 23:23 | representing 2:9,14; 19:17 |
| produced 1:48 | really 8:16; 9:1; 18:4; 23:23 | reputation 6:9 |
| program 10:18 | reason 4:21 | request 15:21 |
| prohibit 23:22 | reasonable 18:17 | research 30:7 |
| prong 7:5 | reasons 3:6 | restricted 17:13 |
| prosecution 29:24; 30:2 | rebut 28:1 | restricts 10:10 |
| prospective 30:23 | received 18:14 | review 17:14; 27:19 |
| protect 12:23 | record 2:8; 10:14, 17; 11:20,22; 12:6, 20; 19:15,20; 20:3; 21:11; 23:1 | reviewed 15:15 |
| protected 10:15; 13: 1,7,18 | recorded 1:47 | rid 30:18 |
| | recording 1:47; 32:5 | Road 1:29 |
| | records 6:3; 11:9, 14,24; 12:2,8,10, 12,15,25; 13:21; | ROMAN 1:17,37; 2:4, 9,12,16,18; 4:4,9, 16; 8:6,8; 9:12,17, 20,24; 10:1,4; 12: 6,9; 15:8,13; 16: 19; 17:16,22; 18: |

| | | |
|---|---|---|
| 13; 20:2; 21:13; 26:16; 28:2,4,6,8, 18; 29:16,22; 31:15 rough 27:11 RULE 1:23; 15:22,25 ruling 14:15 run 11:10; 19:24; 20:8 ----- S ----- same 5:16,18; 7:6; 17:4; 26:18 sanctions 3:15,19; 13:15 saying 28:23 says 12:24,25; 20:2; 24:15,19 scheduled 4:4 scheme 8:19 schizoaffective 4:24 scope 29:19 se 1:28 search 11:9,10,13,19 searches 10:17 second 7:5; 10:4 Section 10:9 see 12:16; 14:9; 15: 17,19; 17:9; 18:14; 31:3,6 seeking 26:17 seems 28:21 self-serving 17:22 sense 23:22 sent 8:4 serious 29:6 seriously 27:23 SERVICES 2:23; 10: 12; 31:5; 32:6 set 8:19 SETH 1:17,37; 2:4,9 setting 25:11 shown 11:3 shows 19:5 signed 17:16,17,20 Signs 2:23 Similarly 30:21 | simply 13:10 since 4:20 site 31:7 situation 15:3; 19: 10,16,21 slander 23:13; 24: 22,23,24 society 8:19; 25:13 somebody 25:16; 29: 15,25 somehow 22:9,10 someone 12:5,6; 19: 16; 31:6 something 4:12,14; 13:4 son 5:19 sorry 9:17; 16:14; 18:22; 21:1 sought 4:8 sound 1:47 sounds 28:12 sources 21:23 Spaulding 1:33 specific 4:19; 7:4; 13:13; 22:4 Specifically 4:20; 22:1; 24:9 ss 1:7 stand 25:25 standard 25:7 standing 11:23 start 15:4; 21:9 started 26:15; 31:8 state 3:8 stated 6:19 statement 6:3; 9:10; 17:22; 19:19; 30: 11,13,14; 31:3 statements 6:15; 7: 7,9; 9:9,14,22; 11: 3,4; 14:21; 29:3; 30:3,20 states 30:2 stating 17:20 statute 4:23; 10:9, 10; 12:24; 21:16; 24:13,15 | statutes 11:25; 12: 23; 21:7; 23:17,20; 24:9 stay 20:17 stenographer 6:8 Steven 2:10 still 22:24 story 26:6 stuff 22:19; 28:1 subject 3:24; 4:18; 5:17 submitted 22:25; 23: 7 subsequently 3:13 sue 23:21 suffer 6:10 suffice 16:1 suggest 16:5 suggesting 9:19 suit 8:5,12; 12:13; 24:2; 29:1; 30:3 SUPERIOR 1:7; 11:11; 32:6 Supreme 14:11,17 switch 30:17 symptoms 4:25 system 17:14; 25:14, 18 systems 17:7 ----- T ----- talks 28:25 Tanzi 1:33 testify 3:4 theory 15:7 there's 5:6; 7:2; 9: 6; 10:25; 12:23; 13:10,13; 14:15; 16:10; 19:4,8; 23: 23; 24:15; 25:1,25; 26:24; 27:16,17 They've 19:2 thin 14:7,8,9 thing 16:5; 20:14; 22:17; 25:14; 26:8, 21; 30:6 |
|---|---|---|

| | | |
|--|--|---|
| things 3:7; 4:9; 6:24; 8:3; 9:2; 18:4; 23:11; 24:1,5; 25:12,25 | under 4:21; 5:8; 6:19; 15:25; 18:10; 20:4; 24:16,24; 29:6; 31:13 | Way 1:34; 11:8; 19:3,8; 22:1; 25:15 |
| thinking 5:1 | underlies 7:6 | Weir 1:29 |
| Third 5:6,20; 6:2,25; 11:21,24; 12:15; 19:7 | underlying 29:14 | Western 17:8 |
| THOMAS 1:24 | understand 14:18,24; 16:2,3,4; 18:1; 20:15; 22:15; 24:21; 26:2 | whatever 7:20; 8:13; 12:7; 25:10 |
| though 9:5; 23:7 | understanding 15:23 | whereas 11:9 |
| threatened 29:15 | unlawfully 5:24; 7:23; 10:7,13; 13:1 | whether 8:11; 9:10; 10:1,2; 18:6,16; 20:13,16,17; 21:15; 25:5; 29:1,2,4 |
| threatening 29:17 | Unless 9:15 | whitewash 25:15 |
| three 2:3,19; 17:17 | unscathed 25:11 | will 21:17; 22:2 |
| throughout 17:7 | until 21:12 | wish 28:2 |
| took 2:25; 5:4; 6:17; 17:21 | unwarranted 29:16 | within 10:19 |
| track 18:2 | up 8:19; 10:4; 11:12,21; 14:11,15; 16:6; 17:9; 27:10; 30:8 | without 13:1; 23:19 |
| trail 22:10 | upcoming 19:25 | witness 25:25 |
| Transcriber 1:48; 32:3,30 | user 17:10; 20:3 | work 17:4; 30:17 |
| transcript 1:48; 32:4,10 | using 31:6 | worked 13:11 |
| Transcription 32:6 | ----- | works 18:20 |
| transferred 5:12; 11:12; 31:9 | V | world 27:11 |
| treated 5:2 | ----- | write 8:12 |
| treatment 13:5 | Various 24:8 | written 6:21; 15:24; 22:1 |
| trees 7:23 | vast 22:13 | wrote 17:6; 23:17 |
| TRIAL 1:8; 32:9 | verified 11:25; 13:18 | ----- |
| true 6:16; 9:6,13; 10:1,2; 15:12; 32:4 | versus 5:20; 22:22 | Y |
| trust 25:14,18 | vicarious 16:10 | ----- |
| trying 4:11; 14:25; 20:18,19; 25:17; 27:15 | view 12:22 | Yarmouthport 1:30 |
| tumble 27:11 | violate 24:8 | year 19:25; 20:8 |
| turn 4:7 | violation 6:4; 10:8; 13:6; 21:16; 23:21,23 | years 19:3 |
| turned 9:10 | violations 24:9 | |
| turns 3:10 | Volume 1:1 | |
| two 5:24; 6:24; 27:10 | votes 30:18 | |
| type 4:24; 10:19; 29:2 | vs. 2:4 | |
| typed 22:6 | ----- | |
| ----- | W | |
| U | ----- | |
| ----- | walked 27:3 | |
| | wants 21:3 | |

