

SUPREME COURT
STATE OF SOUTH DAKOTA
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IN THE SUPREME COURT OF THE STATE OF SOUTH DAKOTA

CHRISTINA ZUCCARO,
Appellant/Respondent

v.

KATHERINE SAMMONS,
Appellee/Petitioner

Appeal from the Sixth Judicial Circuit Court, Jones County The

Honorable M. Bridget Mayer, Presiding

Case No: 37TPO24-03

SUPREME COURT NO.: APPEAL NO: 31126

APPELLANT'S BRIEF IN SUPPORT OF APPEAL

Christina M. Zuccaro
22742 258th Avenue
Midland, SD 57552
Pro Se Appellant

Dated: 8/4, 2025

31126

TABLE OF CONTENTS

Table of Contents.....	1
Table of Authorities	2
Jurisdictional Statement	4
Statement of Legal Issues Presented	5
Statement of the Case	7
Statement of the Facts	15
Summary of the Argument	22
Standard of Review	25
Argument	28
1. The Court’s Threats of Sanctions for Legal Filings Violated Appellant’s Rights ...	28
2. Personal Attacks and Disparaging Characterizations Demonstrate Bias	29
3. The Court Refused to Consider Material Evidence in Violation of Rule 60(b)	31
4. Legal Error Regarding the Deferred Prosecution Agreement.....	32
5. The Trial Court Ignored Appellant’s Leasehold and Ownership Interests	32
6. The Trial Court Misrepresented the Record and Disregarded Exhibits	34
Constitutional Questions Presented	35
Conclusion and Request for Oral Argument	38
Prayer for Relief	40
Certificate of Compliance	43
Certificate of Service	44

TABLE OF APPENDICES

Appendix A – Statement of Legal Issues with Supporting Authorities	45
Appendix B – Chronological Timeline of Procedural and Evidentiary Events	50
Appendix C – Summary Guide to Transcript Testimony of Katherine Sammons (October 8, 2024).....	53
Appendix D – Summary of December 31, 2024 Advisory Hearing	56
Appendix E – Narrative Summary of April 1, 2025 Motions Hearing	59
Appendix F– Protection Orders: Temporary (Feb. 13, 2024) and Final (Oct. 8,2024).....	62
Appendix G–Second Order Denying Rule 60 Motions.....	72
Appendix H– Rule 60(b) Motions to Vacate or Modify Protection Order.....	83
Appendix I– Transcript of October 8, 2024 Hearing	98
Appendix J– Transcript of December 31, 2024 Advisory Hearing.....	130
Appendix K– Transcript of April 1, 2025 Motions Hearing.....	157

TABLE OF AUTHORITIES

Cases

<i>Barnaud v. Belle Fourche Irrigation Dist.</i> , 2000 SD 57, 609 N.W.2d 779	26, 32, 34, 46, 48, 49
<i>Brady v. Maryland</i> , 373 U.S. 83 (1963)	6, 14, 36, 47
<i>Caperton v. A.T. Massey Coal Co.</i> , 556 U.S. 868 (2009)	23, 27, 29, 45, 46
<i>Heck v. Humphrey</i> , 512 U.S. 477 (1994).....	22, 24, 32, 47, 48, 49
<i>Hendrickson v. Wagners, Inc.</i> , 1999 SD 74, 598 N.W.2d 507	23, 25, 31
<i>Hiller v. Hiller</i> , 2015 SD 58, ¶¶ 21, 24, 866 N.W.2d 536.....	34, 46
<i>In re Ibanez</i> , 2013 SD 45, 834 N.W.2d 306	34, 46
<i>In re Murchison</i> , 349 U.S. 133 (1955)	27, 45
<i>Jeffries v. Jeffries</i> , 464 N.W.2d 781 (S.D. 1990)	25, 46, 47, 48, 49
<i>Liteky v. United States</i> , 510 U.S. 540 (1994)	23, 27, 29, 45, 46
<i>Mathews v. Eldridge</i> , 424 U.S. 319 (1976)	14, 24, 45, 47, 48
<i>Mayberry v. Pennsylvania</i> , 400 U.S. 455 (1971)	27, 29, 45
<i>Nelson v. Colorado</i> , 581 U.S. 128 (2017)	14, 23, 32, 36, 45, 47, 48
<i>Rabo Agrifinance, Inc. v. Rock Creek Farms</i> , 2013 SD 64, 836 N.W.2d 631.....	34, 46
<i>Sjomeling v. Stuber</i> , 2000 SD 103, 615 N.W.2d 613.....	12, 14, 26, 33, 34, 46, 47, 48, 49, 56
<i>State v. Buchholz</i> , 1999 SD 110, 598 N.W.2d 899.....	4, 49
<i>Tumey v. Ohio</i> , 273 U.S. 510 (1927)	25, 30, 45, 49
<i>United States v. Fokker Servs. B.V.</i> , 818 F.3d 733 (D.C. Cir. 2016)....	14, 22, 24, 32, 48, 49
<i>United States v. Goodwin</i> , 457 U.S. 368 (1982)	22, 28, 45
<i>United States v. Swift & Co.</i> , 286 U.S. 106 (1932)	26, 45, 49
<i>Withrow v. Larkin</i> , 421 U.S. 35 (1975)	27, 29, 45

U.S. Constitutional Provision

U.S. Const. amend. I	22, 25, 28, 30
U.S. Const. amend. V	36
U.S. Const. amend. XIV, § 1, cl. 1 (Due Process Clause)	25, 30, 36, 48

Statutes and SD Constitutional Provisions

S.D. Const. art. VI, § 20	28
SDCL § 15-6-60(b)	4, 5, 6, 13, 14, 15, 22, 25, 26, 27, 28, 30, 31, 35, 38, 39, 40, 41, 45, 46, 47, 49, 51, 52
SDCL § 15-6-60(b)(2)	23, 31, 35, 46, 47, 48
SDCL § 15-6-60(b)(3)	23, 31, 35, 46, 48
SDCL § 15-26A-3(1)	5
SDCL § 15-26A-66.....	43

	3
SDCL § 15-26A-66(b)	43
SDCL § 21-16-1	8, 49
SDCL § 22-19A-14	26
SDCL § 22-32-8	8
SDCL § 22-35-5.....	8
SDCL § 22-35-6	34

Rules

Fed. R. App. P. 10(e)	4
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Judicial Ethics

Canon 2, South Dakota Code of Judicial Conduct	23, 29, 36, 46
Canon 3, South Dakota Code of Judicial Conduct	23, 29, 36, 46

JURISDICTIONAL STATEMENT

This appeal is taken from the Sixth Judicial Circuit Court, Jones County, South Dakota, the Honorable M. Bridget Mayer presiding. The circuit court entered a final order on June 15, 2025, denying Appellant Christina Zuccaro's motion under SDCL §15-6-60(b) to vacate a permanent protection order issued against her. That order affects substantial rights and disposes of the matter in its entirety.

Appellant seeks to supplement the appellate record pursuant to this Court's inherent authority, as well as principles analogous to Rule 10(e) of the Federal Rules of Appellate Procedure, which permit the inclusion of omitted or necessary materials to ensure a full and fair review. This request is made in light of the intertwined factual and legal issues presented in *Zuccaro LLLP v. Bad River Cattle Company*, Case No. 37CIV24-5. The proceedings in that case involve the same parties, property rights, and factual disputes that were improperly excluded from the protection order hearing below.

Supplementation is also warranted under the principle that appellate courts must evaluate lower court decisions in light of the full evidentiary context. See *State v. Buchholz*, 1999 SD 110, ¶ 9, 598 N.W.2d 899 (noting that appellate review requires consideration of the entire record). This request is further supported by the Court's inherent authority to ensure a complete and accurate record, and is consistent with the principles underlying Fed. R. App. P. 10(e), which allows correction or supplementation of the record when material omissions would impair review.

Jurisdiction is conferred upon this Court by SDCL § 15-26A-3(1), which authorizes appeals from final judgments of the circuit court. This includes final orders denying post-judgment relief under SDCL § 15-6-60(b), where newly discovered evidence, constitutional error, or fraud upon the court is alleged.

Because the trial court's decision implicates fundamental property rights, due process protections, and the lawful application of Rule 60(b), appellate review by this Court is proper and necessary.

STATEMENT OF LEGAL ISSUES PRESENTED

(See Appendix A for supporting authorities under SDCL § 15-26A-60(4))

I. Constitutional Violations and Judicial Bias

1. Whether the trial court violated Appellant's constitutional rights by threatening to impose counseling or sanctions in response to lawful Rule 60(b) filings.
2. Whether the use of personal attacks and disparaging characterizations by the trial court constitutes judicial bias and a denial of due process.
3. Whether judicial oversight of related civil litigation between the same parties, while issuing credibility findings in a protection order case, creates an appearance of bias warranting recusal.
4. Whether the trial court erred in rejecting Appellant's Rule 60(b) motion based on vague, unsubstantiated character allegations, while disregarding admissible and specific evidence.

II. Evidentiary Errors and Denial of Procedural Fairness

5. Whether the trial court erred in refusing to consider newly submitted material evidence, including video exhibits, lease termination notices, and ownership documentation.
6. Whether the denial of a hearing under SDCL § 15-6-60(b), despite a showing of newly discovered evidence and changed circumstances, violated Appellant's right to procedural fairness.
7. Whether the trial court's refusal to allow Appellant access to her own 911 call records violates due process and *Brady v. Maryland*, 373 U.S. 83 (1963) disclosure obligations.
8. Whether a trial court may lawfully characterize a Deferred Prosecution Agreement (DPA) as a "plea" and use it as a basis for adverse credibility findings.

III. Property Rights and Legal Standing

9. Whether the trial court's failure to address Appellant's leasehold interest and status as a limited partner constitutes reversible legal error under South Dakota property and partnership law.
10. Whether the court's failure to engage with Appellant's lease and ownership documentation denied her equal protection of the law and the right to exclude trespassers.
11. Whether a protection order may be used to override leasehold rights and exclude a lawful occupant from property in the absence of adjudicated findings under real property law.

12. Whether the protection order is invalid where the petitioner, who is not a property owner or leaseholder, admits to unlawful entry and remains on the premises in defiance of lease termination.
13. Whether a civil protection order can be lawfully used to preempt or obstruct pending civil litigation concerning real property.

STATEMENT OF THE CASE

Appellant Christina Zuccaro is a one-quarter limited partner in Zuccaro LLLP, a South Dakota limited liability limited partnership that owns agricultural and residential property in Jones County. In connection with that interest, Appellant entered into a valid lease granting her exclusive use and possession of a cabin on the property. The lease remained in effect at all times relevant to this case and conferred exclusive possessory rights under South Dakota law.

Katherine Sammons, the Petitioner below, was employed by the former lessee of the partnership property, Bad River Cattle Company. After that lease was lawfully terminated in November 2023, Sammons remained on the property as a wrongful holdover with no legal authority. Despite holding no ownership or leasehold interest, she forcibly entered and occupied the cabin lawfully leased to Appellant. To bolster her false claim of lawful presence, Sammons listed the cabin—Appellant’s residence—as her business address, thereby creating the misleading appearance of legal authority. Law enforcement, relying on this misrepresentation, refused to treat the matter as unlawful entry. As a direct result, Appellant was wrongfully arrested.

On February 13, 2024—approximately ten days after Appellant’s wrongful arrest—Sammons filed for a protection order in Haakon County and again falsely listed the cabin—Appellant’s residence—as her work address. This deliberate misrepresentation, made after her employer’s lease had already been terminated, was a calculated abuse of process designed to entrench her continued presence on the property and displace Appellant from her own home. By invoking Appellant’s address in a legal filing without factual basis, Sammons misled law enforcement, further contributing to the confusion surrounding her authority to be on the property and compounding the emotional and legal harm inflicted on Appellant.

Sammons’ conduct—including forcibly breaking the locks and remaining on the property after her employer’s lease was terminated—meets the definition of criminal trespass under SDCL § 22-35-5, and unlawful entry under SDCL § 22-32-8, which prohibits remaining in a building without privilege. Her continued occupation may also constitute unlawful withholding of possession under SDCL § 21-16-1, which defines forcible entry to include civil detainer by one who unlawfully remains in possession.

At the October 8, 2024 protection order hearing, Appellant appeared through counsel. Sammons admitted under oath that she took a key from her employer and returned to the cabin, despite knowing that her employer, Christian Alavi, had been barred from the property as a condition for Charles Zuccaro dropping a prior protection order against him. When questioned about how the locks had been changed, Sammons claimed she could not recall. Although Appellant did not testify due to a pending criminal jury trial, the record contained clear evidence contradicting Sammons’ narrative that she

ran into the cabin out of fear. In reality, she had already broken in and established herself there. Nevertheless, the court—Judge Bridget Mayer presiding—granted a final two-year protection order against Appellant. At that point, Appellant had already been barred from her own property for approximately eight months as a result of Sammons falsely using the cabin address as her work address. Because the same false address remained on the criminal bond, Appellant continued to be legally restricted from returning to the cabin—despite her valid lease and possessory rights.

At the time of the protection order proceedings, a separate civil lawsuit—*Zuccaro LLP v. Christian Alavi*, Case No. 37CIV24-5—was pending regarding the unlawful holdover and misuse of the property by Sammons’ employer. A transcript excerpt from that proceeding was submitted as Exhibit 21 in the protection order case. (See Docket Entry 03/06/2025; Exhibit 21.) Notably, the trial court accused Appellant of “continu[ing] to insert herself into litigation involving a lease between the Petitioner’s employer and a family partnership” (Order, Apr. 1, 2025, at 3), despite her lawful standing as both a leaseholder and a limited partner—facts substantiated by the leases and correspondence in the possession of law enforcement.

Both Appellant’s lease and the Bad River Cattle Company lease—which expressly prohibited residential occupancy—had been provided to the Sheriff and former State’s Attorney Kirby Krogman months prior to Sammons’ unlawful reentry into the cabin. Despite this, the Sheriff treated the matter as civil and declined to act.

On February 3, 2024, Appellant explicitly asked the Sheriff to arrest Sammons for unlawful entry—a request that was documented by law enforcement but never acted upon. No trespass charges were filed. Despite these efforts, the trial court later accused Appellant of “continu[ing] to insert herself into litigation involving a lease between the Petitioner’s employer and a family partnership” (Order, Apr. 1, 2025, at 3). This mischaracterization ignored Appellant’s undisputed legal status as both a leaseholder and a limited partner in Zuccaro LLLP—positions fully substantiated by the lease agreements and correspondence previously submitted to law enforcement.

Sammons’ false filings—combined with law enforcement’s inaction—allowed her to remain on the property and entrench a false appearance of legal authority, ultimately contributing to the issuance of the protection order.

Notably, Sammons admitted during the October 8, 2024 hearing that she was aware of “legal stuff going on between the company and the family” (Tr. 10/8/24, p. 19, ll. 2–3), confirming her knowledge that the dispute was fundamentally about property—not personal safety. She also testified that she had used the cabin to calve out heifers earlier that year, confirming her employer’s similar admission: on July 24, 2024, Christian Alavi testified that “this year we were calving heifers February to March, and, yeah, we did use it” (Tr. 7/24/24, p. 13, ll. 15–16). These admissions reveal that Sammons’ motive for entering the cabin was agricultural convenience—not fear—further undermining the basis for the protection order. The broader context makes clear that this proceeding was rooted in an ongoing civil conflict, not in any credible allegation of harm.

Following the Petitioner's continued unauthorized entry—including trespassing at the egress of Appellant's main residence—Appellant filed a protection order against Sammons after she entered the area surrounding Appellant's home and removed property belonging to Appellant's father. Around the same time, on approximately November 20, 2024, Appellant submitted a formal criminal complaint to then-State's Attorney Kirby Krogman requesting charges against Sammons for unlawful entry, document falsification, theft, and harassment. A parallel complaint was filed the same day against her employer, Christian Alavi, for orchestrating Sammons' actions in violation of a terminated lease and a prior protection order barring his access to the property.

Shortly thereafter, on December 3, 2024, Appellant submitted a written request via email respectfully asking Judge Mayer to recuse herself from hearing Appellant's own Petition for Protection Order. At the time, Appellant was not yet proceeding pro se, and the letter was not formally filed or served on opposing counsel. However, Appellant attached two criminal complaints—one against Katherine Sammons and one against Christian Alavi—which had been submitted to the State's Attorney on approximately November 20, 2024. In her letter, Appellant expressed concerns regarding comments made by the Court during the October 8, 2024 hearing, which appeared to reflect premature acceptance of Sammons' version of events despite Sammons' sworn admissions of unlawful entry, occupation of the cabin during calving season, and knowledge of an ongoing civil dispute over possession of the property.

Appellant also highlighted numerous factual discrepancies that had been overlooked by the Court, including the false use of the cabin address in legal filings,

misrepresentations made to law enforcement, and a continuing pattern of trespass and harassment that persisted even after entry of the protection order. In her letter to the Court, Appellant wrote: “While I have the utmost respect for you and your Court, the comments made about me in the previous hearing... leave me uncertain about the potential for impartiality in this matter.” She requested that her own petition be reassigned to another judge to ensure a fair and impartial hearing.

Although Judge Mayer indicated a willingness to recuse herself, the matter remained assigned to her after the judge overseeing assignments declined to reassign the case. A hearing was scheduled for December 31, 2024.

The December 31, 2024 hearing—noticed as a “Hearing & Summons to Appear (Stalking/Phys Injury)” —was held before Judge Mayer, who declined to address property rights at that time but scheduled a follow-up hearing for approximately mid-March, informing Appellant that she would be allowed one hour and that the court would be guided by *Sjomeling v. Stuber*, 2000 S.D. 103, 615 N.W.2d 613.

In anticipation of upcoming proceedings, Appellant submitted a comprehensive set of exhibits, formally filed and certified by the circuit court clerk on March 6, 2025. The newly submitted materials included a September 16, 2023 bodycam video, obtained in early December 2024 from the Jones County Sheriff’s Department, in which Sammons admitted she was no longer welcome at the cabin and acknowledged that the lease excluded residential use; a December 2, 2023 receipt confirming the locks had been changed; and approximately 25 additional exhibits, including time-stamped videos,

photographs, lease documents, references to 911 calls, and legal notices—all demonstrating that Petitioner Katherine Sammons was unlawfully occupying Appellant's leased property. Further, these materials underscore inconsistencies in Petitioner's sworn testimony, reveal her retaliatory motive in seeking the protection order, and highlight law enforcement's failure to act on Appellant's legitimate reports of trespass.

Although a hearing was originally scheduled for March 2025, it was delayed due to Judge Mayer's reported injury. In the interim, Appellant sought access to 911 call recordings documenting key events involving Sammons' repeated trespass and unauthorized entry.

At the April 1, 2025 hearing, State's Attorney Anna Maher appeared and opposed the request, dismissing it as a "fishing expedition." Judge Mayer denied the request without citing legal authority, stating only that "the venue and the time to obtain these calls" had passed. On April 27, 2025, Appellant submitted a written response asserting her due process right to access her own emergency communications and identifying specific calls that were material to refuting Petitioner's narrative.

On May 6, 2025, Appellant filed a motion under SDCL § 15-6-60(b), citing newly discovered evidence, fraud upon the court, misrepresentation, and legal error. The motion relied on exhibits that had been formally submitted on March 6, 2025—including certified lease agreements, 911 references, video footage, and photographic documentation. Despite their relevance to Appellant's claims of unlawful entry, retaliation, and interference with her leasehold rights, the court declined to treat them as

“newly discovered” and failed to meaningfully address their substance. The motion also raised concerns about judicial bias, improper credibility findings, and due process violations.

On June 15, 2025, Judge Mayer denied the Rule 60 motion, dismissing the proffered evidence as speculative and accusing Appellant of attempting to relitigate the matter. The court further mischaracterized Appellant’s Deferred Prosecution Agreement in a related matter as a guilty plea—contrary to established law. *See United States v. Fokker Services B.V.*, 818 F.3d 733, 744 (D.C. Cir. 2016); *Nelson v. Colorado*, 581 U.S. 128, 134 (2017). The order employed inflammatory language to describe Appellant’s character while failing to reconcile its conclusions with the evidentiary record, and it did not address the constitutional concerns raised under *Brady v. Maryland*, 373 U.S. 83 (1963); *Mathews v. Eldridge*, 424 U.S. 319 (1976); or *Sjomeling v. Stuber*, 2000 SD 103, ¶ 11, 615 N.W.2d 613, 616 (recognizing that protection orders function as injunctions and must be evaluated for abuse of discretion, including legal error and decisions lacking evidentiary support).

As a result of Petitioner’s false statements and the court’s rulings, Appellant was excluded from her leased property for nearly nine months, despite holding valid leasehold rights and facing no legal finding of wrongdoing. Although she has since regained access to the cabin, the protection order remains in place and continues to pose legal and personal risk.

At the time of Sammons' continued presence on the property, her employer, Christian Alavi, asserted that he was a general partner of Zuccaro LLLP. Although the validity of that claim is the subject of ongoing litigation, the assertion was used to create the false appearance of authority and to confuse law enforcement regarding the legality of Sammons' occupancy. Regardless of its truth or timing, the claim had no bearing on the termination of the lease that governed Alavi's and Sammons' original presence on the property. Thus, the order has obstructed Appellant's ability to exercise her leasehold and partnership rights and has chilled her right to defend her home.

Accordingly, this appeal follows the June 15, 2025 denial of Appellant's Rule 60(b) motion. Appellant respectfully seeks reversal of the protection order and recognition of her leasehold and constitutional rights under South Dakota law.

STATEMENT OF FACTS

Appellant Christina Zuccaro is a one-quarter limited partner in Zuccaro LLLP, a South Dakota limited liability limited partnership that owns agricultural and residential property in Jones County. The only General Partner recognized by the State of South Dakota, Charles Zuccaro, holds exclusive legal authority over property leasing decisions. (Ex. 1, Zuccaro LLLP Partnership Document.) Appellant was granted a leasehold interest in the cabin located on the property; at no point did Katherine Sammons ever hold such an interest.

Lease Termination and Early Misconduct

On August 6, 2023, Appellant notified law enforcement of Sammons' unauthorized presence, harassment, and refusal to leave. (Ex. 2, Email to Sheriff Silva.) Despite these early warnings, law enforcement declined to intervene. On September 12, 2023, Bad River Cattle Company (BRCC)—Sammons' employer—was formally notified of lease violations. (Ex. 3.) The lease was then terminated on November 3, 2023, effective November 15, 2023. (Ex. 7.) Sammons' only connection to the property was through her employer's lease; that lease's termination extinguished any legal basis for her continued presence.

Sammons' Knowledge and Threats of Legal Abuse

On September 16, 2023, Deputy Kyle Cumm recorded Sammons on body camera admitting she was not the leaseholder and acknowledging Charles Zuccaro's right to the property: "Chuck goes, 'It is in the lease agreement. It is only for ag.'" (Ex. 4, Deputy Kyle Video.) Sammons conceded, "I don't have the keys... I'm sure he was just lying because they want to lock me out of the cabin, which I could give two shits less." She also threatened legal retaliation: "If they keep it up, I am going to serve a protection order on myself against both of them." This admission reveals not only her awareness of the lease limitations but also a premeditated plan to misuse the legal system to exclude lawful occupants.

At that time, the Sheriff's office was already in possession of the BRCC lease, which excluded residential use. (Ex. 4.) Sammons' later testimony contradicts her on-camera admissions.

Lock Changes and Escalating Intrusion

On approximately December 2, 2023, the locks were changed due to Sammons' repeated unauthorized entries. (Ex. 8.) Sammons later testified that she reentered the cabin using a key from her employer—after the lease had expired.

Appellant notified the State's Attorney and Sheriff on December 28, 2023, affirming her residential lease and requesting intervention. (Ex. 10.) On January 13, 2024, she again contacted the Sheriff, reporting that Christian Alavi was threatening to break into the cabin. (Ex. 12.) On January 26, 2024, Appellant called 911 after discovering the locks had again been changed. (Ex. 13.)

False Assertions of Authority and Coordinated Deception

These events did not occur in isolation. Sammons and her employer, Christian Alavi, undertook coordinated actions—including address manipulation, false filings, and obstruction of access—to construct a false narrative of lawful authority, which law enforcement and the court failed to scrutinize.

On January 29, 2024, Sammons' attorney issued a pretextual letter asserting that Sammons had unrestricted access to the cabin. (Ex. 14.) On February 2, 2024—well after the lease had expired—BRCC unilaterally changed its business address to the cabin,

falsely suggesting ongoing authority. Sammons then used this address in protection order filings and bond paperwork, misleading law enforcement and the court about her legal status on the property.

The February 3, 2024 Incident

On February 3, 2024, Appellant went to the cabin after retrieving keys from her father. His set of keys no longer worked either. She called 911 to report the suspected break-in. (Exs. 15a–15b.) Shortly thereafter, Sammons arrived, initiated an altercation, and yelled accusations across the fence, calling Appellant a “crazy bitch.” (Ex. 16a.)

Appellant briefly removed the mudroom doorknob in an effort to regain lawful entry but discontinued the attempt to prevent damage to the interior cabin door. Upon return, Sammons falsely claimed she had entered the cabin for safety. (Ex. 16b.) The 911 calls, Video and timestamps prove Sammons had already unlawfully entered and followed Appellant to the property. (Ex. 16c.)

Contrary to Sammons’ claim that Appellant was beating on the inside door with a maul for approximately 30 minutes, the Sheriff later testified that there was only minimal damage to the area around the lock. (Tr. 10/8/24.) The door itself—which features a glass upper portion—was neither destroyed nor visibly damaged and remains in use to this day.

Notably, there was no explanation for the disappearance or destruction of the doorknob that had been in place as of December 3, 2023. The original lock had been removed and replaced without notice, and no party ever accounted for the broken

hardware. While Sammons acknowledged obtaining a key from her employer, she offered no explanation for the lock change or associated damage. As the sole individual present on the property during the relevant period, Sammons is the only plausible source of the tampering, and any minor damage could reasonably have resulted from her own unauthorized entry and lock alteration.

Admissions, Retaliation, and Use of False Address

Later that evening, Christian Alavi emailed Appellant threatening her to “stay away” while admitting she had a lease. (Ex. 17.) Sammons listed the cabin as her workplace on police and court documents. At the July 24, 2024 hearing, the court admonished Alavi: “You choose to do business out of there, that’s on you. But if you’re keeping that as an address, that needs to be changed by August 8th of 2024, because that’s when Mr. Zuccaro is going to take physical possession.” (Ex. 21, p. 28.)

This confirms misuse of the address to bolster Sammons’ unlawful occupation. In July 2024, the BRCC lease entered into evidence confirms that no residences were included. This document, which is also part of the record in *Zuccaro LLLP v. Bad River Cattle Company*, Case No. 37CIV24-5, further demonstrates that Sammons had no lawful basis to occupy the cabin, and that the address was improperly used to create the appearance of legitimacy.

Continued Misuse of Legal Process

As a result of these misrepresentations, Appellant was excluded from her leased home for approximately nine months, and her elderly father for six. Even after the protection order was granted, Sammons continued to access the Zuccaro LLLP property—including areas adjacent to Appellant’s residence—under the guise of performing “ranch work.” On approximately November 27, 2024, a 911 call was placed reporting Sammons and another individual removing property near Appellant’s egress. (Ex. 23.)

Despite the reported trespass and the existence of conflicting property rights, law enforcement declined to act, apparently relying on the trial court’s ruling, which expressly allowed Sammons continued access to the area “near Respondent’s house.” As a result, Appellant’s **primary residence** was left entirely vulnerable to ongoing intrusion and harassment. Even the sanctity of her home—where she lives—remains unprotected from further encroachment by the Petitioner.

On January 2, 2025, Appellant, acting with the General Partner, served Sammons with a formal Notice to Quit. (Ex. 24.) Photographs documented its placement. (Exs. 25a–25b.) However, despite repeated legal notice, lease termination, and sworn testimony acknowledging her lack of rights, Sammons continues to enter Zuccaro LLLP property. Though she is no longer in the cabin, her ongoing presence constitutes trespass and interference with Appellant’s rights as both leaseholder and limited partner.

Despite the existing protection order, Sammons continued to enter areas surrounding Appellant's primary residence—including the egress, a restricted space clearly under Appellant's lawful use and control. On May 28, 2025, a motion-activated game camera captured Sammons entering the egress, less than 100 feet from Appellant's primary residence. The footage was not recorded by Appellant directly but by a fixed, automatic device used to monitor animal activity.

Concerned that Sammons was weaponizing the protection order to provoke confrontation and interfere with Appellant's peaceful use of her home, Appellant submitted a formal letter to State's Attorney Anna Maher on May 29, 2025, requesting a criminal investigation into Sammons' conduct—including potential trespass, document falsification, and abuse of legal process.

On June 4, 2025, Appellant also filed another Motion to Modify/Vacate Order (signed May 29, 2025) formally alerting the court to this and other incidents. Yet the court's June 15, 2025 final order made no reference to Sammons' ongoing access to the property, nor did it consider whether her continued presence near Appellant's residence—despite a pending civil lawsuit and active leasehold dispute—undermined the factual basis for the original protection order.

The protection order has not served its intended purpose. Instead, it has been used to intimidate and deter Appellant from the rightful enjoyment of her home and from asserting lawful property rights without fear of arrest, retaliation, or further legal entanglement.

Furthermore, the trial court's treatment of Appellant's Deferred Prosecution Agreement (DPA) as a guilty plea—despite no conviction or admission—compounded this harm. In fact, as confirmed by *United States v. Fokker Services B.V.*, 818 F.3d 733, 744 (D.C. Cir. 2016), a DPA does not involve adjudication of guilt or judicial endorsement of the facts. Appellant remained presumed innocent throughout. Indeed, even under the reasoning of *Heck v. Humphrey*, 512 U.S. 477, 486–87 (1994), no bar would apply to challenge this process, because no conviction exists to “invalidate.” The court's contrary approach in treating the DPA as equivalent to a plea of guilt constitutes both factual error and legal prejudice.

These documents show a clear sequence of events culminating in Appellant's exclusion from her own leased residence. (See Appendix B, Timeline of Key Events.)

SUMMARY OF THE ARGUMENT

The trial court committed multiple reversible errors in granting and upholding a protection order based on incomplete evidence, improper legal reasoning, and clear indications of bias.

First, the court violated Appellant's constitutional rights by threatening to impose sanctions or counseling in response to her filing lawful Rule 60(b) motions. Such threats chill access to justice and violate both due process and the First Amendment's protection of petitioning the government for redress. See *United States v. Goodwin*, 457 U.S. 368, 372 (1982) (holding that retaliatory penalties imposed for exercising protected legal rights violate due process).

Second, the court exhibited clear bias through personal attacks—calling Appellant “vulgar” and “erratic”—without evidentiary support. This conduct, coupled with the court’s refusal to consider Appellant’s newly submitted exhibits, violated Canon 2 and Canon 3 of the South Dakota Code of Judicial Conduct and the Fourteenth Amendment’s guarantee of an impartial tribunal. *See Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 872 (2009) (holding that due process requires recusal where the probability of actual bias is too high); *Liteky v. United States*, 510 U.S. 540, 555 (1994) (recognizing that judicial bias may arise from deeply held opinions not based on evidence in the case).

Third, the court failed to evaluate material evidence that would have directly undermined its conclusions. Exhibits submitted on March 6, 2025—including time-stamped videos, lease documents, termination notices, and 911 call logs—demonstrated that Petitioner unlawfully occupied the cabin after the termination of her employer’s lease and that her allegations of harassment were contradicted by the factual record. The court’s refusal to consider this evidence constituted an abuse of discretion. *See Hendrickson v. Wagners, Inc.*, 1999 SD 74, ¶ 14, 598 N.W.2d 507, 510 (defining abuse of discretion to include legal error or decisions made for unjustified purposes, against reason and evidence). It also violated SDCL § 15-6-60(b)(2)–(3), which permits relief from judgment based on newly discovered evidence or fraud.

Fourth, the trial court erred as a matter of law by treating Appellant’s Deferred Prosecution Agreement (DPA) as a plea of guilt. No conviction or admission of wrongdoing occurred, and precedent confirms that a DPA preserves the presumption of innocence. *See Nelson v. Colorado*, 581 U.S. 128, 134 (2017) (holding that once a

conviction is vacated, the presumption of innocence is restored and the state cannot impose penalties based on the invalidated conviction); *United States v. Fokker Services B.V.*, 818 F.3d 733, 744 (D.C. Cir. 2016) (holding that a deferred prosecution agreement does not involve an adjudication of guilt or judicial determination of the facts). The trial court's mischaracterization of the DPA not only prejudiced Appellant's credibility but also introduced an improper legal basis for adverse judicial findings. Moreover, as clarified in *Heck v. Humphrey*, 512 U.S. 477, 484–87 (1994), a civil litigant is not barred from seeking relief where no conviction exists to invalidate; the DPA carries no such collateral estoppel effect.

Fifth, the court disregarded Appellant's valid leasehold and ownership rights, treating her as a trespasser despite documentation proving her legal interest in the property. The protection order process was used by Petitioner to displace Appellant from her own residence, without lawful adjudication of her possessory interest under South Dakota's trespass laws or civil procedure. This raises serious due process concerns under *Mathews v. Eldridge*, 424 U.S. 319 (1976), which requires a balancing of the private interest at stake, the risk of erroneous deprivation through inadequate procedures, and the government's interest in streamlined process.

Finally, the court's June 15, 2025 order included disparaging commentary, omitted critical evidence from the record, and demonstrated a lack of neutral adjudication. The protection order has been weaponized to exclude Appellant from her own property, empowering an unlawful occupier and chilling Appellant's ability to defend her leasehold rights. Because the trial court ignored material facts, misapplied

legal standards, and conducted proceedings in a manner inconsistent with due process, reversal is warranted.

STANDARD OF REVIEW

Ordinarily, an appellate court reviews the denial of a Rule 60(b) motion for abuse of discretion. However, where the denial implicates constitutional rights—such as due process, judicial impartiality, and access to justice—de novo review is warranted. See *Hendrickson v. Wagners, Inc.*, 1999 SD 74, ¶ 14, 598 N.W.2d 507 (noting abuse of discretion occurs when a court acts contrary to reason and evidence).

At its core, procedural due process demands an impartial tribunal, which is a “basic component” of fairness under the Fourteenth Amendment. See *U.S. Const. amend. XIV*, § 1; *Tumey v. Ohio*, 273 U.S. 510, 523 (1927). While no pecuniary interest is alleged here, the logic of *Tumey* applies equally to structural or relational bias, where the judge disregards exculpatory evidence or adopts a prosecutorial posture. Due process protects not only against actual bias but also against circumstances that create an intolerable risk of bias.

Rule 60(b) serves as a safeguard for judgments tainted by fraud, newly discovered evidence, or legal error. In contrast to *Jeffries v. Jeffries*, 464 N.W.2d 781 (S.D. 1990)—where the movant failed to exercise due diligence—Appellant’s request is supported by concrete proof of fraud and misrepresentation. Specifically, Petitioner Sammons misrepresented her legal authority to occupy the cabin by falsely listing the address as her workplace after her employer’s lease had been terminated. Law

enforcement relied on that misrepresentation, contributing to the wrongful issuance of a protection order. Such abuse of legal process falls squarely within the scope of misconduct that Rule 60(b) was designed to remedy.

South Dakota courts treat protection orders as a form of injunctive relief, subject to traditional equitable standards. *See Sjomeling v. Stuber*, 2000 SD 103, ¶ 11, 615 N.W.2d 613, 616. A motion to modify or terminate a protection order under SDCL § 22-19A-14 may be granted upon a showing of changed circumstances. Although not formally governed by Rule 60(b), courts may look to its principles when assessing whether newly discovered evidence or changed conditions render continued enforcement inequitable. *See id.* ¶¶ 13–14 (citing *United States v. Swift & Co.*, 286 U.S. 106 (1932)). While Rule 60(b) does not permit relitigation of previously decided issues, it may be invoked to correct a manifest injustice where new and unforeseen circumstances have arisen.

Unlike the movant in *Sjomeling*, who merely sought to revisit prior findings, Appellant has presented new, uncontested evidence that Petitioner—an admitted trespasser—used fraudulent filings to exclude her from her own home. These facts strike at the core of due process and property rights. When a court disregards such probative material and instead rules based on personal impressions rather than established legal standards, reversible error results. *See Barnaud v. Belle Fourche Irrigation Dist.*, 2000 SD 57, ¶ 22, 609 N.W.2d 779, 787 (explaining that Rule 60(b) preserves the balance between finality and the need to ensure justice in light of all the facts).

Moreover, a judge's use of disparaging language without factual basis—as occurred here when Appellant was labeled “vulgar” and “erratic”—undermines public confidence in the judiciary. Judicial comments that reflect deep-seated antagonism or prejudgment violate due process. See *Liteky v. United States*, 510 U.S. 540, 555 (1994) (judge's comments during proceedings warrant recusal only if they display “deep-seated favoritism or antagonism that would make fair judgment impossible”); *Mayberry v. Pennsylvania*, 400 U.S. 455, 465 (1971) (due process requires a new judge when the trial court becomes embroiled in “running, bitter controversy” with a defendant); *In re Murchison*, 349 U.S. 133, 137 (1955) (“A fair trial in a fair tribunal is a basic requirement of due process.”).

The U.S. Supreme Court has repeatedly emphasized that objective standards, not proof of actual bias, control due process inquiries. See *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 883–84 (2009). Because “a judge's own inquiry into actual bias... is not one the law can easily superintend,” courts must instead assess whether the surrounding circumstances pose “a serious risk of actual bias or prejudgment.” *Withrow v. Larkin*, 421 U.S. 35, 47 (1975). In this case, the trial court ignored key exhibits, misstated the record, and signaled confusion over core legal issues—all factors that contribute to an objective appearance of partiality and warrant heightened review.

Accordingly, although Rule 60(b) motions are usually reviewed for abuse of discretion, when constitutional error, judicial bias, or misapplication of law is evident, the appellate court must apply heightened scrutiny. Reversal is necessary here to safeguard fundamental fairness and maintain the integrity of judicial proceedings.

ARGUMENT

1. The Court's Threats of Sanctions for Legal Filings Violated Appellant's Rights

The trial court explicitly warned that it would “consider ordering additional terms or counseling” if Appellant continued to file Rule 60(b) motions. These filings were lawful, timely, and supported by newly discovered evidence and valid procedural grounds. Threatening sanctions for exercising the right to seek judicial relief infringes on due process and chills access to justice—protections guaranteed by Article VI, § 20 of the South Dakota Constitution and the First Amendment to the United States Constitution. Although *United States v. Goodwin*, 457 U.S. 368, 372 (1982), addressed prosecutorial retaliation, its reasoning applies here: “[T]he government may not punish a person because he has done what the law plainly allows him to do.”

These warnings followed Appellant's attempt at the April 1, 2025 motions hearing to explain her reasons for seeking relief and to clarify the significance of evidence she had already submitted weeks earlier—on March 6, 2025—including a signed cover letter and approximately 25 exhibits consisting of time-stamped videos, 911 records, court orders, lease documents, and photographs. Despite this timely submission, the court made no mention of the materials and instead remarked that it was treating the cover letter “like a legal brief ahead of trial.” Opposing counsel admitted she had not reviewed the exhibits, stating: “I was out all last week.” Yet the court allowed the hearing to proceed and denied Appellant's motions without acknowledging the evidentiary filings. (See Appendix E, Narrative Summary of April 1, 2025 Motions Hearing; see Appendix K,

Transcript of April 1, 2025 Motions Hearing; see also March 6, 2025 Cover Letter and Exhibit Submission.) This pattern of disregard for timely and material evidence reflects a breakdown in the adversarial process and constitutes a denial of due process.

2. Personal Attacks and Disparaging Characterizations Demonstrate Judicial Bias

The trial court described Appellant as “vulgar” and “erratic” without evidentiary basis, despite video evidence showing that it was Petitioner who engaged in hostile, profane conduct. These remarks reflect not impartial adjudication, but personal animus and mischaracterization. While judicial comments alone may not establish bias, they require recusal when they “display a deep-seated favoritism or antagonism that would make fair judgment impossible.” *Liteky v. United States*, 510 U.S. 540, 555 (1994); *Mayberry v. Pennsylvania*, 400 U.S. 455, 465 (1971).

Such conduct also violates Canon 2 and Canon 3 of the South Dakota Code of Judicial Conduct, which mandate fairness, integrity, and decorum in judicial proceedings. See also *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 872 (2009); *Withrow v. Larkin*, 421 U.S. 35, 47 (1975). Even without proof of actual bias, an “intolerable risk” of partiality violates due process.

The court further undermined neutrality by proceeding despite open confusion about key facts. In its June 15, 2025 order, the court asserted that “Zuccaro continues to use legal filings and testimony as a platform to relitigate her version of events,” and dismissed her exhibits by stating, “Most of what Zuccaro presents has already been heard... and dismissed for lack of credibility or relevance.” These conclusory remarks

were unsupported by factual findings and mischaracterized Appellant's filings, which sought relief based on new evidence and fraud, not repetitive claims.

A judge cannot dismiss valid Rule 60(b) filings based on personal frustration or misperceptions. Doing so undermines the appearance of impartiality and violates the core due process requirement that adjudication be free from bias or improper influence. *See Tumey v. Ohio*, 273 U.S. 510, 523 (1927) (holding that due process is violated when a judge has a personal or institutional interest that creates a risk of partiality, regardless of actual bias).

Moreover, Petitioner falsely alleged that Appellant had taken "hundreds of pictures" of her. No such images were ever produced, and the record contains no evidence supporting the claim. In fact, Appellant's March 6, 2025 exhibit submission included only a small number of time-stamped photos and videos documenting property conditions, trespass, and livestock interference—none of which focused on or targeted Petitioner personally. Despite the lack of evidentiary support, the trial court appeared to credit this narrative and imposed a restriction in the October 8, 2024 protection order that barred Appellant from photographing Petitioner, even on her own property. This condition—imposed without factual findings or safety justification—violated Appellant's rights to defend her property and gather evidence. When based on a false accusation, such a restriction implicates not only judicial bias but also constitutional protections under the First and Fourteenth Amendments.

3. The Court Refused to Consider Material Evidence in Violation of Rule 60(b)

The trial court declined to evaluate material exhibits including a bodycam video (Sept. 16, 2023; acquired by Appellant in December 2024) in which Petitioner admits she had no legal right to be in the cabin, a locksmith receipt documenting the lock change (Dec. 2, 2023), 911 call logs reporting unlawful entry (Jan. 26 and Feb. 3, 2024; denied by Judge's Order on 04/03/2025), and video footage of Petitioner verbally accosting Appellant. (See also Appendix C, Summary Guide to Transcript Testimony of Katherine Sammons; see Appendix I, Transcript of October 8, 2024 Hearing)

Despite video footage (Ex. 16a) showing that Petitioner Sammons verbally confronted Appellant at the cabin door, shouting profanities and initiating the conflict, Sammons' sworn testimony omitted these facts. She instead claimed Appellant was merely "standing against the door" and that no interaction occurred. (Tr. 10/8/2024, p. 48.) This material omission directly contradicts the video evidence submitted to the trial court and calls into question both Sammons' credibility and the court's finding that her testimony was "more credible." (See Appendix C.) See *Hendrickson v. Wagners, Inc.*, 1999 SD 74, ¶ 14, 598 N.W.2d 507 (noting that an abuse of discretion includes decisions made against reason and evidence, or based on legal error).

Appellant submitted extensive exhibits on March 6, 2025, including time-stamped videos, 911 calls, lease documents, and photographs. These were not cumulative; they were critical to determining Petitioner's lack of credibility and unlawful presence. The court's failure to review or cite this evidence violated SDCL § 15-6-60(b)(2)–(3), which permits relief from judgment based on newly discovered

evidence or misconduct by the opposing party. See also *Barnaud v. Belle Fourche Irrigation Dist.*, 2000 SD 57, ¶¶ 22–24, 609 N.W.2d 779, 787–88 (granting relief where newly discovered evidence is material and likely to produce a different outcome).

4. Legal Error Regarding the Deferred Prosecution Agreement

In its July 15, 2025 Order Denying Respondent’s Motions to Vacate/Modify, the court erroneously treated Appellant’s Deferred Prosecution Agreement (DPA) as a guilty plea. No conviction, plea, or admission occurred. Under well-established precedent, a DPA preserves the presumption of innocence. See *Nelson v. Colorado*, 581 U.S. 128, 134 (2017); *United States v. Fokker Services B.V.*, 818 F.3d 733, 744 (D.C. Cir. 2016). The court’s contrary interpretation prejudiced Appellant’s credibility and tainted the fact-finding process.

The State also misrepresented that a grand jury had been convened—when in fact none had. This falsehood, uncorrected by the court, only compounded the legal error. See *Fokker*, 818 F.3d at 744–45 (holding that a DPA is not a judicial determination of guilt).

Further, under *Heck v. Humphrey*, 512 U.S. 477, 486–87 (1994), a DPA—unlike a conviction—does not bar civil relief. Thus, the trial court’s reliance on the DPA as conclusive undermines both credibility determinations and procedural fairness.

5. The Trial Court Ignored Appellant’s Leasehold and Ownership Interests

Appellant was not a trespasser. She held a one-quarter interest in Zuccaro LLLP and had a valid lease for the cabin. The court disregarded this framework and accepted vague allegations from Petitioner—an admitted trespasser with no legal standing.

South Dakota law does not permit the use of protection orders to displace lawful occupants from real property absent adjudication under applicable civil statutes. See *Sjomeling v. Stuber*, 2000 SD 74, ¶¶ 11–14, 612 N.W.2d 503, 507 (injunctive relief standards).

At the December 31, 2024 hearing, Appellant attempted to raise the legal implications of her leasehold interest by asking:

Regarding her employer’s lease termination, does the expiration of the employer’s lease and their refusal to vacate negate Sammons’ right to remain on the property? The lease was terminated November 15th, 2023. What legal standing does Sammons have to continue residing on property controlled by Zuccaro, LLLP, given the expired lease? (Transcript of Dec. 31, 2024 Hearing, p. 19, ll. 13–19.)

The court permitted her to begin but abruptly cut her off before she could continue or fully develop the issue: “All right, so—I’m going to stop you right now. Those kind of are separate legal cases that are ongoing...” (Transcript of Dec. 31, 2024 Hearing, p. 19, ll. 21–25.)

This procedural denial further compromised the fairness of the proceedings. Specifically, this refusal to consider a dispositive legal question—central to the legitimacy of the protection order—constitutes judicial avoidance of core property and due process concerns. By declining to adjudicate whether Petitioner had any lawful basis to be on the property, the court denied Appellant a meaningful opportunity to contest the foundational premise of Sammons’ claim. (See Appendix D, hearing summary and corresponding docket entry; see Appendix J, Transcript of December 31, 2024 Advisory Hearing)

6. Trial Court's Misrepresentation of the Record and Disregard of Exhibits

Despite stating that it had reviewed all materials, the court failed to address critical items including Petitioner's video admissions, lock-change documentation, and 911 recordings. It also misstated facts—questioning whether BRCC had leased the property—even though lease termination documents were in the record for months

This constitutes more than oversight; it is a legal failure to base rulings on the record. See *Barnaud*, 2000 SD 57, ¶ 22. The court found Petitioner “credible” and dismissed Appellant's position as “without merit,” despite the fact that Appellant did not testify due to a pending criminal matter and instead submitted extensive documentary evidence—including lease records, time-stamped videos, and 911 call logs—that directly contradicted Petitioner's claims and should have been evaluated on the record. This calls into question the entire adjudication process.

The court credited vague claims—e.g., that Petitioner “was given a key”—while ignoring her employer's terminated lease and Appellant's lawful leasehold. Its refusal to apply SDCL § 22-35-6 (criminal trespass) or acknowledge conflicting documentation reveals a departure from neutral adjudication.

Although the circuit court cited decisions such as *Rabo Agrifinance*, *In re Ibanez*, *Hiller*, and *Sjomeling* in its June 15, 2025 order, those cases do not support its ruling under the facts presented here. Appellant's motions did not relitigate settled issues but introduced newly discovered, time-stamped evidence—such as a September 16, 2023 video (not acquired until December 2024), unlawful reentry, falsified representations,

misdirected attorney communications, and transcripts of Petitioner Sammons' own sworn testimony—occurring after the judgment. Unlike the cases relied on by the court, this matter involved documented post-judgment misconduct and misapplication of court orders, squarely within the grounds for relief under SDCL § 15-6-60(b)(2)–(6).

In sum, the court disregarded compelling evidence—including the September 16, 2023 bodycam video, the December 2, 2023 lock change receipt, and the 911 call records from January 26 and February 3, 2024—made no mention of these critical materials, substituted personal commentary for legal analysis, and issued findings untethered to the evidentiary record. These are hallmarks of judicial overreach and constitute reversible error. (See Appendix B for integrated exhibit timeline.)

CONSTITUTIONAL QUESTIONS PRESENTED

I. Due Process and Fair Hearing

1. Does the trial court's refusal to consider newly submitted evidence under SDCL § 15-6-60(b) violate Appellant's right to a fair hearing under the Due Process Clause?
2. Does denying a hearing on newly discovered evidence that would materially alter the factual context constitute a violation of procedural due process?
3. Does a court violate due process by failing to consider exculpatory evidence submitted by a party previously constrained by a pending criminal matter?

4. Does reliance on vague, unsupported characterizations while disregarding objective documentary evidence violate due process?
5. Does the refusal to release a party's own 911 recordings—central to her defense—violate due process and the disclosure obligations established in *Brady v. Maryland*, 373 U.S. 83 (1963)?
6. Does treating a Deferred Prosecution Agreement (DPA) as a guilty plea violate the presumption of innocence and due process guarantees recognized in *Nelson v. Colorado*, 581 U.S. 128 (2017)?
7. Does the trial court's failure to adjudicate or even address the Appellant's leasehold and ownership interests constitute reversible legal error under state and federal law?
8. Does issuing a protection order without evaluating whether the petitioner held lawful possession under state trespass laws violate procedural due process?
9. Does insulating a trespasser while denying legal recourse to a lawful leaseholder constitute an unconstitutional deprivation of property without due process, in violation of the Fifth and Fourteenth Amendments?

II. Judicial Bias and Misconduct

10. Does a judge violate due process and ethical canons by presiding over related cases after having made adverse credibility findings and disparaging remarks in one?
11. Do judicial orders containing personal attacks or inflammatory language against a party violate due process and the impartiality requirement under Canon 2 of the South Dakota Code of Judicial Conduct?

12. Is it improper judicial conduct to issue credibility findings in one case while presiding over related proceedings involving the same factual dispute?
13. Does threatening to impose counseling or punitive measures for filing lawful motions violate a litigant's right to petition the court?
14. Where a judge has demonstrated antagonism toward a party, does continued jurisdiction over overlapping matters create an intolerable risk of bias requiring recusal?

II. Property Rights and Legal Standing

15. May a civil protection order be used to displace a lawful leaseholder without any findings under applicable property law?
16. Can an individual who admits to unlawful entry obtain a protection order against the rightful occupant of the property?
17. Does a court violate due process by crediting materially false statements and issuing a protection order that impairs established leasehold rights?
18. Does disregarding valid lease documents in favor of an unauthorized occupant constitute a denial of substantive property rights?
19. Does restraining a lawful leaseholder while shielding an admitted trespasser violate the Equal Protection Clause and due process guarantees?
20. Does the trial court's failure to adjudicate competing property interests before granting injunctive relief amount to an unconstitutional reordering of legal priorities and exceed judicial authority?

IV. Abuse of Process and Selective Enforcement

21. Does characterizing lawful self-help security efforts by a leaseholder as “erratic” or threatening violate the right to defend property under state law and due process?
22. Does the use of a protection order by an unauthorized occupant or agent of a former lessee to exclude a limited partner with possessory rights constitute an abuse of process?
23. Where ownership or leasehold rights are in dispute, does issuing a protection order without resolving those underlying claims violate procedural due process?

CONCLUSION AND REQUEST FOR ORAL ARGUMENT

This case is not merely a matter of interpersonal conflict—it is a property rights dispute improperly adjudicated under the guise of a civil protection order. The proceedings below disregarded due process, misapplied Rule 60(b), and distorted the legal framework governing possession, evidence, and judicial neutrality. The result is that a known trespasser has been permitted to exclude a lawful leaseholder and limited partner from her own residence for nearly a year, and continues to occupy Zuccaro LLLP property under a court order that grants her open access despite a terminated lease, pending civil litigation, and unrebutted ownership records.

The trial court’s denial of Rule 60(b) relief was tainted by legal error and bias. It ignored newly submitted, material evidence; mischaracterized a Deferred Prosecution Agreement as a guilty plea; and relied on unsupported character attacks in place of factual adjudication. These procedural defects implicate core constitutional

guarantees—due process, the right to present evidence, and the right to occupy and defend one’s home.

Compounding these errors, the trial court failed to address uncontroverted evidence that Petitioner falsely claimed the cabin¹—Appellant’s leased residence—as her work address in filings and to law enforcement. This misrepresentation created a façade of legal authority that directly contributed to Appellant’s wrongful arrest and court-ordered exclusion. Petitioner previously admitted to law enforcement, on September 16, 2023, that the agricultural lease did not include the cabin, and further acknowledged on video that she was no longer welcome there. Despite this, she returned after the locks were changed and forcibly entered the premises. Her alleged employer, Christian Alavi—who resides out of state and identified Petitioner as an independent contractor in *Zuccaro LLLP v. Alavi*, Case No. 37CIV24-5—never appeared or testified to support her claim of lawful presence.

This appeal concerns more than the reversal of a single protection order. It calls on this Court to safeguard the integrity of the judicial process, ensure that Rule 60(b) is not rendered illusory, and affirm that protective proceedings may not be weaponized to displace lawful residents from their homes. The issues raised—ranging from judicial bias and evidentiary exclusion to the misapplication of civil remedies to property disputes—warrant this Court’s full review.

¹ See forthcoming Motion to Supplement Record with exhibits showing bond paperwork and Appendix F exhibits showing Petitioner’s use of the cabin address in the Temporary Protection Order

Appellant respectfully requests oral argument to ensure the constitutional, factual, and jurisprudential implications of this case are fully explored. Oral argument will assist the Court in evaluating the Rule 60(b) standard, the evidentiary record, and the broader risks posed by court orders that confer possessory authority without adjudicating the underlying legal rights. The Court's intervention is necessary not only to correct the injustice in this case, but to reaffirm that no individual may be excluded from their home without due process of law.

PRAYER FOR RELIEF

If allowed to stand, the circuit court's ruling risks fundamentally reshaping South Dakota property law—elevating unlawful occupation above lawful possessory and ownership rights. This sets a dangerous precedent, undermines due process, and subverts the rule of law by effectively legitimizing trespass through judicial inaction. Courts are bound to apply, not rewrite, the law. South Dakota law protects lawful possessors; it does not empower those who forcibly enter and remain without legal right.

Appellant was deprived of access to her leased home for nearly nine months. The continued enforcement of a protection order—against a lawful resident on her own property, based on the fabricated authority of a known trespasser—has inflicted an ongoing constitutional injury. It has left Appellant in a legally and physically vulnerable position, unable to safely occupy or defend her residence without risk of renewed legal retaliation.

Accordingly, Appellant respectfully requests that this Court:

1. Reverse the circuit court's denial of Appellant's Rule 60(b) motion;
2. Vacate the permanent protection order—or in the alternative, modify it to exclude the overstayer, trespasser, and self-admitted unlawful entrant from the Zuccaro LLLP property—thereby restoring Appellant's access and safeguarding lawful leasehold rights;
3. Remand the matter for a new hearing before a different judge, or alternatively, enter judgment in Appellant's favor based on undisputed evidence of property and leasehold rights;
4. Declare that the trial court's mischaracterization of the Deferred Prosecution Agreement, its refusal to consider material evidence, and its reliance on personal attacks violated Appellant's rights to due process and impartial adjudication;
5. Affirm Appellant's constitutional and statutory right to reside safely and peacefully on property to which she holds a legal possessory interest—free from the threat posed by an individual who admitted to unlawful entry, misrepresented her authority, and weaponized civil remedies to displace a rightful occupant;
6. Grant such other and further relief as this Court deems just and proper under the law.

Appellant further renews her request for oral argument, to ensure the Court may fully engage with the evidentiary and constitutional issues raised and restore confidence in the judicial process.

Respectfully submitted,

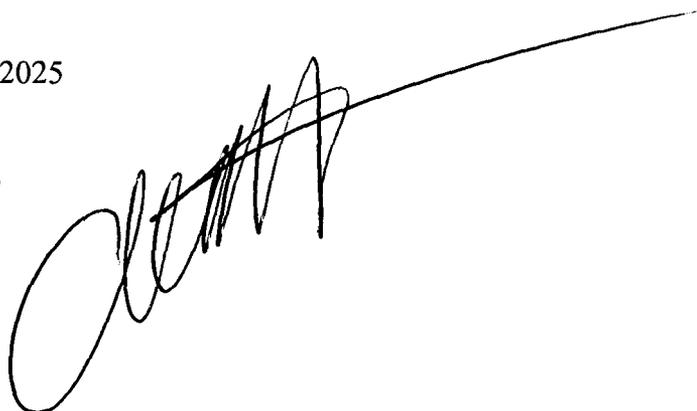
Dated: 8/4, 2025

/s/ Christina M. Zuccaro

22742 258th Ave

Midland, SD 57552

Pro Se Appellant

A handwritten signature in black ink, appearing to read 'Christina M. Zuccaro', is written over a long horizontal line that extends from the signature area towards the right edge of the page.

CERTIFICATE OF COMPLIANCE

Pursuant to SDCL § 15-26A-66(b), I hereby certify that this brief complies with the formatting and word count requirements set forth in SDCL § 15-26A-66.

This brief was prepared using Google Docs in Times New Roman, 12-point, double-spaced font. Excluding the table of contents, table of authorities, jurisdictional statement, statement of issues, and certificates of service and compliance, the total word count is 8,156 words.

I declare under penalty of perjury under the laws of the State of South Dakota that the foregoing is true and correct.

Respectfully submitted,

Dated: 8/4, 2025

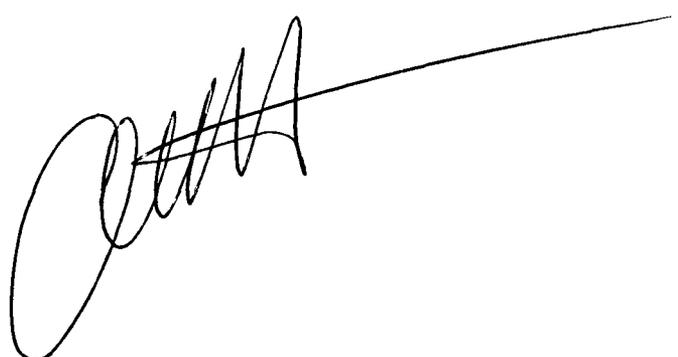
/s/ Christina M. Zuccaro

Christina M. Zuccaro

22742 258th Ave

Midland, South Dakota 57552

Pro Se Appellant

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CERTIFICATE OF SERVICE

I, Christina M. Zuccaro, hereby certify that on 8/4, 2025, I served a true and correct copy of the foregoing Appellant's Brief in Support of Appeal upon the following individual by United States mail, first-class postage prepaid, and by electronic mail:

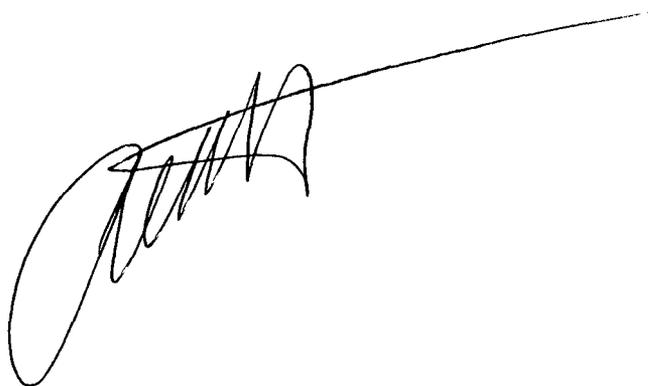
Cassie J. Wendt
Wendt Law, Prof. L.L.C.
102 E. Pine Street, Ste 1
P.O. Box 280
Philip, SD 57567
wendtlaw@goldenwest.net

Dated: 8/4, 2025

Respectfully submitted,

Christina M. Zuccaro
22742 258th Ave
Midland, SD 57552

Pro Se Appellant

A handwritten signature in black ink, appearing to read 'Christina M. Zuccaro', is written over a horizontal line. The signature is stylized and cursive.

IN THE SUPREME COURT
OF THE STATE OF SOUTH DAKOTA

CHRISTINA ZUCCARO,
Appellant,

v.

KATHERINE SAMMONS,
Appellee.

SUPREME COURT NO.: 31126
CIRCUIT COURT CASE NO.: 37TPO24-03

APPENDIX TO APPELLANT'S BRIEF – VOLUME I OF II

Contains Appendices A–H
Appendix Pages 45–97

Appeal from the Circuit Court
Sixth Judicial Circuit
Jones County, South Dakota
Honorable M. Bridge Mayer, Presiding Judge

Christina M. Zuccaro
Appellant, Pro Se
22742 258th Ave.
Midland, SD 57552
605-220-0266

Dated: 8/4, 2025

TABLE OF APPENDICES — Volume I

Appendix A – Statement of Legal Issues with Supporting Authorities	45
Appendix B – Chronological Timeline of Procedural and Evidentiary Events	50
Appendix C – Summary Guide to Transcript Testimony of Katherine Sammons (October 8, 2024).....	53
Appendix D – Summary of December 31, 2024 Advisory Hearing	56
Appendix E – Narrative Summary of April 1, 2025 Motions Hearing	59
Appendix F– Final Protection Order (October 8, 2024).....	62
Appendix G–Second Order Denying Rule 60 Motions.....	72
Appendix H– Rule 60(b) Motions to Vacate or Modify Protection Order.....	83

APPENDIX A

Statement of Legal Issues with Supporting Authorities

(Pursuant to SDCL § 15-26A-60(4))

I. Constitutional Violations and Judicial Bias

1. Whether the trial court violated Appellant's constitutional rights by threatening to impose counseling or sanctions in response to lawful Rule 60(b) filings.

- *Nelson v. Colorado*, 581 U.S. 128 (2017) – Holds that due process is violated when courts impose punitive consequences without proper procedural safeguards.

- *Mathews v. Eldridge*, 424 U.S. 319 (1976) – Establishes the balancing test for determining what process is constitutionally due before a party is deprived of liberty or property interests.

- *United States v. Goodwin*, 457 U.S. 368 (1982) – Warns that retaliatory judicial or prosecutorial actions for asserting legal rights infringe upon due process protections.

- *United States v. Swift & Co.*, 286 U.S. 106 (1932) – Asserts that final judgments cannot be reopened or amended absent new wrongdoing or changed circumstances, reinforcing the importance of procedural integrity.

2. Whether the use of personal attacks and disparaging characterizations by the trial court constitutes judicial bias and a denial of due process.

- *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009) – Clarifies that due process is violated where there exists a serious risk of actual bias, even if no actual partiality is shown.

- *Liteky v. United States*, 510 U.S. 540 (1994) – Distinguishes permissible judicial conduct from conduct showing deep-seated favoritism or antagonism that makes fair judgment impossible.

- *Withrow v. Larkin*, 421 U.S. 35 (1975) – Holds that combining investigatory and adjudicatory roles creates an impermissible risk of bias.

- *Tumey v. Ohio*, 273 U.S. 510 (1927) – Finds that judicial interest or appearance of partiality violates the Due Process Clause.

- *Mayberry v. Pennsylvania*, 400 U.S. 455 (1971) – Requires judicial recusal where personal feelings against a litigant could compromise impartiality.

- *In re Murchison*, 349 U.S. 133 (1955) – Warns against the constitutional dangers when a judge acts as both accuser and decisionmaker.

3. Whether judicial oversight of related civil litigation between the same parties, while issuing credibility findings in a protection order case, creates an appearance of bias warranting recusal.

- *Canon 2 and Canon 3, South Dakota Code of Judicial Conduct* – Prohibit judges from presiding over matters in which their impartiality might reasonably be questioned and require fair, unbiased adjudication.

- *Caperton*, 556 U.S. at 872 – Emphasizes that recusal is required when a judge’s actions create an objective risk of bias due to overlapping personal or procedural entanglements.

- *Liteky*, 510 U.S. at 555–56 – Supports recusal where the judge’s comments or actions indicate bias based on extrajudicial knowledge or involvement.

4. Whether the trial court erred in rejecting Appellant’s Rule 60(b) motion based on vague, unsubstantiated character allegations, while disregarding admissible and specific evidence.

- *Barnaud v. Belle Fourche Irrigation Dist.*, 2000 SD 57, ¶¶ 13–14, 609 N.W.2d 779 – Relief under Rule 60(b) should not be denied without a clear and reasoned explanation grounded in fact and law.

- *Jeffries v. Jeffries*, 464 N.W.2d 781 (S.D. 1990) – Recognizes the right to relief where there is evidence of new facts or procedural irregularities.

- *Sjomeling v. Stuber*, 2000 SD 103, ¶ 9, 615 N.W.2d 613 – Supports reopening of judgments where newly discovered evidence could change the result.

- *Rabo Agrifinance, Inc. v. Rock Creek Farms*, 2013 SD 64, 836 N.W.2d 631 – Rule 60(b) requires more than dissatisfaction; a showing of changed conditions is necessary.

- *Hiller v. Hiller*, 2015 SD 58, ¶¶ 21, 24, 866 N.W.2d 536 – Relief under Rule 60(b)(6) is permitted only in exceptional circumstances.

- *In re Ibanez*, 2013 SD 45, 834 N.W.2d 306 – Courts must strike a balance between the finality of judgments and the demands of justice when evaluating 60(b) motions.

- SDCL § 15-6-60(b)(2)–(3) – Authorizes relief based on newly discovered evidence or misconduct that prevented a fair trial.

II. Evidentiary Errors and Denial of Procedural Fairness

5. Whether the trial court erred in refusing to consider newly submitted material evidence, including video exhibits, lease termination notices, and ownership documentation.

- *Barnaud v. Belle Fourche Irrigation Dist.*, 2000 SD 57, ¶¶ 13–14, 609 N.W.2d 779 – Recognizes that courts must meaningfully consider newly presented evidence when deciding Rule 60(b) motions; failure to do so constitutes an abuse of discretion.

- *Jeffries v. Jeffries*, 464 N.W.2d 781 (S.D. 1990) – Holds that new or changed factual circumstances, when presented in good faith, warrant judicial reconsideration.

- *SDCL § 15-6-60(b)(2)* – Statutorily authorizes relief from judgment where newly discovered evidence, which could not have been previously obtained with due diligence, would likely alter the outcome.

6. Whether the denial of a hearing under *SDCL § 15-6-60(b)*, despite a showing of newly discovered evidence and changed circumstances, violated Appellant’s right to procedural fairness.

- *Mathews v. Eldridge*, 424 U.S. 319 (1976) – Sets forth a three-part test requiring courts to evaluate the private interest at stake, the risk of erroneous deprivation, and the value of additional procedures.

- *Nelson v. Colorado*, 581 U.S. 128 (2017) – Reinforces that procedural safeguards are required before depriving a party of property or liberty, even following prior court action.

- *Sjomeling v. Stuber*, 2000 SD 103, ¶ 9, 615 N.W.2d 613 – Recognizes that courts may not deny relief where affidavits and evidence establish a material change in circumstances.

- *SDCL § 15-6-60(b)* – Grants the court discretionary authority to set aside judgments for good cause, including new evidence and changed facts.

- *SDCL § 15-6-60(b)(2)* – Specifies that denial of relief despite valid new evidence may violate due process where a party is precluded from a meaningful opportunity to be heard.

7. Whether the trial court’s refusal to allow Appellant access to her own 911 call records violates due process and *Brady v. Maryland*, 373 U.S. 83 (1963) disclosure obligations.

- *Brady v. Maryland*, 373 U.S. 83 (1963) – Requires disclosure of exculpatory evidence by the government where it is material to the defense; refusal to provide such records violates constitutional fairness.

- *Mathews*, 424 U.S. at 333 – Notes that procedural due process requires disclosure mechanisms where access to potentially exculpatory or outcome-determinative information is denied.

- *Nelson*, 581 U.S. at 134 – Emphasizes that judicial systems must provide procedural tools to protect a party’s interest in clearing their name and reputation.

8. Whether a trial court may lawfully characterize a Deferred Prosecution Agreement (DPA) as a “plea” and use it as a basis for adverse credibility findings.

- *Heck v. Humphrey*, 512 U.S. 477 (1994) – Clarifies that non-conviction-based agreements, including DPAs, do not equate to findings of guilt or liability.

- *United States v. Fokker Servs. B.V.*, 818 F.3d 733, 744 (D.C. Cir. 2016) – Holds that DPAs are not adjudications of guilt and courts lack authority to convert them into punitive findings.

- *Barnaud*, 2000 SD 57, ¶ 14 – Emphasizes the importance of evaluating facts and legal standards on the record, not speculation or perceived admissions.

- *SDCL § 15-6-60(b)(3)* – Allows relief from judgments obtained through misrepresentation or misconduct, including where courts rely on improper characterizations of a party’s legal posture.

III. Property Rights and Legal Standing

9. Whether the trial court’s failure to address Appellant’s leasehold interest and status as a limited partner constitutes reversible legal error under South Dakota property and partnership law.

- *Barnaud v. Belle Fourche Irrigation Dist.*, 2000 SD 57, ¶¶ 13–14, 609 N.W.2d 779 (recognizing the significance of documented legal interests);

- *Jeffries v. Jeffries*, 464 N.W.2d 781 (S.D. 1990) (holding that failure to address valid legal interests constitutes reversible error);

- *SDCL § 15-6-60(b)(2), (b)(3)* (authorizing relief based on newly discovered evidence or misrepresentations affecting material rights).

10. Whether the court’s failure to engage with Appellant’s lease and ownership documentation denied her equal protection of the law and the right to exclude trespassers.

- U.S. Const. amend. XIV, § 1 (Due Process Clause) (guaranteeing equal treatment and protection of property rights under the law);

- *Sjomeling v. Stuber*, 2000 SD 103, ¶ 9, 615 N.W.2d 613 (finding due process violation where courts failed to provide equal consideration under state law);

- *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (outlining due process requirements in administrative and judicial determinations);

- *Nelson v. Colorado*, 581 U.S. 128, 134 (2017) (requiring meaningful procedures before depriving a party of property or rights).

11. Whether a protection order may be used to override leasehold rights and exclude a lawful occupant from property in the absence of adjudicated findings under real property law.

- *Heck v. Humphrey*, 512 U.S. 477, 486 (1994) (prohibiting the use of collateral civil proceedings to preempt underlying legal claims);

- *United States v. Fokker Servs. B.V.*, 818 F.3d 733, 744 (D.C. Cir. 2016) (holding that courts may not use procedural devices to defeat substantive property rights);
- *Barnaud v. Belle Fourche Irrigation Dist.*, 2000 SD 57 (reaffirming that judicial discretion must yield to properly established legal interests);
- SDCL § 21-16-1 (injunctions are not substitutes for title adjudication or property disputes).

12. Whether the protection order is invalid where the petitioner, who is not a property owner or leaseholder, admits to unlawful entry and remains on the premises in defiance of lease termination.

- *State v. Buchholz*, 1999 SD 110, 598 N.W.2d 899 (recognizing limits of court protection when parties act without legal entitlement);
- *Jeffries v. Jeffries*, 464 N.W.2d 781 (S.D. 1990) (legal property interests cannot be avoided by circumventing due process);
- *Tumey v. Ohio*, 273 U.S. 510, 523 (1927) (highlighting the importance of judicial impartiality and legal foundation for rulings).

13. Whether a civil protection order can be lawfully used to preempt or obstruct pending civil litigation concerning real property.

- *Heck v. Humphrey*, 512 U.S. 477, 486 (1994) (civil actions may not obstruct the adjudication of ongoing property rights litigation);
- *United States v. Swift & Co.*, 286 U.S. 106 (1932) (condemning misuse of equitable authority to interfere with property-related disputes);
- *Sjomeling v. Stuber*, 2000 SD 103 (recognizing procedural defects that impair fair adjudication of civil claims);
- SDCL § 15-6-60(b) (permits relief where judgments were obtained or sustained through misuse of legal process).

APPENDIX B

Chronological Timeline of Procedural and Evidentiary Events

(For Reference Purposes – All Events Tied to the Settled Record)

Here is a fully revised and chronological timeline of key events in case no. 37TPO24-03, integrating the exhibit list and the official docket summary to ensure accuracy:

August 6, 2023 – Appellant emailed Sheriff Silva regarding Sammons’ unauthorized presence and harassment. *(Exhibit 2)*

September 12, 2023 – Appellant served a lease violation notice on Bad River Cattle Company. *(Exhibit 3)*

September 16, 2023 – Sammons admitted on Deputy Kyle’s body cam that she was not the leaseholder and premeditated using a protection order. *(Exhibit 4)*

October 21, 2023 – Sammons interfered with documentation of cattle roundup. *(Exhibit 6)*

November 3, 2023 – Lease termination notice sent to BRCC effective November 15. *(Exhibit 7)*

December 2, 2023 – Locks changed due to unauthorized entries. *(Exhibit 8)*

December 22, 2023 – Alavi admitted Sammons’ wrongful occupation in call and email. *(Exhibits 9a, 9b)*

December 28, 2023 – Appellant emailed State’s Attorney and Sheriff affirming lease rights. *(Exhibit 10)*

December 31, 2023 – Email from Alavi forwarded to Stiles wherein Sammons admits Alavi is her boss. *(Exhibit 11)*

January 13, 2024 – Appellant emailed Sheriff regarding foreseeability of unlawful entry. *(Exhibit 12)*

January 26, 2024 – Appellant placed a 911 call reporting the locks had again been changed. *(Exhibit 13)*

January 29, 2024 – Sammons' attorney falsely claimed unrestricted access. *(Exhibit 14)*

February 2, 2024 – BRCC unlawfully changed its company address to the cabin.

February 3, 2024 –

- Appellant placed two 911 calls reporting unlawful entry. *(Exhibits 15a, 15b)*
- Sammons arrived and initiated a verbal altercation, caught on video. *(Exhibits 16a–16c)*
- Alavi sent threatening email acknowledging Appellant's lease. *(Exhibit 17)*

February 13, 2024 – Sammons filed for a protection order. *(Docket)*

- Temporary Order granted. *(Docket)*

March 6, 2024 –

- Defendant filed 25+ exhibits into the record. *(Docket + Exhibit List)*
- Filed Defendant's Witness List. *(Docket)*
- Submitted motion for court order to obtain 911 tapes. *(Docket)*

March 11, 2024 – Motion to modify or vacate protection order filed. *(Docket)*

March 20, 2024 – Motion to vacate restraining order filed. *(Docket)*

March 28, 2024 – Motion to compel production of 911 tapes and to address misclassification. *(Docket)*

April 1, 2025 – Motions hearing; Judge Mayer denied request for 911 tapes, mischaracterized DPA as a plea.

- Appellant's Rule 60(b) motion filed afterward.

April 3–7, 2025 – Court denied motion to compel 911 tapes and motion to question Anna Maher. Appellant filed opposition briefs. *(Docket)*

April 22, 2025 – Respondent’s brief opposing motion to dismiss protection order filed.
(Docket)

May 5–6, 2025 – Motion to modify or dismiss protection order denied. (Docket)

May 7, 2025 – Appellant submitted photos and emails. (Docket)

May 13, 2025 – Petitioner’s motion to dismiss Appellant’s Rule 60(b) challenge granted.
(Docket)

May 27, 2025 – Appellant filed supplemental motion. (Docket)

June 15, 2025 – Final order entered denying Appellant’s motions to vacate/modify.
(Docket)

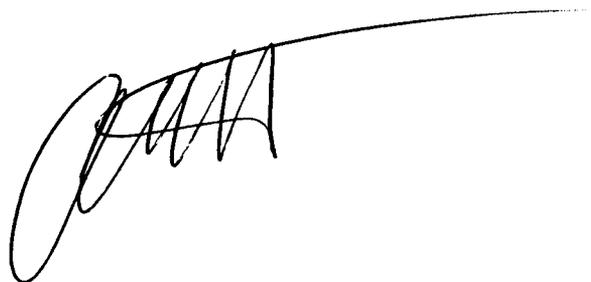
Certification

This summary references content from the official file-stamped transcript(s) in the record on appeal. It is provided solely as a guide to assist the Court in evaluating key portions of the record. The underlying transcripts are part of the settled appellate record.

/s/ Christina Zuccaro

Christina Zuccaro, Appellant

Dated: 8/4/25

A handwritten signature in black ink, appearing to be 'C. Zuccaro', written over a horizontal line. The signature is stylized and somewhat cursive.

APPENDIX C

Summary Guide to Transcript Testimony of Katherine Sammons (Exhibit 22)

Referenced from October 8, 2024 Hearing – Case No. 37TPO24-03

This appendix summarizes key portions of file-stamped Exhibit 22, the official transcript of Petitioner Katherine Sammons' testimony during the October 8, 2024 hearing on her request for a permanent protection order. The full transcript is part of the appellate record and is not reproduced here. This summary is provided solely as an aid to the Court in reviewing the sequence and content of material testimony.

All page and line citations refer directly to Exhibit 22.

1. Knowledge of Lease Termination and Prohibited Entry

Sammons testified that she knew her employer, Christian Alavi, was prohibited from entering the cabin as a condition of lifting a prior protection order against him. She acknowledged having no independent legal authority to be in the cabin.

- Page 31, line 23: Sammons acknowledged she was aware Alavi was not allowed at the cabin.
- Page 32, line 11: She confirmed the restriction was tied to the resolution of the earlier protection order.
- Page 40, line 19: When asked if she understood she could not be in the cabin in November 2023, Sammons responded, "Correct, at that point in time."

2. Entry Using Key Provided by Barred Third Party

Sammons admitted to using a key provided by Alavi to access the cabin in January 2024.

At that time, Alavi's lease had been terminated and he was not permitted on the property.

Sammons confirmed she entered the cabin based on his instruction.

- Page 32, line 17: "Christian gave me the key to the cabin."
- Page 40, lines 22–24: "That is what my employer told me... and I was given keys."
- Page 41, lines 4–5: "I was just doing what I was told."

3. Lock Change and Property Presence

Sammons testified that she could not recall who changed the locks but admitted to receiving keys and entering the cabin. Timeline evidence and 911 records show that Alavi was not in South Dakota when the locks were changed between January 22 and January 26, 2024.

Sammons was the only person noted on the property during this period, according to filed communications and incident reports. (See Exhibit 13, 911 Call Logs)

4. Procedural Context

This summary reflects testimony from the October 8, 2024 hearing, contained in the transcript marked as Exhibit 22, which is part of the settled appellate record.

For discussion of how this testimony relates to the trial court's credibility findings and Appellant's leasehold rights, see Argument § 5, Appendix A, and Appendix I of this brief.

5. Additional Context from Video Evidence (Exhibit 16a)

Sammons testified that Appellant was standing at the cabin door on February 3, 2024:

- “She was standing against the door.” (Tr. 10/8/24, p. 48, l. 10)
- “I did not see her break that doorknob off, no.” (Id., l. 23)
- Sammons stated she then “left to check cows.” (Id., lines 3–19)

Video footage submitted as Defendant’s Exhibit 16a records an exchange in which Sammons can be heard yelling at Appellant across the fence:

“You just need to get the hell out of here, you fucken crazy bitch.”

This verbal exchange is not referenced in Sammons’ testimony.

For discussion of how this footage relates to the trial court’s credibility findings, see Argument § 6 of Appellant’s Brief.

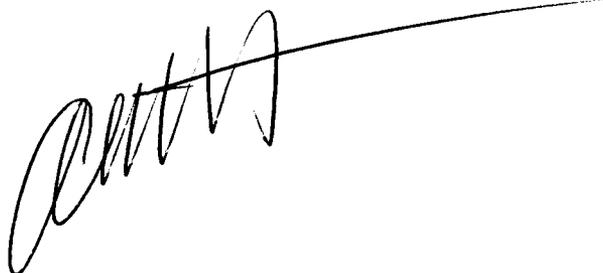
Certification

This summary references testimony contained in the official transcript marked as Exhibit 22 in Case No. 37TPO24-03, which is part of the settled appellate record. This appendix is provided solely as a neutral guide to assist the Court.

/s/ Christina Zuccaro

Christina Zuccaro, Appellant

Dated: 8/4/2025



APPENDIX D

Summary of December 31, 2024 Advisory Hearing

(*Transcript Citation: Katherine Sammons v. Christina Zuccaro, 37TPO24-03, pp. 1–22*)

On December 31, 2024, the trial court conducted an advisory hearing in Case No. 37TPO24-03. This proceeding addressed Appellant’s request to modify an existing protection order issued against her at the request of Katherine Sammons. The court interpreted the request as a motion to modify, following Judge Klinger’s earlier decision to deny Appellant’s newly filed petition (Case No. 37TPO24-06) and to treat the matter as a continuation of the prior order.

During the hearing, the Court advised Appellant (appearing pro se) of the applicable legal standard under *Sjomeling v. Stuber*, 2000 SD 103, 615 N.W.2d 613, requiring a “substantial change in circumstances” to warrant modification. Appellant requested a continuance to obtain counsel and prepare supporting materials. The Court granted two weeks to do so and set a January 14, 2025 deadline for counsel to confer with opposing counsel and schedule a hearing. (Transcript pp. 6–13.)

Near the close of the hearing, Appellant posed a procedural and property-rights-related question, which the Court declined to answer substantively but acknowledged as part of the record:

“Regarding her employer’s lease termination, does the expiration of the employer’s lease and their refusal to vacate negate Sammons’ right to remain on the property? The lease was terminated November 15th, 2023.

What legal standing does Sammons have to continue residing on property controlled by Zuccaro, LLLP, given the expired lease?”

— *Transcript, p. 19, lines 13–19*

The Court declined to answer, stating that it could not provide legal advice and that such matters were “separate legal cases that are ongoing” to be addressed in a future evidentiary hearing. (*Transcript, p. 20, lines 1–13.*)

This exchange is relevant to the appeal in that it reflects the Court’s refusal to make a record of key questions implicating Appellant’s property rights and partnership interests—despite Appellant’s effort to preserve those issues for review. The Court further advised that if Appellant’s attorney failed to act by January 14, 2025, the modification request would be dismissed without further hearing. (*Transcript, p. 10, lines 17–25.*)

Due Process Implications

This proceeding raises the following concerns relevant to procedural fairness:

- Appellant was unable to obtain judicial clarification regarding the legal relationship between the expired lease and Sammons’ continued presence on the property. (*Transcript, pp. 19–20.*)

- Although Appellant brought supporting documentation and video recordings, the hearing was limited to procedural advisement, and the Court declined to consider substantive questions. (Transcript, p. 7, lines 1–2; p. 18, lines 8–13.)
- The Court’s warning that the request would be dismissed unless counsel appeared within two weeks placed a strict burden on the pro se litigant during the holiday period. (Transcript, pp. 10–11.)

This record demonstrates that the trial court did not meaningfully consider Appellant’s leasehold interests or her standing as a limited partner in Zuccaro LLLP—factors directly relevant to the validity of the underlying protection order.

Certification

This summary references content from the official file-stamped transcript(s) in the record on appeal. It is provided solely as a guide to assist the Court in evaluating key portions of the record. The underlying transcripts are part of the settled appellate record.

/s/ Christina Zuccaro

Christina Zuccaro, Appellant

Dated: 8/4/2025



APPENDIX E

Narrative Summary of April 1, 2025 Motions Hearing

(Full transcript of April 1, 2025 hearing is included in Appendix K)

On April 1, 2025, Appellant Christina Zuccaro appeared pro se before Judge Mayer for a motions hearing in Case No. 37TPO24-03. The hearing addressed multiple pending filings, including Appellant's March 6, 2025 submissions consisting of a cover letter, Defendant's Exhibit List, Witness List, and over 25 proposed exhibits (including videos, photos, 911 call logs, and correspondence). (See Docket, 3/6/2025)

At the outset, Appellant sought access to 911 recordings of calls she had placed, arguing that they were relevant to her defense. She expressed concern that the recordings could reflect inconsistencies in the Petitioner's statements and provide material context for prior events. The Court denied the motion, stating, "That ship has passed. We're not going to relitigate it."

Judge Mayer further clarified that she would not consider events predating the October 8, 2024 protection order and would focus only on matters arising afterward.

Appellant also attempted to introduce new materials during the hearing, including a September 16, 2023 video, a civil court order obtained through Mortenson Law, and testimony from a witness with knowledge of incidents on the Zuccaro LLLP property. Judge Mayer declined to consider these materials, stating that the court would not litigate overlapping issues from the related civil case in the protection order proceeding and that

such matters would be addressed in separate proceedings involving the appropriate parties and counsel.

During the hearing, the court also addressed concerns raised by Appellant regarding the scope and interpretation of a Deferred Prosecution Agreement (DPA) from a prior criminal case. Judge Mayer cautioned Appellant that modifying or challenging the DPA could potentially reactivate proceedings from the dismissed case, stating, “Be careful what you're asking for here. If you set that aside, the whole criminal case comes back to life... You're not a criminal right now.”

Appellant noted her discomfort with how the DPA had been previously referenced or applied. The court reiterated that it would not revisit the facts leading to the October 8, 2024 permanent protection order.

Opposing counsel informed the Court that she had not yet reviewed the full March 6, 2025 submission, stating, “I was out all last week.” The Court acknowledged prior filings but appeared to be reviewing a separate March 20, 2025 submission when analyzing pending issues. The Court stated it was treating the motions “like a legal brief ahead of trial to get the court squared away on the issues.”

Relevance to Appeal

This narrative summary is included to document the procedural context of the April 1, 2025 motions hearing. It outlines the trial court’s rulings on evidentiary submissions, access to 911 recordings, treatment of witness offers, and procedural

boundaries regarding civil litigation and criminal matters. These points form part of the record relevant to Appellant's claims concerning due process, evidentiary limitations, and the interaction between the protection order proceeding and parallel civil matters.

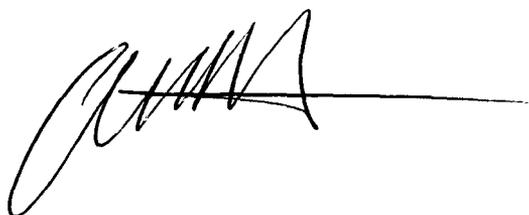
Certification

This summary references content from the official file-stamped transcript(s) in the record on appeal. It is provided solely as a guide to assist the Court in evaluating key portions of the record. The underlying transcripts are part of the settled appellate record.

/s/ Christina Zuccaro

Christina Zuccaro, Appellant

Dated: 8/4/2025

A handwritten signature in black ink, appearing to be 'C. Zuccaro', written over a horizontal line.

APPENDIX F

Protection Orders: Temporary (Feb. 13, 2024) and Final (Oct. 8, 2024)

Filed in Case No. 37TPO24-03; Certified Copies in Settled Record

This appendix includes both the Temporary Protection Order filed February 13, 2024, and the Final Protection Order entered October 8, 2024, by the Sixth Judicial Circuit, Jones County, South Dakota. These orders were entered in favor of Petitioner Katherine Sammons against Appellant Christina Zuccaro and are part of the certified appellate record.

Procedural Summary and Relevance:

The Temporary Protection Order, filed February 13, 2024, is the first document in the settled appellate record. It explicitly lists 22752 258th Avenue—a cabin leased and partially owned by Appellant—as Petitioner’s place of employment. That address-based restriction served as the basis for law enforcement’s exclusion of Appellant from the property. No civil determination of trespass or possession had occurred at that time.

The Final Protection Order, entered October 8, 2024, contains more general language. It does not list any specific address but imposes conditional restrictions based on Petitioner’s presence and work activity. Key provisions include:

RESPONDENT CANNOT COME WITHIN 100 YARDS WHEN PETITIONER IS WORKING IN A DESIGNATED AREA SUCH AS BINS AND PASTURE OR AREAS LIKELY TO BE DEALING WITH CATTLE... AS LONG AS MS. SAMMONS IS GAINFULLY EMPLOYED WITH ANYONE HAVING THE RIGHTS TO CARE FOR THE LAND AND CATTLE IN THE AREA.

The order also provides:

RESPONDENT CAN HAVE INGRESS AND EGRESS TO HER RESIDENCE WITH NO STOPPING.

These orders are directly relevant to the appeal, which challenges the legal basis and factual assumptions underlying restrictions placed on Appellant's access to her own residence and leased property. Although the case was heard in family court, it is a stalking protection order filed under SDCL ch. 22-19A, and the parties do not share a familial or household relationship.

CERTIFICATION BY APPELLANT

I certify that the documents included in this Appendix are true and correct copies of the originals on file in the circuit court and that they are part of the settled record on appeal in Case No. 37TPO24-03.

Dated: 8/4/25
/s/ Christina Zuccaro
Christina Zuccaro, Appellant



STATE OF SOUTH DAKOTA)
COUNTY OF HAakon)

IN CIRCUIT COURT
6th JUDICIAL CIRCUIT

Katherine Sammons
Petitioner Check here if under 18

TPO NO. 27 TPO 24-1

-vs-
Christina Zuccaro
Respondent Check here if under 18

**PETITION AND AFFIDAVIT
FOR A PROTECTION ORDER
(STALKING, OR PHYSICAL INJURY
AS A RESULT OF AN
ASSAULT, OR A CRIME OF VIOLENCE)**

I, Katherine Sammons the above named Petitioner, or the Parent/Legal Guardian of the minor child Petitioner (the Filer), being duly sworn upon oath, state and affirm the following:

At least one party to the protection order—Petitioner, Respondent (the person against whom I seek this Protection Order), or a Protected Party (a minor child in my custody also victimized by Respondent)—is a South Dakota resident. Petitioner resides in Haakon + Jones County, SD (state); Respondent resides in Jonestown County, SD (state); and any Protected Parties not residing with Petitioner or Respondent, reside in _____ County, _____ (state).

Please check this box if there is a custody order in this state or another state regarding the children of Petitioner and Respondent. Please attach a copy of the custody order to this Petition or provide the county and case number. _____

I AM ASKING THE COURT FOR A PROTECTION ORDER BASED UPON THE FACTS BELOW:

On or about (month) 2 (day) 3 (year) 2024 at approximately 1 o'clock pm (am/pm), Respondent committed the following act(s) that seriously alarmed, annoyed, or harassed Petitioner (if not me, my minor child), and any Protected Parties (check all that apply):

- Respondent willfully, maliciously, and repeatedly followed Petitioner and/or any Protected Parties.
- Respondent pursued a knowing and willful course of conduct which seriously alarmed, annoyed or harassed with no legitimate purpose. The pattern of conduct was a series of acts over a period of time, however short, showing a continuing pattern of harassment.
- Respondent made a credible threat with intent to cause reasonable fear of death or great bodily injury.
- Respondent willfully, maliciously, and repeatedly harassed Petitioner and/or any Protected Parties by means of any verbal, electronic, digital media, mechanical, telegraphic, or written communication.
- Respondent caused physical injury as a result of an assault.
- Respondent committed a crime of violence.

Describe your relationship with Respondent (ie. neighbor, co-worker, etc): I work on the ranch that she has a house on the property

Provide a detailed description of what happened on the above date: on Feb 3rd at approximately 1 pm, Respondent repeatedly harassed and threatened me and my minor daughter by trying to break into the residence we are staying in for work. Christina first broke the outside door handle off

Form UJS-121A if Adult
Form UJS-121AJ if Juvenile
Rev. 07/21
STATE OF SOUTH DAKOTA
CIRCUIT COURT, HAAKON CO.

FILED

FEB 13 2024

Jennifer Jones CLERK
By _____ Deputy

- Yes No Don't Know

Was law enforcement called for this incident?
 Was Respondent arrested for this incident?
 Is Respondent in jail?
 Has Respondent violated previous protection orders?
 If so, against whom _____
 Give the date of the violation _____ and the county and state of the violation _____

- Yes No Don't Know

Has Respondent been found guilty of violating previous protection orders?
 If so, against whom _____
 Give the date of the conviction _____ and the county and state of the conviction _____

- Yes No Don't Know
- Yes No Don't Know
- Yes No Don't Know

Does Respondent possess guns or weapons?
 Was a weapon used in this incident?
 Has Respondent threatened anyone with a weapon?

Provide a detailed description of other similar incidents or actions (please include dates and times, if possible): with a shovel she left then came back. I was in the cabin and she could not get in because I locked the door. She then proceeded to go to her pickup and get an ax she had been yelling and called 911 and the sheriff. Her behavior was erratic and very concerning. I had no idea how far she was going to go or if her intent was to use the ax to harm me. I called the sheriff and he wasn't going to be here for over an hour. I called the neighbor for help because of my fear of what she was going to do. Then she took the ax to the door and beat the handle off while I held it shut. She persisted to harass me until the neighbor got here. I have no doubt had they not come over and she got in the cabin with me she would have caused physical harm to me. The sheriff then got here and took my statement and arrested Christina.

past incidences. Christina has been harassing me and others for the past 3 years. We have asked for help from the sheriff's office multiple times for incidences including breaking and entering, stealing items, verbal harassment, trespassing, leaving gates open so livestock could get out eat. Christina has also made several threats to her own father and nephews to the point they are also fearful of this woman. On multiple occasions, I have witnessed her taking photos and videos of me and my minor children for no reason and on property that is not hers. Her behavior is very hostile and I fear without a protection order her intent is to cause me harm. Her father has called me multiple times over the years because Christina was harassing him and he was scared for his life. He kept all doors locked and slept with a pistol. Christina also threatened her father with an ax. He called me in fear and the neighbor had to come get him.

Reasons to grant without hearing, Given to Christina's repeated attempts

Continued from Page 2

and then using an ax as a weapon which could have been used to kill or seriously harm me. I am fearful she will come back before hearing date. Additionally I have my children with me while at the ranch and am fearful she will harm them as well. Given Christina's prior history of threatened violence and erratic behavior, I need to have immediate protection granted.

REQUEST FOR HEARING AND PROTECTION ORDER

Based upon this Petition and Affidavit in which I truthfully set forth the details of the stalking, physical injury, and/or crime of violence, I respectfully ask the court to set a date to hear this matter and after hearing the evidence, to grant Petitioner and any Protected Parties a Protection Order:

- 1) To Restrain Respondent from:
(a) following or harassing, or making any credible threat with the intent to place Petitioner and any Protected Parties in reasonable fear of death or great bodily injury, SDCL 22-19A-1;
(b) causing any injury as a result of an assault or a crime of violence, SDCL 22-1-2(9).
2) To grant the Protection Order for a period of 5 years time (no longer than 5 years).
3) To exclude Respondent from Petitioner's residence listed in 4C.
4) To Order that Respondent shall not come within a distance of 100 yards from the following persons and places:

- A. The Petitioner personally
B. The following minor children named as other Protected Parties: Additional names attached

Table with 3 columns: Name, Date of birth, Relationship. Entry: Morgan Sammons, 7/23/2007, daughter.

Are any of the children related to the Respondent? If so, how?

C. Petitioner's residence (street/apt) 22980 Larson Ave, (city) Midland, (state) SD, (zip) 57552.

D. Petitioner's place employment (street) 22762 268th Ave, (city) Midland, (state) SD, (zip) 57552.

E. Other places (street/apt) (city), (state), (zip).

- 5) That Respondent be restrained from contact with Petitioner and any Protected Parties, by any direct or indirect means except as authorized by a court order.
6) To Order other relief which I believe is necessary for Petitioner's protection and any Protected Parties' protection, as follows:

(If you are requesting an immediate temporary protection order without notice to Respondent and without an opportunity for Respondent to appear; you must state why you believe Petitioner or any Protected Parties will suffer immediate and irreparable injury or damage if you or they have to wait until the hearing.)

REQUEST FOR IMMEDIATE PROTECTION ORDER WITHOUT NOTICE TO THE OTHER PARTY

I am not requesting an immediate Temporary Protection Order.

In addition to what I have requested in sections 1-5 above, I further request that the Court grant Petitioner and any Protected Parties an immediate Temporary Protection Order Restraining Respondent from stalking or physical injury based upon the following sworn statements and beliefs:

The reasons Petitioner and any Protected Parties need this order immediately and cannot wait until the scheduled hearing are: I believe she will continue to harass and not stay away. Her behavior is very erratic and concerning. She has stated multiple times she will be getting in to the cabin where I am staying for work. I am afraid for my life and my childrens lives or any one else that may be staying with me. I have no idea what kind of weapons she may have.

I believe that Petitioner, and/or any Protected Parties will suffer immediate and irreparable injury, loss or damage if not granted an immediate Temporary Protection Order without notifying Respondent and Respondent's attorney or giving Respondent an opportunity to be heard.

The immediate and irreparable injury, loss or damage which I believe will be suffered is: _____

On this 13th day of Feb., 24, I swear or affirm under oath that the information I have provided in this Petition and Affidavit are true and correct to the best of my knowledge. I believe Petitioner and any Protected Parties are entitled to the protection I have requested. I am asking for this protection for valid reasons and am not attempting to harass the person I am seeking protection against and am not attempting to abuse or delay the court process or any other legal action.

[Signature]
Your Signature as Filer Only / Petitioner (check one)

Signed and sworn to before me on this 13th day of Feb., 24

(SEAL)



[Signature]
Notary Public/Deputy Clerk of Courts
Commission Expires:

ADDITIONAL FINDINGS

This matter came before this Court on this day and the following parties appeared personally:

- Petitioner Petitioner's Attorney WENDT, CASSIE J Other
- Respondent Respondent's Attorney STILES, PHILLIP R Other

- 1. This Court FINDS that, without admitting to the allegations in the Petition, the Respondent waives further hearing, findings of fact, and conclusions of law, and stipulates to the entry of an Order of Protection on the terms specified below.
- 2. Having considered the evidence presented and any affidavits and pleadings on file, this Court FINDS:
 - 1. That jurisdiction and venue are properly before this Court; and
 - 2. By a preponderance of the evidence that:
 - a) "stalking" as defined by SDCL 22-19A-1 has taken place;
 - b) that the Petitioner has suffered physical injury resulting from an assault or a crime of violence, as defined by SDCL 22-1-2(9).

THEREFORE, THIS COURT ORDERS THAT:

- 1. The Respondent is restrained from:
 - a) following or harassing the Petitioner, or making any credible threat with the intent to place the Petitioner in reasonable fear of death or great bodily injury, SDCL 22-19A-1;
 - b) harassing the Petitioner by means of any verbal, electronic, digital media, mechanical, telegraphic, or written communication, SDCL 22-19A-1;
 - c) causing any injury as a result of an assault or crime of violence, SDCL 22-1-2-(9).

ADDITIONAL ORDERS:

- 1) That the Respondent is excluded from the Petitioner's residence listed in 2C.
- 2) That the Respondent shall not come within a distance of 100 Yard(s) from the following persons and places:
 - A. The Petitioner personally
 - B. The following minor children named as other protected persons:

Name	Date of birth	Relationship
SAMMONS, MORGAN	07/23/2007	Daughter
 - C. The Petitioner's residence

22380 Larson Ave.		
Midland	SD	57552
 - D. The Petitioner's place of employment

SEE #5 - OTHER RELIEF
 - E. Other places

This distance restriction applies unless otherwise specified in this order.

- 3) Phone calls, emails, third party contact, including correspondence, direct or indirect, are not permitted, to a protected person, except as follows:

NONE. ALSO NOT ALLOWED TO VIDEO/RECORD PETITIONER OR DAUGHTER.

4) Respondent is ordered to immediately turn over all weapons and ammunition to local sheriff.

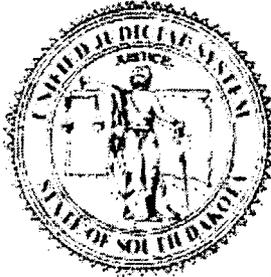
5) Other relief as follows:

CANNOT COME WITHIN 100 YARDS WHEN PETITIONER IS WORKING IN DESIGNATED AREA SUCH AS BINS AND PASTURE OR AREAS LIKELY TO BE DEALING WITH CATTLE ON THE RANCH SUCH AS CALVING, FEEDING, HAYING, BRANDING, VACCINATING AND THE LIKE AS LONG AS MS SAMMONS IS GAINFULLY EMPLOYED WITH ANYONE HAVING THE RIGHTS TO CARE FOR THE LAND AND CATTLE IN THE AREA. IF MS SAMMONS IS WORKING AT FENCE OR WATER TANK OR NEAR CABIN, RESPONDENT CANNOT APPROACH PETITIONER OR HAVE CONTACT OR OTHERWISE VIOLATE ANY TERMS OF THIS ORDER. RESPONDENT SHALL HAVE NO CONTACT WITH HAND GESTURES; RESPONDENT SHALL NOT VIDEO PROTECTED PARTIES IN THIS ORDER. RESPONDENT CAN HAVE INGRESS AND EGRESS TO HER RESIDENCE WITH NO STOPPING. PROTECTION ORDER VS MINOR DAUGHTER WILL EXPIRE 7/23/2025 WHEN DAUGHTER TURNS 18.

WARNING TO RESPONDENT: You can be arrested for violating this protection order even if any person protected by the order initiates the contact or invites you to violate the order's prohibitions. Only the court can change the order; the protected person cannot waive any of its provisions. You may also be held in contempt for ignoring the terms of this protection order.

AND IT IS FURTHER ORDERED THAT: the Petitioner shall, immediately upon the granting of this Order, deliver two copies of this Order to the sheriff of this county. One copy shall be personally served by the sheriff upon the Respondent, unless personal service has been acknowledged below.

DATED: 10/08/2024



Service of this order is authorized on any day including Sunday.

[Signature]
JUDGE M. BRIDGET MAYER

/S/ KELLY CAVINESS, Clerk of Courts

By: JSMU10201, Deputy

**NOTICE OF ENTRY OF ORDER AND
ACKNOWLEDGMENT OF PERSONAL SERVICE**

I acknowledge receipt of a copy of this Order of Protection.

[Signature] 10-8-24 *[Signature]* 10-8-24
KATHERINE MARIE SAMMONS, Petitioner Date CHRISTINA MARIE ZUCCARO, Respondent Date

UNDER A PERMANENT PROTECTION ORDER: You may be subject to the following federal laws: (1) Effective immediately, you may not possess, carry, ship or transport any firearm or ammunition that has been transported in interstate or foreign commerce while this Protection Order is in effect. Title 18 United States Code Section 922(g)(8). (2) If you violate this Protection Order and are convicted of an offense of domestic violence, you may be forbidden for life from possessing, carrying, shipping or transporting, any firearm or ammunition that has been transported in interstate or foreign commerce. Title 18 United States Code Section 922(g)(9). Violation of these federal laws carries a maximum penalty of ten years in prison, a \$250,000 fine, or both.

STATE OF SOUTH DAKOTA
Sixth Judicial Circuit Court
I hereby certify that the foregoing instrument is a true and correct copy of the original as the same appears on file in my office and the same is still in full force and effect.

JUL 29 2025

KELLY CAVINESS
Jones County Clerk of Courts

By: _____

APPENDIX G

Second Order Denying Rule 60 Motions

Filed June 15, 2025, in Case No. 37TPO24-03

This Appendix contains a certified copy of the circuit court's "Second Order Denying Respondent's Motions to Vacate/Modify," entered on June 15, 2025, by Judge M. Bridget Mayer in Case No. 37TPO24-03.

The order denied multiple post-judgment filings submitted by Appellant Christina Zuccaro after entry of the permanent protection order on October 8, 2024. These included:

- A motion filed on May 23, 2025, under *SDCL 15-6-60(b)(6)* citing unclean hands, legal misapplication, and equity;
- A supplemental motion filed on May 27, 2025, presenting newly discovered evidence, including a misaddressed email from opposing counsel referencing the protection order;
- A third motion filed May 29, 2025, with surveillance images and allegations regarding entry near Respondent's residential egress.

Each of these motions referenced the permanent protection order's express language stating that "Respondent can have ingress and egress to her residence with no stopping." The June 15 order does not reference that clause or address whether conduct alleged in the motions occurred in that egress area.

No hearing was scheduled on the motions. The court denied all relief and stated that no further filings would be considered.

CERTIFICATION BY APPELLANT

I certify that the document included in this Appendix is a true and correct copy of the original on file in the circuit court and that it is part of the settled record on appeal in Case No. 37TPO24-03.

Dated: 8/4/25

/s/ Christina Zuccaro

Christina Zuccaro, Appellant

A handwritten signature in black ink, appearing to read 'Christina Zuccaro', with a long horizontal line extending to the right.

STATE OF SOUTH DAKOTA	)	IN CIRCUIT COURT
	):ss	
COUNTY OF JONES	)	SIXTH JUDICIAL CIRCUIT
)	
Katherine Marie Sammons,)	
	)	37TPO24-03
	)	See also 27TPO24-01 Haakon
Petitioner,	)	SECOND
	)	ORDER DENYING RESPONDENTS
v.	)	MOTIONS TO VACATE/MODIFY
)	
Christina Marie Zuccaro,)	
)	
Respondent.)	

PROCEDURAL HISTORY

On May 6, 2025, the Court denied Christina Marie Zuccaro’s (Respondent or Zuccaro) motion to set aside/modify or vacate a permanent protection order entered for two (2) years against Respondent. On May 7, 2025, the Court confirmed its order and granted Petitioner’s (Petitioner or Sammons) Order to Dismiss on alternative grounds. The court denied attorney fees. In recapping, a motion to modify or vacate permanent protection order was filed pro se by Zuccaro on March 5, 2025. The hearing on the motion and other matters was set for March 18, 2025, which was continued to April 1, 2025. The hearing for the modification was scheduled to May 20, 2025. That was cancelled due to the courts Order Denying the Modification, filed on May 6 and 7, 2025.

Respondent filed a Motion to Inform the Court of Harassment signed on May 5, 2025. It was filed on May 13, 2025. The Court reviewed this submission via email, before entering the Orders in the above paragraph. Some of the allegations were that presumedly Petitioner placed a security camera on nearby property directed at Respondent’s property and that Petitioner berated Respondent’s father for leaving a cattle gate open. Respondent also claimed Petitioner admitted to

unlawfully being in the cabin when the ax incident occurred. The ax behavior was primarily the basis for the courts permanent protection order issued for two years with conditions.

On May 23, 2025, Zuccaro filed another Motion to Vacate/Modify Permanent Protection Order based upon equity, legal misapplication and unclean hands (signed May 14, 2025) pursuant to SDCL 15-6-60(b)(6). Zuccaro asserts that Sammons continues to trespass, interferes with Zuccaros' (including her Father Charles') enjoyment and use of their property and that Sammons has misused the TPO legal proceedings.

On May 27, 2025 (signed May 20, 2025), Zuccaro filed a supplement motion based upon newly discovered evidence. This evidence was an email that Sammons' legal counsel had misaddressed to Zuccaro about the court's ruling denying modification. The email was intended for Christian Alavi (Alavi), who is Zuccaro's nephew and a party to a separate pending civil action concerning the property and the partnership among Zuccaro family members.

On June 4, 2024 another Motion to Modify/Vacate Order was filed by Zuccaro (signed May 29, 2025). The claims were that new evidence exists. This included in part that Zuccaro's game camera captured Sammons where she "could not be", that cattle was dumped on her ground and there was a notice to vacate property in the separate civil dispute action regarding the Zuccaro partnership.

Lastly, on June 7, 2025, the Court (and others) were emailed a copy of Respondent's letter to the Jones County Sheriff's office with allegations and pictures of devices installed without the Zuccaro general partner's permission and thus was harassment to Respondent. The email was entitled "unauthorized surveillance and continued trespass". The Court has again reviewed the files, the alleged new facts or circumstances, motions and arguments.

As background history to these current motions before the court, Zuccaro had filed another Petition for Protection Order against Sammons on December 3, 2024 in 37 TPO 24-06. Presiding Judge Klinger denied the Petition. Judge Klinger determined the 37 TPO 24-06 action was really a request to Modify the Permanent Protection Order in 37TPO24-03. Judge Klinger indicated in that Order that Zuccaro could request a hearing with Judge Mayer in 37 TPO 24-03. Zuccaro filed a motion to recuse Judge Mayer. Judge Klinger denied the same on December 4, 2024. This court did grant a hearing and set an advisory hearing on the modification for December 31, 2024.

As a reminder, this court held original dueling protection order trials between these two parties on October 8, 2024 in Haakon County. See 37 TPO 24-01 and 37 TPO 24-03. Respondent dismissed her TPO action (37 TPO 24-01) against Petitioner that same date towards the end of the case. Both parties were represented by legal counsel.

At that TPO trial, the Court found that on February 3, 2024, Petitioner and her daughter were performing calving duties for Bad River Cattle Company (owned by Respondent's nephew Christian Alavi or "Alavi"). Petitioner used to work for Respondents father, Charles Zuccaro and had use of the cabin for her ranch hand work. At some point Alavi leased the land from Respondents Father, Charles Zuccaro or the Zuccaro LLC. Petitioner then worked for Alavi.

It was established at the TPO trial that when Petitioner went to the barn on February 3, 2024 to check the heifer, Respondent took a spade and knocked the outer door handle off of the outer cabin door. When Petitioner returned to the cabin (with her minor daughter and niece) to get warm, Petitioner saw the broken knob and told the minors to leave for safety concerns of what was happening and being familiar with Respondent's demeanors and prior aggressive behaviors. Respondent went back to check on the heifer. When she returned to the cabin, Respondent followed Petitioner up the walk and tried to force her way in. Petitioner locked the inner door

(which had a glass top). Respondent then retrieved an ax and started hitting the door lock with it, yelling at Petitioner to get out and that she was trespassing. Petitioner was on the other side of that door when the ax was being used. Petitioner testified she was in fear for her safety. Petitioner testified Respondent was using vulgarity and berated her that she was trespassing. Both parties called 911. The Jones County Sheriff could not timely get there, so Petitioner called the neighbors for help. Petitioner testified that she believed she was authorized to use the cabin during calving and had been given a key from her boss Alavi. (Alavi though was not authorized to use the cabin at that time). At the trial, Petitioner was extensively cross examined about her authority to be in the cabin by Respondent's attorney. Respondent claimed she had a lease to the cabin and that Sammons was not allowed to be in there (and thus Respondent seems to believe she had a right to behave the way she did with the ax). The court disagreed with that defense, found Petitioner credible and granted the protection order.

The court gave Respondent and her attorney the opportunity to provide input on the duration and terms of the protection order, as obviously Sammons would need to continue work as a ranch hand in the area. The court gave orders to *Respondent* to allow Petitioner to do her work on the ranch (which is near Respondent's house), to quit videoing, drive directly to the house and make no hand gestures. See (5) of the Order of Protection. No limits were imposed on Petitioner.

Later in the day of the incident, on February 3, 2024, the sheriff arrived. Respondent was arrested for simple assault. 37Cri24-06. Respondent's criminal case was subsequently dismissed, without prejudice, under a deferred prosecution agreement on December 9, 2024. It appears that after the dismissal, Respondent began, and has continued, to file documents for modification or dismissal of the permanent protection order.

Overall, Respondent argues that she is not relitigating facts, but wants to highlight ongoing inequities due to the continued enforcement of the two year permanent protection order. Recapping again some of Respondent claims are that Sammons is a trespasser, that Respondent has been denied access to and enjoyment of her property, and that Sammons interferes with her road access and access to her mother's grave. Respondent states that her Father (Charles) is being harassed in his enjoyment of the cabin and that surveillance cameras are placed in a position facing Respondent's home; that cattle are allowed into her property area; that fences have been reinforced and cameras are placed to record her and her property as harassment. Respondent acknowledged that a separate civil action is pending and in dispute with Petitioner's employer. See 37Civ24-05.

LAW

SDCL 15-6-60 (b) provides that a court, based "on motion and upon such terms as are just," may give relief to a party from a final order. Respondent asserts under SDCL 15-6-60(b)(5), that it is no longer be equitable to enforce the protection order. Respondent also argues that SDCL 15-6-60(b)(6) provides that "any other response justifying relief from the operation of the judgment" should provide her requested relief (i.e. to dismiss or modify the protection order). Respondent further cites to SDCL 15-6-60(b)(3), an alternate ground for relief. This states that fraud, misrepresentation or other misconduct was committed by the Petitioner. Lastly, Respondent asserts that there is newly discovered evidence, for which, Respondent should be provided relief from the protection order, under SDCL 15-6-60(b)(2).

A motion for relief from a judgment does not allow the relitigating of issues that have been resolved by a judgment. It refers instead to some change in conditions that make the continued enforcement inequitable. *Rabo Agrifinance, Inc. v. Rock Creek Farms*, 2013 S. D. 64, 836 N.W.2d 631.

It is further provided in the case law that intervening equities may defeat an otherwise legitimate claim for relief from judgment. *In re Ibanez*, 2013 S.D. 45, 834 N.W.2d 306. When a court is faced with deciding this issue, that is, to determine whether to grant relief or not, it must strive to maintain the difficult balance between finality and justice. *Id.* Lastly, a motion for relief from judgment can be granted *only* when exceptional circumstances exist. *In re Ibanez*, and *Hiller v. Hiller*, 2015 S.D. 58, ¶ 21 and, ¶ 24, 866 N.W.2d 536, 543-544. As noted in *Hiller*, the purpose of the rule to allow relief from judgment due to exceptional circumstance is “to preserve the delicate balance between the sanctity of final judgments and the incessant command of a courts conscience that justice be done in light of all the facts”. *Id.* at ¶ 21, 866 N.W.2d at 543.

ANALYSIS

The only thing that has changed since the court entered the permanent protection order is that a plea agreement was reached in the criminal case and it was dismissed. Respondent now wants to reopen up everything. Respondent further claims that Petitioner admits to being illegally in cabin and that would have a marked change on the court’s decision. It does not.

This court did find Petitioner was in the cabin at the time of the assault on the door with the ax, while Petitioner was on the other side. Petitioner, who was well aware of Respondent’s history and behaviors, validly feared for her safety and well-being. The court rejected and continues to reject that even if Respondent had a valid lease of the cabin, Respondent could attack with an ax, threats and vulgarity. This was one of the main factors that the court provided as a basis to grant Petitioner’s request for the protection order. Respondent continues to argue that this is her property and Petitioner is interfering with her enjoyment of the same and that Petitioner continues to trespass and harass (in reality, annoy) Respondent because of the court order.

Again, Respondent is attempting to relitigate the issues. Even if the court were to assume Petitioner did not have “legal right” to be in the cabin (the court chose and still chooses to believe Petitioner, who testified that she used the cabin to brand, calf, warm up, store vaccines and the like for many years; was given a key and told it could be used for calving in the winter), one cannot take an ax to the door to get someone out and spew and behave erratically. The court found that Petitioner (and her minor daughter), were in need of protection from Respondent by Respondent’s terrifying actions that day. That view was supported by the previous actions of Respondent to others and Petitioner. The court heard testimony of Respondent’s history of agitation towards others, including Petitioner, and that Respondent gets very vocal and can be vulgar. With knowledge of this, Petitioner tried to keep her distance from Respondent when Respondent moved into the main house at the home place. There was a history with Respondent constantly calling the sheriff about Petitioner trespassing, that Respondent was constantly filming Petitioner and her kids, and that Respondent was leaving gates open. The court agreed with the Petitioner that this was a pattern of harassment and stalking by Respondent. The court only provided a 2-year protection order, instead of the requested 5 years. The additional specific limitations in the Order, were limits that the court placed *upon Respondent*, and to where Respondent could be, while allowing Sammons to perform her ranch hand work nearby. No limits were placed upon Petitioner. The court found Petitioner credible.

The court does not find the Respondent’s alleged facts in her motions rise to the level of any change of circumstances that demonstrate exceptional circumstances to set aside or modify the protection or order. *See Hiller and Ibanez, infra; Sjomeling v Stuber*, 2000 S.D. 103, ¶10-17, 615 N.W.2d 613, 616-618. After reviewing all of her submission, a hearing on the issue is a waste of judicial resources. As stated previously, Respondent is attempting to relitigate the issues already

determined. In the courts mind, the “new” or triggering event was the dismissal of the criminal case against Respondent. This emboldened Respondent to try to relitigate everything. In addition, many of these matters will be determined in a separate civil case and the court will not piecemeal that litigation.

Respondent’s alleged “new allegations” are nothing new. Respondent continues to act the way she has historically acted since she came back to be an interested party to the home property and its area. Respondent’s allegations, even if true, do not change the court’s mind that Petitioner was and is in need of and deserves the protection in the form that has been set out in the permanent protection order. Respondent’s allegations are rejected as speculative, irrelevant or overstated. Respondent’s motions and pleadings are consistent with her demonstrated erratic behaviors. Respondent obviously does not like the terms that the court has place on her via its court order of protection. Even if her allegation are to be assumed as true, such are not facts that would change the court’s opinion for the need of the protection order to be terminated or modified. Nor do these allegations constitute a showing of any material or exceptional change in circumstances. Respondent is simply continuing her erratic behaviors with calls to the sheriff’s office, pictures and game camera and constant monitoring and complaining about Petitioner. It is obvious Respondent loathes Petitioner and she will continue to stay agitated with this court’s ruling. The court will not tolerate this anymore. The court will consider ordering additional terms or counseling if her behaviors do not cease immediately. As noted in its other submission, these matters Respondent complains of will be address in the separate civil matter.

As directed by the South Dakota Supreme Court, a court should not grant relief just because a party is unhappy with the judgment. *Hiller*, 2015 S.D. 58, ¶ 24, 866 N.W. 2d at 543. That

appears to continue to be the case. In sum, there is no exceptional or material factual circumstances that would make the continued enforcement of the permanent protection order inequitable

IT IS ORDERED that the protection order entered on October 8, 2024, is continued as issued. The previous orders on this issue are incorporated herein by this reference. All of Respondent's motions are DENIED. **The court will not address further emails or motions.**

Since Respondent is pro-se, Respondent is hereby notified that she has 30 days from the filing of this decision to appeal to the South Dakota Supreme Court.

Dated this 15th day of June, 2025.

Attest:
Caviness, Kelly
Clerk/Deputy



BY THE COURT:

M. Bridget Mayer

M. Bridget Mayer
Circuit Court Judge

STATE OF SOUTH DAKOTA
Sixth Judicial Circuit Court
I hereby certify that the foregoing instrument is a true
and correct copy of the original as the same appears on
file in my office and the same is still in full force and effect.

JUL 29 2025

KELLY CAVINESS
Jones County Clerk of Courts

By: _____

APPENDIX H

Rule 60(b) Motions to Vacate or Modify Protection Order
Filed in Case No. 37TPO24-03

This appendix contains two file-stamped motions filed by Appellant Christina Zuccaro in the Sixth Judicial Circuit, Jones County, South Dakota, in Case No. 37TPO24-03. These motions were filed pursuant to SDCL § 15-6-60(b) to seek relief from the permanent protection order entered on October 8, 2024.

Contents:

1. Rule 60(b) Motion to Vacate or Modify Protection Order Based on Equity and Legal Misapplication
– Signed May 14, 2025; Filed May 23, 2025
2. Supplemental Rule 60 Motion Based on Newly Discovered Evidence
– Signed May 20, 2025; Filed May 27, 2025

Each motion is a part of the settled circuit court record in this case.

CERTIFICATION BY APPELLANT

I certify that the documents included in this Appendix are true and correct copies of the originals on file in the circuit court and are part of the settled record on appeal in Case No. 37TPO24-03.

Dated 8/4/25

/s/ Christina Zuccaro
Christina Zuccaro, Appellant



**IN THE CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT
JONES COUNTY, SOUTH DAKOTA**

KATHERINE SAMMONS,
Petitioner,

v.

CHRISTINA ZUCCARO,
Respondent.

Case No.: 37TPO24-03

**SUPPLEMENTAL MOTION UNDER RULE 60 TO VACATE OR MODIFY
PROTECTION ORDER**

(Newly Discovered Evidence of Misuse of Court Process)

COMES NOW the Respondent, Christina Zuccaro, pro se, and respectfully supplements her pending motion under SDCL Rule 15-6-60(b) to vacate or modify the protection order previously entered in this matter. This request is supported by newly discovered evidence confirming that the protection order was pursued and maintained not out of genuine fear, but to secure and maintain improper control over property. In support, Respondent states as follows:

1. On May 7, 2025, Respondent received an email from Cassie Wendt, legal counsel for Petitioner Katherine Sammons. The email, clearly intended for Christian Alavi and his attorney, Raleigh Hansman, stated:

> “LOOK WHAT WE GOT! But denied attorney fees...”

2. The tone of the email was celebratory and strategic, indicating that the protection order was being used not to protect a victim, but as a legal victory in an ongoing property dispute. The email was misaddressed, and Attorney Wendt later admitted this in a follow-up message:

> “I apologize, my autocorrect chose you and not Christian. I truly did not mean to be rude or disrespectful. Again, my apologies.”

3. These communications, attached as **Exhibit A**, reveal:

Coordination between Petitioner, her employer's counsel, and Christian Alavi to enforce the protection order for non-protective purposes;

That the protection order has been used to exclude Respondent from her own property in the context of a larger land and lease dispute.

4. Petitioner's employer was previously issued a formal 30-day notice to vacate by the general partner's attorney in November 2023 (already in the court record). Following the failure of negotiations with Zuccaro LLLP, **a second 30-day notice was issued on May 8, 2025**. This second notice can be verified through Mortenson Law Office in Fort Pierre, South Dakota.

5. Despite these notices, Petitioner unlawfully entered the cabin, falsely listed it as her work address, and used the protection order process to prevent Respondent—a lawful leaseholder and resident—and her elderly father from accessing their own property.

6. Respondent made three separate 911 calls to report Sammons' unlawful entry. Law enforcement took no action, likely due to false or misleading statements made

by Petitioner about her right to be there, which further enabled misuse of the protection order.

7. The combination of these facts supports relief under:

Rule 60(b)(3) for misconduct, misrepresentation, and collusion; and

Rule 60(b)(6) for extraordinary circumstances justifying relief from an order that is being misused to perpetuate an unlawful occupation and retaliate against a lawful resident.

WHEREFORE, Respondent respectfully requests that this Honorable Court:

Vacate or modify the protection order previously entered against her;

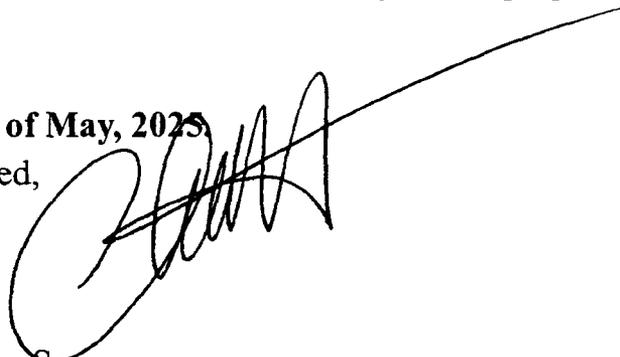
Take judicial notice of **Exhibit A** (misaddressed email and acknowledgment);

Acknowledge the May 8, 2025, notice to vacate, verifiable through Mortenson Law Office in Fort Pierre;

And grant such other relief as the Court deems just and proper.

Dated this 20th day of May, 2025,

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C. Zuccaro', is written over a long horizontal line that extends across the page.

Christina Zuccaro, Pro Se
22752 258th, Midland SD 57552

EXHIBIT A – Email Correspondence

Email #1 – May 7, 2025 – 1:02 PM

From: Cassie Wendt

To: Christina Zuccaro (intended for Christian Alavi)

> “LOOK WHAT WE GOT! But denied attorney fees...”

Email #2 – Follow-Up

From: Cassie Wendt

To: Christina Zuccaro

> “I apologize, my autocorrect chose you and not Christian. I truly did not mean to be rude or disrespectful. Again, my apologies.”

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above Supplemental Rule 60 Motion to Vacate or Modify Protection Order, **including Exhibit A**, was served upon:

Cassie J. Wendt

Wendt Law, Prof. L.L.C.

102 E. Pine Street, Ste 1

P.O. Box 280

Philip, SD 57567

wendtlaw@goldenwest.net

Raleigh Hansman

Meierhenry Sargent LLP

raleigh@meierhenrylaw.com

on this 20 th day of May, 2025, via:

- U.S. Mail
- Hand Delivery
- Email

A handwritten signature in black ink, appearing to read 'Christina Zuccaro', written over a long horizontal line that extends from the signature towards the right edge of the page.

Christina Zuccaro, Pro Se



Christina Zuccaro <chrisyzuccaro2@gmail.com>

ORDER DISMISSING MOTION TO VACATE

4 messages

wendtlaw@goldenwest.net <wendtlaw@goldenwest.net>

Wed, May 7, 2025 at 2:02 PM

To: Christina Zuccaro <chrisyzuccaro2@gmail.com>, Raleigh Hansman <Raleigh@meierhenrylaw.com>

LOOK WHAT WE GOT! But denied attorney fees.

Cassie J. Wendt
Wendt Law, Prof. L.L.C.
102 E. Pine Street, Ste 1
P.O. Box 280
Philip, SD 57567
wendtlaw@goldenwest.net
(605) 859-2026

This e-mail, including any attachments, is legally privileged, confidential and covered by the Electronic Communications Privacy Act 18 U.S.C. sections 2510 et seq. If you are not the intended recipient, you are hereby notified that any retention, dissemination, distribution or copying of this communication is strictly prohibited. Please reply to the sender that you have received this message in error and then delete it.

 **37TPO24-000003_ORDER Dismiss.pdf**
123K

Christina Zuccaro <chrisyzuccaro2@gmail.com>

Wed, May 7, 2025 at 2:16 PM

To: "wendtlaw@goldenwest.net" <wendtlaw@goldenwest.net>

Cc: Raleigh Hansman <Raleigh@meierhenrylaw.com>

Noted. Regards, Zuccaro

[Quoted text hidden]

wendtlaw@goldenwest.net <wendtlaw@goldenwest.net>

Wed, May 7, 2025 at 5:20 PM

To: Christina Zuccaro <chrisyzuccaro2@gmail.com>

I apologize, my autocorrect chose you and not Christian. I truly did not mean to be rude or disrespectful.
Again, my apologies.

Cassie J. Wendt
Wendt Law, Prof. L.L.C.
102 E. Pine Street, Ste 1
P.O. Box 280
Philip, SD 57567
wendtlaw@goldenwest.net
(605) 859-2026

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5/19/25, 7:24 PM

Gmail - ORDER DISMISSING MOTION TO VACATE

dissemination, distribution or copying of this communication is strictly prohibited. Please reply to the sender that you have received this message in error and then delete it.

From: Christina Zuccaro <chrisyzuccaro2@gmail.com>
Sent: Wednesday, May 7, 2025 1:16 PM
To: wendtlaw@goldenwest.net <wendtlaw@goldenwest.net>
Cc: Raleigh Hansman <Raleigh@meierhenrylaw.com>
Subject: Re: ORDER DISMISSING MOTION TO VACATE

[Quoted text hidden]

Christina Zuccaro <chrisyzuccaro2@gmail.com>
To: "Cassie J. Wendt" <wendtlaw@goldenwest.net>

Wed, May 7, 2025 at 6:17 PM

Not a problem at all. I understand. Thank you for letting me know. Regards, Zuccaro

[Quoted text hidden]

STATE OF SOUTH DAKOTA
Sixth Judicial Circuit Court
I hereby certify that the foregoing instrument is a true
and correct copy of the original as the same appears on
file in my office and the same is still in full force and effect.

JUL 29 2025

KELLY CAVINESS
Jones County Clerk of Courts

By: _____

Filed on: 05/27/2025 Jones County, South Dakota 37TPO24-000003

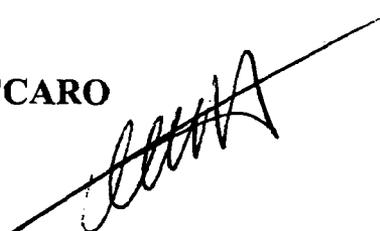
**IN THE CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT
JONES COUNTY, SOUTH DAKOTA**

Case No.: 37TPO24-03

**KATHERINE SAMMONS,
Petitioner,**

v.

**CHRISTINA ZUCCARO
(Signature),
Respondent.**



**RULE 60(b) MOTION TO VACATE OR MODIFY PROTECTION ORDER
BASED ON EQUITY AND LEGAL MISAPPLICATION**

TO THE HONORABLE JUDGE M. BRIDGET MAYER:

COMES NOW the Respondent, **CHRISTINA ZUCCARO, pro se**, and respectfully moves this Court pursuant to SDCL 15-6-60(b)(6) to vacate or modify the permanent protection order entered on October 8, 2024. This request is made on the grounds that the order, while previously agreed to under specific understandings, is now functioning to deprive the Respondent of her lawful property rights and access to land, and it continues to be enforced in a manner that is inequitable and contrary to its intended purpose.

1. BACKGROUND

Respondent previously filed motions to vacate or modify the protection order, which were denied in the Court's May 6, 2025 Order. The Court noted that issues of possession and trespass were better addressed in the civil matter and found that there had not been a material change in circumstances

sufficient to justify revisiting the order. However, this motion does not seek to relitigate facts already considered, but instead highlights the legal inequities created by the continued enforcement of the protection order under current circumstances.

2. **BASIS FOR RELIEF UNDER RULE 60(b)(6) – EQUITY, LEGAL MISAPPLICATION, AND UNCLEAN HANDS**

Since the order's issuance:

- Petitioner has remained on the property without any legal right to do so.
- She has used the order to interfere with Respondent's access to areas of her property, including her fence line, her mother's grave, and public access areas such as the road used for dog-walking.
- Respondent's elderly father, formerly residing in the cabin lawfully, has been displaced due to threats and ongoing harassment by Petitioner and her employer.
- Surveillance cameras have been placed facing Respondent's residence without consent, creating an atmosphere of intimidation.
- The civil court in Case No. 37CIV24-5 has been asked to rule on the rightful possession and has acknowledged the existence of an agricultural lease that does not authorize Petitioner's residential occupancy.

This protection order, instead of serving its statutory purpose of preventing abuse or threats, has been used as a tool to suppress Respondent's exercise of her lawful lease rights and deny her peaceful enjoyment of property. Respondent has submitted substantial and credible hard evidence, **including Petitioner's own sworn admissions that she unlawfully entered the cabin after the lease had been terminated.** These admissions were provided in open court and confirmed

through law enforcement interactions. Furthermore, Petitioner is not a family member or domestic relation to Respondent, **making this a fundamentally improper use of a family-based protective mechanism to gain leverage in a civil property dispute.**

Under the equitable doctrine of clean hands, Petitioner should not be permitted to use this Court's authority to continue a protection order that was secured through deceit, maintained through harassment, and enforced to obstruct Respondent's rights as a lawful leaseholder. The doctrine holds that a party seeking equitable relief must come before the court with clean hands; **here, Petitioner's ongoing trespass and misuse of legal protections clearly fail that standard.**

While the Court previously noted that the Respondent "agreed" to the terms of the October 8, 2024 protection order, that agreement was based on limited facts and representations that have since proven false—specifically, Petitioner's claim of lawful occupancy and status. Respondent never intended to waive her right to access her own property or to enable an unlawful occupier to use the order as a shield against removal. Courts have consistently held that Rule 60(b)(6) may apply even to consent orders where ongoing enforcement produces inequitable results. **The current situation—where Respondent is lawfully entitled to occupy land but is excluded due to an order obtained and maintained through admitted trespass—justifies relief under Rule 60(b)(6).** It is an inequitable use of this Court's authority to maintain a protection order that was secured through deceit, maintained through harassment, and enforced to obstruct Respondent's rights as a lawful leaseholder. The doctrine holds that a party seeking equitable relief must come before the court with clean hands; **here, Petitioner's ongoing trespass and misuse of legal protections clearly fail that standard.**

The Court's previous denial of modification was based, in part, on the idea that the civil court was the more appropriate venue to resolve possession. However, because this protection order is actively being used to obstruct Respondent from her own land, clarification or limitation of the order's effect is appropriate and within this Court's equitable power.

Respondent also notes that Petitioner has herself violated the terms of the protection order. Petitioner entered Respondent's egress with another individual

and removed property belonging to Respondent's father—an act that was unauthorized and clearly intrusive. Additionally, Respondent has been forced to call 911 on two separate occasions this year, 2025, due to Petitioner's continued interference and unlawful behavior on or near the property. Petitioner has also installed surveillance cameras aimed toward Respondent's residence and driveway without consent, further escalating the tension and demonstrating a pattern of intimidation and harassment that is wholly inconsistent with the protections the order was meant to provide.

Because this protection order is actively being used to obstruct Respondent from her own land, clarification or limitation of the order's effect is appropriate and within this Court's equitable power.

The use of a protection order to shield a trespasser—especially one who has admitted under oath to unlawful entry and continues to engage in unauthorized conduct on the property—raises a serious legal contradiction. Courts have consistently recognized that protection orders are not substitutes for civil determinations of property rights (See *Batchelder v. Batchelder*, 2021 SD 60). **The law does not allow an individual with no possessory interest to use a protection order as a means to exclude or interfere with a lawful leaseholder.**

Respondent also objects to the Court's prior characterization of her actions as a "stubborn non-acceptance" of the October 8, 2024 order. **Her continued efforts to seek relief are not rooted in defiance, but in the substantial legal and factual issues that have arisen since entry of that order—including Petitioner's own admissions of unlawful entry, misuse of legal process, and interference with Respondent's property rights.** These concerns represent a good-faith effort to protect constitutional property interests and correct inequitable enforcement—not a rejection of judicial authority.

While this Court previously cited *Batchelder v. Batchelder* and *Sjomeling v. Stuber* to deny modification, those cases do not preclude the relief sought here. In *Batchelder*, **both parties had marital interests in the property—unlike this case, where Petitioner is an unrelated party with no lease, title, or familial**

relationship. In *Sjomeling*, the South Dakota Supreme Court recognized that Rule 60(b)(6) is available in exceptional cases where enforcement of an order becomes inequitable. Here, continued enforcement of the October 8, 2024 protection order allows an **admitted trespasser** to use judicial authority to interfere with a lawful leaseholder's rights—an outcome neither contemplated by the parties nor consistent with the Court's equitable role. As such, reliance on these precedents to uphold the current order is factually and legally distinguishable, and relief remains appropriate under Rule 60(b)(6) that protection orders are not substitutes for civil determinations of property rights (See *Batchelder v. Batchelder*, 2021 SD 60). The law does not allow an individual with no possessory interest to use a protection order as a means to exclude or interfere with a lawful leaseholder. This case does not involve domestic violence in a traditional family context, but rather the misuse of a protective mechanism to solidify control over land without legal title or contract. **Respondent asks this Court to acknowledge that the continued enforcement of the order, under these circumstances, violates basic principles of due process and equity.**

3. REQUEST FOR RELIEF

Additionally, this protection order proceeding was filed before the commencement of the *Zuccaro LLLP v. Bad River Cattle Company* lawsuit (37CIV24-5). It is therefore improper to treat this case as merely piecemeal to the civil action, when in fact this Court issued a **binding order that directly affects Respondent's rights to access lawfully held property.** If the Court now concludes that the matter is better suited for civil resolution, then the existence of this prior protection order—issued under materially false pretenses—should be reconsidered or modified to prevent ongoing conflict with the Respondent's rights in the civil case. **A later-filed civil action should not be used to immunize or shield the misuse of judicial process in this earlier proceeding.**

Respondent respectfully requests that this Court:

1. **VACATE** the permanent protection order entered on October 8, 2024; OR, in the alternative,

2. MODIFY the protection order to remove restrictions on Respondent's lawful access to her recorded property;
3. Clarify that the order is not to be interpreted as granting possessory or enforcement rights to an individual with no legal authority to be on the property;
4. Provide guidance or citation to any legal authority under South Dakota law that supports using a protection order to restrict a lawful property holder use of her property in favor of a trespasser;
5. Schedule a hearing if needed to establish the scope and intent of the order as it relates to lawful property access;
6. Grant any further equitable relief the Court deems appropriate.

Dated this 14th day of May, 2025.

Respectfully submitted,



Certificate of Service:

I hereby certify that a true and correct copy of the above **Rule 60(b) Motion to Vacate or Modify Protection Order** was served upon:

Cassie J. Wendt
Wendt Law, Prof. L.L.C.
102 E. Pine Street, Ste 1
P.O. Box 280
Philip, SD 57567
wendtlaw@goldenwest.net
(605) 859-2026

By email on this 14th day of May, 2025.

CHRISTINA ZUCCARO

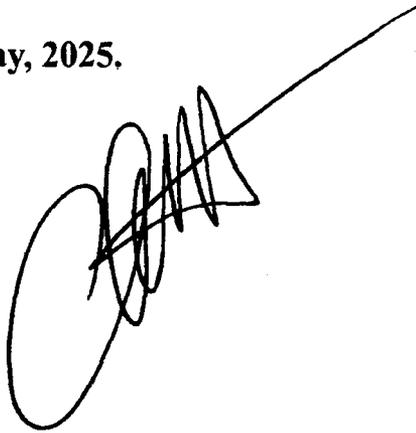
CHRISTINA M. ZUCCARO

22742 258th Avenue

Midland, SD 57552

(605) 220-0266

chriszuccaro2@gmail.com

A handwritten signature in black ink, appearing to be 'CHRISTINA M. ZUCCARO', written over a long horizontal line that extends from the right edge of the page towards the left.

STATE OF SOUTH DAKOTA
Sixth Judicial Circuit Court
I hereby certify that the foregoing instrument is a true
and correct copy of the original as the same appears on
file in my office and the same is still in full force and effect.

JUL 29 2025

KELLY CAVINESS
Jones County Clerk of Courts

By: _____

IN THE SUPREME COURT
OF THE STATE OF SOUTH DAKOTA

CHRISTINA ZUCCARO,
Appellant,

v.

KATHERINE SAMMONS,
Appellee.

SUPREME COURT NO.: 31126
CIRCUIT COURT CASE NO.: 37TPO24-03

APPENDIX TO APPELLANT'S BRIEF – VOLUME II OF II

Contains Appendices I–K
Appendix Pages 98–211

Appeal from the Circuit Court
Sixth Judicial Circuit
Jones County, South Dakota
Honorable M. Bridge Mayer, Presiding Judge

Christina M. Zuccaro
Appellant, Pro Se
22742 258th Ave.
Midland, SD 57552
605-220-0266

Dated: 8/4, 2025

TABLE OF APPENDICES — Volume II

Appendix I– Transcript of October 8, 2024 Hearing	98
Appendix J– Transcript of December 31, 2024 Advisory Hearing.....	130
Appendix K– Transcript of April 1, 2025 Motions Hearing.....	157

APPENDIX I

Transcript of October 8, 2024 Hearing

Filed as Exhibit on March 6, 2025 in Case No. 37TPO24-03

This appendix contains the transcript of the hearing held on October 8, 2024, before the Honorable M. Bridget Mayer in the Sixth Judicial Circuit, Jones County, South Dakota, in Case No. 37TPO24-03.

The transcript was filed as an exhibit on March 6, 2025, and is part of the settled circuit court record on appeal. The hearing addressed the Petition for Protection Order filed by Petitioner Katherine Sammons against Respondent Christina Zuccaro.

CERTIFICATION BY APPELLANT

I certify that the document included in this Appendix is a true and correct copy of the original on file in the circuit court and that it is part of the settled record on appeal in Case No. 37TPO24-03.

Dated: 8/4/25

/s/ Christina Zuccaro
Christina Zuccaro, Appellant



Transcript Citation	Key Statement by Sammons	Contradiction or Issue	Relevance to Case
P. 4, In. 4-5	Sammons stated she followed Alavi's instructions weekly for the past three years.	Indicates she was an active participant in Alavi's broader strategy rather than an independent employee.	Shows coordinated efforts to restrict family access and fabricate legal claims.
P. 3, In. 19	Claimed to be Chuck's caretaker.	Not a typical role of an employee, and aligns with concerns of elder abuse.	Suggests manipulation and increased control over Chuck.
P. 7-8, In. 23-25	Claimed I placed a padlock over hers and went to my door to confront me.	She admitted removing the locks herself, meaning there was no reason to approach my door.	Demonstrates a pretext to harass me under false pretenses.
P. 16, In. 14-16	Stated she frequently saw me on the ranch from Nov 2023 - July 2024.	My presence was minimal, mostly on weekends for short periods.	Her stalking claim is false as my presence was too limited for such conduct.
P. 17, In. 9-10	Claimed I was hiding behind propane tanks and trees.	She described my own yard as the location of this alleged stalking.	Proves she was monitoring me, not the other way around.
P. 18-19, In. 2-3	Alleged I filmed her "over 100 times."	When asked why, she stated, "That I do not know."	Implausible claim—if true, she would know the reason or have evidence.
P. 20-21	Alleged I left a gate open to let cattle out.	She and her daughter approached me at night, escalating the situation.	Shows her intent to provoke confrontations.
P. 24, In. 10-11	Claimed I approached her pickup.	The truck was her son's, not hers.	She misled law enforcement to have me arrested.
P. 27-28	Admitted knowing of Alavi's disputes over property access.	Contradicts her claim of being just an uninvolved employee.	Confirms her active role in ongoing disputes.

Summary of Key Testimony from October 8 Hearing

2

P. 31-32	Knew Alavi was barred from the cabin but still accepted keys from him.	She knowingly entered a property she had no right to be in.	Demonstrates unlawful entry and possible conspiracy with Alavi.
P. 38, In. 13-18	Admitted moving my cattle without permission.	Confirms property interference.	Strengthens claims of unauthorized control over property.
P. 40-41	Stated she was "just following orders" when staying in the cabin.	Admitted earlier that she knew Alavi was not supposed to be there.	Proves intent to violate property rights.
P. 46, In. 9-12	Admitted to recording me.	Yet accused me of recording her 100+ times without proof.	Shows hypocrisy and further false claims.
P. 49, In. 3	Admitted unlawful entry into the cabin with her daughter and niece.	Contradicts her claim of being afraid of me.	Reinforces that she was comfortable violating property boundaries.
P. 59, In. 21	Claimed to have recorded me inside my own home.	Where are these videos? She did not submit them as evidence.	Raises doubt about her allegations, possibly suppressing contradictory evidence.
P. 64, In. 3-7	Filmed me inside my home.	Direct violation of my privacy.	Shows ongoing harassment.
P. 68, In. 22	Court noted that Sammons "has worked there forever."	Implausible that she was unaware of major disputes.	Undermines her credibility as an "uninformed employee."

Key Themes and Implications

- **False Stalking Allegations:** Her testimony is full of contradictions, suggesting an effort to misrepresent normal activities as stalking.
- **Unlawful Entry & Property Violations:** She knowingly accessed restricted areas despite being aware of legal limitations.
- **Manipulation of Law Enforcement:** Misleading statements to the Sheriff and false allegations resulted in unjust legal actions against me.
- **Elder Abuse Concerns:** Took over a caretaker role, controlled property, and isolated my father from family.

Summary of Key Testimony from October 8 Hearing

3

- **Involvement in Property Disputes:** She was fully aware of Alavi's legal conflicts and actively participated in them.

This summary provides the Court with a clear reference for questioning Sammons' credibility and highlighting her role in unlawful and manipulative conduct. Let me know if you want any modifications or additional details!

1 STATE OF SOUTH DAKOTA) IN CIRCUIT COURT
 2 COUNTY OF JONES) SS SIXTH JUDICIAL CIRCUIT

3 KATHERINE SAMMONS,) 37TPO24-03
 4 Petitioner,) TRANSCRIPT OF TESTIMONY
 5 vs.) OF KATHERINE SAMMONS
 6 CHRISTINA ZUCCARO,)
 7 Respondent.)
 8)

9
 10 BEFORE: THE HONORABLE M. BRIDGET MAYER,
 11 Circuit Court Judge of the Sixth Judicial
 12 Circuit, in Murdo, South Dakota, on
 13 the 8th day of October, 2024.

14 APPEARANCES:

15 MS. CASSIE WENDT
 16 Wendt Law, Prof. LLC
 17 PO Box 280
 18 Philip, South Dakota 57567;
 19 Counsel for the Petitioner.

20 MR. PHILIP STILES
 21 Costello Porter Law Firm
 22 704 St. Joseph Street
 23 Rapid City, South Dakota 57701;
 24 Counsel for the Respondent.

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Mona G. Weiger
 Official Court Reporter
 PO Box 1238
 Pierre, SD 57501
 605-773-3971

2

1		<u>INDEX</u>			
2	<u>PETITIONER'S WITNESS</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
3	Katherine Sammons	3	25	61	71
4					
5					
6	<u>PETITIONER'S EXHIBITS</u>		<u>Offered</u>	<u>Ruled On</u>	
7	A - Police report re: Axe		12	12	
8	B - Police report re: Dog		9	9	
9					
10					
11	<u>RESPONDENT'S EXHIBITS</u>				
12	13 - Photos		58	59	
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

4

1 Q. -- correct? And who is in charge of the ranch for
 2 the cattle company at this time?
 3 A. Christian Alavi.
 4 Q. Is that who hires you and tells you what to do
 5 during the week?
 6 A. As of the last three years, yes.
 7 Q. Prior to the last three years did you know
 8 Christina Zuccaro?
 9 A. Yes.
 10 Q. How was the interactions with her prior to this
 11 last three years?
 12 A. We didn't have a lot of interactions. It was
 13 civil but there was always animosity between Charles
 14 and Christina, it seemed like.
 15 Q. You talked about being in the role early on of
 16 helping take care of Chuck. Did the relationship
 17 between you and Christina change at all when you kind
 18 of stepped into that role of caretaker?
 19 A. I would say so, yes.
 20 Q. Were there instances back then that gave you
 21 concern regarding behaviors from Christina?
 22 A. Yes. Chuck would call me very nervous and he'd
 23 always, we had a fight, she's agitated, she's down
 24 there yelling, screaming.
 25 Q. Did you ever observe those types of behaviors

3

1 (The following proceedings were held on
 2 October 8, 2024, at approximately 10:55 a.m.)
 3 MS. WENDT: Your Honor, I would call Katie
 4 Sammons.
 5 KATHERINE SAMMONS,
 6 being first duly sworn, was examined and testified
 7 as follows:
 8 DIRECT EXAMINATION
 9 Q. (By Ms. Wendt) Would you state your full name for
 10 the record?
 11 A. Katherine Marie Sammons.
 12 Q. And tell me what city and state you live in.
 13 A. Midland, South Dakota.
 14 Q. And tell me where you work.
 15 A. Zuccaro Ranch, Bad River Cattle Company.
 16 Q. And what were you hired by Bad River Cattle
 17 Company to do? What's your job entail?
 18 A. Manage the ranch, cattle care. Originally it was
 19 with Chuck and I also cared for Chuck as well, whether
 20 that's relevant or not.
 21 Q. How long have you been in that position?
 22 A. Off and on for over ten years.
 23 Q. You indicated that when it began it was working
 24 with Chuck --
 25 A. Yes.

5

1 early on back then?
 2 A. I never was -- very few when Eleanor was alive.
 3 It was after Charles' wife passed away that I observed
 4 some of them.
 5 Q. So early on can you help the Court understand what
 6 behaviors you started to observe that gave you
 7 concern?
 8 A. Just the agitation in Chuck. If they'd have a
 9 fight, he'd call and say she's agitated, heads up.
 10 You know, he was always worried about my well-being,
 11 where I was at and keep my distance from Christina and
 12 he was just always very fearful when she was mad.
 13 Q. Did there come a time when it was no longer a
 14 concern of Chuck's but more so your concern based on
 15 what you observed?
 16 A. Repeat that, please.
 17 Q. Did there come a time where you started to observe
 18 things that gave you concern?
 19 A. Yes.
 20 Q. When did that start, approximately?
 21 A. It would have been right after Eleanor passed
 22 away. Chuck still had belongings in the main house,
 23 which I don't know what he has over there. He had
 24 asked a neighbor and I to help him move belongings out
 25 of the basement and whatnot because she had told him

6

8

1 he needed to move all of them, to stay out.
 2 The neighbor and I were standing on the other
 3 side of the tractor as she was screaming and the
 4 neighbor looked at me and said I don't know if we need
 5 to step in or leave or --
 6 **Q.** Describe for the Court what that conversation --
 7 what did you hear her saying?
 8 **A.** I mean, this was over, probably over four years
 9 ago or right around the passing of Eleanor. It's just
 10 very erratic from her. It's hard to describe what she
 11 says. It's just basically telling him you need to get
 12 out, very vulgar language, and get all your
 13 belongings, get away.
 14 **Q.** What did you observe of her behavior during that
 15 exchange?
 16 **MR. STILES:** Your Honor, I'm going to renew my
 17 objection regarding the relevancy of this. It's
 18 becoming more prejudicial than probative at this
 19 point.
 20 **THE COURT:** Overruled. Same ruling as
 21 previous.
 22 **Q.** (By Ms. Wendt) What did you observe regarding her
 23 demeanor at that point?
 24 **A.** I have never seen her physically touch anybody but
 25 she talks with her hands. She's very agitated,

1 around. My tractor is in there. It was very cold.
 2 As in ranching, you have to feed your cattle when it's
 3 cold. Fuel tanks are also there. There was a padlock
 4 put over my padlock. I could not get fuel for my
 5 tractor and the deputy was called.
 6 I videoed myself approaching her door. I
 7 knocked, asked if she would remove the padlocks or
 8 unlock them and she told me there was a restraining
 9 order on me, to get off of her property and I walked
 10 back to my pickup and I left until the deputy came.
 11 **Q.** How did that instance end?
 12 **A.** With the deputy showing up. I removed the
 13 padlocks off the shed and the fuel tank. I went on
 14 about my day. He talked to her and that was the end
 15 of that.
 16 **THE COURT:** I just want to get a context. You
 17 said November. Is that in 2023 when this incident
 18 happened?
 19 **MS. WENDT:** I'm going to provide you a police
 20 report, Your Honor.
 21 **THE COURT:** Okay. Sorry.
 22 **MS. WENDT:** No, you're fine.
 23 **A.** Yes, November 24th of '23.
 24 **Q.** (By Ms. Wendt) Katie, have you seen that report
 25 before?

7

9

1 very -- she screams. She's extremely vocal and
 2 vulgar.
 3 **Q.** What about with respect to distance? Were you
 4 able to observe how far away from Chuck she was as she
 5 was using this vulgar behavior?
 6 **A.** Yes. She gets very close proximity.
 7 **Q.** How did that play into your concern for his
 8 safety?
 9 **A.** That's where the neighbor looked at me and said I
 10 don't know if we're going to need to step in or call
 11 someone or if we just need to leave.
 12 **Q.** So we're talking about a time frame right around
 13 four, four and a half years ago. Fast forward. When
 14 is the first time that you had an interaction with
 15 Christina where you were concerned for your safety?
 16 **A.** It would be probably when she locked the shed door
 17 and the fuel tanks and then the constant calling the
 18 sheriff on me and just the agitation and the vulgarity
 19 of her.
 20 **Q.** So let's talk about the fuel tanks and the shed.
 21 How do those items play into your everyday duties on
 22 the ranch?
 23 **A.** I believe it was November when she put a padlock
 24 over my padlock. I believe it was her, I guess I
 25 should say. As far as I know, there was no one else

1 **A.** I hadn't until today.
 2 **Q.** But you did review it today?
 3 **A.** Yes.
 4 **Q.** Does it accurately reflect the interaction you had
 5 with law enforcement on November 24th of '23?
 6 **A.** Yes.
 7 **MS. WENDT:** Your Honor, I would offer
 8 Exhibit B.
 9 **THE COURT:** Any objection?
 10 **MR. STILES:** No objections, Your Honor.
 11 **THE COURT:** Can I just have a minute here?
 12 (Brief pause in the proceedings.)
 13 **THE COURT:** All right. And this was marked
 14 Exhibit B?
 15 **MS. WENDT:** Correct.
 16 **THE COURT:** And that will be received.
 17 **Q.** (By Ms. Wendt) Ms. Sammons, without cutting the
 18 locks off of the fuel and the shed, would you have
 19 been able to care for the livestock on the ranch?
 20 **A.** No.
 21 **Q.** During that time frame what was the weather like,
 22 if you recall?
 23 **A.** Very cold.
 24 **Q.** Do you believe that the cattle could have
 25 sustained without their feed?

1 **A.** Properly, no.
 2 **Q.** Have you ever had exchanges with Christina where
 3 she has threatened you personally?
 4 **A.** No, not personally outside of the incident with
 5 the axe in February. I have been warned by Christian
 6 Alavi that she does not like me, also by Charles
 7 Zuccaro.
 8 **Q.** What about threats to your animals?
 9 **A.** I believe there was phone calls to the sheriff
 10 that she had a stray dog in her yard, which was mine,
 11 and in the police report it says that she would like
 12 to shoot it. So yes, and I use my dog for work.
 13 **Q.** She indicated that it was a stray dog. Is she
 14 familiar with your animal?
 15 **A.** Yes.
 16 **Q.** How long has that dog been with you?
 17 **A.** For three years.
 18 **Q.** And has there ever been a time when Christina has
 19 interacted with your dog?
 20 **A.** Yes.
 21 **Q.** Tell me about that.
 22 **A.** My daughter and I were at the shed with the
 23 tractor and filling it up and my dog had not gotten in
 24 the tractor yet and I got down and Christina was
 25 walking down the driveway and I said please don't call

1 report as you're aware of?
 2 **A.** With the incident with the axe, yes.
 3 **MS. WENDT:** Your Honor, I would offer
 4 Exhibit A.
 5 **THE COURT:** Any objection?
 6 **MR. STILES:** No, Your Honor.
 7 **THE COURT:** One moment. I'm going to put
 8 today's date on these exhibits. Okay?
 9 **MS. WENDT:** Do you want that under the line,
 10 Judge?
 11 **THE COURT:** Yeah, under the A, if you just want
 12 to mark the dates.
 13 **MS. WENDT:** Yes, absolutely.
 14 **THE COURT:** And then I'll ask the clerk to put
 15 the file numbers on these. B was a two-page document,
 16 A is a one-page. All right. Exhibit A will be
 17 received.
 18 **MS. WENDT:** Thank you, Your Honor.
 19 **Q.** (By Ms. Wendt) Katie, on February 3rd of 2024, do
 20 you recall where you were when this assault by
 21 Ms. Zuccaro occurred?
 22 **A.** Yes. My daughter was with me. We had been
 23 checking cattle and we had gone to the barn and when
 24 she seen us drive by, we seen her approach the cabin.
 25 We drove up to the gate. She stood there and watched

1 my dog, and she sat on the ground and called my dog to
 2 her and petted her and then she giggled, stood up and
 3 walked away.
 4 **Q.** Was that prior to or after the allegation that
 5 there was a stray dog at her house?
 6 **A.** Prior.
 7 **Q.** So at the time she told law enforcement there was
 8 a stray animal at her house that she wanted to shoot,
 9 she was well aware it was your dog?
 10 **A.** Yes.
 11 **Q.** Approximately what time frame was that, if you
 12 recall?
 13 **A.** With which instance?
 14 **Q.** When she reported the stray dog.
 15 **A.** I believe it was in the summer months.
 16 **Q.** Of 2023 or 2024?
 17 **A.** '24.
 18 **Q.** I'm handing you what's been previously marked
 19 Exhibit A. Do you recognize what that document is?
 20 **A.** This would be the axe incident during calving
 21 season to the cabin.
 22 **Q.** Is that a report that you have previously reviewed
 23 in preparation for today?
 24 **A.** Yes.
 25 **Q.** Does it accurately reflect the law enforcement

1 us. We drove away. She went back to the main house
 2 and when we had came back to the cabin to warm up, she
 3 had taken and beaten the front door handle off. And
 4 we went in to warm up and I actually had my niece
 5 along with me as well and I expressed to them I did
 6 not -- I feared for their safety and I said you girls
 7 need to go home. I'll stay in touch with you.
 8 I went back to the barn to check heifers and
 9 then I had gone back to the cabin to warm up again and
 10 that is when she came with the maul and stood against
 11 the door and she started beating the door and the
 12 handle with the maul or axe.
 13 **Q.** Tell me about your daughter and your niece. How
 14 old are they?
 15 **A.** My daughter is now 17, my niece is 14.
 16 **Q.** When you returned to the cabin you said you had
 17 them leave?
 18 **A.** Yes.
 19 **Q.** How did they leave the premises?
 20 **A.** They had a vehicle and they drove out.
 21 **Q.** Once you went back to the cabin again to warm up,
 22 tell me what happened that brought you to stand
 23 against the door.
 24 **A.** Because she was carrying a maul, swinging it and
 25 telling me to get out of her property and it was her

14

1 home, I was squatting. And after she had already
 2 broke one handle in, I knew that she was going to be
 3 aggressive.
 4 **Q.** Did she in fact come inside the first door?
 5 **A.** Yes.
 6 **Q.** What was she saying at that point?
 7 **A.** That I was in her home, I had no right to be
 8 there, to get out of her home, she had called 911,
 9 that I was trespassing. Just verbal comments towards
 10 me.
 11 **Q.** Once she made it inside to the second doorway what
 12 did she do?
 13 **A.** She continued to beat on the door handle until she
 14 got it beat off. And then there is a bench in there
 15 and she just sat in there with the maul between her
 16 legs or next to her fidgeting and just kept making
 17 vulgar comments towards me.
 18 **Q.** What kinds of comments?
 19 **A.** Just swear words and that I had no right to be in
 20 there. She said all you do is sit here and drink
 21 beer. You have no right to be here. Boy, you're
 22 really working hard, aren't you? Just all verbal, I
 23 mean vulgar.
 24 **Q.** From your understanding based on your employment,
 25 were you allowed entrance into that cabin?

15

1 **A.** For as long as I have been there, there's been off
 2 and on instances. I've always had access with Chuck
 3 there. Chuck gave me a key. There was a point in
 4 time where we were out and then there was back to
 5 where it was calving season. I was given a key to be
 6 there to stay during calving. It's cold. It's below
 7 zero, snow. I'm there 24-7.
 8 **Q.** Where else would you have to stay on site if you
 9 weren't allowed to use the cabin?
 10 **A.** My pickup.
 11 **Q.** Talk to me about supplies. What items are
 12 contained within the home that you use for work every
 13 day?
 14 **A.** All my vaccines, all my tags, anything to warm a
 15 calf, all of my pulling chains for pulling. I mean,
 16 that all has to be washed. All my warm, clean
 17 clothes. You get wet. I mean, obviously, if you pull
 18 a calf and you're wet, you need to come in and you
 19 need to warm up. All of those items are within the
 20 cabin.
 21 **Q.** You've described standing with your back against
 22 the door as she's beating on the door with the axe.
 23 Tell me how that event ended.
 24 **A.** I called the sheriff and I called Carl and Kara
 25 and said this is escalating; I'm afraid of what will

16

1 happen if she gets in. And then I proceeded to call
 2 the sheriff back and see how long he was going to be
 3 and he said that it would be a while and that's when I
 4 called Carl and Kara back and said you need to get
 5 here as quickly as you can.
 6 **Q.** What were you afraid of, Katie?
 7 **A.** I was afraid of having to defend myself against
 8 her. I was very afraid of what she was going to do or
 9 try to do to me with the maul to remove me from the
 10 home.
 11 **Q.** During this time period from November of 2023
 12 until July of 2024, how often would you say you saw
 13 Christina on the ranch?
 14 **A.** Any holidays usually she was there, always over
 15 the weekends. She's a school teacher in Rapid but any
 16 long breaks, she was generally there the weekends.
 17 **Q.** And how did Christina's presence affect your job
 18 performance or your ability to do your job?
 19 **A.** Extremely stressful not knowing always for fear of
 20 where she might be or what she might do. She had
 21 threatened with a gun before to someone else so there
 22 was always that fear in the back of my mind.
 23 **Q.** Were you aware, did she have access to weapons?
 24 **A.** Yes.
 25 **Q.** And when you say that fear of where she might be,

17

1 help us understand what you mean by that.
 2 **A.** For instance, there would be times I would be out
 3 and about and she usually parked her car in the garage
 4 so I never knew and generally she was always standing
 5 behind something, almost like she was hiding but
 6 watching me.
 7 **Q.** Describe to us the first time you caught her
 8 hiding behind something watching you.
 9 **A.** That probably would have been three years ago in
 10 our yard.
 11 **Q.** Describe the instance to us.
 12 **A.** Sitting behind the propane tank with her phone out
 13 videoing me.
 14 **Q.** And was that a secluded incident?
 15 **A.** No, that happened multiple times.
 16 **Q.** Describe to us another time when you found her
 17 hiding and videoing you.
 18 **A.** To explain it, her -- where I used to have access
 19 to the old fuel tank and the old shed, there's a row
 20 of trees in the center of the driveway and then the
 21 house and then there's trees and a garage. She would
 22 step out from behind trees and I generally wouldn't
 23 see her or know she was there until I was passed and
 24 then she would be standing behind something.
 25 **Q.** And when she would step out from behind something

1 what would she be doing?
 2 **A.** Generally videoing me or holding her phone, which
 3 I would assume is videoing me.
 4 **Q.** And during any of these times when she would step
 5 out from behind something were you ever with your
 6 children during those times?
 7 **A.** Yes.
 8 **Q.** So tell me how you felt about the thought that she
 9 was videoing your children, too.
 10 **A.** A strong dislike. I don't believe anybody should
 11 be filming somebody else's children that are unaware
 12 of it and it's not right.
 13 **Q.** When you describe these instances of recording,
 14 can you give us an estimate? Are we talking ten
 15 times? Are we talking a hundred times? How many
 16 times over this six-, eight-month period do you think
 17 that that occurred?
 18 **A.** Oh, I'm sure over a hundred times.
 19 **THE COURT:** What did you say?
 20 **A.** Over a hundred times, I would assume. Say if I
 21 was working at the main shed, the access to her home,
 22 the driveway, when she'd drive by she'd hold her
 23 camera up in the window and video me every time as she
 24 went by.
 25 **Q.** (By Ms. Wendt) Whether she was videoing you or

1 Christina's behavior as it applies to the gates and
 2 the fences.
 3 **A.** She grew up on a ranch so respectfully she should
 4 know that when you go through a closed gate, if you
 5 open it, you close it. Whether you see any livestock
 6 or any animal in that area, you go through it, you
 7 close it. Constantly leaving gates wide open, moving
 8 them all the way around. It's an ongoing problem.
 9 **Q.** How would you find out that the gates were left
 10 open?
 11 **A.** Generally it would happen after I'd leave for my
 12 day of work and when I'd come back the next day I
 13 would go back to check the gates to make sure they
 14 were closed and they would be wide open.
 15 **Q.** Did you ever have an opportunity to observe her
 16 opening gates?
 17 **A.** Yes.
 18 **Q.** Describe that for us.
 19 **A.** My daughter and I came down out of a hay field one
 20 evening and we watched her walking her dog. When she
 21 came down through the gate, we could see that it was
 22 wide open. She sat down in the grass like she was
 23 hiding and we could clearly see her. She was wearing
 24 a bright shirt so I know it was her.
 25 So we got in the side-by-side and we drove

1 not, she was using that for what purpose?
 2 **A.** That I do not know.
 3 **Q.** How did it make you feel?
 4 **A.** Harassed.
 5 **Q.** Talk to me about, from your understanding and from
 6 your eight to ten years of working for this company,
 7 what was Christina's role as it came to caring for the
 8 livestock, caring for the land?
 9 **A.** She had a few cattle of her own. Outside of that,
 10 she did not have a role. That was always my job.
 11 **Q.** And when you talk about, you know, branding season
 12 or fall shots, was she a part of those getting
 13 together, working cattle?
 14 **A.** While Eleanor was alive, very few times. There
 15 was a couple times she made a meal that Chuck had
 16 asked her to do but outside of that, when I took
 17 everything on, she was not involved in any of that.
 18 **Q.** When would you say was the last time she was out
 19 in a corral with you working cows?
 20 **A.** Four years.
 21 **Q.** What about with respect to checking cows or
 22 feeding hay? Is that a role in the last four years
 23 that she has participated in?
 24 **A.** Absolutely not.
 25 **Q.** Describe for the Court your concerns about

1 probably a quarter to a half mile away from her. We
 2 drove to the top of the hill. We took a video of the
 3 wide open gate and her. We maybe sat there for four
 4 or five minutes and we drove back to the shed and then
 5 we went back to the field.
 6 **Q.** When you later checked on that gate was it still
 7 open?
 8 **A.** Yes.
 9 **Q.** And you talked about coming out of a hay field.
 10 Approximately when do you put up hay?
 11 **A.** From June clear into September.
 12 **Q.** So that would have been probably the summer and
 13 fall months of 2024?
 14 **A.** Yes.
 15 **Q.** Is that fair? You've asked the Court to enter a
 16 five-year permanent order of protection; is that
 17 correct?
 18 **A.** Yes.
 19 **Q.** In your own words, tell the Court why.
 20 **A.** With her erratic behavior; the constant concern
 21 from her father always checking on my well-being after
 22 she had a tantrum or a fit; the concern from my boss,
 23 Christian Alavi, of her erratic behavior; just the
 24 behavior that I've seen myself; the instance with the
 25 axe at the cabin; just not knowing where she's at or

22

1 what she may do; the constant filming. Basically, it
2 feels like stalking and harassment, just a very
3 hostile environment.

4 **Q.** And I believe on your petition for a protection
5 order you also included your minor daughter; correct?

6 **A.** Yes.

7 **Q.** Tell me why.

8 **A.** Because she is one of my main helpers at work.
9 Running a ranch that large, you do need help and my
10 daughter has been involved in many instances where she
11 has had -- Christina has had erratic behavior. The
12 sheriffs have been called, cops have been called. I
13 do not want my daughter to be harmed or any harmful
14 situation.

15 **Q.** As we were preparing for this hearing we talked a
16 little --

17 THE COURT: Just a minute. I got to get the
18 heater shut off. Where is my fan?

19 (Brief pause in the proceedings.)

20 THE COURT: I'm going to tell you -- you were
21 testifying about wanting a protection order to include
22 your minor daughter because she was your main helper
23 on the ranch. I wasn't clear if she shows up without
24 her mother helping. I'm not sure if you were getting
25 there but there was also some testimony about the

23

1 sheriff being called. Who's calling the sheriff and
2 why?

3 So I just didn't get that last line of
4 questioning so let's take it from your request and why
5 you are requesting the Court to say there's facts for
6 that order to be entered on behalf of your minor
7 daughter as well.

8 **Q.** (By Ms. Wendt) You talked about your daughter
9 assisting you when you're out doing ranch work;
10 correct?

11 **A.** Yes.

12 **Q.** And how often does that occur, would you say?

13 **A.** Weekends, all summer long. There is times that I
14 can't go check water tanks. She has drove down to
15 check water tanks so that's a good share of her time
16 but it is her job as well.

17 **Q.** Do you have older children?

18 **A.** I have a son who's 18.

19 **Q.** And because of that is that why he's not included?

20 **A.** Excuse me, he's 20. But yes, he's farming now on
21 his own and he's an adult and he is rarely there with
22 me now.

23 **Q.** And what about with respect to other people who
24 come to help work cows or do those things? Have you
25 had other hands with you that come help do the work?

24

1 **A.** Absolutely. Large cattle working days I need to
2 have extra help. There's days that she has walked out
3 to video us when we're moving cattle. There's days
4 that there are other minors out there. Yes, there's
5 multiple times that I need extra help.

6 **Q.** We've seen a couple of law enforcement reports.
7 Can you tell me, if you recall, how many times have
8 you called law enforcement with respect to Christina's
9 behaviors?

10 **A.** I called the day in the hay field when she
11 approached my son's pickup. Maybe four to five.

12 **Q.** And you talked about when she approached your
13 son's pickup. Do you recall what some of those other
14 instances were?

15 **A.** I believe they were called when they were out on
16 four-wheelers in the cattle.

17 THE COURT: They were what?

18 **A.** They were on four-wheelers out in the cattle herd.
19 The axe incident. I believe I talked to them when she
20 was on the trail at the gate left open. I think there
21 was a few times I just called to ask questions
22 pertaining to the protection order.

23 **Q.** (By Ms. Wendt) How many times, if you recall,
24 have you been contacted by the sheriff's office for
25 times that Christina has called you in?

25

1 **A.** I don't know that they were all reported or they
2 just called me back. I would say probably six or
3 more.

4 MS. WENDT: I don't have anything further, Your
5 Honor.

6 THE COURT: So it's 11:30. Do we want to go
7 ahead with your cross? I don't know how much you have
8 but we can go until noon.

9 MR. STILES: I have a lot, Your Honor.

10 THE COURT: Well, let me see how Mona's fingers
11 are doing. We could break now for an hour and come
12 back at 12:30. Let's go off the record.

13 (A recess was taken.)

14 THE COURT: So we're back after a lunch recess
15 and we're ready to proceed. I believe you were done
16 with your line of questioning.

17 MS. WENDT: Yes.

18 THE COURT: We're ready to begin with
19 cross-examination so counsel, you may ask and begin
20 your questioning.

21 MR. STILES: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 **Q.** (By Mr. Stiles) Ms. Sammons, my name is Philip
24 Stiles and I represent Christina Zuccaro.

25 I want to start off with getting some broader

1 background here. You're an employee of Bad River
 2 Cattle Company; correct?
 3 **A.** Now, yes.
 4 **Q.** How long have you been an employee for Bad River
 5 Cattle Company?
 6 **A.** I believe just over three years when it switched
 7 to Bad River Cattle Company.
 8 **Q.** When you say it switched, previously it was
 9 Zuccaro LLP; correct?
 10 **A.** No. I worked solely for Charles Zuccaro.
 11 **Q.** Okay. So you worked for Charles Zuccaro?
 12 **A.** Yes.
 13 **Q.** And now you understand that there is Zuccaro LLP;
 14 correct?
 15 **A.** Well, I knew there was that but that is not who I
 16 worked for. I worked for Charles Zuccaro.
 17 **Q.** Okay. So you worked for Charles. There's Zuccaro
 18 LLP; correct?
 19 **A.** Yes.
 20 **Q.** And you're aware that Zuccaro LLP owns the land;
 21 correct?
 22 **A.** I don't know. That's outside of my --
 23 **Q.** So Bad River Cattle Company, are you aware that
 24 Bad River Cattle Company reportedly leases land from
 25 Zuccaro LLP?

1 **A.** Yes.
 2 **Q.** And Bad River Cattle Company is a company owned by
 3 Christian Alavi?
 4 **A.** Yes.
 5 **Q.** And Christian Alavi is your employer; correct?
 6 **A.** Yes.
 7 **Q.** And when I say employer, in what capacity? Are
 8 you an employee or an independent contractor?
 9 **A.** I'm his employee.
 10 **Q.** Okay. Do you receive a W-2 or do you receive a
 11 1099?
 12 **A.** 1099.
 13 **Q.** Okay. So you're an independent contractor;
 14 correct?
 15 **A.** I guess if that is how it's labeled.
 16 **Q.** So are you also aware that there's currently
 17 lawsuits pending between Zuccaro LLP and Bad River
 18 Cattle Company?
 19 **A.** I'm aware there is one but I'm not involved in
 20 that --
 21 **Q.** I understand you're not --
 22 **A.** -- but it is my understanding.
 23 **Q.** I understand that you're not involved in it. I'm
 24 asking if you're aware of it.
 25 **A.** Yes, I'm aware there is one. I was here the day

1 they were in court for it the first time.
 2 **Q.** Okay. And you understand then that the basis of
 3 that lawsuit is that Zuccaro LLP wants to kick Bad
 4 River Cattle Company off of the land and terminate the
 5 lease; correct?
 6 **A.** Ultimately, that's outside of my job so I don't
 7 know what it exactly pertains, no.
 8 **Q.** Stay with me. I'm asking you if you're aware, not
 9 whether you're -- for a legal conclusion or anything
 10 else. I'm asking you about your awareness or your
 11 knowledge.
 12 **A.** I'm not aware of what it pertains to.
 13 **Q.** Are you aware that there's an issue between
 14 Charles Zuccaro and Christian Alavi?
 15 **A.** Yes.
 16 **Q.** And are you aware that that pertains to Bad River
 17 Cattle Company operating on Zuccaro LLP's land?
 18 **A.** To an extent, yes.
 19 **Q.** When you say to an extent, do you mean your
 20 knowledge, you're aware to an extent or to an extent
 21 that's what the lawsuit is about?
 22 **MS. WENDT:** Your Honor, I'm going to object.
 23 She has testified that she doesn't have adequate
 24 knowledge about what this lawsuit is. She's not a
 25 party to that lawsuit so anything that she would

1 testify to would be speculation.
 2 **THE COURT:** All right. Why don't you reask the
 3 question. I think you were getting to where you're
 4 going. It's just whether -- what I've got what her
 5 testimony so far is she knows there's something going
 6 on between the two. She's an employee of Christian or
 7 working for Christian. There's a dispute over what
 8 the two companies and that's in a courtroom not in
 9 mine.
 10 **MR. STILES:** Correct, Your Honor.
 11 **THE COURT:** So that's what I'm understanding
 12 and if you go from there and it sounds like that's the
 13 extent of it. So I'll let you follow up a little bit
 14 but I think her testimony has been she doesn't know
 15 the specifics but she's aware there's a lawsuit.
 16 She's aware of who it's between and that's in another
 17 case. So go ahead with any further questioning you
 18 feel you need on that aspect, if you have any.
 19 **MR. STILES:** Sure, Your Honor.
 20 **THE COURT:** Otherwise, I'll be a little patient
 21 here but I get your objection. Let's just see where
 22 the next question goes.
 23 **MR. STILES:** And Your Honor, just to clarify,
 24 it goes to her background knowledge of the issues and
 25 how this thing is all springing forth and where it's

1 coming from.

2 THE COURT: All right. And I'm letting her

3 testify to what she knows and I'll let you go a little

4 further and if she doesn't know beyond this, then it

5 will be asked and answered. But go ahead and let's

6 see if there's anything else she knows. Go ahead.

7 MR. STILES: Yes, Your Honor.

8 Q. (By Mr. Stiles) Are you aware that at some point,

9 and I would offer around September 12th of 2023, that

10 Charles Zuccaro filed a restraining order against

11 Christian Alavi?

12 A. I was aware at the time, yes.

13 Q. And were you aware that is because, according to

14 Charles, Christian threatened to burn down the cabin?

15 MS. WENDT: Objection, Your Honor. This is

16 beyond the scope of why we're here today and it's also

17 hearsay.

18 THE COURT: All right. So there's two lawsuits

19 here. We agreed we're going to try to get this all

20 done today and have a little bit of leniency there so

21 rather than have him recall her, I'm going to allow

22 the questioning. I'll give it any weight and

23 credibility that it deserves and may or may not have

24 on the events in the time and place alleged in these

25 current matters before the Court.

1 So go ahead and answer the question, if you

2 can.

3 A. Can you repeat that?

4 MR. STILES: Can you repeat the question for

5 me?

6 (Mr. Stiles' last question was read back by the

7 court reporter.)

8 A. Anything I heard was hearsay. I was not there at

9 the time. It was hearsay, what I heard.

10 Q. (By Mr. Stiles) Okay. Let me ask you this way.

11 Did Christian ever tell you that it was because

12 Charles alleged that he threatened to burn down the

13 cabin?

14 A. To an extent, yes, he did.

15 Q. Okay. Are you aware that -- and I'm trying to

16 figure out your awareness of this knowledge of what

17 was going on, the background of what was going on.

18 Are you aware that in November of 2023, Charles

19 Zuccaro dropped his protection order against

20 Christian?

21 A. Yes, I was aware it was dropped.

22 Q. Were you aware that the reason he dropped it is

23 because Christian agreed not to go to the cabin?

24 A. Yes.

25 Q. So you stated in your earlier testimony that there

1 were times when you were allowed in the cabin and

2 times when you were not allowed in the cabin. Do you

3 recall that?

4 A. Yes.

5 Q. Is that one of the times when you were not allowed

6 in the cabin?

7 A. When Chuck wasn't there, yes.

8 Q. But you were aware that the reason Charles dropped

9 the protection order against Christian was because

10 Christian agreed not to reenter the cabin; correct?

11 A. Christian himself, yes.

12 Q. So who told you that you could reenter the cabin?

13 A. The keys were given to me after things were

14 settled between the two of them and told that we had

15 access back to the cabin.

16 Q. Who gave you those keys?

17 A. Christian.

18 Q. And when was that?

19 A. I don't know the exact date.

20 Q. Was that right after November?

21 A. It was the time -- I honestly couldn't recall the

22 date on that.

23 Q. And when you received the keys from Christian did

24 those keys work in the cabin?

25 A. The keys I have gotten work in the cabin, yes.

1 Q. Was there ever a time that you changed the locks

2 on the cabin?

3 A. I did not change the locks. The only time I

4 changed the locks was when Charles asked me at one

5 point to change them.

6 Q. And when was that point?

7 A. That would have probably been in '22 because he

8 did not want Christina in the cabin.

9 Q. So I want to back up a little bit more here.

10 Let's talk about the land and the layout of the land

11 and where everybody resides and everything like that.

12 So we've talked about Christina. She has a residence

13 out on Zuccaro Ranch; correct?

14 A. Yes.

15 Q. And that residence, there is a house and a garage;

16 correct?

17 A. Yes.

18 Q. And there's some trees and a little area around

19 that she has for her yard --

20 A. Yes.

21 Q. -- correct? Just for the court reporter, if you

22 could wait until I finish my question.

23 And then nearby that is some facilities that

24 you work at; correct?

25 A. Yes.

34

1 **Q.** And what are those facilities?
 2 **A.** There's fuel tanks and a tool shed and working
 3 area.
 4 **Q.** Okay. And about how far away is that?
 5 **A.** From the house and garage, probably fifty to a
 6 hundred yards. I don't know exact.
 7 **Q.** Okay. But fairly close?
 8 **A.** Yes.
 9 **Q.** Was there ever a time when you entered into
 10 Christina's residential property?
 11 **A.** The home or garage? No, not without Charles.
 12 **Q.** Not the home, that curtilage that we just
 13 described, that area around her home. The garage,
 14 yes, the house, yes, and the area around her home.
 15 **A.** The access to the fuel tanks and that shed goes
 16 right past the house so I have to drive on the road to
 17 that.
 18 **Q.** So as part of your job you have to drive right
 19 through Christina's driveway to get to where you work?
 20 **A.** At the time, yes, to get to the shed and fuel
 21 tanks.
 22 **Q.** Okay. Is there alternative access today?
 23 **A.** When -- I don't go in there today. We no longer
 24 use that shed and we no longer use those fuel tanks so
 25 I do not go in there.

35

1 **Q.** Did you ever pile up tires or debris in that area
 2 where Christina lives?
 3 **A.** Absolutely not. I was in the state of Minnesota
 4 when that occurred.
 5 **Q.** Somebody piled up tires. Were you aware then that
 6 somebody piled up tires in that area?
 7 **A.** I was not aware until I got home from Minnesota.
 8 **Q.** Okay. Are you aware today that somebody piled up
 9 tires on her property?
 10 **A.** Yes.
 11 **Q.** Are you aware who that was?
 12 **A.** I do not know. I was not there.
 13 **Q.** Have you ever spoken with Christian about that
 14 event?
 15 **A.** All I know is that there was tires put in front of
 16 the garage.
 17 **Q.** Okay. Let's get back to the lay of the land here.
 18 So fifty to a hundred yards is the shed. Are there
 19 corrals nearby or anything like that?
 20 **A.** Not in that area, no.
 21 **Q.** I think you mentioned a water tank earlier. Is
 22 there a water --
 23 **A.** There is a water tank on the outside of the fence.
 24 **Q.** Okay. And that's where you do what? What is
 25 your -- I guess, currently are you still working in

36

1 that area at all?
 2 **A.** Where the water tank is?
 3 **Q.** Yes. Tell me where in that area you still have to
 4 work.
 5 **A.** It's a pasture. On the outside of her fence is a
 6 pasture so if I have to maintain that fenceline or I
 7 need to clean that water tank or do anything with that
 8 water tank, it is on the outside of her fenceline, the
 9 yard fenceline.
 10 **Q.** Okay. So fence maintenance, the water tank
 11 maintenance?
 12 **A.** Yes.
 13 **Q.** Okay. But corrals or anything like that we're
 14 limiting to fence maintenance and --
 15 **A.** The corrals and the main shed that I use are the
 16 other direction and not near the house.
 17 **Q.** Okay. Now let's talk about the cabin. That's a
 18 separate place; correct?
 19 **A.** Yes.
 20 **Q.** And how far away from Christina's residence is the
 21 cabin?
 22 **A.** Four or five hundred yards across the lot.
 23 **Q.** So still in the general vicinity but four or five
 24 hundred yards away?
 25 **A.** There's a set of -- there's a small piece of

37

1 pasture, a set of corrals in between and trees.
 2 **Q.** I'm sorry. Were you finished?
 3 **A.** And granaries in between the two.
 4 **THE COURT:** What's in between?
 5 **KATHERINE SAMMONS:** Granaries, grain bins.
 6 **Q.** (By Mr. Stiles) So when we talk about the cabin,
 7 I want to get a clear picture of what the cabin is.
 8 Is it a living residence? Is there a bedroom in it?
 9 **A.** There's two bedrooms, two bathrooms, a shower,
 10 small kitchen.
 11 **Q.** And so it can be used for living; correct?
 12 **A.** Yes.
 13 **Q.** Were you aware that -- well, Christina had a cow
 14 that was intermingled, I guess, with the Bad River
 15 Cattle Company cattle; correct?
 16 **A.** And the Zuccaro cattle, yes.
 17 **Q.** Okay. And did you ever haul that cow anywhere?
 18 **A.** I was asked and told to haul it and I was told
 19 where I took it to, they were aware that it was coming
 20 there.
 21 **Q.** Okay. Who told you to haul Christina's cattle --
 22 cow.
 23 **A.** Multiple people. Charles had told me to, Zuccaro.
 24 Christian Alavi. Nastashia Janes (sp).
 25 **Q.** Whose brand was on the cow?

38

- 1 **A.** It's not branded.
 2 **Q.** Who owned that cow?
 3 **A.** At that time I -- they said it was Christina. At
 4 that time I don't know that there was a legal, through
 5 a brand inspector. If you understand that, I'm not
 6 sure.
 7 **Q.** Sure.
 8 **A.** I don't know that they had it actually brand
 9 inspected at the time to establish ownership.
 10 Something with no brand on it, without establishing
 11 that, there's no ownership.
 12 **Q.** You knew it was Christina's cow, didn't you?
 13 **A.** Yes.
 14 **Q.** And you hauled it anyway to Paula's place, I
 15 believe?
 16 **A.** Yes. I was asked by multiple people to haul it.
 17 **Q.** Not asked by Christina; correct?
 18 **A.** No.
 19 **Q.** In fact Christina objected, didn't she?
 20 **A.** That I don't know.
 21 **Q.** Did you ever turn off the water to Christina's
 22 property?
 23 **A.** I did not.
 24 **Q.** Were you present when the water was turned off?
 25 **A.** I was not.

39

- 1 **Q.** If you could just let me finish.
 2 **A.** I'm sorry. I thought that was the end of your
 3 question.
 4 **Q.** Were you present when Christina's water was turned
 5 off?
 6 **A.** I was not.
 7 **Q.** Were you aware that Christina's water was turned
 8 off?
 9 **A.** Not until later.
 10 **Q.** When you say later, this was before the incident
 11 on February 3rd; correct?
 12 **A.** Yes.
 13 **Q.** So later after the incident but at least before
 14 February 3rd; correct?
 15 **A.** Yes.
 16 **Q.** Are you aware of who may have changed the locks on
 17 the cabin between September of 2023 and January of
 18 2023?
 19 **A.** At one point it was Randy Nemecek that changed locks
 20 on the cabin.
 21 **Q.** Okay. So I understand you're not -- so I'm very
 22 clear here. You didn't personally change the locks.
 23 Did you request somebody to come out and change the
 24 locks?
 25 **A.** No.

40

- 1 **Q.** Were you told that somebody was coming out to
 2 change the locks on the cabin?
 3 **A.** No.
 4 **Q.** Were you present when the locks were changed on
 5 the cabin?
 6 **A.** No.
 7 **Q.** After the locks were changed on the cabin were you
 8 given a new key?
 9 **A.** I was given keys, yes, to the cabin.
 10 **Q.** When did that happen?
 11 **A.** I can't honestly give you exact dates.
 12 **Q.** Okay.
 13 **A.** It would have been prior to -- beginning of
 14 January, I'm assuming, mid January.
 15 **Q.** So that's mid January of 2024; correct?
 16 **A.** Yes.
 17 **Q.** So in November of 2023, you were aware that you
 18 weren't going to be in the cabin any longer; correct?
 19 **A.** Correct, at that point in time.
 20 **Q.** What happened after that that you believed you
 21 were allowed to be in the cabin?
 22 **A.** That is what my employer told me, that I had a
 23 right during calving, the months of calving to use it
 24 and I was given keys.
 25 **Q.** And you have no knowledge whether anybody else

41

- 1 told your employer that he did not have access to
 2 those cabins; correct?
 3 **A.** No.
 4 **Q.** So you were just doing what you were told?
 5 **A.** Yes.
 6 **Q.** When the locks were changed -- you mentioned
 7 someone's name that came out and changed the locks.
 8 Do you recall what month that was? You said maybe
 9 sometime in January or am I misstating your testimony?
 10 **A.** Honestly, I don't know the month.
 11 **Q.** Could it have been in December? January? Is it
 12 somewhere in that time frame?
 13 **A.** I would assume that or a little bit before.
 14 **Q.** Was it after November of 2023 when Christian said
 15 that he wouldn't be in the cabin any longer? Was it
 16 after that point and before February 3rd of 2024?
 17 **A.** I honestly, I'm not sure.
 18 **Q.** Have you at any point in time had keys made or had
 19 possession of keys to Christina's home?
 20 **A.** No.
 21 **Q.** Are you aware that Christina alleges that somebody
 22 broke in or entered into her residence and took some
 23 jewelry?
 24 **A.** I wasn't aware until the sheriff told me about it
 25 when we were visiting one day.

1 **Q.** Is that one of the times that you say that
 2 Christina called the sheriff on you?
 3 **A.** I don't recall for sure.
 4 **Q.** Were you aware at any point -- or let me say this.
 5 Let me narrow it down for you. Were you aware between
 6 November of 2023 and February of 2024, that Christina
 7 had a lease to the cabin?
 8 **A.** No.
 9 **Q.** I want to just get into this whole access to the
 10 cabin and how that changed. Did you have a
 11 conversation with Christian that he said that you just
 12 have access for calving season? Is that what your
 13 understanding was?
 14 **A.** Yes.
 15 **Q.** So after February 3rd of 2024 when the incident
 16 occurred with Christina, did anybody else ask you to
 17 leave the cabin?
 18 **A.** No.
 19 **Q.** Charles Zuccaro didn't come and ask you to leave
 20 the cabin?
 21 **A.** He did not ask me to leave the cabin.
 22 **Q.** Charles Zuccaro did not come and ask you to leave
 23 the cabin and you refused to leave the cabin?
 24 **A.** He did not ask me to leave the cabin.
 25 **Q.** And how long after February 3rd of 2024 did you

1 stay in the cabin afterwards?
 2 **A.** Probably possibly April 1st. My brother was dying
 3 and I took two weeks off of work to go and stay with
 4 him and I was not in there after that.
 5 **Q.** And what happened then? Were you contacted by
 6 your employer and told not to enter the cabin?
 7 **A.** When I come back, yeah, I was no -- I did not go
 8 back to the cabin.
 9 **Q.** Let's talk about the mailing address of Bad River
 10 Cattle Company. What is the current mailing address
 11 for that?
 12 **A.** I can't give you that off the top of my head.
 13 **Q.** Sure. Well, at one point wasn't the Bad River
 14 Cattle Company using Christina's residential address
 15 as their mailing address?
 16 **A.** At that time they hadn't established an address
 17 for the cabin so they were using that for the whole
 18 proximity.
 19 **Q.** And so mail for Bad River Cattle Company was
 20 coming to Christina's mailbox?
 21 **A.** No. Bad River Cattle Company got a PO box in
 22 Midland.
 23 **Q.** Did you ever open Christina's mailbox?
 24 **A.** The only time I opened the mailbox was when
 25 Charles asked me to get mail there.

1 **Q.** From Christina's, I'm talking about. Not the
 2 cabin. I'm talking about Christina's residence.
 3 **A.** The mailbox that Christina and Charles used was
 4 the same mailbox and I got mail for Charles out of
 5 that mailbox.
 6 **Q.** Was that the address for Christina's residence or
 7 the cabin?
 8 **A.** That was when it was all the same address.
 9 **Q.** And when you say Charles was using it, was he
 10 using it for his personal mail or was he using it for
 11 Zuccaro LLP?
 12 **A.** I believe it was for all of it.
 13 **Q.** And then Bad River Cattle Company was also using
 14 it?
 15 **A.** From what I recall, I got mail from the PO Box in
 16 Midland. Possibly some of it could have come there
 17 but Charles usually always picked up the mail out of
 18 the box unless I was asked to get it.
 19 **Q.** Did you ever take a package off of the front porch
 20 of Christina's property?
 21 **A.** No.
 22 **Q.** And you understand that or you're aware that at
 23 some point a package was delivered to Christina's
 24 property which she reported as never arriving but it
 25 actually had been delivered. Are you aware of that

1 incident?
 2 **A.** I was told but I did not take the package.
 3 **Q.** I presume that you're also not aware of any
 4 communications that happened between the lawyers at
 5 any point regarding Zuccaro Ranch and Bad River Cattle
 6 Company.
 7 **A.** No.
 8 **Q.** I want to talk to you a little bit about
 9 vulgarity. The day of February 3, 2024, did you call
 10 Christina a bitch?
 11 **A.** I possibly could have.
 12 **Q.** Did you say something to the effect of she's a
 13 crazy bitch?
 14 **A.** Probably.
 15 **Q.** So it wasn't -- and that would have been before
 16 the incident at the door; correct?
 17 **A.** The date, I'd have to look at the dates.
 18 **Q.** Do you recall standing by your pickup at some
 19 point with Christina filming you?
 20 **A.** Multiple times she was filming me so....
 21 **Q.** On February 3, 2024.
 22 **A.** Like I said, multiple times she was filming me so
 23 I can't give you exact dates on that.
 24 **Q.** But at some point you called her a crazy bitch?
 25 **A.** In response to actions from her.

46

- 1 **Q.** And those actions would have been her filming you?
 2 **A.** Or saying things to me.
 3 **Q.** So let's talk about filming. There is, I believe,
 4 one time when you stated that you filed a police
 5 report. I believe it's on Exhibit B. And you were
 6 filming and narrating, it says in the police report,
 7 as you were walking up to Christina's front door.
 8 **A.** Yes.
 9 **Q.** Did you ever film Christina?
 10 **A.** Only when she was driving past with her camera up
 11 or at the gate when she left the gate open or filming
 12 me.
 13 **Q.** But you filmed some people in the field on
 14 four-wheelers?
 15 **A.** That I did, yes.
 16 **Q.** Any other instances of you filming Christina?
 17 **A.** Not that I recall.
 18 **Q.** You don't know that that was Christina -- let me
 19 rephrase.
 20 Would you have any reason to disagree if I said
 21 that the individual on the four-wheeler was Paula
 22 Zuccaro and not Christina Zuccaro?
 23 **A.** Paula was on the four-wheeler, yes.
 24 **Q.** And is it still your testimony that Christina was
 25 on the four-wheeler?

47

- 1 **A.** Christina was on a four-wheeler in the yard.
 2 **Q.** But not out in the field or the pasture by the
 3 cattle?
 4 **A.** She wasn't in the middle of the cattle, no.
 5 **Q.** So that wasn't Christina at all, that was Paula.
 6 And who is Paula?
 7 **A.** Paula is Christina's sister.
 8 **Q.** And is she related to Christian?
 9 **A.** She is Christian's mother.
 10 **Q.** I kind of want to break down a little bit the day
 11 of February 3, 2024, when these things happened so
 12 let's talk about that.
 13 Initially Christina came to the property. Were
 14 you there when she came initially to the property?
 15 **A.** She was sitting there, as I stated earlier, when
 16 my daughter and I -- she was at the front. We left
 17 and went to the barn. When we came back she had gone
 18 back to her main house.
 19 **Q.** Okay. But I want to break it down into smaller
 20 chunks if you'll just indulge me. So she was there.
 21 Were you inside the house or were you outside of the
 22 house?
 23 **A.** I was outside the gate in my pickup.
 24 **Q.** Okay. So you were in your pickup and she had
 25 approached the cabin; correct?

48

- 1 **A.** Yes.
 2 **Q.** And then she went to the cabin? Did you see her
 3 go to the cabin the first time?
 4 **A.** She was sitting at the front door of the cabin.
 5 **Q.** Okay. Was she in her vehicle or at the front
 6 door?
 7 **A.** She was at she front door of the cabin.
 8 **Q.** Okay. And she was sitting there. Was she doing
 9 anything at that point in time?
 10 **A.** She was standing against the door.
 11 **Q.** And then you left?
 12 **A.** Yes. We went to the barn to check cows.
 13 **Q.** So you went to the barn to check cows and then you
 14 came back out. Was Christina still there?
 15 **A.** No, she had went back to her house.
 16 **Q.** So you didn't see Christina do anything during
 17 that time other than sit at the front door?
 18 **A.** The door was intact when we had left to check
 19 cows. When we came back, Christina was at the door.
 20 **Q.** That wasn't my question.
 21 **A.** I'm --
 22 **Q.** Did you see anything?
 23 **A.** I did not see her break that doorknob off, no.
 24 **Q.** So you came back to the house and then you saw
 25 that the doorknob was broken; correct?

49

- 1 **A.** Yes.
 2 **Q.** And then did you enter the house?
 3 **A.** Yes.
 4 **Q.** And Christina was gone?
 5 **A.** Yes.
 6 **Q.** And had Christina said anything to you during that
 7 time when she was sitting at the front door and you
 8 were by the barn?
 9 **A.** No.
 10 **Q.** Okay. So you're inside and approximately how long
 11 would you have been inside the house?
 12 **A.** When I came back in after she had left?
 13 **Q.** Yes. After she had left, you entered, you saw the
 14 doorknob was broken and you entered the house, the
 15 cabin.
 16 **A.** And I came in with my daughter and my niece and we
 17 were probably in there for 20, 30 minutes before we
 18 had to -- I told them to leave and I needed to go back
 19 to the barn and check a heifer.
 20 **Q.** Okay. So your daughter -- before you saw
 21 anything, before you saw Christina, other than that
 22 the doorknob was broken, you asked your daughter to
 23 leave?
 24 **A.** Not until after the doorknob was broken, then I
 25 asked my daughter to leave.

50

1 **Q.** Okay. So then your daughter leaves when you told
 2 her to at that point in time; correct?
 3 **A.** Yes, my daughter and my niece.
 4 **Q.** Your daughter and your niece. And then you're
 5 back in the barn checking on a heifer?
 6 **A.** I was in the cabin for a little while longer, then
 7 I went to the cabin -- or to the barn to check a
 8 heifer and then I came back to the cabin.
 9 **Q.** Okay. So when Christina came back where were you?
 10 **A.** I was coming back to the cabin.
 11 **Q.** So you weren't quite in the cabin yet when
 12 Christina got back?
 13 **A.** I was at the door of the cabin.
 14 **Q.** How far away from the door?
 15 **A.** Right at the door.
 16 **Q.** And Christina pulled in?
 17 **A.** Yes.
 18 **Q.** Was anything said at that point?
 19 **A.** No. I went in and I locked the inside door that
 20 wasn't broken yet.
 21 **Q.** And why did you go into the house? I believe you
 22 said earlier you went into the house to get warm?
 23 **A.** Yes.
 24 **Q.** Now, in your police report it states that you went
 25 into the cabin for safety. Which is it? You went

51

1 into the cabin to get warm or you went into the cabin
 2 for safety?
 3 **A.** I would say both. At that time it was freezing
 4 cold outside, snow on the ground and she had already
 5 broken a handle off of one door.
 6 **Q.** And the locks had been changed; correct?
 7 **A.** Previous to that at some point.
 8 **Q.** Sure. So you walked into the place, into the
 9 cabin and either to get warm or for your safety and
 10 you walked in there and then did Christina follow you
 11 up --
 12 **A.** Yes.
 13 **Q.** -- the walk?
 14 **A.** Yes.
 15 **Q.** And when she followed you up to the walk did she
 16 knock, go through? What happened?
 17 **A.** She was yelling that I was on her property, to get
 18 out and she walked back to the pickup and got a maul
 19 and came back and started beating in the door.
 20 **Q.** Okay. That was a lot so let's break it down into
 21 kind of some time chunks here. She came in -- she
 22 came up to the door and said you're on her property.
 23 What did you say to that?
 24 **A.** I don't even know if I replied. I honestly
 25 couldn't tell you.

52

1 **Q.** Did it concern you that she was saying you're on
 2 her property?
 3 **A.** Yes.
 4 **Q.** And when I say concern, I mean did you get the
 5 feeling at this point you were trespassing?
 6 **A.** No.
 7 **Q.** And as we sit here today, you still believe you
 8 had a right to be in that cabin that day; correct?
 9 **A.** Yes.
 10 **Q.** And that's because your boss told you you had the
 11 right to be in that cabin that day; right?
 12 **A.** Yes.
 13 **Q.** So Christina comes up and immediately starts to
 14 knock on the handle or --
 15 **A.** She didn't knock.
 16 **Q.** Beat on the handle?
 17 **A.** I said she came to the door, yelled at me to get
 18 out, I was on her property trespassing. She yelled
 19 she'd called 911 and I was trespassing and she went
 20 back to her pickup, got the maul, came back and
 21 started beating the door.
 22 **Q.** Okay. Now I'm back on track. Thank you. So how
 23 long does that yelling or interaction between you and
 24 her last about you're on my property? Was it 30
 25 seconds?

53

1 **A.** I would say probably a half hour.
 2 **Q.** Of her just yelling at you to get off her
 3 property?
 4 **A.** The whole --
 5 **Q.** Before she went back to get her maul.
 6 **A.** Probably a minute, two.
 7 **Q.** Okay. So for a minute or so she stood there and
 8 tells you you're trespassing, you're on her property.
 9 Did she mention her lease?
 10 **A.** She could have.
 11 **Q.** And you disregarded that; correct?
 12 **A.** Yes. I was given permission to be in there.
 13 **Q.** But as you stated, you're not tracking all the
 14 legal intricacies of this case; correct?
 15 **MS. WENDT:** Objection, Your Honor. I think
 16 that's a misstatement. It is not this case. It's a
 17 separate and independent matter that she's not a party
 18 to.
 19 **MR. STILES:** My mistake.
 20 **THE COURT:** Go ahead and ask your question.
 21 **Q.** (By Mr. Stiles) So you're not tracking all the
 22 legal intricacies of the other cases involving Zuccaro
 23 and Bad River Cattle Company; correct?
 24 **A.** No.
 25 **Q.** So you would have no idea at that point in time

54

- 1 whether she was telling the truth or not?
- 2 **A.** No.
- 3 **Q.** And yet you decided to stay?
- 4 **A.** She had already taken a beat on the door. I was
- 5 not going to walk out.
- 6 **Q.** So she comes back and she starts hitting the door.
- 7 How many times did she hit the door?
- 8 **A.** Probably ten or more.
- 9 **Q.** Okay. And you just stated that this whole
- 10 interaction lasted for like 30 minutes so when she
- 11 comes back -- I just want to get a feel for this --
- 12 she comes back. Does she immediately hit the door
- 13 with the tool she had?
- 14 **A.** Yes.
- 15 **Q.** And does she immediately hit it ten times?
- 16 **A.** Yes.
- 17 **Q.** And then what?
- 18 **A.** As I stated earlier, she sat on the bench and just
- 19 making comments until Kara and Carl got there.
- 20 **Q.** So the entire maul tool incident lasted for ten
- 21 swats on the door handle and then she sat down in the
- 22 mudroom, I think you described it as?
- 23 **A.** Yes.
- 24 **Q.** And you continued to talk back and forth. What
- 25 did you do after she sat down on the bench? Where did

55

- 1 you go?
- 2 **A.** I was still standing against the door so she
- 3 couldn't get up and get in with me.
- 4 **Q.** So let's talk about that standing up against the
- 5 door. Can you describe that for me, how you were
- 6 standing up against the door?
- 7 **A.** I was standing with my back and shoulder and foot
- 8 against it.
- 9 **Q.** So there's pictures that show you facing the door,
- 10 aren't there?
- 11 **A.** I don't know what pictures she took.
- 12 **Q.** Well, at some point were you facing the door?
- 13 **A.** I had my hand on the inside and my back and
- 14 shoulder against it. I could have turned towards it.
- 15 **Q.** So I've just handed you a series of photos and I
- 16 know you -- obviously, you're in the photos. You
- 17 didn't take the photo; correct?
- 18 **A.** Correct.
- 19 **Q.** Are these the clothes that you were wearing on the
- 20 day of February 3, 2024?
- 21 **A.** Yes.
- 22 **Q.** And from everything you see here of these various
- 23 photographs, is this what was going on? Do you
- 24 believe these photos were taken on February 3, 2024?
- 25 **A.** Yes.

56

- 1 **Q.** And I think you mentioned Christina had a phone
- 2 with her on February 3, 2024; correct?
- 3 **A.** Yes.
- 4 **Q.** And I believe -- would you disagree that she was
- 5 taking photos of you at that point in time?
- 6 **A.** I'm sure she was.
- 7 **Q.** Okay. So clearly in these photos you're not
- 8 leaned up against the door -- is that the door we're
- 9 talking about? Let's just do the background, the
- 10 whole nine yards. Is this the door?
- 11 **A.** Yes. It has a glass pane in it.
- 12 **Q.** Okay. So the door is a glass door?
- 13 **A.** The top has a glass pane in it.
- 14 **Q.** And the bottom is --
- 15 **A.** Solid.
- 16 **Q.** Solid, okay. And obviously, you can't see the
- 17 door handle here but somewhere in this picture the
- 18 door handle would be there that she was using the maul
- 19 on?
- 20 **A.** Yes.
- 21 **Q.** She never used the maul on the glass; correct?
- 22 **A.** No.
- 23 **Q.** Just on the --
- 24 **A.** On the handle and the door.
- 25 **Q.** Okay. And so it's your testimony today that you

57

- 1 were scared that Christina was going to use that maul
- 2 on you; correct?
- 3 **A.** Yes.
- 4 **Q.** But yet you just described having your back up
- 5 against this door holding the door closed and this
- 6 door is a glass door. Is that your testimony?
- 7 **A.** Yes.
- 8 **Q.** Were you scared that she was going to use that axe
- 9 against your back on that glass door? She could see
- 10 you right there.
- 11 **A.** I did not want her to get in whether the glass was
- 12 broke or not.
- 13 **Q.** I understand but I mean, if one whack and then you
- 14 said you were scared she was going to use the axe
- 15 against you but you've got your back against the glass
- 16 door that you're clearly visible in and if you're
- 17 scared of being hit with that axe, if you're truly
- 18 scared of being hit with that maul, tool, whatever it
- 19 is, why would you have your back against that door?
- 20 **A.** If she had broken the glass, I did not want her to
- 21 get in there with me. Obviously, if the glass had
- 22 been broken, I would have had to step away.
- 23 **Q.** But you had your back against it so you didn't
- 24 know -- you testified you had your back against the
- 25 door so you didn't know what she was doing with that.

58

60

1 **A.** When you stand like this you can see over your
2 shoulder; correct?
3 **Q.** Okay. So you were looking over your shoulder with
4 your back against the door?

5 **A.** Yes.

6 **Q.** Okay. And this is during that time that this was
7 going on; correct?

8 **A.** This would be after she quit swinging the maul.

9 **Q.** But so this picture is after she quit swinging but
10 when she was swinging the maul, you had your back to
11 the glass?

12 **A.** Yes.

13 **Q.** And simultaneously you were scared that she was
14 going to use the axe on your back or on you?

15 **A.** On me if she got access into the home with me,
16 yes.

17 **MR. STILES:** Your Honor, at this time I would
18 offer what's previously been marked as Exhibit 13.

19 **MS. WENDT:** Your Honor, I would object to
20 foundation. I think these come in through his client
21 and not through my client. Although she can identify
22 the area, it doesn't have any information regarding
23 the date and time, whether these are the exact photos,
24 whether they've been changed so I would argue that the
25 foundation is more properly laid through his own

59

1 client than through mine.

2 **THE COURT:** Well, the testimony I heard, I
3 think there's sufficient foundation identifying her,
4 the door in question, that it was being taken by
5 Christina. I'm going to allow it in. I think she
6 gave enough testimony identifying.

7 And I'm just for the record going to note that
8 there are a series of five exhibits. Can you mark
9 them one of five, two of five and so on? And they're
10 somewhat cumulative but it's mainly the one I'm
11 looking at is on the first page so with that, your
12 objection is overruled. Any other objections? If
13 not, they will be received.

14 **MS. WENDT:** No, thank you, Your Honor.

15 **THE COURT:** So 13 will be received as stated.

16 **Q.** (By Mr. Stiles) So Ms. Sammons, I see you're
17 holding a phone there. Were you taking photographs or
18 were you at that point in time speaking with anybody
19 on the phone, if you recall?

20 **A.** At that point I probably was not speaking to
21 anybody when I was taking a video or a picture of her.
22 I had already called the sheriff and I had already
23 called Carl and Kara.

24 **Q.** And you were also aware at that time that, I think
25 you said she had said she'd already called 911 so you

1 were also aware that Christina had already called 911,
2 too; correct?

3 **A.** Yes.

4 **Q.** So if you turn to the third page and it looks like
5 you're pointing at your chest. Any idea what the
6 conversation was going on at that point in time?

7 **A.** Honestly, I couldn't tell you.

8 **Q.** I expected that. Just taking a chance. Jumping
9 around here a little bit because of my notes.

10 The dog. Does Christina have cats?

11 **A.** Yes.

12 **Q.** And when you come into -- when you did previously
13 use that area and I guess sometimes still do to check
14 fence and whatnot, do you typically bring your dog
15 with you?

16 **A.** If she was over there with me, it was she was with
17 me. It was another instance, I believe my dog -- I
18 was working in the shed and she was gone for ten or
19 fifteen minutes and I was calling and looking for her
20 and then she came back.

21 **Q.** And you have no idea if she was over at
22 Christina's place?

23 **A.** I don't.

24 **Q.** But you don't keep a constant eye on your dog.
25 It's a farm dog; right?

61

1 **A.** She is my ranch hand, yes.

2 **Q.** So when you pull in to do your job you're not
3 constantly -- you're not throwing toys and things to
4 the dog. You're working and the dog is working;
5 correct?

6 **A.** The dog is supposed to be laying fairly close to
7 me. If she gets up while I'm working, it's not very
8 long before I notice she's gone.

9 **MR. STILES:** Your Honor, if I could have like
10 two or three minutes here to confer with my --

11 **THE COURT:** Sure. No problem. We'll give Mona
12 a break.

13 **MR. STILES:** Thank you.

14 (A recess was taken.)

15 **THE COURT:** You can continue. Do you have any
16 more questions?

17 **MR. STILES:** Thank you, Your Honor. I have no
18 further questions.

19 **THE COURT:** Okay.

20 REDIRECT EXAMINATION

21 **Q.** (By Ms. Wendt) Katie, let's talk about this dog
22 of yours. Who trained your dog?

23 **A.** I did.

24 **Q.** You talked about the fact that your dog is at your
25 side. I just want to make sure that it's clear. When

62

- 1 you talk about a ranch dog, what's that dog's purpose?
 2 **A.** To be with me. She helps moving cattle,
 3 gathering, herding.
 4 **Q.** So is she like a city dog who, when she's out in
 5 the back yard she can run and do whatever she wants to
 6 do?
 7 **A.** At home she does, yes.
 8 **Q.** What about when she's working with you?
 9 **A.** She's supposed to stay by me.
 10 **Q.** And is that what she does?
 11 **A.** There's very few instances where she will travel
 12 off, maybe after a rabbit or something.
 13 **Q.** Does she ever chase cats?
 14 **A.** I have not seen her chase a cat.
 15 **Q.** Has she ever been mean or harmed anyone?
 16 **A.** No.
 17 **Q.** And you testified earlier that you have children.
 18 Has she ever harmed one of your children?
 19 **A.** Absolutely not.
 20 **Q.** There was some testimony earlier or questions
 21 about this stolen jewelry of Ms. Zuccaro's. Were you
 22 aware of that allegation?
 23 **A.** Not until later in a conversation with Rich Sylva
 24 at one time.
 25 **Q.** What is your understanding of how -- of what she

63

- 1 provided regarding her missing jewelry?
 2 **A.** She laid claim that the keys that Chuck had, I and
 3 Christian had used them to gain access to her house
 4 and take things.
 5 **Q.** What about with respect to narrowing down who may
 6 have taken them? Did she explain what specific pieces
 7 were missing?
 8 **A.** No.
 9 **Q.** Do you recall what she told law enforcement about
 10 what she could identify as missing?
 11 **A.** She didn't, from what I was told.
 12 **Q.** You would agree with me that she actually told law
 13 enforcement she thought it was stolen but she hadn't
 14 really looked yet; right?
 15 **A.** Yes.
 16 **Q.** Was there ever any followup, to your knowledge,
 17 from law enforcement regarding this alleged stolen
 18 jewelry?
 19 **A.** No.
 20 **Q.** To your knowledge, has Ms. Zuccaro ever reported
 21 that you were trespassing on the property?
 22 **A.** I don't believe so.
 23 **Q.** Have you ever been arrested for trespassing?
 24 **A.** No.
 25 **Q.** You were asked on cross-examination about a time

64

- 1 when you approached Christina's door and you were
 2 filming. Why would you do that?
 3 **A.** Because I wanted to protect myself to prove that I
 4 was not going after her. I was not trying to break in
 5 her home. I was just politely asking for her to open
 6 the locks that she had put on the shed where my
 7 tractor is and off of the fuel tanks.
 8 **Q.** And how did she respond?
 9 **A.** She told me that I was trespassing and there was a
 10 restraining order, to get off of her property and I
 11 continued to video. I walked back to the pickup and
 12 drove out.
 13 **Q.** You talked about this time where in February,
 14 where the outside door handle was broken off. When
 15 you left the cabin, who else was present other than
 16 Christina?
 17 **A.** Other than my niece and my daughter, just us.
 18 **Q.** And approximately how long were you gone before
 19 you returned?
 20 **A.** We went across the road to check cows. Maybe 20,
 21 30 minutes.
 22 **Q.** And during that time did you have -- or see
 23 anything that led you to believe anyone else had come
 24 and went?
 25 **A.** No.

65

- 1 **Q.** And when you returned with Christina being the
 2 only person who had access to that doorknob, it was
 3 broken; correct?
 4 **A.** Yes.
 5 **Q.** Ms. Sammons, if you would look back at Exhibit 13,
 6 help me understand why you're standing inside and all
 7 bundled up.
 8 **A.** Because I had been in the barn. It was extremely
 9 cold. These are probably the same clothes that I'd
 10 been wearing for three days. When you're calving
 11 heifers you tend to wear the same things because you
 12 get awful dirty and it was cold and I was tired.
 13 **Q.** You talked about this heifer in the barn. What
 14 was she in the barn for?
 15 **A.** She was in labor, calving.
 16 **Q.** And why did you have to check on her so
 17 frequently?
 18 **A.** Because heifers tend to not have a calf on their
 19 own and they need assistance.
 20 **Q.** What do you use for assistance?
 21 **A.** Chains and a puller.
 22 **Q.** Where are those located?
 23 **A.** In the cabin.
 24 **Q.** You testified when this allegation that you piled
 25 up branches and tires in front of her garage occurred,

66

1 you were actually out of state; fair?
 2 **A.** Yes.
 3 **Q.** Do you recall, when the water was turned off were
 4 you present at the ranch at that time?
 5 **A.** I believe that was around the same time when I was
 6 in Minnesota, out of state.
 7 **Q.** And do you recall the time frame of this stolen
 8 package?
 9 **A.** I don't.
 10 **Q.** Do you recall hearing about the stolen package?
 11 **A.** I was not approached about it.
 12 **Q.** So going back to Exhibit 13, you talked about this
 13 door being solid. Is it steel or wood?
 14 **A.** It's steel.
 15 **Q.** And you would agree with me in looking at 13 that
 16 there's also plastic throughout the glass window;
 17 correct?
 18 **A.** Yes.
 19 **Q.** So we're not talking about a door that from ground
 20 to top is glass and could break in its entirety;
 21 correct?
 22 **A.** Correct.
 23 **Q.** So even if that glass was shattered, what more
 24 would have to happen in order to get to you through
 25 the glass?

67

1 **A.** The door, she'd either have to climb through the
 2 broken glass or push the rest of the door in.
 3 **MS. WENDT:** I have nothing further.
 4 **THE COURT:** All right. Recross on that?
 5 **MR. STILES:** Just a couple of items, Your
 6 Honor.
 7 **THE COURT:** Okay.
 8 **MR. STILES:** Your Honor, I have a couple of
 9 photographs here that I don't have copies of.
 10 **THE COURT:** Okay. Have you got to see them,
 11 Ms. Wendt?
 12 **MS. WENDT:** I have.
 13 **THE COURT:** Do you have objection to them?
 14 **MS. WENDT:** I do, Your Honor. There's dates
 15 written on them.
 16 **THE COURT:** Can I see what it is?
 17 **MS. WENDT:** I don't know who took them and he's
 18 already identified one of them does not have anything
 19 to do with my client.
 20 **THE COURT:** Is your client going to be
 21 testifying?
 22 **MR. STILES:** Your Honor, I haven't decided that
 23 yet at this point in time but --
 24 **MS. WENDT:** I think it --
 25 **THE COURT:** What we can do, and I understand

68

1 and it's probably because of what's a separate case
 2 that you both have made aware that's pending and she
 3 probably has to take the Fifth. So you can see if she
 4 can lay any foundation with these and if you can't,
 5 then I'll make a ruling. But I think you can ask her,
 6 ask what it is, if it's a fair and accurate depiction
 7 of what it portrays and if she knows what any of this
 8 is. And if she can't, then somebody's got to --
 9 somebody's got to lay the foundation. But she may
 10 know this area. She may know what's depicted in here.
 11 She may be able to say it's -- she might be able to
 12 lay enough.
 13 **Okay.** I get the writing part. The date's kind
 14 of concerning to me, that that's on there without
 15 somebody testifying that that's when these were taken.
 16 I would maybe --
 17 **MR. STILES:** So Your Honor --
 18 **THE COURT:** -- allow it without the writing but
 19 to me, I mean, I'm not dumb. This looks like
 20 summertime and I think that gets you in the ballpark
 21 as to when, where. I don't know. But she may have
 22 enough -- she's the one that's worked there forever
 23 and might know if this is how it may look in the
 24 summertime at this location in question.
 25 **MS. WENDT:** Well, and I would like to make a

69

1 record, Your Honor, because I asked counsel as we
 2 began this second round after lunch and he advised me
 3 he was moving forward on his protection order. So
 4 then to move forward on a protection order and cause
 5 us to go into additional detail to defend that order
 6 and then tell me that the Petitioner isn't even going
 7 to take the stand --
 8 **MR. STILES:** I said I don't know if the
 9 Petitioner is going to take the stand yet.
 10 **THE COURT:** And I am going to also say these
 11 are dueling protection orders. We've also agreed that
 12 I'm going to give you both a little bit of leeway.
 13 But let's go back to the foundation question.
 14 Your objections you raised about who took it,
 15 time, place, that type of thing, if she can testify in
 16 general, it might actually lay forward the scene of
 17 these incidents so I can have a better picture of it
 18 and it frankly might be helpful to your client as well
 19 as far as who they've testified. Okay.
 20 So if I'm going allow it in, I'm not allowing
 21 the dates that this was taken. It can come in
 22 possibly if she can testify what does this appear to
 23 be? Is it a true and accurate depiction as to when
 24 this would be how this area appears. She may not know
 25 none of it.

1 MR. STILES: If I may, Your Honor --
 2 THE COURT: Go ahead.
 3 MR. STILES: I'm not even intending on
 4 introducing the pictures. I want to help refresh her
 5 memory on certain things.
 6 MS. WENDT: Then it needs to happen properly.
 7 THE COURT: Well, why don't you talk to her
 8 about are you -- I'm assuming this is the ranch area,
 9 to describe it. Have you seen it in the summer? Yes.
 10 See if her memory is going to describe this and if
 11 it's not, then you ask her if a picture of the area
 12 would help her refresh her memory.
 13 MR. STILES: Sure.
 14 THE COURT: So if that's what you're asking
 15 for, Cassie, I'll let you go but let's see what he's
 16 going to do. You can somehow mark them to keep track
 17 of your record as a -- mark these 100 because they're
 18 demonstrative almost.
 19 MR. STILES: Yes, Your Honor.
 20 THE COURT: So let's, you mark them so we know
 21 what we have and I'll let you know whether I'm
 22 accepting or for what purpose or rejecting them and
 23 then you will have those in the record in case either
 24 one of you appeal and you can make your arguments to
 25 the Supreme Court.

1 testified that -- let me go way back. Earlier today
 2 you testified about shooting a stray dog. Do you
 3 recall that testimony?
 4 A. Yes.
 5 Q. Do you know for certain that that stray dog that
 6 was being referred to was your dog?
 7 A. When I visited with the sheriff, he referred to it
 8 as my dog so that's why I am assuming it was my dog.
 9 Q. And could you tell me if your dog is -- is your
 10 dog gray, all gray or is it black and white?
 11 A. My dog is black and white.
 12 Q. So is it possible that there were other dogs at
 13 Ms. Zuccaro's property that weren't your dog that she
 14 was talking about shooting?
 15 A. It could have been.
 16 Q. And you're not denying that it is possible that
 17 your dog got into Ms. Zuccaro's yard, are you?
 18 A. No.
 19 Q. Thank you. You stated that you would -- I want to
 20 be clear. The day that you walked up to Christina's
 21 front door, what was the approximate date of that?
 22 A. I honestly couldn't tell you. I believe it was in
 23 November.
 24 Q. Of 2023?
 25 A. It would have been -- if it was November, yes, it

1 Let's just see where it goes. I'm going to
 2 allow him to go into the area of demonstrative
 3 evidence which, frankly, it might actually give the
 4 Court a visual. We don't have time for me to go take
 5 a view of the area. I'm hearing the testimony. If it
 6 helps me understand the evidence not necessarily for
 7 the truth of the matter asserted on any particular day
 8 but for that demonstrative purpose, I might allow it.
 9 So go ahead with your questioning. It's really
 10 not -- I guess your other point, Ms. Wendt, is it's
 11 not rebutting anything else in the evidence but rather
 12 than him recall her and start over, I just want to
 13 keep it moving along. So your objection is noted.
 14 MS. WENDT: Thank you.
 15 THE COURT: I may grant it at some point but
 16 I'm going to let him -- give him a little leeway to
 17 lay some foundation here and what your purpose is and
 18 then you can offer it and I'll give you a ruling.
 19 Okay?
 20 MR. STILES: Thank you, Your Honor.
 21 RE-CROSS-EXAMINATION
 22 Q. (By Mr. Stiles) Ms. Sammons, are you aware --
 23 would you describe your dog for me?
 24 A. She's black and white.
 25 Q. Would you be able to identify your dog? You

1 would have been in '23.
 2 Q. Because, and I just want to make that clear
 3 because there was some talk about restraining orders
 4 and things. At that point in time in November of
 5 2023, were you aware of any restraining orders that
 6 were in place?
 7 A. No, that is just what she was yelling at me. None
 8 against me, I should say.
 9 Q. And you stated that you were filming because you
 10 wanted to document what was going on?
 11 A. Yes.
 12 MS. WENDT: Objection, Your Honor. Beyond the
 13 scope of cross -- or redirect, excuse me.
 14 THE COURT: I think there was testimony. I'm
 15 going to allow it. Go ahead.
 16 Q. (By Mr. Stiles) I believe you stated during your
 17 redirect that there was -- the reason that you were
 18 filming as you were walking off was because to
 19 document what was going on so you wouldn't get in
 20 trouble; is that correct?
 21 A. To protect myself, yes.
 22 MR. STILES: No further questions, Your Honor.
 23 THE COURT: Anything more for the witness?
 24 We're kind of letting loose here but I want to make
 25 sure you all got your questioning of the witness.

	9	62:22, 65:24 alleged [3] - 30:24, 31:12, 63:17 alleges [1] - 41:21 allow [7] - 30:21, 59:5, 68:18, 69:20, 71:2, 71:8, 73:15 allowed [6] - 14:25, 15:9, 32:1, 32:2, 32:5, 40:21 allowing [1] - 69:20 almost [2] - 17:5, 70:18 alternative [1] - 34:22 animal [3] - 10:14, 11:8, 20:6 animals [1] - 10:8 animosity [1] - 4:13 answer [1] - 31:1 answered [1] - 30:5 anyway [1] - 38:14 appeal [1] - 70:24 appear [1] - 69:22 applies [1] - 20:1 approach [1] - 12:24 approached [5] - 24:11, 24:12, 47:25, 64:1, 66:11 approaching [1] - 8:6 approximate [1] - 72:21 April [1] - 43:2 area [18] - 20:6, 33:18, 34:3, 34:13, 34:14, 35:1, 35:6; 35:20, 36:1, 36:3, 58:22, 60:13, 68:10, 69:24, 70:8, 70:11, 71:2, 71:5 argue [1] - 58:24 arguments [1] - 70:24 arrested [1] - 63:23 arriving [1] - 44:24 aspect [1] - 29:18 assert [1] - 12:20 asserted [1] - 71:7 assistance [2] - 65:19, 65:20 assisting [1] - 23:9 assume [3] - 18:3, 18:20, 41:13 assuming [3] - 40:14, 70:8, 72:8 aware [46] - 11:9, 12:1, 16:23, 26:20, 26:23, 27:16, 27:19, 27:24, 27:25, 28:8,	28:12, 28:13, 28:16, 28:20, 29:15, 29:16, 30:8, 30:12, 30:13, 31:15, 31:18, 31:21, 31:22, 32:8, 35:5, 35:7, 35:8, 35:11, 37:13, 37:19, 39:7, 39:16, 40:17, 41:21, 41:24, 42:4, 42:5, 44:22, 44:25, 45:3, 59:24, 60:1, 62:22, 68:2, 71:22, 73:5 awareness [2] - 28:10, 31:16 awful [1] - 65:12 axe [11] - 10:5, 11:20, 12:2, 13:12, 15:22, 21:25, 24:19, 57:8, 57:14, 57:17, 58:14	40:13 behalf [1] - 23:6 behavior [7] - 6:14, 7:5, 20:1, 21:20, 21:23, 21:24, 22:11 behaviors [4] - 4:21, 4:25, 5:6, 24:9 behind [7] - 17:5, 17:8, 17:12, 17:22, 17:24, 17:25, 18:5 belongings [3] - 5:22, 5:24, 6:13 below [1] - 15:6 bench [3] - 14:14, 54:18, 54:25 better [1] - 69:17 between [15] - 4:13, 4:17, 14:15, 27:17, 28:13, 29:6, 29:16, 32:14, 37:1, 37:3, 37:4, 39:17, 42:5, 45:4, 52:23 beyond [3] - 30:4, 30:16, 73:12 bins [1] - 37:5 bit [8] - 29:13, 30:20, 33:9, 41:13, 45:8, 47:10, 60:9, 69:12 bitch [3] - 45:10, 45:13, 45:24 black [3] - 71:24, 72:10, 72:11 boss [2] - 21:22, 52:10 bottom [1] - 56:14 box [2] - 43:21, 44:18 Box [1] - 44:15 boy [1] - 14:21 branches [1] - 65:25 brand [4] - 37:25, 38:5, 38:8, 38:10 branded [1] - 38:1 branding [1] - 19:11 break [8] - 25:11, 47:10, 47:19, 48:23, 51:20, 61:12, 64:4, 66:20 breaks [1] - 16:16 brief [2] - 9:12, 22:19 bright [1] - 20:24 bring [1] - 60:14 broader [1] - 25:25 broke [3] - 14:2, 41:22, 57:12 broken [11] - 48:25, 49:14, 49:22, 49:24, 50:20, 51:5, 57:20, 57:22, 64:14, 65:3, 67:2
'22 [1] - 33:7 '23 [3] - 8:23, 9:5, 73:1 '24 [1] - 11:17	A			
1	a.m [1] - 3:2 ability [1] - 16:18 able [5] - 7:4, 9:19, 68:11, 71:25 absolutely [5] - 12:13, 19:24, 24:1, 35:3, 62:19 accepting [1] - 70:22 access [13] - 15:2, 16:23, 17:18, 18:21, 32:15, 34:15, 34:22, 41:1, 42:9, 42:12, 58:15, 63:3, 65:2 according [1] - 30:13 accurate [2] - 68:6, 69:23 accurately [2] - 9:4, 11:25 actions [2] - 45:25, 46:1 additional [1] - 69:5 address [7] - 43:9, 43:10, 43:14, 43:15, 43:16, 44:6, 44:8 adequate [1] - 28:23 adult [1] - 23:21 advised [1] - 69:2 affect [1] - 16:17 afraid [4] - 15:25, 16:6, 16:7, 16:8 afterwards [1] - 43:1 aggressive [1] - 14:3 agitated [3] - 4:23, 5:9, 6:25 agitation [2] - 5:8, 7:18 ago [3] - 6:9, 7:13, 17:9 agree [2] - 63:12, 66:15 agreed [4] - 30:19, 31:23, 32:10, 69:11 ahead [9] - 25:7, 29:17, 30:5, 30:6, 31:1, 53:20, 70:2, 71:9, 73:15 Alavi [8] - 4:3, 10:6, 21:23, 27:3, 27:5, 28:14, 30:11, 37:24 alive [2] - 5:2, 19:14 allegation [3] - 11:4,			
2				
20 [3] - 23:20, 49:17, 64:20 2023 [12] - 8:17, 11:16, 16:11, 30:9, 31:18, 39:17, 39:18, 40:17, 41:14, 42:6, 72:24, 73:5 2024 [16] - 3:2, 11:16, 12:19, 16:12, 21:13, 40:15, 41:16, 42:6, 42:15, 42:25, 45:9, 45:21, 47:11, 55:20, 55:24, 56:2 24-7 [1] - 15:7 24th [2] - 8:23, 9:5				
3				
3 [6] - 45:9, 45:21, 47:11, 55:20, 55:24, 56:2 30 [4] - 49:17, 52:24, 54:10, 64:21 3rd [6] - 12:19, 39:11, 39:14, 41:16, 42:15, 42:25				
8				
8 [1] - 3:2				
		B		
		background [4] - 26:1, 29:24, 31:17, 56:9 Bad [18] - 3:15, 3:16, 26:1, 26:4, 26:7, 26:23, 26:24, 27:2, 27:17, 28:3, 28:16, 37:14, 43:9, 43:13, 43:19, 44:13, 45:5, 53:23 bad [1] - 43:21 ballpark [1] - 68:20 barn [12] - 12:23, 13:8, 47:17, 48:12, 48:13, 49:8, 49:19, 50:5, 50:7, 65:8, 65:13, 65:14 based [2] - 5:14, 14:24 basement [1] - 5:25 basis [1] - 28:2 bathrooms [1] - 37:9 beat [4] - 14:13, 14:14, 52:16, 54:4 beaten [1] - 13:3 beating [4] - 13:11, 15:22, 51:19, 52:21 becoming [1] - 6:18 bedroom [1] - 37:8 bedrooms [1] - 37:9 beer [1] - 14:21 began [2] - 3:23, 69:2 begin [2] - 25:18, 25:19 beginning [1] -		

<p>brother [1] - 43:2 brought [1] - 13:22 bundled [1] - 65:7 burn [2] - 30:14, 31:12</p>	<p>Cattle [19] - 3:15, 3:16, 26:2, 26:5, 26:7, 26:23, 26:24, 27:2, 27:18, 28:4, 28:17, 37:15, 43:10, 43:14, 43:19, 43:21, 44:13, 45:5, 53:23</p>	<p>Christian's [1] - 47:9 Christina [53] - 4:8, 4:14, 4:17, 4:21, 5:11, 7:15, 10:2, 10:18, 10:24, 16:13, 22:11, 24:25, 25:24, 33:8, 33:12, 35:2, 37:13, 38:3, 38:17, 38:19, 41:21, 42:2, 42:6, 42:16, 44:3, 45:10, 45:19, 46:9, 46:16, 46:18, 46:22, 46:24, 47:1, 47:5, 47:13, 48:14, 48:16, 48:19, 49:4, 49:6, 49:21, 50:9, 50:12, 50:16, 51:10, 52:13, 56:1, 57:1, 59:5, 60:1, 60:10, 64:16, 65:1</p>	<p>65:12 coming [6] - 21:9, 30:1, 37:19, 40:1, 43:20, 50:10 comments [4] - 14:9, 14:17, 14:18, 54:19 communications [1] - 45:4 companies [1] - 29:8 Company [19] - 3:15, 3:17, 26:2, 26:5, 26:7, 26:23, 26:24, 27:2, 27:18, 28:4, 28:17, 37:15, 43:10, 43:14, 43:19, 43:21, 44:13, 45:6, 53:23 company [3] - 4:2, 19:6, 27:2 concern [10] - 4:21, 5:7, 5:14, 5:18, 7:7, 21:20, 21:22, 52:1, 52:4 concerned [1] - 7:15 concerning [1] - 68:14 concerns [1] - 19:25 concludes [1] - 74:2 conclusion [1] - 28:9 confer [1] - 61:10 constant [4] - 7:17, 21:20, 22:1, 60:24 constantly [2] - 20:7, 61:3 contacted [2] - 24:24, 43:5 contained [1] - 15:12 context [1] - 8:16 continue [1] - 61:15 continued [3] - 14:13, 54:24, 64:11 contractor [2] - 27:8, 27:13 conversation [4] - 6:6, 42:11, 60:6, 62:23 copies [1] - 67:9 cops [1] - 22:12 corral [1] - 19:19 corrals [4] - 35:19, 36:13, 36:15, 37:1 correct [52] - 4:1, 9:15, 21:17, 22:5, 23:10, 26:2, 26:9, 26:14, 26:18, 26:21, 27:5, 27:14, 28:5, 29:10, 32:10, 33:13, 33:16, 33:21, 33:24, 36:18, 37:11, 37:15, 38:17, 39:11, 39:14, 40:15, 40:18, 40:19,</p>	<p>41:2, 45:16, 47:25, 48:25, 50:2, 51:6, 52:8, 53:11, 53:14, 53:23, 55:17, 55:18, 56:2, 56:21, 57:2, 58:2, 58:7, 60:2, 61:5, 65:3, 66:17, 66:21, 66:22, 73:20 counsel [2] - 25:19, 69:1 couple [4] - 19:15, 24:6, 67:5, 67:8 Court [9] - 5:5, 6:6, 19:25, 21:15, 21:19, 23:5, 30:25, 70:25, 71:4 court [3] - 28:1, 31:7, 33:21 courtroom [1] - 29:8 cow [6] - 37:13, 37:17, 37:22, 37:25, 38:2, 38:12 cows [7] - 19:19, 19:21, 23:24, 48:12, 48:13, 48:19, 64:20 crazy [2] - 45:13, 45:24 credibility [1] - 30:23 cross [4] - 25:7, 25:19, 63:25, 73:13 CROSS [1] - 25:22 cross-examination [2] - 25:19, 63:25 CROSS- EXAMINATION [1] - 25:22 cumulative [1] - 59:10 current [2] - 30:25, 43:10 curtilage [1] - 34:12 cutting [1] - 9:17</p>
C				
<p>cabin [70] - 11:21, 12:24, 13:2, 13:9, 13:16, 13:21, 14:25, 15:9, 15:20, 21:25, 30:14, 31:13, 31:23, 32:1, 32:2, 32:6, 32:10, 32:12, 32:15, 32:24, 32:25, 33:2, 33:8, 36:17, 36:21, 37:6, 37:7, 39:17, 39:20, 40:2, 40:5, 40:7, 40:9, 40:18, 40:21, 41:15, 42:7, 42:10, 42:17, 42:20, 42:21, 42:23, 42:24, 43:1, 43:6, 43:8, 43:17, 44:2, 44:7, 47:25, 48:2, 48:3, 48:4, 48:7, 49:15, 50:6, 50:7, 50:8, 50:10, 50:11, 50:13, 50:25, 51:1, 51:9, 52:8, 52:11, 64:15, 65:23 cabins [1] - 41:2 calf [3] - 15:15, 15:18, 65:18 calving [8] - 11:20, 15:5, 15:6, 40:23, 42:12, 65:10, 65:15 camera [2] - 18:23, 46:10 capacity [1] - 27:7 car [1] - 17:3 care [3] - 3:18, 4:16, 9:19 cared [1] - 3:19 caretaker [1] - 4:18 caring [2] - 19:7, 19:8 Carl [4] - 15:24, 16:4, 54:19, 59:23 carrying [1] - 13:24 case [5] - 29:17, 53:14, 53:16, 68:1, 70:23 cases [1] - 53:22 Cassie [1] - 70:15 cat [1] - 62:14 cats [2] - 60:10, 62:13</p>	<p>cattle [17] - 3:18, 4:2, 8:2, 9:24, 12:23, 19:9, 19:13, 24:1, 24:3, 24:16, 24:18, 37:15, 37:16, 37:21, 47:3, 47:4, 62:2 caught [1] - 17:7 center [1] - 17:20 certain [2] - 70:5, 72:5 chains [2] - 15:15, 65:21 chance [1] - 60:8 change [6] - 4:17, 33:3, 33:5, 39:22, 39:23, 40:2 changed [11] - 33:1, 33:4, 39:16, 39:19, 40:4, 40:7, 41:6, 41:7, 42:10, 51:6, 58:24 charge [1] - 4:1 Charles [22] - 4:13, 10:6, 26:10, 26:11, 26:16, 26:17, 28:14, 30:10, 30:14, 31:12, 31:18, 32:8, 33:4, 34:11, 37:23, 42:19, 42:22, 43:25, 44:3, 44:4, 44:9, 44:17 Charles' [1] - 5:3 chase [2] - 62:13, 62:14 check [12] - 13:8, 20:13, 23:14, 23:15, 48:12, 48:13, 48:18, 49:19, 50:7, 60:13, 64:20, 65:16 checked [1] - 21:6 checking [4] - 12:23, 19:21, 21:21, 50:5 chest [1] - 60:5 children [6] - 18:6, 18:9, 18:11, 23:17, 62:17, 62:18 Christian [24] - 4:3, 10:5, 21:23, 27:3, 27:5, 28:14, 29:6, 29:7, 30:11, 30:14, 31:11, 31:20, 31:23, 32:9, 32:10, 32:11, 32:17, 32:23, 35:13, 37:24, 41:14, 42:11, 47:8, 63:3</p>	<p>Christian's [1] - 47:9 Christina [26] - 16:17, 19:7, 20:1, 24:8, 34:10, 34:19, 36:20, 37:21, 38:12, 38:21, 39:4, 39:7, 41:19, 43:14, 43:20, 43:23, 44:1, 44:2, 44:6, 44:20, 44:23, 46:7, 47:7, 60:22, 64:1, 72:20 Chuck [13] - 3:19, 3:24, 4:16, 4:22, 5:8, 5:22, 7:4, 15:2, 15:3, 19:15, 32:7, 63:2 Chuck's [1] - 5:14 chunks [2] - 47:20, 51:21 city [2] - 3:12, 62:4 civil [1] - 4:13 claim [1] - 63:2 clarify [1] - 29:23 clean [2] - 15:16, 36:7 clear [7] - 21:11, 22:23, 37:7, 39:22, 61:25, 72:20, 73:2 clearly [3] - 20:23, 56:7, 57:16 clerk [1] - 12:14 client [6] - 58:20, 58:21, 59:1, 67:19, 67:20, 69:18 climb [1] - 67:1 close [5] - 7:6, 20:5, 20:7, 34:7, 61:6 closed [3] - 20:4, 20:14, 57:5 clothes [3] - 15:17, 55:19, 65:9 cold [7] - 8:1, 8:3, 9:23, 15:6, 51:4, 65:9,</p>	<p>65:12 coming [6] - 21:9, 30:1, 37:19, 40:1, 43:20, 50:10 comments [4] - 14:9, 14:17, 14:18, 54:19 communications [1] - 45:4 companies [1] - 29:8 Company [19] - 3:15, 3:17, 26:2, 26:5, 26:7, 26:23, 26:24, 27:2, 27:18, 28:4, 28:17, 37:15, 43:10, 43:14, 43:19, 43:21, 44:13, 45:6, 53:23 company [3] - 4:2, 19:6, 27:2 concern [10] - 4:21, 5:7, 5:14, 5:18, 7:7, 21:20, 21:22, 52:1, 52:4 concerned [1] - 7:15 concerning [1] - 68:14 concerns [1] - 19:25 concludes [1] - 74:2 conclusion [1] - 28:9 confer [1] - 61:10 constant [4] - 7:17, 21:20, 22:1, 60:24 constantly [2] - 20:7, 61:3 contacted [2] - 24:24, 43:5 contained [1] - 15:12 context [1] - 8:16 continue [1] - 61:15 continued [3] - 14:13, 54:24, 64:11 contractor [2] - 27:8, 27:13 conversation [4] - 6:6, 42:11, 60:6, 62:23 copies [1] - 67:9 cops [1] - 22:12 corral [1] - 19:19 corrals [4] - 35:19, 36:13, 36:15, 37:1 correct [52] - 4:1, 9:15, 21:17, 22:5, 23:10, 26:2, 26:9, 26:14, 26:18, 26:21, 27:5, 27:14, 28:5, 29:10, 32:10, 33:13, 33:16, 33:21, 33:24, 36:18, 37:11, 37:15, 38:17, 39:11, 39:14, 40:15, 40:18, 40:19,</p>	<p>41:2, 45:16, 47:25, 48:25, 50:2, 51:6, 52:8, 53:11, 53:14, 53:23, 55:17, 55:18, 56:2, 56:21, 57:2, 58:2, 58:7, 60:2, 61:5, 65:3, 66:17, 66:21, 66:22, 73:20 counsel [2] - 25:19, 69:1 couple [4] - 19:15, 24:6, 67:5, 67:8 Court [9] - 5:5, 6:6, 19:25, 21:15, 21:19, 23:5, 30:25, 70:25, 71:4 court [3] - 28:1, 31:7, 33:21 courtroom [1] - 29:8 cow [6] - 37:13, 37:17, 37:22, 37:25, 38:2, 38:12 cows [7] - 19:19, 19:21, 23:24, 48:12, 48:13, 48:19, 64:20 crazy [2] - 45:13, 45:24 credibility [1] - 30:23 cross [4] - 25:7, 25:19, 63:25, 73:13 CROSS [1] - 25:22 cross-examination [2] - 25:19, 63:25 CROSS- EXAMINATION [1] - 25:22 cumulative [1] - 59:10 current [2] - 30:25, 43:10 curtilage [1] - 34:12 cutting [1] - 9:17</p>
D				
<p>Dakota [1] - 3:13 date [6] - 12:8, 32:19, 32:22, 45:17, 58:23, 72:21 date's [1] - 68:13 dates [6] - 12:12, 40:11, 45:17, 45:23, 67:14, 69:21 daughter [20] - 10:22, 12:22, 13:13, 13:15, 20:19, 22:5, 22:10, 22:13, 22:22, 23:7, 23:8, 47:16, 49:16, 49:20, 49:22,</p>				

<p>49:25, 50:1, 50:3, 50:4, 64:17</p> <p>days [4] - 24:1, 24:2, 24:3, 65:10</p> <p>debris [1] - 35:1</p> <p>December [1] - 41:11</p> <p>decided [2] - 54:3, 67:22</p> <p>defend [2] - 16:7, 69:5</p> <p>delivered [2] - 44:23, 44:25</p> <p>demeanor [1] - 6:23</p> <p>demonstrative [3] - 70:18, 71:2, 71:8</p> <p>denying [1] - 72:16</p> <p>depicted [1] - 68:10</p> <p>depiction [2] - 68:6, 69:23</p> <p>deputy [3] - 8:5, 8:10, 8:12</p> <p>describe [12] - 6:6, 6:10, 17:7, 17:11, 17:16, 18:13, 19:25, 20:18, 55:5, 70:9, 70:10, 71:23</p> <p>described [4] - 15:21, 34:13, 54:22, 57:4</p> <p>deserves [1] - 30:23</p> <p>detail [1] - 69:5</p> <p>DIRECT [1] - 3:8</p> <p>direction [1] - 36:16</p> <p>dirty [1] - 65:12</p> <p>disagree [2] - 46:20, 56:4</p> <p>dislike [1] - 18:10</p> <p>dispute [1] - 29:7</p> <p>disregarded [1] - 53:11</p> <p>distance [2] - 5:11, 7:3</p> <p>document [4] - 11:19, 12:15, 73:10, 73:19</p> <p>dog [37] - 10:10, 10:12, 10:13, 10:16, 10:19, 10:23, 11:1, 11:5, 11:9, 11:14, 20:20, 60:10, 60:14, 60:17, 60:24, 60:25, 61:4, 61:6, 61:21, 61:22, 61:24, 62:1, 62:4, 71:23, 71:25, 72:2, 72:5, 72:6, 72:8, 72:9, 72:10, 72:11, 72:13, 72:17</p> <p>dog's [1] - 62:1</p> <p>dogs [1] - 72:12</p>	<p>done [2] - 25:15, 30:20</p> <p>door [64] - 7:16, 8:6, 13:3, 13:11, 13:23, 14:4, 14:13, 15:22, 45:16, 46:7, 48:4, 48:6, 48:7, 48:10, 48:17, 48:18, 48:19, 49:7, 50:13, 50:14, 50:15, 50:19, 51:5, 51:19, 51:22, 52:17, 52:21, 54:4, 54:6, 54:7, 54:12, 54:21, 55:2, 55:5, 55:6, 55:9, 55:12, 56:8, 56:10, 56:12, 56:17, 56:18, 56:24, 57:5, 57:6, 57:9, 57:16, 57:19, 57:25, 58:4, 59:4, 64:1, 64:14, 66:13, 66:19, 67:1, 67:2, 72:21</p> <p>doorknob [6] - 48:23, 48:25, 49:14, 49:22, 49:24, 65:2</p> <p>doorway [1] - 14:11</p> <p>down [17] - 4:23, 10:24, 10:25, 20:19, 20:21, 20:22, 23:14, 30:14, 31:12, 42:5, 47:10, 47:19, 51:20, 54:21, 54:25, 63:5, 74:1</p> <p>drink [1] - 14:20</p> <p>drive [4] - 12:24, 18:22, 34:16, 34:18</p> <p>driveway [4] - 10:25, 17:20, 18:22, 34:19</p> <p>driving [1] - 46:10</p> <p>dropped [4] - 31:19, 31:21, 31:22, 32:8</p> <p>drove [8] - 12:25, 13:1, 13:20, 20:25, 21:2, 21:4, 23:14, 64:12</p> <p>dueling [1] - 69:11</p> <p>duly [1] - 3:6</p> <p>dumb [1] - 68:19</p> <p>during [14] - 4:5, 6:14, 9:21, 11:20, 15:6, 16:11, 18:4, 18:6, 40:23, 48:16, 49:6, 58:6, 64:22, 73:16</p> <p>duties [1] - 7:21</p> <p>dying [1] - 43:2</p>	<p style="text-align: center;">E</p> <p>early [3] - 4:15, 5:1, 5:5</p> <p>effect [1] - 45:12</p> <p>eight [2] - 18:16, 19:6</p> <p>eight-month [1] - 18:16</p> <p>either [3] - 51:9, 67:1, 70:23</p> <p>Eleanor [4] - 5:2, 5:21, 6:9, 19:14</p> <p>employee [5] - 26:1, 26:4, 27:8, 27:9, 29:6</p> <p>employer [5] - 27:5, 27:7, 40:22, 41:1, 43:6</p> <p>employment [1] - 14:24</p> <p>end [3] - 8:11, 8:14, 39:2</p> <p>ended [1] - 15:23</p> <p>enforcement [8] - 9:5, 11:7, 11:25, 24:6, 24:8, 63:9, 63:13, 63:17</p> <p>entail [1] - 3:17</p> <p>enter [3] - 21:15, 43:6, 49:2</p> <p>entered [5] - 23:6, 34:9, 41:22, 49:13, 49:14</p> <p>entire [1] - 54:20</p> <p>entirety [1] - 66:20</p> <p>entrance [1] - 14:25</p> <p>environment [1] - 22:3</p> <p>erratic [4] - 6:10, 21:20, 21:23, 22:11</p> <p>escalating [1] - 15:25</p> <p>establish [1] - 38:9</p> <p>established [1] - 43:16</p> <p>establishing [1] - 38:10</p> <p>estimate [1] - 18:14</p> <p>evening [1] - 20:20</p> <p>event [2] - 15:23, 35:14</p> <p>events [1] - 30:24</p> <p>everyday [1] - 7:21</p> <p>evidence [3] - 71:3, 71:6, 71:11</p> <p>exact [5] - 32:19, 34:6, 40:11, 45:23, 58:23</p> <p>exactly [1] - 28:7</p>	<p>EXAMINATION [4] - 3:8, 25:22, 61:20, 71:21</p> <p>examination [2] - 25:19, 63:25</p> <p>examined [1] - 3:6</p> <p>exchange [1] - 6:15</p> <p>exchanges [1] - 10:2</p> <p>excuse [2] - 23:20, 73:13</p> <p>exhibit [1] - 12:16</p> <p>Exhibit [8] - 9:8, 9:14, 11:19, 12:4, 46:5, 58:18, 65:5, 66:12</p> <p>exhibits [2] - 12:8, 59:8</p> <p>expected [1] - 60:8</p> <p>explain [2] - 17:18, 63:6</p> <p>expressed [1] - 13:5</p> <p>extent [6] - 28:18, 28:19, 28:20, 29:13, 31:14</p> <p>extra [2] - 24:2, 24:5</p> <p>extremely [3] - 7:1, 16:19, 65:8</p> <p>eye [1] - 60:24</p>	<p>47:11, 55:20, 55:24, 56:2, 64:13</p> <p>feed [2] - 8:2, 9:25</p> <p>feeding [1] - 19:22</p> <p>felt [1] - 18:8</p> <p>fence [5] - 35:23, 36:5, 36:10, 36:14, 60:14</p> <p>fenceline [3] - 36:6, 36:8, 36:9</p> <p>fences [1] - 20:2</p> <p>few [5] - 5:2, 19:9, 19:14, 24:21, 62:11</p> <p>fidgiting [1] - 14:16</p> <p>field [6] - 20:19, 21:5, 21:9, 24:10, 46:13, 47:2</p> <p>fifteen [1] - 60:19</p> <p>Fifth [1] - 68:3</p> <p>fifty [2] - 34:5, 35:18</p> <p>fight [2] - 4:23, 5:9</p> <p>figure [1] - 31:16</p> <p>file [1] - 12:15</p> <p>filed [2] - 30:10, 46:4</p> <p>filling [1] - 10:23</p> <p>film [1] - 46:9</p> <p>filmed [1] - 46:13</p> <p>filming [13] - 18:11, 22:1, 45:19, 45:20, 45:22, 46:1, 46:3, 46:6, 46:11, 46:16, 64:2, 73:9, 73:18</p> <p>fine [1] - 8:22</p> <p>fingers [1] - 25:10</p> <p>finish [2] - 33:22, 39:1</p> <p>finished [1] - 37:2</p> <p>first [7] - 3:6, 7:14, 14:4, 17:7, 28:1, 48:3, 59:11</p> <p>fit [1] - 21:22</p> <p>five [8] - 21:4, 21:16, 24:11, 36:22, 36:23, 59:8, 59:9</p> <p>five-year [1] - 21:16</p> <p>follow [2] - 29:13, 51:10</p> <p>followed [1] - 51:15</p> <p>following [1] - 3:1</p> <p>follows [1] - 3:7</p> <p>followup [1] - 63:16</p> <p>foot [1] - 55:7</p> <p>forever [1] - 68:22</p> <p>forth [2] - 29:25, 54:24</p> <p>forward [4] - 7:13, 69:3, 69:4, 69:16</p> <p>foundation [7] - 58:20, 58:25, 59:3, 68:4, 68:9, 69:13,</p>
			<p style="text-align: center;">F</p> <p>facilities [2] - 33:23, 34:1</p> <p>facings [2] - 55:9, 55:12</p> <p>fact [3] - 14:4, 38:19, 61:24</p> <p>facts [1] - 23:5</p> <p>fair [3] - 21:15, 66:1, 68:6</p> <p>fairly [2] - 34:7, 61:6</p> <p>fall [2] - 19:12, 21:13</p> <p>familiar [1] - 10:14</p> <p>fan [1] - 22:18</p> <p>far [7] - 7:4, 7:25, 29:5, 34:4, 36:20, 50:14, 69:19</p> <p>farm [1] - 60:25</p> <p>farming [1] - 23:20</p> <p>fast [1] - 7:13</p> <p>father [1] - 21:21</p> <p>fear [3] - 16:19, 16:22, 16:25</p> <p>feared [1] - 13:6</p> <p>fearful [1] - 5:12</p> <p>February [15] - 10:5, 12:19, 39:11, 39:14, 41:16, 42:6, 42:15, 42:25, 45:9, 45:21,</p>	

<p>71:17 four [16] - 6:8, 7:13, 19:20, 19:22, 21:3, 24:11, 24:16, 24:18, 36:22, 36:23, 46:14, 46:21, 46:23, 46:25, 47:1 four-wheeler [4] - 46:21, 46:23, 46:25, 47:1 four-wheelers [3] - 24:16, 24:18, 46:14 frame [5] - 7:12, 9:21, 11:11, 41:12, 66:7 frankly [2] - 69:18, 71:3 free [1] - 74:1 freezing [1] - 51:3 frequently [1] - 65:17 front [12] - 13:3, 35:15, 44:19, 46:7, 47:16, 48:4, 48:5, 48:7, 48:17, 49:7, 65:25, 72:21 fuel [12] - 7:17, 7:20, 8:3, 8:4, 8:13, 9:18, 17:19, 34:2, 34:15, 34:20, 34:24, 64:7 full [1] - 3:9</p>	<p>57:6, 57:9, 57:11, 57:15, 57:20, 57:21, 58:11, 66:16, 66:20, 66:23, 66:25, 67:2 grain [1] - 37:5 granaries [2] - 37:3, 37:5 grant [1] - 71:15 grass [1] - 20:22 gray [2] - 72:10 grew [1] - 20:3 ground [3] - 11:1, 51:4, 66:19 guess [6] - 7:24, 27:15, 35:25, 37:14, 60:13, 71:10 gun [1] - 16:21</p>	<p>65:11, 65:18 held [1] - 3:1 help [11] - 5:5, 5:24, 17:1, 22:9, 23:24, 23:25, 24:2, 24:5, 65:6, 70:4, 70:12 helper [1] - 22:22 helpers [1] - 22:8 helpful [1] - 69:18 helping [2] - 4:16, 22:24 helps [2] - 62:2, 71:6 herd [1] - 24:18 herding [1] - 62:3 hiding [4] - 17:5, 17:8, 17:17, 20:23 hill [1] - 21:2 himself [1] - 32:11 hired [1] - 3:16 hires [1] - 4:4 hit [5] - 54:7, 54:12, 54:15, 57:17, 57:18 hitting [1] - 54:6 hold [1] - 18:22 holding [3] - 18:2, 57:5, 59:17 holidays [1] - 16:14 home [16] - 13:7, 14:1, 14:7, 14:8, 15:12, 16:10, 18:21, 34:11, 34:12, 34:13, 34:14, 35:7, 41:19, 58:15, 62:7, 64:5 honestly [7] - 32:21, 40:11, 41:10, 41:17, 51:24, 60:7, 72:22 Honor [34] - 3:3, 6:16, 8:20, 9:7, 9:10, 12:3, 12:6, 12:18, 25:5, 25:9, 25:21, 28:22, 29:10, 29:19, 29:23, 30:7, 30:15, 53:15, 58:17, 58:19, 59:14, 61:9, 61:17, 67:6, 67:8, 67:14, 67:22, 68:17, 69:1, 70:1, 70:19, 71:20, 73:12, 73:22 hostile [1] - 22:3 hour [2] - 25:11, 53:1 house [21] - 5:22, 11:5, 11:8, 13:1, 17:21, 33:15, 34:5, 34:14, 34:16, 36:16, 47:18, 47:21, 47:22, 48:15, 48:24, 49:2, 49:11, 49:14, 50:21, 50:22, 63:3 hundred [7] - 18:15, 18:18, 18:20, 34:6,</p>	<p>35:18, 36:22, 36:24 I idea [3] - 53:25, 60:5, 60:21 identified [1] - 67:18 identify [3] - 58:21, 63:10, 71:25 identifying [2] - 59:3, 59:6 immediately [3] - 52:13, 54:12, 54:15 incident [12] - 8:17, 10:4, 11:20, 12:2, 17:14, 24:19, 39:10, 39:13, 42:15, 45:1, 45:16, 54:20 incidents [1] - 69:17 include [1] - 22:21 included [2] - 22:5, 23:19 independent [3] - 27:8, 27:13, 53:17 indicated [2] - 3:23, 10:13 individual [1] - 46:21 indulge [1] - 47:20 information [1] - 58:22 inside [8] - 14:4, 14:11, 47:21, 49:10, 49:11, 50:19, 55:13, 65:6 inspected [1] - 38:9 inspector [1] - 38:5 instance [6] - 8:11, 11:13, 17:2, 17:11, 21:24, 60:17 instances [7] - 4:20, 15:2, 18:13, 22:10, 24:14, 46:16, 62:11 intact [1] - 48:18 intending [1] - 70:3 interacted [1] - 10:19 interaction [4] - 7:14, 9:4, 52:23, 54:10 interactions [2] - 4:10, 4:12 intermingled [1] - 37:14 intricacies [2] - 53:14, 53:22 introducing [1] - 70:4 involved [4] - 19:17, 22:10, 27:19, 27:23 involving [1] - 53:22</p>	<p>issue [1] - 28:13 issues [1] - 29:24 items [4] - 7:21, 15:11, 15:19, 67:5 J Janes [1] - 37:24 January [6] - 39:17, 40:14, 40:15, 41:9, 41:11 jewelry [4] - 41:23, 62:21, 63:1, 63:18 job [8] - 3:17, 16:17, 16:18, 19:10, 23:16, 28:6, 34:18, 61:2 Judge [1] - 12:10 July [1] - 16:12 jumping [1] - 60:8 June [1] - 21:11</p>
<p>G gain [1] - 63:3 garage [8] - 17:3, 17:21, 33:15, 34:5, 34:11, 34:13, 35:16, 65:25 gate [9] - 12:25, 20:4, 20:21, 21:3, 21:6, 24:20, 46:11, 47:23 gates [5] - 20:1, 20:7, 20:9, 20:13, 20:16 gathering [1] - 62:3 general [2] - 36:23, 69:16 generally [5] - 16:16, 17:4, 17:22, 18:2, 20:11 giggled [1] - 11:2 girls [1] - 13:6 given [6] - 15:5, 32:13, 40:8, 40:9, 40:24, 53:12 glass [16] - 56:11, 56:12, 56:13, 56:21,</p>	<p>H half [3] - 7:13, 21:1, 53:1 hand [2] - 55:13, 61:1 handed [1] - 55:15 handing [1] - 11:18 handle [12] - 13:3, 13:12, 14:2, 14:13, 51:5, 52:14, 52:16, 54:21, 56:17, 56:18, 56:24, 64:14 hands [2] - 6:25, 23:25 harassed [1] - 19:4 harassment [1] - 22:2 hard [2] - 6:10, 14:22 harmed [3] - 22:13, 62:15, 62:18 harmful [1] - 22:13 haul [4] - 37:17, 37:18, 37:21, 38:16 hauled [1] - 38:14 hay [5] - 19:22, 20:19, 21:9, 21:10, 24:10 head [1] - 43:12 heads [1] - 5:9 hear [1] - 6:7 heard [3] - 31:8, 31:9, 59:2 hearing [3] - 22:15, 66:10, 71:5 hearsay [3] - 30:17, 31:8, 31:9 heater [1] - 22:18 heifer [4] - 49:19, 50:5, 50:8, 65:13 heifers [3] - 13:8,</p>	<p>K Kara [4] - 15:24, 16:4, 54:19, 59:23 KATHERINE [2] - 3:5, 37:5 Katherine [2] - 3:11, 74:2 Katie [5] - 3:3, 8:24, 12:19, 16:6, 61:21 keep [4] - 5:11, 60:24, 70:16, 71:13 kept [1] - 14:16 key [3] - 15:3, 15:5, 40:8 keys [10] - 32:13, 32:16, 32:23, 32:24, 32:25, 40:9, 40:24, 41:18, 41:19, 63:2 kick [1] - 28:3 kind [5] - 4:17, 47:10, 51:21, 68:13, 73:24 kinds [1] - 14:18 kitchen [1] - 37:10 knock [3] - 51:16, 52:14, 52:15 knocked [1] - 8:7 knowing [2] - 16:19, 21:25 knowledge [8] - 28:11, 28:20, 28:24, 29:24, 31:16, 40:25, 63:16, 63:20 knows [4] - 29:5, 30:3, 30:6, 68:7</p>		

<p style="text-align: center;">L</p> <p>labeled [1] - 27:15 labor [1] - 65:15 laid [2] - 58:25, 63:2 land [8] - 19:8, 26:20, 26:24, 28:4, 28:17, 33:10, 35:17 language [1] - 6:12 large [2] - 22:9, 24:1 last [8] - 4:6, 4:7, 4:11, 19:18, 19:22, 23:3, 31:6, 52:24 lasted [2] - 54:10, 54:20 law [8] - 9:5, 11:7, 11:25, 24:6, 24:8, 63:9, 63:12, 63:17 lawsuit [5] - 28:3, 28:21, 28:24, 28:25, 29:15 lawsuits [2] - 27:17, 30:18 lawyers [1] - 45:4 lay [6] - 35:17, 68:4, 68:9, 68:12, 69:16, 71:17 laying [1] - 61:6 layout [1] - 33:10 leaned [1] - 56:8 lease [3] - 28:5, 42:7, 53:9 leases [1] - 26:24 least [1] - 39:13 leave [14] - 6:5, 7:11, 13:17, 13:19, 20:11, 42:17, 42:19, 42:21, 42:22, 42:23, 42:24, 49:18, 49:23, 49:25 leaves [1] - 50:1 leaving [1] - 20:7 led [1] - 64:23 leeway [2] - 69:12, 71:16 left [10] - 8:10, 20:9, 24:20, 46:11, 47:16, 48:11, 48:18, 49:12, 49:13, 64:15 legal [4] - 28:9, 38:4, 53:14, 53:22 legs [1] - 14:16 leniency [1] - 30:20 letting [2] - 30:2, 73:24 limiting [1] - 36:14 line [3] - 12:9, 23:3, 25:16 live [1] - 3:12 lives [1] - 35:2</p>	<p>livestock [3] - 9:19, 19:8, 20:5 living [2] - 37:8, 37:11 LLP [8] - 26:9, 26:13, 26:18, 26:20, 26:25, 27:17, 28:3, 44:11 LLP's [1] - 28:17 located [1] - 65:22 location [1] - 68:24 locked [2] - 7:16, 50:19 locks [15] - 9:18, 33:1, 33:3, 33:4, 39:16, 39:19, 39:22, 39:24, 40:2, 40:4, 40:7, 41:6, 41:7, 51:6, 64:6 look [3] - 45:17, 65:5, 68:23 looked [3] - 6:4, 7:9, 63:14 looking [4] - 58:3, 59:11, 60:19, 66:15 looks [2] - 60:4, 68:19 loose [1] - 73:24 lunch [2] - 25:14, 69:2</p>	<p>16:9, 51:18, 52:20, 53:5, 54:20, 56:18, 56:21, 57:1, 57:18, 58:8, 58:10 meal [1] - 19:15 mean [10] - 6:8, 14:23, 15:15, 15:17, 17:1, 28:19, 52:4, 57:13, 62:15, 68:19 memory [3] - 70:5, 70:10, 70:12 mention [1] - 53:9 mentioned [3] - 35:21, 41:6, 56:1 mid [2] - 40:14, 40:15 middle [1] - 47:4 Midland [3] - 3:13, 43:22, 44:16 might [9] - 16:20, 16:25, 68:11, 68:23, 69:16, 69:18, 71:3, 71:8 mile [1] - 21:1 mind [1] - 16:22 mine [3] - 10:10, 29:9, 59:1 Minnesota [3] - 35:3, 35:7, 66:6 minor [3] - 22:5, 22:22, 23:6 minors [1] - 24:4 minute [4] - 9:11, 22:17, 53:6, 53:7 minutes [6] - 21:4, 49:17, 54:10, 60:19, 61:10, 64:21 missing [3] - 63:1, 63:7, 63:10 misstatement [1] - 53:16 misstating [1] - 41:9 mistake [1] - 53:19 moment [1] - 12:7 Mona [1] - 61:11 Mona's [1] - 25:10 month [3] - 18:16, 41:8, 41:10 months [3] - 11:15, 21:13, 40:23 mother [2] - 22:24, 47:9 move [3] - 5:24, 6:1, 69:4 moving [5] - 20:7, 24:3, 62:2, 69:3, 71:13 mudroom [1] - 54:22 multiple [6] - 17:15, 24:5, 37:23, 38:16,</p>	<p>45:20, 45:22</p> <p style="text-align: center;">N</p> <p>name [3] - 3:9, 25:23, 41:7 narrating [1] - 46:6 narrow [1] - 42:5 narrowing [1] - 63:5 Nastashia [1] - 37:24 near [1] - 36:16 nearby [2] - 33:23, 35:19 necessarily [1] - 71:6 need [14] - 6:4, 6:11, 7:10, 7:11, 13:7, 15:18, 15:19, 16:4, 22:9, 24:1, 24:5, 29:18, 36:7, 65:19 needed [2] - 6:1, 49:18 needs [1] - 70:6 neighbor [4] - 5:24, 6:2, 6:4, 7:9 Nemec [1] - 39:19 nervous [1] - 4:22 never [5] - 5:2, 6:24, 17:4, 44:24, 56:21 new [1] - 40:8 next [3] - 14:16, 20:12, 29:22 niece [7] - 13:4, 13:13, 13:15, 49:16, 50:3, 50:4, 64:17 nine [1] - 56:10 none [2] - 69:25, 73:7 noon [1] - 25:8 note [1] - 59:7 noted [1] - 71:13 notes [1] - 60:9 nothing [1] - 67:3 notice [1] - 61:8 November [13] - 7:23, 8:17, 8:23, 9:5, 16:11, 31:18, 32:20, 40:17, 41:14, 42:6, 72:23, 72:25, 73:4 numbers [1] - 12:15</p>	<p>30:15, 53:15, 59:12, 67:13, 71:13, 73:12 objections [3] - 9:10, 59:12, 69:14 observe [7] - 4:25, 5:6, 5:17, 6:14, 6:22, 7:4, 20:15 observed [2] - 5:3, 5:15 obviously [4] - 15:17, 55:16, 56:16, 57:21 occur [1] - 23:12 occurred [5] - 12:21, 18:17, 35:4, 42:16, 65:25 October [1] - 3:2 offer [5] - 9:7, 12:3, 30:9, 58:18, 71:18 office [1] - 24:24 often [2] - 16:12, 23:12 old [3] - 13:14, 17:19 older [1] - 23:17 once [2] - 13:21, 14:11 one [24] - 7:25, 12:7, 12:16, 14:2, 20:19, 22:8, 27:19, 27:25, 32:5, 33:4, 39:19, 41:25, 42:1, 43:13, 46:4, 51:5, 57:13, 59:9, 59:10, 62:18, 62:24, 67:18, 68:22, 70:24 one-page [1] - 12:16 ongoing [1] - 20:8 open [11] - 20:5, 20:7, 20:10, 20:14, 20:22, 21:3, 21:7, 24:20, 43:23, 46:11, 64:5 opened [1] - 43:24 opening [1] - 20:16 operating [1] - 28:17 opportunity [1] - 20:15 order [14] - 8:9, 21:16, 22:5, 22:21, 23:6, 24:22, 30:10, 31:19, 32:9, 64:10, 66:24, 69:3, 69:4, 69:5 orders [3] - 69:11, 73:3, 73:5 originally [1] - 3:18 otherwise [1] - 29:20 outside [12] - 10:4, 19:9, 19:16, 26:22, 28:6, 35:23, 36:5,</p>
	<p style="text-align: center;">M</p> <p>mad [1] - 5:12 mail [6] - 43:19, 43:25, 44:4, 44:10, 44:15, 44:17 mailbox [6] - 43:20, 43:23, 43:24, 44:3, 44:4, 44:5 mailing [3] - 43:9, 43:10, 43:15 main [7] - 5:22, 13:1, 18:21, 22:8, 22:22, 36:15, 47:18 maintain [1] - 36:6 maintenance [3] - 36:10, 36:11, 36:14 manage [1] - 3:18 Marie [1] - 3:11 mark [5] - 12:12, 59:8, 70:16, 70:17, 70:20 marked [3] - 9:13, 11:18, 58:18 matter [2] - 53:17, 71:7 matters [1] - 30:25 maul [15] - 13:10, 13:12, 13:24, 14:15,</p>	<p>45:20, 45:22</p> <p style="text-align: center;">O</p> <p>object [2] - 28:22, 58:19 objected [1] - 38:19 objection [10] - 6:17, 9:9, 12:5, 29:21,</p>		

36:8, 47:21, 47:23, 51:4, 64:14 overruled [2] - 6:20, 59:12 own [5] - 19:9, 21:19, 23:21, 58:25, 65:19 owned [2] - 27:2, 38:2 ownership [2] - 38:9, 38:11 owns [1] - 26:20	53:12 person [1] - 65:2 personal [1] - 44:10 personally [3] - 10:3, 10:4, 39:22 pertaining [1] - 24:22 pertains [3] - 28:7, 28:12, 28:16 petition [1] - 22:4 Petitioner [2] - 69:6, 69:9 petted [1] - 11:2 Philip [1] - 25:23 phone [6] - 10:9, 17:12, 18:2, 56:1, 59:17, 59:19 photo [1] - 55:17 photographs [3] - 55:23, 59:17, 67:9 photos [6] - 55:15, 55:16, 55:24, 56:5, 56:7, 58:23 physically [1] - 6:24 picked [1] - 44:17 pickup [10] - 8:10, 15:10, 24:11, 24:13, 45:18, 47:23, 47:24, 51:18, 52:20, 64:11 picture [6] - 37:7, 56:17, 58:9, 59:21, 69:17, 70:11 pictures [3] - 55:9, 55:11, 70:4 piece [1] - 36:25 pieces [1] - 63:6 pile [1] - 35:1 piled [4] - 35:5, 35:6, 35:8, 65:24 place [7] - 30:24, 36:18, 38:14, 51:8, 60:22, 69:15, 73:6 plastic [1] - 66:16 play [2] - 7:7, 7:21 PO [2] - 43:21, 44:15 point [32] - 6:19, 6:23, 14:6, 15:3, 30:8, 33:5, 33:6, 39:19, 40:19, 41:16, 41:18, 42:4, 43:13, 44:23, 45:5, 45:19, 45:24, 48:9, 50:2, 50:18, 51:7, 52:5, 53:25, 55:12, 56:5, 59:18, 59:20, 60:6, 67:23, 71:10, 71:15, 73:4 pointing [1] - 60:5 police [5] - 8:19, 10:11, 46:4, 46:6, 50:24	politely [1] - 64:5 porch [1] - 44:19 portrays [1] - 68:7 position [1] - 3:21 possession [1] - 41:19 possible [2] - 72:12, 72:16 possibly [4] - 43:2, 44:16, 45:11, 69:22 prejudicial [1] - 6:18 premises [1] - 13:19 preparation [1] - 11:23 preparing [1] - 22:15 presence [1] - 16:17 present [5] - 38:24, 39:4, 40:4, 64:15, 66:4 presume [1] - 45:3 previous [2] - 6:21, 51:7 previously [5] - 11:18, 11:22, 26:8, 58:18, 60:12 probative [1] - 6:18 problem [2] - 20:8, 61:11 proceed [1] - 25:15 proceeded [1] - 16:1 proceedings [3] - 3:1, 9:12, 22:19 propane [1] - 17:12 properly [3] - 10:1, 58:25, 70:6 property [19] - 8:9, 13:25, 34:10, 35:9, 38:22, 44:20, 44:24, 47:13, 47:14, 51:17, 51:22, 52:2, 52:18, 52:24, 53:3, 53:8, 63:21, 64:10, 72:13 protect [2] - 64:3, 73:21 protection [9] - 21:16, 22:4, 22:21, 24:22, 31:19, 32:9, 69:3, 69:4, 69:11 prove [1] - 64:3 provide [1] - 8:19 provided [1] - 63:1 proximity [2] - 7:6, 43:18 pull [2] - 15:17, 61:2 pulled [1] - 50:16 puller [1] - 65:21 pulling [2] - 15:15 purpose [5] - 19:1, 62:1, 70:22, 71:8, 71:17	push [1] - 67:2 put [7] - 7:23, 8:4, 12:7, 12:14, 21:10, 35:15, 64:6	recross [1] - 67:4 RECROSS-EXAMINATION [1] - 71:21 REDIRECT [1] - 61:20 redirect [2] - 73:13, 73:17 reenter [2] - 32:10, 32:12 referred [2] - 72:6, 72:7 reflect [2] - 9:4, 11:25 refresh [2] - 70:4, 70:12 refused [1] - 42:23 regarding [7] - 4:21, 6:17, 6:22, 45:5, 58:22, 63:1, 63:17 rejecting [1] - 70:22 related [1] - 47:8 relationship [1] - 4:16 relevancy [1] - 6:17 relevant [1] - 3:20 remove [2] - 8:7, 16:9 removed [1] - 8:12 renew [1] - 6:16 repeat [3] - 5:16, 31:3, 31:4 rephrase [1] - 46:19 replied [1] - 51:24 report [8] - 8:20, 8:24, 10:11, 11:22, 12:1, 46:5, 46:6, 50:24 reported [4] - 11:14, 25:1, 44:24, 63:20 reportedly [1] - 26:24 reporter [2] - 31:7, 33:21 reports [1] - 24:6 represent [1] - 25:24 request [2] - 23:4, 39:23 requesting [1] - 23:5 residence [7] - 33:12, 33:15, 36:20, 37:8, 41:22, 44:2, 44:6 residential [2] - 34:10, 43:14 resides [1] - 33:11 respect [5] - 7:3, 19:21, 23:23, 24:8, 63:5 respectfully [1] -
P			Q	
package [5] - 44:19, 44:23, 45:2, 66:8, 66:10 padlock [4] - 7:23, 7:24, 8:3, 8:4 padlocks [2] - 8:7, 8:13 page [4] - 12:15, 12:16, 59:11, 60:4 pane [2] - 56:11, 56:13 parked [1] - 17:3 part [3] - 19:12, 34:18, 68:13 participated [1] - 19:23 particular [1] - 71:7 party [2] - 28:25, 53:17 passed [3] - 5:3, 5:21, 17:23 passing [1] - 6:9 past [2] - 34:16, 46:10 pasture [4] - 36:5, 36:6, 37:1, 47:2 patient [1] - 29:20 Paula [5] - 46:21, 46:23, 47:5, 47:6, 47:7 Paula's [1] - 38:14 pause [2] - 9:12, 22:19 pending [2] - 27:17, 68:2 people [4] - 23:23, 37:23, 38:16, 46:13 performance [1] - 16:18 period [2] - 16:11, 18:16 permanent [1] - 21:16 permission [1] -			quarter [1] - 21:1 questioning [7] - 23:4, 25:16, 25:20, 29:17, 30:22, 71:9, 73:25 questions [5] - 24:21, 61:16, 61:18, 62:20, 73:22 quickly [1] - 16:5 quit [2] - 58:8, 58:9 quite [1] - 50:11	
			R	
			rabbit [1] - 62:12 raised [1] - 69:14 Ranch [3] - 3:15, 33:13, 45:5 ranch [13] - 3:18, 4:1, 7:22, 9:19, 16:13, 20:3, 22:9, 22:23, 23:9, 61:1, 62:1, 66:4, 70:8 ranching [1] - 8:2 Randy [1] - 39:19 Rapid [1] - 16:15 rarely [1] - 23:21 rather [2] - 30:21, 71:11 read [1] - 31:6 ready [2] - 25:15, 25:18 really [3] - 14:22, 63:14, 71:9 reask [1] - 29:2 reason [4] - 31:22, 32:8, 46:20, 73:17 rebutting [1] - 71:11 receive [2] - 27:10 received [5] - 9:16, 12:17, 32:23, 59:13, 59:15 recess [3] - 25:13, 25:14, 61:14 recognize [1] - 11:19 record [6] - 3:10, 25:12, 59:7, 69:1, 70:17, 70:23 recording [1] - 18:13 RECROSS [1] - 71:21	

20:3 respond [1] - 64:8 response [1] - 45:25 rest [1] - 67:2 restraining [5] - 8:8, 30:10, 64:10, 73:3, 73:5 returned [3] - 13:16, 64:19, 65:1 review [1] - 9:2 reviewed [1] - 11:22 Rich [1] - 62:23 River [19] - 3:15, 3:16, 26:1, 26:4, 26:7, 26:23, 26:24, 27:2, 27:17, 28:4, 28:16, 37:14, 43:9, 43:13, 43:19, 43:21, 44:13, 45:5, 53:23 road [2] - 34:16, 64:20 role [5] - 4:15, 4:18, 19:7, 19:10, 19:22 round [1] - 69:2 row [1] - 17:19 ruling [3] - 6:20, 68:5, 71:18 run [1] - 62:5 running [1] - 22:9	secluded [1] - 17:14 second [2] - 14:11, 69:2 seconds [1] - 52:25 see [24] - 16:2, 17:23, 20:5, 20:21, 20:23, 25:10, 29:21, 30:6, 48:2, 48:16, 48:22, 48:23, 55:22, 56:16, 57:9, 58:1, 59:16, 64:22, 67:10, 67:16, 68:3, 70:10, 70:15, 71:1 separate [3] - 36:18, 53:17, 68:1 September [3] - 21:11, 30:9, 39:17 series [2] - 55:15, 59:8 set [2] - 36:25, 37:1 settled [1] - 32:14 share [1] - 23:15 shattered [1] - 66:23 shed [16] - 7:16, 7:20, 8:13, 9:18, 10:22, 17:19, 18:21, 21:4, 34:2, 34:15, 34:20, 34:24, 35:18, 36:15, 60:18, 64:6 sheriff [10] - 7:18, 10:9, 15:24, 16:2, 23:1, 41:24, 42:2, 59:22, 72:7 sheriffs [1] - 24:24 sheriffs [1] - 22:12 shirt [1] - 20:24 shoot [2] - 10:12, 11:8 shooting [2] - 72:2, 72:14 shots [1] - 19:12 shoulder [4] - 55:7, 55:14, 58:2, 58:3 show [1] - 55:9 shower [1] - 37:9 showing [1] - 8:12 shows [1] - 22:23 shut [1] - 22:18 side [4] - 6:3, 20:25, 61:25 side-by-side [1] - 20:25 simultaneously [1] - 58:13 sister [1] - 47:7 sit [3] - 14:20, 48:17, 52:7 site [1] - 15:8 sitting [5] - 17:12, 47:15, 48:4, 48:8,	49:7 situation [1] - 22:14 six [2] - 18:16, 25:2 small [2] - 36:25, 37:10 smaller [1] - 47:19 snow [2] - 15:7, 51:4 so... [1] - 45:20 solely [1] - 26:10 solid [3] - 56:15, 56:16, 66:13 someone [2] - 7:11, 16:21 sometime [1] - 41:9 sometimes [1] - 60:13 somewhat [1] - 59:10 somewhere [2] - 41:12, 56:17 son [1] - 23:18 son's [2] - 24:11, 24:13 sorry [3] - 8:21, 37:2, 39:2 sounds [1] - 29:12 South [1] - 3:13 sp [1] - 37:24 speaking [2] - 59:18, 59:20 specific [1] - 63:6 specifics [1] - 29:15 speculation [1] - 29:1 spoken [1] - 35:13 springing [1] - 29:25 squatting [1] - 14:1 stalking [1] - 22:2 stand [4] - 13:22, 58:1, 69:7, 69:9 standing [11] - 6:2, 15:21, 17:4, 17:24, 45:18, 48:10, 55:2, 55:4, 55:6, 55:7, 65:6 start [3] - 5:20, 25:25, 71:12 started [5] - 5:6, 5:17, 13:11, 51:19, 52:21 starts [2] - 52:13, 54:6 state [5] - 3:9, 3:12, 35:3, 66:1, 66:6 states [1] - 50:24 stay [9] - 6:1, 13:7, 15:6, 15:8, 28:8, 43:1, 43:3, 54:3, 62:9 steel [2] - 66:13, 66:14 step [7] - 6:5, 7:10,	17:22, 17:25, 18:4, 57:22, 74:1 stepped [1] - 4:18 STILES [26] - 6:16, 9:10, 12:6, 25:9, 25:21, 29:10, 29:19, 29:23, 30:7, 31:4, 53:19, 58:17, 61:9, 61:13, 61:17, 67:5, 67:8, 67:22, 68:17, 69:8, 70:1, 70:3, 70:13, 70:19, 71:20, 73:22 Stiles [9] - 25:23, 25:24, 30:8, 31:10, 37:6, 53:21, 59:16, 71:22, 73:16 Stiles' [1] - 31:6 still [10] - 5:22, 21:6, 35:25, 36:3, 36:23, 46:24, 48:14, 52:7, 55:2, 60:13 stolen [5] - 62:21, 63:13, 63:17, 66:7, 66:10 stood [4] - 11:2, 12:25, 13:10, 53:7 stray [7] - 10:10, 10:13, 11:5, 11:8, 11:14, 72:2, 72:5 stressful [1] - 16:19 strong [1] - 18:10 sufficient [1] - 59:3 summer [4] - 11:15, 21:12, 23:13, 70:9 summertime [2] - 68:20, 68:24 supplies [1] - 15:11 supposed [2] - 61:6, 62:9 Supreme [1] - 70:25 sustained [1] - 9:25 swats [1] - 54:21 swear [1] - 14:19 swinging [4] - 13:24, 58:8, 58:9, 58:10 switched [2] - 26:6, 26:8 sworn [1] - 3:6 Sylva [1] - 62:23	tanks [10] - 7:17, 7:20, 8:3, 23:14, 23:15, 34:2, 34:15, 34:21, 34:24, 64:7 tantrum [1] - 21:22 teacher [1] - 16:15 ten [7] - 3:22, 18:14, 19:6, 54:8, 54:15, 54:20, 60:18 tend [2] - 65:11, 65:18 terminate [1] - 28:4 testified [8] - 3:6, 28:23, 57:24, 62:17, 65:24, 69:19, 72:1, 72:2 testify [4] - 29:1, 30:3, 69:15, 69:22 testifying [3] - 22:21, 67:21, 68:15 testimony [15] - 22:25, 29:5, 29:14, 31:25, 41:9, 46:24, 56:25, 57:6, 59:2, 59:6, 62:20, 71:5, 72:3, 73:14, 74:2 they've [2] - 58:24, 69:19 third [1] - 60:4 threatened [4] - 10:3, 16:21, 30:14, 31:12 threats [1] - 10:8 three [8] - 4:6, 4:7, 4:11, 10:17, 17:9, 26:6, 61:10, 65:10 throughout [1] - 66:16 throwing [1] - 61:3 tired [1] - 65:12 tires [6] - 35:1, 35:5, 35:6, 35:9, 35:15, 65:25 today [11] - 9:1, 9:2, 11:23, 30:16, 30:20, 34:22, 34:23, 35:8, 52:7, 56:25, 72:1 today's [1] - 12:8 together [1] - 19:13 took [8] - 19:16, 21:2, 37:19, 41:22, 43:3, 55:11, 67:17, 69:14 tool [4] - 34:2, 54:13, 54:20, 57:18 top [4] - 21:2, 43:12, 56:13, 66:20 touch [2] - 6:24, 13:7 towards [3] - 14:9, 14:17, 55:14
S safety [6] - 7:8, 7:15, 13:6, 50:25, 51:2, 51:9 Sammons [8] - 3:4, 3:11, 9:17, 25:23, 59:16, 65:5, 71:22, 74:3 SAMMONS [2] - 3:5, 37:5 sat [7] - 11:1, 14:15, 20:22, 21:3, 54:18, 54:21, 54:25 saw [5] - 16:12, 48:24, 49:13, 49:20, 49:21 scared [6] - 57:1, 57:8, 57:14, 57:17, 57:18, 58:13 scene [1] - 69:16 school [1] - 16:15 scope [2] - 30:16, 73:13 screaming [2] - 4:24, 6:3 screams [1] - 7:1 season [4] - 11:21, 15:5, 19:11, 42:12	secluded [1] - 17:14 second [2] - 14:11, 69:2 seconds [1] - 52:25 see [24] - 16:2, 17:23, 20:5, 20:21, 20:23, 25:10, 29:21, 30:6, 48:2, 48:16, 48:22, 48:23, 55:22, 56:16, 57:9, 58:1, 59:16, 64:22, 67:10, 67:16, 68:3, 70:10, 70:15, 71:1 separate [3] - 36:18, 53:17, 68:1 September [3] - 21:11, 30:9, 39:17 series [2] - 55:15, 59:8 set [2] - 36:25, 37:1 settled [1] - 32:14 share [1] - 23:15 shattered [1] - 66:23 shed [16] - 7:16, 7:20, 8:13, 9:18, 10:22, 17:19, 18:21, 21:4, 34:2, 34:15, 34:20, 34:24, 35:18, 36:15, 60:18, 64:6 sheriff [10] - 7:18, 10:9, 15:24, 16:2, 23:1, 41:24, 42:2, 59:22, 72:7 sheriffs [1] - 24:24 sheriffs [1] - 22:12 shirt [1] - 20:24 shoot [2] - 10:12, 11:8 shooting [2] - 72:2, 72:14 shots [1] - 19:12 shoulder [4] - 55:7, 55:14, 58:2, 58:3 show [1] - 55:9 shower [1] - 37:9 showing [1] - 8:12 shows [1] - 22:23 shut [1] - 22:18 side [4] - 6:3, 20:25, 61:25 side-by-side [1] - 20:25 simultaneously [1] - 58:13 sister [1] - 47:7 sit [3] - 14:20, 48:17, 52:7 site [1] - 15:8 sitting [5] - 17:12, 47:15, 48:4, 48:8,	49:7 situation [1] - 22:14 six [2] - 18:16, 25:2 small [2] - 36:25, 37:10 smaller [1] - 47:19 snow [2] - 15:7, 51:4 so... [1] - 45:20 solely [1] - 26:10 solid [3] - 56:15, 56:16, 66:13 someone [2] - 7:11, 16:21 sometime [1] - 41:9 sometimes [1] - 60:13 somewhat [1] - 59:10 somewhere [2] - 41:12, 56:17 son [1] - 23:18 son's [2] - 24:11, 24:13 sorry [3] - 8:21, 37:2, 39:2 sounds [1] - 29:12 South [1] - 3:13 sp [1] - 37:24 speaking [2] - 59:18, 59:20 specific [1] - 63:6 specifics [1] - 29:15 speculation [1] - 29:1 spoken [1] - 35:13 springing [1] - 29:25 squatting [1] - 14:1 stalking [1] - 22:2 stand [4] - 13:22, 58:1, 69:7, 69:9 standing [11] - 6:2, 15:21, 17:4, 17:24, 45:18, 48:10, 55:2, 55:4, 55:6, 55:7, 65:6 start [3] - 5:20, 25:25, 71:12 started [5] - 5:6, 5:17, 13:11, 51:19, 52:21 starts [2] - 52:13, 54:6 state [5] - 3:9, 3:12, 35:3, 66:1, 66:6 states [1] - 50:24 stay [9] - 6:1, 13:7, 15:6, 15:8, 28:8, 43:1, 43:3, 54:3, 62:9 steel [2] - 66:13, 66:14 step [7] - 6:5, 7:10,	17:22, 17:25, 18:4, 57:22, 74:1 stepped [1] - 4:18 STILES [26] - 6:16, 9:10, 12:6, 25:9, 25:21, 29:10, 29:19, 29:23, 30:7, 31:4, 53:19, 58:17, 61:9, 61:13, 61:17, 67:5, 67:8, 67:22, 68:17, 69:8, 70:1, 70:3, 70:13, 70:19, 71:20, 73:22 Stiles [9] - 25:23, 25:24, 30:8, 31:10, 37:6, 53:21, 59:16, 71:22, 73:16 Stiles' [1] - 31:6 still [10] - 5:22, 21:6, 35:25, 36:3, 36:23, 46:24, 48:14, 52:7, 55:2, 60:13 stolen [5] - 62:21, 63:13, 63:17, 66:7, 66:10 stood [4] - 11:2, 12:25, 13:10, 53:7 stray [7] - 10:10, 10:13, 11:5, 11:8, 11:14, 72:2, 72:5 stressful [1] - 16:19 strong [1] - 18:10 sufficient [1] - 59:3 summer [4] - 11:15, 21:12, 23:13, 70:9 summertime [2] - 68:20, 68:24 supplies [1] - 15:11 supposed [2] - 61:6, 62:9 Supreme [1] - 70:25 sustained [1] - 9:25 swats [1] - 54:21 swear [1] - 14:19 swinging [4] - 13:24, 58:8, 58:9, 58:10 switched [2] - 26:6, 26:8 sworn [1] - 3:6 Sylva [1] - 62:23	T tags [1] - 15:14 talks [1] - 6:25 tank [9] - 8:13, 17:12, 17:19, 35:21, 35:23, 36:2, 36:7, 36:8, 36:10 tanks [10] - 7:17, 7:20, 8:3, 23:14, 23:15, 34:2, 34:15, 34:21, 34:24, 64:7 tantrum [1] - 21:22 teacher [1] - 16:15 ten [7] - 3:22, 18:14, 19:6, 54:8, 54:15, 54:20, 60:18 tend [2] - 65:11, 65:18 terminate [1] - 28:4 testified [8] - 3:6, 28:23, 57:24, 62:17, 65:24, 69:19, 72:1, 72:2 testify [4] - 29:1, 30:3, 69:15, 69:22 testifying [3] - 22:21, 67:21, 68:15 testimony [15] - 22:25, 29:5, 29:14, 31:25, 41:9, 46:24, 56:25, 57:6, 59:2, 59:6, 62:20, 71:5, 72:3, 73:14, 74:2 they've [2] - 58:24, 69:19 third [1] - 60:4 threatened [4] - 10:3, 16:21, 30:14, 31:12 threats [1] - 10:8 three [8] - 4:6, 4:7, 4:11, 10:17, 17:9, 26:6, 61:10, 65:10 throughout [1] - 66:16 throwing [1] - 61:3 tired [1] - 65:12 tires [6] - 35:1, 35:5, 35:6, 35:9, 35:15, 65:25 today [11] - 9:1, 9:2, 11:23, 30:16, 30:20, 34:22, 34:23, 35:8, 52:7, 56:25, 72:1 today's [1] - 12:8 together [1] - 19:13 took [8] - 19:16, 21:2, 37:19, 41:22, 43:3, 55:11, 67:17, 69:14 tool [4] - 34:2, 54:13, 54:20, 57:18 top [4] - 21:2, 43:12, 56:13, 66:20 touch [2] - 6:24, 13:7 towards [3] - 14:9, 14:17, 55:14

<p>toys [1] - 61:3 track [2] - 52:22, 70:16 tracking [2] - 53:13, 53:21 tractor [6] - 6:3, 8:1, 8:5, 10:23, 10:24, 64:7 trail [1] - 24:20 trained [1] - 61:22 travel [1] - 62:11 trees [5] - 17:20, 17:21, 17:22, 33:18, 37:1 trespassing [8] - 14:9, 52:5, 52:18, 52:19, 53:8, 63:21, 63:23, 64:9 trouble [1] - 73:20 true [1] - 69:23 truly [1] - 57:17 truth [2] - 54:1, 71:7 try [2] - 16:9, 30:19 trying [2] - 31:15, 64:4 turn [2] - 38:21, 60:4 turned [5] - 38:24, 39:4, 39:7, 55:14, 66:3 two [12] - 12:15, 29:6, 29:8, 30:18, 32:14, 37:3, 37:9, 43:3, 53:6, 59:9, 61:10 two-page [1] - 12:15 type [1] - 69:15 types [1] - 4:25 typically [1] - 60:14</p>	<p>V</p>	<p>wearing [3] - 20:23, 55:19, 65:10 weather [1] - 9:21 week [1] - 4:5 weekends [3] - 16:15, 16:16, 23:13 weeks [1] - 43:3 weight [1] - 30:22 well-being [2] - 5:10, 21:21 WENDT [25] - 3:3, 8:19, 8:22, 9:7, 9:15, 12:3, 12:9, 12:13, 12:18, 25:4, 25:17, 28:22, 30:15, 53:15, 58:19, 59:14, 67:3, 67:12, 67:14, 67:17, 67:24, 68:25, 70:6, 71:14, 73:12 Wendt [11] - 3:9, 6:22, 8:24, 9:17, 12:19, 18:25, 23:8, 24:23, 61:21, 67:11, 71:10 wet [2] - 15:17, 15:18 whack [1] - 57:13 whatnot [2] - 5:25, 60:14 wheeler [4] - 46:21, 46:23, 46:25, 47:1 wheelers [3] - 24:16, 24:18, 46:14 white [3] - 71:24, 72:10, 72:11 whole [5] - 42:9, 43:17, 53:4, 54:9, 56:10 wide [4] - 20:7, 20:14, 20:22, 21:3 wife [1] - 5:3 window [2] - 18:23, 66:16 witness [2] - 73:23, 73:25 wood [1] - 66:13 words [2] - 14:19, 21:19 worried [1] - 5:10 writing [2] - 68:13, 68:18 written [1] - 67:15</p>	<p>56:10 year [1] - 21:16 years [12] - 3:22, 4:6, 4:7, 4:11, 6:8, 7:13, 10:17, 17:9, 19:6, 19:20, 19:22, 26:6 yelled [2] - 52:17, 52:18 yelling [5] - 4:24, 51:17, 52:23, 53:2, 73:7</p>
<p style="text-align: center;">U</p> <p>ultimately [1] - 28:6 unaware [1] - 18:11 under [2] - 12:9, 12:11 unless [1] - 44:18 unlock [1] - 8:8 up [36] - 5:9, 8:12, 10:23, 11:2, 12:25, 13:2, 13:4, 13:9, 13:21, 15:19, 18:23, 20:3, 21:10, 22:23, 29:13, 33:9, 35:1, 35:5, 35:6, 35:8, 44:17, 46:7, 46:10, 51:11, 51:15, 51:22, 52:13, 55:3, 55:4, 55:6, 56:8, 57:4, 61:7, 65:7, 65:25, 72:20</p>	<p>W</p>	<p>W-2 [1] - 27:10 wait [1] - 33:22 walk [3] - 51:13, 51:15, 54:5 walked [8] - 8:9, 11:3, 24:2, 51:8, 51:10, 51:18, 64:11, 72:20 walking [4] - 10:25, 20:20, 46:7, 73:18 wants [2] - 28:3, 62:5 warm [10] - 13:2, 13:4, 13:9, 13:21, 15:14, 15:16, 15:19, 50:22, 51:1, 51:9 warned [1] - 10:5 washed [1] - 15:16 watched [2] - 12:25, 20:20 watching [2] - 17:6, 17:8 water [14] - 23:14, 23:15, 35:21, 35:22, 35:23, 36:2, 36:7, 36:8, 36:10, 38:21, 38:24, 39:4, 39:7, 66:3 weapons [1] - 16:23 wear [1] - 65:11</p>	<p>Z</p> <p>zero [1] - 15:7 Zuccaro [30] - 3:15, 4:8, 10:7, 12:21, 25:24, 26:9, 26:10, 26:11, 26:13, 26:16, 26:17, 26:20, 26:25, 27:17, 28:3, 28:14, 28:17, 30:10, 31:19, 33:13, 37:16, 37:23, 42:19, 42:22, 44:11, 45:5, 46:22, 53:22, 63:20 Zuccaro's [3] - 62:21, 72:13, 72:17</p>
		<p>Y</p>	

STATE OF SOUTH DAKOTA
Sixth Judicial Circuit Court
 I hereby certify that the foregoing instrument is a true and correct copy of the original as the same appears on file in my office and the same is still in full force and effect.

JUL 30 2025

KELLY CAVINESS
 Jones County Clerk of Courts

APPENDIX J

Transcript of December 31, 2024 Advisory Hearing

Certified and Filed July 28, 2025, in Case No. 37TPO24-03

This appendix contains the certified transcript of the advisory and motions hearing held on December 31, 2024, before the Honorable M. Bridget Mayer, Circuit Judge, Sixth Judicial Circuit, Jones County, South Dakota.

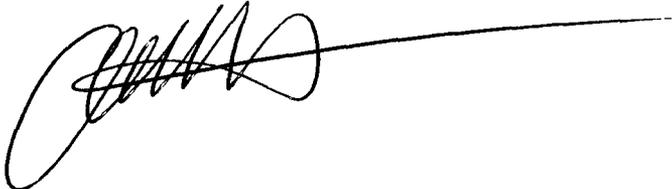
The transcript was ordered by Appellant, prepared by the official court reporter, and certified and filed with the circuit court on July 28, 2025. It was filed as part of the settled record in Case No. 37TPO24-03 and included in Appellant's Notice of Filing of Official Transcripts and Intent to Supplement Appendix, filed on July 30, 2025.

CERTIFICATION BY APPELLANT

I certify that the transcript included in this Appendix is a true and correct copy of the certified original on file in the circuit court, and that it is part of the settled record on appeal in Case No. 37TPO24-03.

Dated: 8/4/25

/s/ Christina Zuccaro
Christina Zuccaro, Appellant



1 (The following was transcribed from digital
2 recording.)

3 THE COURT: Good morning, everyone. Please be
4 seated. Folks, we're here -- Judge Klinger is the
5 Presiding Judge in Jones County, and the previous two
6 matters were reassigned to this Court and we had a
7 hearing on two files which were in 37TPO24-01 and 03.

8 For a procedural history, I believe the 01
9 file, Ms. Zuccaro, that was your file and in
10 mid-hearing or after we'd heard the evidence, there
11 was a dismissal, which you had legal counsel at the
12 time, and that was filed. And I understand that there
13 was another pending separate criminal case which I
14 understand now has been, I believe, dismissed or
15 deferred, I'm not sure which because I wasn't on that
16 matter.

17 The Court, after hearing the evidence, had
18 entered a protection order in 24-03 and in that order
19 of protection that was granted with -- Ms. Sammons was
20 the Petitioner and Ms. Zuccaro, you were the
21 Respondent, and that was granted for a period of a
22 couple years to be extended through October 8th of
23 2026.

24 The parties had worked with their counsel, and
25 I'm specifically pointing the parties to page three,

1 if you have that order in 03, where the lawyers had
2 taken a break and come up with various agreements as
3 to what would be the specifics because you both live
4 and work in a close proximity. And then the Court had
5 approved some of the protection orders that were
6 entered on behalf of Ms. Sammons to allow for
7 Ms. Zuccaro to live on her property and also to allow
8 Ms. Sammons to conduct her business or her work that's
9 in the area.

10 So every person has a right to file a petition
11 for protection. Judge Klinger reviewed the new file,
12 I'm going to say, 37TPO24-06, and that order, I think
13 you both got a copy of it where Judge Klinger denied
14 the petition for protection order that, Christina, you
15 had filed. However, she did indicate that a hearing
16 could be requested in the 24-03 file which has got the
17 active protection order in it.

18 So I know that you're pro se, Christina, and so
19 I can relax a little bit and try to explain things to
20 you. You always have the right to go seek legal
21 counsel to assist you with this. So I'm viewing this
22 as the way Judge Klinger, the Presiding Judge, handled
23 this is really in that you're pro se, that this was a
24 request to modify the order in TPO24-03 and that would
25 be -- you know, it might not be captioned right. You

1 used the old forms but I don't think there really is
2 any particular forms for an order for modification but
3 the laws require under SDCL 25-10 that either party
4 can request a modification or a dismissal of an
5 existing order, and that notice and hearing is
6 required for all modifications and dismissals and, in
7 addition to that, the Court can dismiss it.
8 Otherwise, if the Court does not, it requires a
9 hearing that shows a change of circumstances and that
10 is in the case of Sjomeling v. Stuber, 615 N.W.2d 613.
11 That's a 2000 S.D. Supreme Court. So for purposes of
12 today, I'm treating this as an advisory hearing to
13 advise all the parties on what your rights are and how
14 we'll handle the issue of whether or not the matter
15 should be modified.

16 So the Court has to determine whether or not
17 there is a change of circumstances to modify your
18 request, Christina, so the Court is not allowed to
19 relitigate the issues that have already been resolved
20 by my previous order. There is a requirement that a
21 strong showing must be required before it will be
22 modified. A passage of time is not sufficient. It
23 also has to be shown that it's no longer equitable or
24 there must be some change in circumstances to modify
25 what the existing conditions are. So the Sjomeling

1 case is pretty much on point here and it talked about
2 whether or not there can be relief granted.

3 And Ms. Wendt, you're there. The parties are
4 switched but again, Ms. Christina is pro se. There is
5 no form for a modification but do you agree that based
6 on what Judge Klinger did and her view of what this
7 was and this is how she was handling it and I am now
8 to take the baton because I've handled both matters
9 and am familiar with it and for principles of judicial
10 efficiency, she's reassigned this Court.

11 So since you're the lawyer in the room, do you
12 agree with this is -- what we're really doing here is
13 a request for a modification of the protection order
14 that this Court had entered on the 24-03 file, which
15 is where Judge Klinger directed this matter to now be.
16 Do you agree? And I can't hear you. You're totally
17 mute. Something needs to be turned on.

18 MS. WENDT: How about now?

19 THE COURT: Oh, very good.

20 MS. WENDT: I agree, Your Honor. We're taking
21 24-6 as dismissed by the Court and addressing the
22 request for modification. We'd also agree, Your
23 Honor, this Court spent significant amounts of time
24 reviewing the facts under the hearing that occurred in
25 24-3 so we agree that it is appropriate for Your Honor

1 to be overseeing this modification request as well and
2 we were hopeful to see Your Honor here today for those
3 reasons. So I think that we are on the same page as
4 the Court.

5 THE COURT: All right. Well, normally what we
6 could do if the parties agree, I do -- I could hear
7 your oral statements today as to why this should be
8 modified and what needs to be modified so the parties
9 can -- you're going to be close to one another and
10 we've got to come up with a way that, you know, life
11 can go on peacefully with everyone.

12 So have you -- Ms. Zuccaro, you're pro se. Did
13 you want to go get a lawyer to help you with your
14 modification request or would you like the Court to
15 hear your arguments today or set another hearing where
16 you can have more facts and evidence presented?

17 CHRISTINA ZUCCARO: Your Honor, can you hear
18 me?

19 THE COURT: Yes, I can hear you just fine.

20 CHRISTINA ZUCCARO: I would like two weeks --

21 THE COURT: Okay.

22 CHRISTINA ZUCCARO: -- to arrange my
23 modification --

24 THE COURT: Okay.

25 CHRISTINA ZUCCARO: -- letter but I am -- I

1 came with evidence. I came with videos. I came with
2 documents and I do have questions that I know that you
3 can't answer but I would like to have them recorded.

4 THE COURT: Well, you can't record in a
5 courtroom. That's illegal.

6 CHRISTINA ZUCCARO: I mean, you know, on
7 record.

8 THE COURT: Oh, okay. Well, let's go with the
9 first question, Ms. Christina. Did you want -- you
10 want a continuance now that I've advised you of your
11 rights and it sounds like you want a more formal
12 hearing where you can testify. You would be subject
13 to cross-examination.

14 CHRISTINA ZUCCARO: Yes.

15 THE COURT: You can issue subpoenas. You
16 can -- you would have the burden of proof to show that
17 there has been, under that case, under the Sjomeling
18 case that I indicated that there's a change of
19 circumstances. And if you want to write down that
20 cite, it's 615 N.W.2d 613 and that's the case that I
21 am looking at for guidance on what a court needs to
22 consider to modify when I've already heard all of the
23 facts and the evidence and it has to be shown to the
24 Court that there's a substantial change of
25 circumstances.

1 So I'm not really clear with what you have
2 filed on how you're asking me to modify what's been
3 entered. I think you took it as, hey, this is
4 something totally new. And you know, I know you're
5 pro se and that's why you filled it out but at least
6 today I think I can advise you that the context, that
7 since we've already had a full day's hearing on these
8 issues, that you need to prepare a specific document
9 as to why you feel that there's been that change of
10 circumstances where it's no longer equitable for the
11 Court to enforce the terms of that order in 03.

12 So you need to get that copy back out of
13 storage for the temporary order of protection that I
14 had entered against you and specifically study on page
15 three where the specifics that you and your legal
16 counsel agreed that you could live with and why it
17 needs to be modified under a change of circumstance.
18 And we won't be relitigating all the underlying facts.
19 I can't do that. But there has to be changes that are
20 so important that they're somewhat substantial and
21 there should be a modification of what I ruled.

22 So I guess with that specific direction, would
23 you -- my one question you didn't answer yet is are
24 you asking in part to continue this so you can go --
25 you said you have some questions -- seek out either

1 the legal counsel you had or find counsel to advise
2 you? Are you thinking about that?

3 CHRISTINA ZUCCARO: Yes, yes, Your Honor.

4 THE COURT: Okay. And you think you can have
5 somebody retained within two weeks; is that right?

6 CHRISTINA ZUCCARO: Yes, Your Honor.

7 THE COURT: Okay. So how this would work is
8 Ms. Sammons already has Ms. Wendt as legal counsel so
9 as soon as you get that lawyer -- and I know it's New
10 Year's Eve and, you know, a lot of law offices are on
11 different hours at holiday time but they should all be
12 back in the saddle, I would assume, if not this week,
13 next week and I think you should start reaching out as
14 soon as you can.

15 Once you get that lawyer retained, they need to
16 contact Ms. Wendt and then they will get with my court
17 reporter, Mona, because I'm not normally there in
18 Jones County but I will get a time that works with all
19 of you that we can come back and have a hearing which,
20 you know, they'll let me know how much time they think
21 they need and your lawyer can pull up these files and
22 you can direct -- if it's the same lawyer, he knows
23 what happened and you can tell him that I'm viewing
24 this as a request for you to modify the order I did
25 enter, which was in 24-03.

1 But him or her can call Ms. Wendt and she can
2 tell them the legal posturing that I am viewing this
3 based on Judge Klinger's ruling and how she put it
4 back into the 03. The 06 file that you opened up was
5 dismissed and basically it was put back in 03 for a
6 request for modification. Okay?

7 MS. ZUCCARO: Thank you.

8 THE COURT: Ms. Wendt, anything further? You
9 need to --

10 MS. WENDT: I have a couple --

11 THE COURT: You need to, Christina, have that
12 lawyer immediately contact Ms. Wendt's office so we
13 can get this on my calendar and see where we go from
14 here. Okay?

15 CHRISTINA ZUCCARO: Yes, Your Honor.

16 THE COURT: And if you don't have that done
17 within two weeks, which is -- what's the date --

18 MS. WENDT: January 14th.

19 THE COURT: What day of the week is that on?

20 MS. WENDT: It's a Tuesday, January 14th.

21 THE COURT: Okay. If there's no contact with
22 Ms. Wendt by that time and my court reporter, I'm
23 going to dismiss it because I'm going to assume that
24 you've gone over it with your lawyer and you don't
25 want to modify it anymore. Okay? Does that make

1 sense? That will be a deadline.

2 CHRISTINA ZUCCARO: Your Honor, Mr. Stiles is
3 my attorney.

4 THE COURT: Okay. So you get back with him.
5 You tell him that he needs to reach out with Ms. Wendt
6 by January 14th or sooner and they will get -- see if
7 it's resolved somehow because they walked you through
8 this before. If you can resolve it together with a
9 modification that you both agree with and if you
10 can't, then those lawyers are directed to get with my
11 court reporter and set a hearing there in Jones County
12 or whatever county works best for you folks. Okay?
13 Does that make sense -- does that make sense,
14 Christina?

15 CHRISTINA ZUCCARO: Yes, Your Honor. I filed a
16 restraining order again because Ms. Sammons came into
17 my egress and that was alarming to me.

18 THE COURT: Okay. And I understand that you're
19 saying, hey, this is a whole new file. And the
20 background, I believe what Judge Klinger was thinking,
21 and I tend to agree with it, was there's new facts
22 that require a modification of my existing order in
23 the 03. Okay? I understand that. And so it's really
24 putting the file back into the -- your 06 into the 03
25 as being requested as a modification of that order

1 either to determine to dismiss it outright or to make
2 modifications to it that you can both live with
3 because I understand you're going to be living there
4 and you got to figure out how you're going to get
5 along. Okay?

6 So I think it's wise to get the lawyers in
7 here. Mr. Stiles can go over your concerns. Give him
8 a copy of what you filed if he doesn't already have
9 it. Okay? That will save him some time. Mail it to
10 him so he can read it and that will save you some
11 money, too, so he can read everything you're saying
12 and then he can ask you questions and then he can get
13 ahold of Ms. Wendt as soon as possible to see if we
14 can figure this out and negotiate it where you can
15 both go forward or if we need to have that hearing
16 set, which you can set -- the lawyers can set through
17 my court reporter. Okay?

18 CHRISTINA ZUCCARO: Okay. Thank you, Your
19 Honor.

20 THE COURT: And your deadline is that two
21 weeks. If I don't hear from Mr. Stiles or Ms. Wendt
22 that we need a hearing or that we've resolved it and,
23 you know, you come with some kind of agreement that I
24 can approve, I'm going to view this as you've got your
25 legal counsel, you don't want to proceed further and

1 then I will just continue on with Judge Klinger's
2 dismissal without a further hearing. Okay?

3 CHRISTINA ZUCCARO: Yes, Your Honor.

4 THE COURT: Okay. So in the meantime, the both
5 of you, I want you both to reread what I have ruled on
6 page three and that is enforceable. Law enforcement
7 is there. They'll reread and I am directing them as
8 well to reread the terms of that and they will
9 continue on with doing their part as a law enforcement
10 officer.

11 And I want you all to be safe. We got weird
12 weather out there and just be good to one another and
13 follow the court order that's in existence until we
14 get this figured out. Okay?

15 MS. WENDT: Your Honor, we do have a couple of
16 things that we would like to take up, if this is a
17 good time to do that.

18 THE COURT: Certainly.

19 MS. WENDT: Your Honor, first of all, I would
20 like to make an oral motion to dismiss. Based on what
21 was filed before this Court, I don't believe that
22 there are any assertions of a change of
23 circumstances which would allow this Court to modify
24 the underlying protection order.

25 I don't believe that there are any facts or

1 sufficient facts contained within the modification
2 request that would rise to a level where this Court
3 could actually move forward with modification. So I
4 would ask on those grounds and pursuant to the
5 Sjomeling case that this Court outright dismiss the
6 argument of modification as it did with the request
7 for a protection order in 24-6.

8 In addition, Your Honor, if the Court's not
9 inclined to do so, I wanted to make it known and make
10 it on the record at this time that should this matter
11 be dismissed moving forward or should we prevail in
12 the end of this hearing, we do intend to ask for
13 attorney fees to be paid in full immediately as we
14 find this to be frivolous based on the lack of change
15 in circumstances and the lack of evidence provided
16 going in. So those are our two motions and we would
17 ask the Court to make a determination on the motion to
18 dismiss today.

19 And I also, hearing the Court's position
20 regarding the contact with the attorney and a hearing
21 date set, I will provide the Court a proposed order
22 that sets that out once I return to my office.

23 THE COURT: Okay. Well, I did read her
24 Petition. I think there could be a fair argument that
25 she could have filed and Judge Klinger could have

1 elected to leave 06 open as a new factual situation
2 and I also believe there was a fair interpretation
3 that this was a request for a modification. So I do
4 think there is a question of fact as to whether there
5 were new facts of a protection order circumstance that
6 should be granted.

7 Now, whether that meets the legal standard
8 either under a substantial change of circumstances or
9 by a preponderance of the evidence for new facts, this
10 is kind of a hybrid, I believe, and I believe she is
11 requesting legal counsel. I do believe there's a
12 question of fact that is, in fairness to her, she's
13 pro se right now, that I'm going to deny your motion
14 for an outright dismissal because there are new facts
15 that I did not hear that have happened subsequent to
16 the events that the Court made its ruling on.

17 However, because this is a continuation of the
18 conduct between both parties and I've already heard
19 all of it and I've got it in my mind, I am thinking
20 this makes sense to view this in a modification
21 context. Once she gets her lawyer with Mr. Stiles, he
22 might even make an argument that the 06 shouldn't have
23 been dismissed and that's a whole new ball game, or he
24 might agree that with my order, which I'm probably
25 going to stand pretty firm on, that this is a request

1 for modification and there must be a showing of that
2 higher burden of a substantial change in circumstances
3 under the Sjomeling case. But he needs to make those
4 legal arguments on her behalf on whether, no, we're
5 back to a preponderance. It just got put over into
6 this file for, you know, the new case where now she's
7 the Petitioner.

8 So this is somewhat of a sticky wicket and I
9 understand why Judge Klinger made her ruling and I
10 tend to agree with it. I'm going to follow it and so
11 I think there's enough facts that I have to deny your
12 motion to give her a chance to see if she can meet her
13 burden of proof.

14 If you do -- if the Court does deny and does
15 dismiss the modification or an outright new
16 circumstance even under a preponderance of the
17 evidence, I would just in advance ask you to do a
18 little bit of research on the request for attorney
19 fees in the context of a protection order. I'm not
20 sure if that's been raised yet before and I'll have my
21 law clerk look into it as well. And if there's some
22 authority for it, then I can consider it and you can
23 talk to Mr. Stiles about that, too, so Christina is
24 aware that that is a possibility when she's visiting
25 with her lawyer about that. So if you would draft

1 that order.

2 Ms. Christina, I think the order should
3 probably be going to Mr. Stiles but do you want her to
4 send you a copy until we formally get him onboard?
5 Because he'll have to file a Notice of Appearance with
6 me but do you want a copy of the order that I'm going
7 to look at --

8 CHRISTINA ZUCCARO: Yes.

9 THE COURT: -- and sign today?

10 CHRISTINA ZUCCARO: Yes, please, Your Honor.

11 THE COURT: Ms. Wendt, can you send that to her
12 by mail? Would you be willing to do that --

13 MS. WENDT: Absolutely.

14 THE COURT: -- and then also serve it on
15 Mr. Stiles and then he'll need -- you know, he did --
16 I guess he is in that old file so I don't know that he
17 really needs to refile a Notice of Appearance but I
18 suspect once you serve it on him, he'll probably get
19 ahold of you and say what's going on.

20 MS. WENDT: Absolutely.

21 THE COURT: So you can also further talk to him
22 about the ruling today if he's got any questions and
23 then you know where the road map is to get this
24 resolved. Okay?

25 MS. WENDT: Absolutely.

1 THE COURT: Any further questions from either
2 party today before I let you go?

3 MS. WENDT: Nothing from us, Your Honor.

4 THE COURT: Okay. Christina, do you have any
5 questions?

6 CHRISTINA ZUCCARO: I do have some
7 comprehensive questions for you regarding her presence
8 and actions and recordings.

9 THE COURT: Okay. I'm not going to hear any
10 evidence today. This is an advisory that says, hey --

11 CHRISTINA ZUCCARO: Yes.

12 THE COURT: -- Judge Klinger denied a temporary
13 protection order for you and she denied a temporary
14 modification, that there weren't sufficient facts for
15 that at this time. I have not heard all the evidence
16 on that and I am granting you, once you talk to
17 Mr. Stiles and he wants a hearing, I'm going to have a
18 hearing. And at that time you need to get all that
19 evidence to your attorney so he can help you present
20 it to me and then I can make a decision, as I've laid
21 out, whether it meets the burdens either under a new
22 protection order -- it's really a modification and
23 there's different burdens of proof. And then he can
24 present -- help you present your facts, your
25 recordings, your evidence and your legal arguments for

1 me to change my mind on my existing order. Okay? I
2 really can't hear the evidence today.

3 CHRISTINA ZUCCARO: Just -- I'm sorry, Your
4 Honor, this isn't -- these are just questions.
5 They're not -- these are not evidence. They're just
6 questions.

7 THE COURT: Well, if I can answer them, I will
8 but I can't represent you. I can talk to you about a
9 procedural issue but go ahead and if I can answer it,
10 I will.

11 CHRISTINA ZUCCARO: I don't expect an answer
12 because I understand you might require research.
13 Regarding her employer's lease termination, does the
14 expiration of the employer's lease and their refusal
15 to vacate negate Sammons' right to remain on the
16 property? The lease was terminated November 15th,
17 2023. What legal standing does Sammons have to
18 continue residing on property controlled by Zuccaro,
19 LLLP, given the expired lease?

20 I have two questions regarding trespassing.

21 THE COURT: All right, so --

22 CHRISTINA ZUCCARO: How does --

23 THE COURT: I'm going to stop you right now.
24 Those kind of are separate legal cases that are
25 ongoing. And to the extent I don't know what a court

1 has ruled on those or what those legal positions are,
2 that can all be presented at the hearing if there has
3 been some sort of a determination on some civil matter
4 and how that would affect a protection order. That
5 all needs to be decided by the court at the hearing
6 once the facts are presented on that.

7 I don't have any -- I can't give you legal
8 advice and if I gave you my opinion on that, I'd be
9 acting as a lawyer and my ethics don't allow me to do
10 that. So I'm the judge and I have to hear the facts
11 and then, you know, I'm the umpire to make the call on
12 the questions you're asking me. So I can't give you
13 legal advice. That's where Mr. Stiles can assist you
14 or, you know, if he isn't going to continue to
15 represent you, you know, I've given you time to find a
16 new lawyer. And you know, get all your documents to
17 whoever the lawyer is so they can get going on this as
18 soon as possible because you got that two-week
19 deadline. Okay?

20 CHRISTINA ZUCCARO: Thank you.

21 THE COURT: And I know you've had -- I know
22 you've had these questions all along so they're kind
23 of really not new questions but you need to re-plow
24 that ground with Mr. Stiles or your new lawyer. And
25 maybe something has changed since I last heard this.

1 I don't know. And I really can't go researching it on
2 my own independently. Okay?

3 CHRISTINA ZUCCARO: Thank you.

4 THE COURT: All right. So Ms. Wendt, please
5 mail out the order. You can file it in Odyssey for me
6 and I'll try -- I don't know if you'll get it done
7 today. I'll watch for it on Thursday. I'll be in and
8 I'll be in Friday and so it's going to get signed
9 pretty quickly and then --

10 MS. WENDT: Thank you, Judge.

11 THE COURT: -- mail that out to Christina until
12 Mr. Stiles or another attorney is formally onboard.

13 MS. WENDT: Thank you, Judge.

14 THE COURT: Okay. Thank you. Stay safe,
15 everyone, and hopefully 2025 will be a better year for
16 everybody. We'll be in recess.

17 (Proceedings concluded.)

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STATE OF SOUTH DAKOTA)

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CERTIFICATE

COUNTY OF HUGHES)

I, Mona G. Weiger, Official Court Reporter in and for the State of South Dakota, do hereby certify that the Transcript of Hearing contained on the foregoing pages was reduced to stenographic writing by me from digital recording and thereafter transcribed to the best of my ability, and that the foregoing is a full, true and complete transcript of my shorthand notes of the recorded proceedings had at the time and place set forth above.

Dated this 28th day of July, 2025.

/s/ Mona G. Weiger

Mona G. Weiger
Official Court Reporter

<p>0</p> <p>01 [1] - 2:8 03 [7] - 2:7, 3:1, 8:11, 10:4, 10:5, 11:23, 11:24 06 [4] - 10:4, 11:24, 15:1, 15:22</p> <hr/> <p>1</p> <p>14th [3] - 10:18, 10:20, 11:6 15th [1] - 19:16</p> <hr/> <p>2</p> <p>2000 [1] - 4:11 2023 [1] - 19:17 2025 [1] - 21:15 2026 [1] - 2:23 24-03 [4] - 2:18, 3:16, 5:14, 9:25 24-3 [1] - 5:25 24-6 [2] - 5:21, 14:7 25-10 [1] - 4:3</p> <hr/> <p>3</p> <p>37TPO24-01 [1] - 2:7 37TPO24-06 [1] - 3:12</p> <hr/> <p>6</p> <p>613 [2] - 4:10, 7:20 615 [2] - 4:10, 7:20</p> <hr/> <p>8</p> <p>8th [1] - 2:22</p> <hr/> <p>A</p> <p>absolutely [3] - 17:13, 17:20, 17:25 acting [1] - 20:9 actions [1] - 18:8 active [1] - 3:17 addition [2] - 4:7, 14:8 addressing [1] - 5:21 advance [1] - 16:17 advice [2] - 20:8, 20:13</p>	<p>advise [3] - 4:13, 8:6, 9:1 advised [1] - 7:10 advisory [2] - 4:12, 18:10 affect [1] - 20:4 agree [11] - 5:5, 5:12, 5:16, 5:20, 5:22, 5:25, 6:6, 11:9, 11:21, 15:24, 16:10 agreed [1] - 8:16 agreement [1] - 12:23 agreements [1] - 3:2 ahead [1] - 19:9 ahold [2] - 12:13, 17:19 alarming [1] - 11:17 allow [4] - 3:6, 3:7, 13:23, 20:9 allowed [1] - 4:18 amounts [1] - 5:23 answer [5] - 7:3, 8:23, 19:7, 19:9, 19:11 Appearance [2] - 17:5, 17:17 appropriate [1] - 5:25 approve [1] - 12:24 approved [1] - 3:5 area [1] - 3:9 argument [3] - 14:6, 14:24, 15:22 arguments [3] - 6:15, 16:4, 18:25 arrange [1] - 6:22 assertations [1] - 13:22 assist [2] - 3:21, 20:13 assume [2] - 9:12, 10:23 attorney [6] - 11:3, 14:13, 14:20, 16:18, 18:19, 21:12 authority [1] - 16:22 aware [1] - 16:24</p> <hr/> <p>B</p> <p>background [1] - 11:20 ball [1] - 15:23 based [4] - 5:5, 10:3, 13:20, 14:14 baton [1] - 5:8 behalf [2] - 3:6, 16:4 best [1] - 11:12</p>	<p>better [1] - 21:15 between [1] - 15:18 bit [2] - 3:19, 16:18 break [1] - 3:2 burden [3] - 7:16, 16:2, 16:13 burdens [2] - 18:21, 18:23 business [1] - 3:8</p> <hr/> <p>C</p> <p>calendar [1] - 10:13 captioned [1] - 3:25 case [9] - 2:13, 4:10, 5:1, 7:17, 7:18, 7:20, 14:5, 16:3, 16:6 cases [1] - 19:24 certainly [1] - 13:18 change [12] - 4:9, 4:17, 4:24, 7:18, 7:24, 8:9, 8:17, 13:22, 14:14, 15:8, 16:2, 19:1 changed [1] - 20:25 changes [1] - 8:19 Christina [11] - 3:14, 3:18, 4:18, 5:4, 7:9, 10:11, 11:14, 16:23, 17:2, 18:4, 21:11 CHRISTINA [22] - 6:17, 6:20, 6:22, 6:25, 7:6, 7:14, 9:3, 9:6, 10:15, 11:2, 11:15, 12:18, 13:3, 17:8, 17:10, 18:6, 18:11, 19:3, 19:11, 19:22, 20:20, 21:3 circumstance [3] - 8:17, 15:5, 16:16 circumstances [10] - 4:9, 4:17, 4:24, 7:19, 7:25, 8:10, 13:23, 14:15, 15:8, 16:2 cite [1] - 7:20 civil [1] - 20:3 clear [1] - 8:1 clerk [1] - 16:21 close [2] - 3:4, 6:9 comprehensive [1] - 18:7 concerns [1] - 12:7 concluded [1] - 21:17 conditions [1] - 4:25 conduct [2] - 3:8, 15:18 consider [2] - 7:22, 16:22</p>	<p>contact [4] - 9:16, 10:12, 10:21, 14:20 contained [1] - 14:1 context [3] - 8:6, 15:21, 16:19 continuance [1] - 7:10 continuation [1] - 15:17 continue [5] - 8:24, 13:1, 13:9, 19:18, 20:14 controlled [1] - 19:18 copy [5] - 3:13, 8:12, 12:8, 17:4, 17:6 counsel [9] - 2:11, 2:24, 3:21, 8:16, 9:1, 9:8, 12:25, 15:11 county [1] - 11:12 County [3] - 2:5, 9:18, 11:11 couple [3] - 2:22, 10:10, 13:15 court [8] - 7:21, 9:16, 10:22, 11:11, 12:17, 13:13, 19:25, 20:5 Court [24] - 2:6, 2:17, 3:4, 4:7, 4:8, 4:11, 4:16, 4:18, 5:10, 5:14, 5:21, 5:23, 6:4, 6:14, 7:24, 8:11, 13:21, 13:23, 14:2, 14:5, 14:17, 14:21, 15:16, 16:14 Court's [2] - 14:8, 14:19 courtroom [1] - 7:5 criminal [1] - 2:13 cross [1] - 7:13 cross-examination [1] - 7:13</p> <hr/> <p>D</p> <p>date [2] - 10:17, 14:21 day's [1] - 8:7 deadline [3] - 11:1, 12:20, 20:19 decided [1] - 20:5 decision [1] - 18:20 deferred [1] - 2:15 denied [3] - 3:13, 18:12, 18:13 deny [3] - 15:13, 16:11, 16:14 determination [2] - 14:17, 20:3</p>	<p>determine [2] - 4:16, 12:1 different [2] - 9:11, 18:23 digital [1] - 2:1 direct [1] - 9:22 directed [2] - 5:15, 11:10 directing [1] - 13:7 direction [1] - 8:22 dismiss [7] - 4:7, 10:23, 12:1, 13:20, 14:5, 14:18, 16:15 dismissal [4] - 2:11, 4:4, 13:2, 15:14 dismissals [1] - 4:6 dismissed [5] - 2:14, 5:21, 10:5, 14:11, 15:23 document [1] - 8:8 documents [2] - 7:2, 20:16 done [2] - 10:16, 21:6 down [1] - 7:19 draft [1] - 16:25</p> <hr/> <p>E</p> <p>efficiency [1] - 5:10 egress [1] - 11:17 either [6] - 4:3, 8:25, 12:1, 15:8, 18:1, 18:21 elected [1] - 15:1 employer's [2] - 19:13, 19:14 end [1] - 14:12 enforce [1] - 8:11 enforceable [1] - 13:6 enforcement [2] - 13:6, 13:9 enter [1] - 9:25 entered [5] - 2:18, 3:6, 5:14, 8:3, 8:14 equitable [2] - 4:23, 8:10 ethics [1] - 20:9 Eve [1] - 9:10 events [1] - 15:16 evidence [14] - 2:10, 2:17, 6:16, 7:1, 7:23, 14:15, 15:9, 16:17, 18:10, 18:15, 18:19, 18:25, 19:2, 19:5 examination [1] - 7:13</p>
---	--	--	---	--

Mona G. Weiger, Official Court Reporter 605-773-3971

existence [1] - 13:13 existing [4] - 4:5, 4:25, 11:22, 19:1 expect [1] - 19:11 expiration [1] - 19:14 expired [1] - 19:19 explain [1] - 3:19 extended [1] - 2:22 extent [1] - 19:25	given [2] - 19:19, 20:15 granted [4] - 2:19, 2:21, 5:2, 15:6 granting [1] - 18:16 ground [1] - 20:24 grounds [1] - 14:4 guess [2] - 8:22, 17:16 guidance [1] - 7:21	indicated [1] - 7:18 intend [1] - 14:12 interpretation [1] - 15:2 issue [3] - 4:14, 7:15, 19:9 issues [2] - 4:19, 8:8	15:11, 16:4, 18:25, 19:17, 19:24, 20:1, 20:7, 20:13 letter [1] - 6:25 level [1] - 14:2 life [1] - 6:10 live [4] - 3:3, 3:7, 8:16, 12:2 living [1] - 12:3 LLLP [1] - 19:19 look [2] - 16:21, 17:7 looking [1] - 7:21	mute [1] - 5:17
F	H	J	M	N
fact [2] - 15:4, 15:12 facts [15] - 5:24, 6:16, 7:23, 8:18, 11:21, 13:25, 14:1, 15:5, 15:9, 15:14, 16:11, 18:14, 18:24, 20:6, 20:10 factual [1] - 15:1 fair [2] - 14:24, 15:2 fairness [1] - 15:12 familiar [1] - 5:9 fees [2] - 14:13, 16:19 figure [2] - 12:4, 12:14 figured [1] - 13:14 file [13] - 2:9, 3:10, 3:11, 3:16, 5:14, 10:4, 11:19, 11:24, 16:6, 17:5, 17:16, 21:5 filed [7] - 2:12, 3:15, 8:2, 11:15, 12:8, 13:21, 14:25 files [2] - 2:7, 9:21 filled [1] - 8:5 fine [1] - 6:19 firm [1] - 15:25 first [2] - 7:9, 13:19 folks [2] - 2:4, 11:12 follow [2] - 13:13, 16:10 following [1] - 2:1 form [1] - 5:5 formal [1] - 7:11 formally [2] - 17:4, 21:12 forms [2] - 4:1, 4:2 forward [3] - 12:15, 14:3, 14:11 Friday [1] - 21:8 frivolous [1] - 14:14 full [2] - 8:7, 14:13	handle [1] - 4:14 handled [2] - 3:22, 5:8 handling [1] - 5:7 hear [10] - 5:16, 6:6, 6:15, 6:17, 6:19, 12:21, 15:15, 18:9, 19:2, 20:10 heard [5] - 2:10, 7:22, 15:18, 18:15, 20:25 hearing [23] - 2:7, 2:10, 2:17, 3:15, 4:5, 4:9, 4:12, 5:24, 6:15, 7:12, 8:7, 9:19, 11:11, 12:15, 12:22, 13:2, 14:12, 14:19, 14:20, 18:17, 18:18, 20:2, 20:5 help [3] - 6:13, 18:19, 18:24 higher [1] - 16:2 history [1] - 2:8 holiday [1] - 9:11 Honor [18] - 5:20, 5:23, 5:25, 6:2, 6:17, 9:3, 9:6, 10:15, 11:2, 11:15, 12:19, 13:3, 13:15, 13:19, 14:8, 17:10, 18:3, 19:4 hopeful [1] - 6:2 hopefully [1] - 21:15 hours [1] - 9:11 hybrid [1] - 15:10	January [3] - 10:18, 10:20, 11:6 Jones [3] - 2:5, 9:18, 11:11 judge [1] - 20:10 Judge [16] - 2:4, 2:5, 3:11, 3:13, 3:22, 5:6, 5:15, 10:3, 11:20, 13:1, 14:25, 16:9, 18:12, 21:10, 21:13 judicial [1] - 5:9	mail [4] - 12:9, 17:12, 21:5, 21:11 map [1] - 17:23 matter [5] - 2:16, 4:14, 5:15, 14:10, 20:3 matters [2] - 2:6, 5:8 mean [1] - 7:6 meantime [1] - 13:4 meet [1] - 16:12 meets [2] - 15:7, 18:21 mid [1] - 2:10 mid-hearing [1] - 2:10 might [4] - 3:25, 15:22, 15:24, 19:12 mind [2] - 15:19, 19:1 modification [22] - 4:2, 4:4, 5:5, 5:13, 5:22, 6:1, 6:14, 6:23, 8:21, 10:6, 11:9, 11:22, 11:25, 14:1, 14:3, 14:6, 15:3, 15:20, 16:1, 16:15, 18:14, 18:22 modifications [2] - 4:6, 12:2 modified [5] - 4:15, 4:22, 6:8, 8:17 modify [8] - 3:24, 4:17, 4:24, 7:22, 8:2, 9:24, 10:25, 13:23 Mona [1] - 9:17 money [1] - 12:11 morning [1] - 2:3 motion [4] - 13:20, 14:17, 15:13, 16:12 motions [1] - 14:16 move [1] - 14:3 moving [1] - 14:11 must [3] - 4:21, 4:24, 16:1	new [15] - 3:11, 8:4, 11:19, 11:21, 15:1, 15:5, 15:9, 15:14, 15:23, 16:6, 16:15, 18:21, 20:16, 20:23, 20:24 New [1] - 9:9 next [1] - 9:13 normally [2] - 6:5, 9:17 nothing [1] - 18:3 notice [1] - 4:5 Notice [2] - 17:5, 17:17 November [1] - 19:16
G	I	K	O	
game [1] - 15:23	illegal [1] - 7:5 immediately [2] - 10:12, 14:13 important [1] - 8:20 inclined [1] - 14:9 independently [1] - 21:2 indicate [1] - 3:15	kind [4] - 12:23, 15:10, 19:24, 20:22 Klinger [10] - 2:4, 3:11, 3:13, 3:22, 5:6, 5:15, 11:20, 14:25, 16:9, 18:12, 21:10, 21:13 Klinger's [2] - 10:3, 13:1 known [1] - 14:9 knows [1] - 9:22	lack [2] - 14:14, 14:15 laid [1] - 18:20 last [1] - 20:25 law [4] - 9:10, 13:6, 13:9, 16:21 laws [1] - 4:3 lawyer [14] - 5:11, 6:13, 9:9, 9:15, 9:21, 9:22, 10:12, 10:24, 15:21, 16:25, 20:9, 20:16, 20:17, 20:24 lawyers [4] - 3:1, 11:10, 12:6, 12:16 lease [4] - 19:13, 19:14, 19:16, 19:19 least [1] - 8:5 leave [1] - 15:1 legal [16] - 2:11, 3:20, 8:15, 9:1, 9:8, 10:2, 12:25, 15:7,	occurred [1] - 5:24 October [1] - 2:22 Odyssey [1] - 21:5 office [2] - 10:12, 14:22 officer [1] - 13:10 offices [1] - 9:10 old [2] - 4:1, 17:16 onboard [2] - 17:4, 21:12 once [6] - 9:15, 14:22, 15:21, 17:18, 18:16, 20:6 one [3] - 6:9, 8:23, 13:12 ongoing [1] - 19:25 open [1] - 15:1 opened [1] - 10:4 opinion [1] - 20:8 oral [2] - 6:7, 13:20 order [32] - 2:18, 3:1, 3:12, 3:14, 3:17, 3:24, 4:2, 4:5, 4:20, 5:13, 8:11, 8:13, 9:24,

Mona G. Weiger, Official Court Reporter 605-773-3971

11:16, 11:22, 11:25,
13:13, 13:24, 14:7,
14:21, 15:5, 15:24,
16:19, 17:1, 17:2,
17:6, 18:13, 18:22,
19:1, 20:4, 21:5
orders [1] - 3:5
otherwise [1] - 4:8
outright [4] - 12:1,
14:5, 15:14, 16:15
overseeing [1] - 6:1
own [1] - 21:2

P

page [4] - 2:25, 6:3,
8:14, 13:6
paid [1] - 14:13
part [2] - 8:24, 13:9
particular [1] - 4:2
parties [7] - 2:24,
2:25, 4:13, 5:3, 6:6,
6:8, 15:18
party [2] - 4:3, 18:2
passage [1] - 4:22
peacefully [1] - 6:11
pending [1] - 2:13
period [1] - 2:21
person [1] - 3:10
Petition [1] - 14:24
petition [2] - 3:10,
3:14
Petitioner [2] - 2:20,
16:7
plow [1] - 20:23
point [1] - 5:1
pointing [1] - 2:25
position [1] - 14:19
positions [1] - 20:1
possibility [1] -
16:24
possible [2] - 12:13,
20:18
posturing [1] - 10:2
prepare [1] - 8:8
preponderance [3] -
15:9, 16:5, 16:16
presence [1] - 18:7
present [3] - 18:19,
18:24
presented [3] - 6:16,
20:2, 20:6
Presiding [2] - 2:5,
3:22
pretty [3] - 5:1,
15:25, 21:9
prevail [1] - 14:11
previous [2] - 2:5,
4:20

principles [1] - 5:9
pro [6] - 3:18, 3:23,
5:4, 6:12, 8:5, 15:13
procedural [2] - 2:8,
19:9
proceed [1] - 12:25
Proceedings [1] -
21:17
proof [3] - 7:16,
16:13, 18:23
property [3] - 3:7,
19:16, 19:18
proposed [1] - 14:21
protection [15] -
2:18, 2:19, 3:5, 3:11,
3:14, 3:17, 5:13, 8:13,
13:24, 14:7, 15:5,
16:19, 18:13, 18:22,
20:4
provide [1] - 14:21
provided [1] - 14:15
proximity [1] - 3:4
pull [1] - 9:21
purposes [1] - 4:11
pursuant [1] - 14:4
put [3] - 10:3, 10:5,
16:5
putting [1] - 11:24

Q

questions [13] - 7:2,
8:25, 12:12, 17:22,
18:1, 18:5, 18:7, 19:4,
19:6, 19:20, 20:12,
20:22, 20:23
quickly [1] - 21:9

R

raised [1] - 16:20
re [1] - 20:23
re-plow [1] - 20:23
reach [1] - 11:5
reaching [1] - 9:13
read [3] - 12:10,
12:11, 14:23
really [10] - 3:23, 4:1,
5:12, 8:1, 11:23,
17:17, 18:22, 19:2,
20:23, 21:1
reasons [1] - 6:3
reassigned [2] - 2:6,
5:10
recess [1] - 21:16
record [3] - 7:4, 7:7,
14:10
recorded [1] - 7:3

recording [1] - 2:2
recordings [2] -
18:8, 18:25
refile [1] - 17:17
refusal [1] - 19:14
regarding [4] -
14:20, 18:7, 19:13,
19:20
relax [1] - 3:19
relief [1] - 5:2
relitigate [1] - 4:19
relitigating [1] - 8:18
remain [1] - 19:15
reporter [4] - 9:17,
10:22, 11:11, 12:17
represent [2] - 19:8,
20:15
request [14] - 3:24,
4:4, 4:18, 5:13, 5:22,
6:1, 6:14, 9:24, 10:6,
14:2, 14:6, 15:3,
15:25, 16:18
requested [2] - 3:16,
11:25
requesting [1] -
15:11
require [3] - 4:3,
11:22, 19:12
required [2] - 4:6,
4:21
requirement [1] -
4:20
requires [1] - 4:8
reread [3] - 13:5,
13:7, 13:8
research [2] - 16:18,
19:12
researching [1] -
21:1
residing [1] - 19:18
resolve [1] - 11:8
resolved [4] - 4:19,
11:7, 12:22, 17:24
Respondent [1] -
2:21
restraining [1] -
11:16
retained [2] - 9:5,
9:15
return [1] - 14:22
reviewed [1] - 3:11
reviewing [1] - 5:24
rights [2] - 4:13, 7:11
rise [1] - 14:2
road [1] - 17:23
room [1] - 5:11
ruled [3] - 8:21, 13:5,
20:1
ruling [4] - 10:3,
15:16, 16:9, 17:22

S

S.D [1] - 4:11
saddle [1] - 9:12
safe [2] - 13:11,
21:14
Sammons [6] - 2:19,
3:6, 3:8, 9:8, 11:16,
19:17
Sammons' [1] -
19:15
save [2] - 12:9, 12:10
SDCL [1] - 4:3
se [6] - 3:18, 3:23,
5:4, 6:12, 8:5, 15:13
seated [1] - 2:4
see [5] - 6:2, 10:13,
11:6, 12:13, 16:12
seek [2] - 3:20, 8:25
send [2] - 17:4,
17:11
sense [4] - 11:1,
11:13, 15:20
separate [2] - 2:13,
19:24
serve [2] - 17:14,
17:18
set [6] - 6:15, 11:11,
12:16, 14:21
sets [1] - 14:22
show [1] - 7:16
showing [2] - 4:21,
16:1
shown [2] - 4:23,
7:23
shows [1] - 4:9
sign [1] - 17:9
signed [1] - 21:8
significant [1] - 5:23
situation [1] - 15:1
Sjomeling [5] - 4:10,
4:25, 7:17, 14:5, 16:3
somewhat [2] - 8:20,
16:8
soon [4] - 9:9, 9:14,
12:13, 20:18
sooner [1] - 11:6
sorry [1] - 19:3
sort [1] - 20:3
sounds [1] - 7:11
specific [2] - 8:8,
8:22
specifically [2] -
2:25, 8:14
specifics [2] - 3:3,
8:15
spent [1] - 5:23
stand [1] - 15:25
standard [1] - 15:7

standing [1] - 19:17
start [1] - 9:13
statements [1] - 6:7
stay [1] - 21:14
sticky [1] - 16:8
Stiles [11] - 11:2,
12:7, 12:21, 15:21,
16:23, 17:3, 17:15,
18:17, 20:13, 20:24,
21:12
stop [1] - 19:23
storage [1] - 8:13
strong [1] - 4:21
Stuber [1] - 4:10
study [1] - 8:14
subject [1] - 7:12
subpoenas [1] - 7:15
subsequent [1] -
15:15
substantial [4] -
7:24, 8:20, 15:8, 16:2
sufficient [3] - 4:22,
14:1, 18:14
Supreme [1] - 4:11
suspect [1] - 17:18
switched [1] - 5:4

T

temporary [3] - 8:13,
18:12, 18:13
tend [2] - 11:21,
16:10
terminated [1] -
19:16
termination [1] -
19:13
terms [2] - 8:11, 13:8
testify [1] - 7:12
thinking [3] - 9:2,
11:20, 15:19
three [3] - 2:25, 8:15,
13:6
Thursday [1] - 21:7
today [12] [1] - 4:12, 6:2,
6:7, 6:15, 8:6, 14:18,
17:9, 17:22, 18:2,
18:10, 19:2, 21:7
together [1] - 11:8
took [1] - 8:3
totally [2] - 5:16, 8:4
TPO24-03 [1] - 3:24
transcribed [1] - 2:1
treating [1] - 4:12
trespassing [1] -
19:20
try [2] - 3:19, 21:6
Tuesday [1] - 10:20
turned [1] - 5:17

two ^[9] - 2:5, 2:7,
6:20, 9:5, 10:17,
12:20, 14:16, 19:20,
20:18
two-week ^[1] - 20:18

U

umpire ^[1] - 20:11
under ^[9] - 4:3, 5:24,
7:17, 8:17, 15:8, 16:3,
16:16, 18:21
underlying ^[2] -
8:18, 13:24
up ^[5] - 3:2, 6:10,
9:21, 10:4, 13:16

V

vacate ^[1] - 19:15
various ^[1] - 3:2
videos ^[1] - 7:1
view ^[3] - 5:6, 12:24,
15:20
viewing ^[3] - 3:21,
9:23, 10:2
visiting ^[1] - 16:24

W

walked ^[1] - 11:7
wants ^[1] - 18:17
watch ^[1] - 21:7
weather ^[1] - 13:12
week ^[4] - 9:12, 9:13,
10:19, 20:18
weeks ^[4] - 6:20, 9:5,
10:17, 12:21
weird ^[1] - 13:11
Wendt ^[11] - 5:3, 9:8,
9:16, 10:1, 10:8,
10:22, 11:5, 12:13,
12:21, 17:11, 21:4
WENDT ^[13] - 5:18,
5:20, 10:10, 10:18,
10:20, 13:15, 13:19,
17:13, 17:20, 17:25,
18:3, 21:10, 21:13
Wendt's ^[1] - 10:12
whole ^[2] - 11:19,
15:23
wicket ^[1] - 16:8
willing ^[1] - 17:12
wise ^[1] - 12:6
works ^[2] - 9:18,
11:12
write ^[1] - 7:19

Y

year ^[1] - 21:15
Year's ^[1] - 9:10
years ^[1] - 2:22

Z

ZUCCARO ^[23] -
6:17, 6:20, 6:22, 6:25,
7:6, 7:14, 9:3, 9:6,
10:7, 10:15, 11:2,
11:15, 12:18, 13:3,
17:8, 17:10, 18:6,
18:11, 19:3, 19:11,
19:22, 20:20, 21:3
Zuccaro ^[5] - 2:9,
2:20, 3:7, 6:12, 19:18

APPENDIX K

Transcript of April 1, 2025 Motions Hearing

Certified and Filed July 28, 2025, in Case No. 37TPO24-03

This appendix contains the certified transcript of the motions hearing held on April 1, 2025, before the Honorable M. Bridget Mayer, Circuit Judge, Sixth Judicial Circuit, Jones County, South Dakota.

The transcript was ordered by Appellant, prepared by the official court reporter, and certified and filed with the circuit court on July 28, 2025. It is part of the settled record in Case No. 37TPO24-03 and was included in Appellant's Notice of Filing of Official Transcripts and Intent to Supplement Appendix, filed with the South Dakota Supreme Court on July 30, 2025.

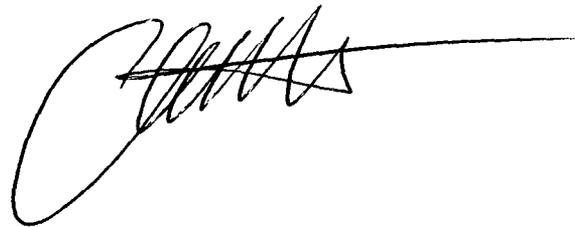
CERTIFICATION BY APPELLANT

I certify that the transcript included in this Appendix is a true and correct copy of the certified original on file in the circuit court, and that it is part of the settled record on appeal in Case No. 37TPO24-03.

Dated 8/4/25

/s/ Christina Zuccaro

Christina Zuccaro, Appellant



1 (The following proceedings were held on
2 April 1, 2025, at approximately 11:00 a.m.)

3 THE COURT: We're here in 37TPO24-03. This
4 particular action is for -- well, the Respondent is
5 pro se at this time so I've given her some leeway with
6 that understanding. Previously when this matter was
7 litigated the Court issued that protection order. I
8 believe it was entered for a two-year period.

9 MS. WENDT: That is correct, through 2026,
10 October 8, 2026.

11 THE COURT: And the original Petitioner,
12 Katherine Sammons, is not present today but she is
13 through her attorney, Cassie Wendt.

14 Christina, I know you -- well, I guess you can
15 kind of see who's here and the other participant at
16 counsel table is the current Jones County State's
17 Attorney, Anna Maher. And you have filed several
18 motions, the first of being after your legal counsel
19 withdrew, was a motion for a 911 tape.

20 I'm just going to go down the line here and
21 hear -- I think that makes sense to the Court on how
22 you filed these in that order. So you had asked for
23 911 tapes and listed out specifically what the tapes
24 were and the times and dates.

25 The State's Attorney had filed a State's

1 Attorney resistance to that in the sense that her role
2 as State's Attorney may be involved as the request for
3 her to provide access to those 911 tapes.

4 So Christina, did you have any further
5 additional argument other than your request? You
6 indicated why you thought they were relevant and why
7 you needed them but did you want to make -- it was
8 your motion so I'll let you go briefly first. I've
9 read it and I understand your request but did you want
10 to add anything further to that?

11 I think you also -- you did also submit, by the
12 way, a responsive letter as well.

13 So lawyers, if you kind of want to scoot around
14 so you can see Christina and you can see the Court.
15 And Ms. Wendt, I don't know if you want to -- you can
16 see on there where I can see both of you. Make
17 yourselves comfortable.

18 It isn't the best setup for ITV but, Christina,
19 I wanted you to be able to appear this way. So I'll
20 let these two resituate so you can see them and they
21 can see you. Okay? Can you see us all okay?

22 CHRISTINA ZUCCARO: Okay. Thank you. Good
23 morning, ladies. Thank you.

24 Your Honor, I do have an opening statement
25 regarding the 911 tapes.

1 THE COURT: Well, go ahead.

2 CHRISTINA ZUCCARO: This case is about truth
3 and the 911 tapes hold a piece of that truth, yet
4 despite my right to this evidence, I have been denied
5 access to them. These recordings are critical because
6 they expose inconsistencies in the testimony of
7 Sammons, a key witness against me.

8 The Supreme Court in *Kyles v. Whitley*,
9 514 U.S. 419 (1995), made it clear that when evidence
10 is withheld, that evidence could reasonably -- and
11 that evidence could reasonably impact the outcome of a
12 case, due process is violated.

13 The 911 tapes meet this standard for four
14 important reasons. First, under *Brady v. Maryland* the
15 law is clear, if evidence has a reasonable probability
16 of changing the result of a trial, it must be
17 disclosed. The 911 tapes may contain statements or
18 facts that directly contradict Sammons' testimony and
19 I have the right to use them to challenge her
20 credibility.

21 Second, the Supreme Court has ruled that
22 materiality is not about whether the State still has a
23 case without this evidence. It's about whether
24 withholding it denies me a fair chance to defend
25 myself. Without these tapes I am left to fight

1 against unverified claims, unable to present a full
2 and fair defense.

3 Third, once a Brady violation is found, there
4 is no need for further review. If these tapes contain
5 statements that impeach Sammons, if they show her
6 version of events is inconsistent or unreliable, then
7 their suppression alone is enough to undermine the
8 fairness of these proceedings.

9 Finally, Kyles establishes that evidence must
10 be evaluated cumulatively, not piece by piece. The
11 911 tapes may not stand alone but when combined with
12 other facts, they could expose the full picture, one
13 that contradicts Sammons' claims and calls her
14 credibility into serious question.

15 Your Honor, this is not just a request, it is a
16 matter of fundamental fairness. The State cannot
17 withhold evidence that may refute the testimony of a
18 key witness. That is why I respectfully ask this
19 Court to order the immediate release of these 911
20 tapes because in a court of law the truth should never
21 be hidden.

22 Thank you, Your Honor.

23 THE COURT: All right. So who would like to
24 respond first?

25 MS. WENDT: I would.

1 THE COURT: Ms. Wendt, you're the main attorney
2 for the Petitioner.

3 MS. WENDT: Thank you, Your Honor. First of
4 all, what I hear in that opening statement or argument
5 is that these tapes are necessary in order to impeach
6 the testimony of Katie Sammons. Your Honor, we're far
7 beyond that. Ms. Sammons' took the stand. She
8 testified. She was subject to cross-examination.
9 This information all should have been prepared and
10 ready to go at the time of that trial. In addition,
11 the Respondent did not appeal the protection order.
12 That was the remedy if she believed that the
13 protection order was inappropriate.

14 Your Honor, the Respondent is citing Brady and
15 Kyles and those cases are criminal cases. They're
16 cases written regarding criminal discovery. They're
17 written regarding a State's case against a criminal
18 defendant. And the Respondent even read part of that
19 case talking about challenging the State's case.
20 Those cases are inapplicable here when we talk about a
21 protection order matter where it's one person against
22 another versus the State against the defendant.

23 Finally, Your Honor, the Respondent made a
24 statement regarding these tapes as they may contain
25 information of impeachment value. This is a mere

1 fishing expedition and as this Court well knows, the
2 case law sets out that subpoenas can't be used for
3 that purpose. I don't believe that these tapes have
4 any applicability and I believe that we are beyond the
5 point of challenging testimony that's already
6 occurred.

7 At this point, in addition to that, Your Honor,
8 I would ask that these motions be dismissed. I did
9 file a motion to dismiss the motion to modify which
10 would include dismissing the entirety of these other
11 motions. And my reason for that is at the March 18th
12 hearing, this Court made it clear we were talking
13 about modification; things that had happened from the
14 date of the protection order to the date of the
15 hearing when we come back before the Court.

16 If you read through any of the submissions
17 provided by the Respondent, she makes it very clear
18 that this is not about the protection order. It is
19 about the contract between Bad River Cattle Company
20 and Zuccaro, LLLP. She makes it very clear in her
21 correspondence that she filed between herself and
22 Ms. Maher that this is not a family dispute. As the
23 Court knows, protection orders are put in the system
24 as family matters.

25 She states within her correspondence that this

1 is an active lawsuit and these parties further
2 establish that this is a property and contract
3 dispute. We're not here on that matter. So my motion
4 to dismiss sets out the fact that we're not talking
5 about what has happened from the time that the
6 protection order was granted to today. We are back to
7 talking about Zuccaro, LLLP v. Badland (sic) River
8 Cattle Company and that case is docketed with this
9 court.

10 So I believe when you look at subject matter
11 jurisdiction, there is none. There is already a court
12 case where all of the matters regarding those two
13 parties are being litigated and they should not be
14 litigated in yet another hearing where none of the
15 parties of those cases are a part of or present.

16 So Your Honor, my first and foremost argument
17 would be a motion to dismiss the motion to modify and
18 a motion to deny all of the other underlying motions
19 as this is a duplicative action where Ms. Zuccaro is
20 trying to litigate matters regarding a civil case that
21 she's not a party to.

22 Those things aside, I don't believe, based on
23 what I've heard, that there is any grounds to turn
24 over these 911 tapes that may contain information that
25 should have been used at a hearing that occurred back

1 in December.

2 Thank you, Your Honor.

3 THE COURT: All right. Ms. Maher.

4 MS. MAHER: Yes, Judge. As a means of.

5 background, I'm the Jones County State's Attorney. I
6 took over in that position in January. This
7 protection order matter came to my attention when
8 Ms. Zuccaro submitted to my office in January of 2025,
9 a document that's called a Civil Subpoena Request
10 Form. It's a pro se form submitting a request to the
11 Court that the Court issue a subpoena.

12 Now, the Respondent has proffered this request
13 form as if it were a subpoena and demanded these 911
14 recordings from my office and so that's the reason why
15 I felt it was important and appropriate to submit my
16 response to the Court.

17 Judge, this Court issued in October of 2024, a
18 permanent protection order and now the Defendant has
19 sought to modify that. That's unrelated to the reason
20 that I'm here. The State, of course, is not in a
21 position to take a position on that. However,
22 modification requires a change of circumstance.

23 The recordings that are requested date back to
24 January of 2023 through July of 2024, and then there
25 is an eighth request from November of 2024. Those

1 first seven requests are recordings that, if they
2 exist, would have occurred prior to issuance of the
3 trial and the issuance of the permanent protection
4 order and would not contribute to a change in
5 circumstances for the purposes of modifying a
6 protection order.

7 Judge, South Dakota Codified Law 15-6-45(b)
8 provides that a subpoena may be quashed if it's
9 unreasonable or oppressive. I note that there hasn't
10 been a subpoena issued to me or to my office yet in
11 this case. However, we rely upon that in resistance
12 to the request for a subpoena. Here the requested
13 recordings, they're not maintained by my office
14 neither as a private practice nor as a part-time
15 State's Attorney, nor am I in receipt of all of the
16 recordings of 911 calls that occur in Jones County.

17 The Respondent is seeking to employ the finite
18 resources of the Jones County State's Attorney's
19 office to go on her fishing investigation and legal
20 research and that's wholly inappropriate, Judge, and
21 it's unduly burdensome upon my office were this Court
22 to order us to do so.

23 Furthermore, her request is overly broad and
24 vague. The request calls for recordings dating back
25 to January of 2023. Those predate the protection

1 order. They, frankly, may or may not exist. It's not
2 the position of my office to go collect those. It
3 would take the true custodian of record the time and
4 effort to go through eight full days of 911 recordings
5 because there are no times, there are no parties
6 involved that are mentioned. There's not sufficient
7 information to narrow down and make this request
8 appropriate for a custodian of record to find what
9 she's looking for.

10 And so finally, Judge, given this Court's
11 authority to quash a subpoena, I'd request that the
12 Respondent's request for a subpoena be denied as
13 overly broad, unduly burdensome and both legally and
14 logically irrelevant given the argument you've heard
15 here today as well as the resistance the State has
16 filed in this matter.

17 MS. WENDT: Judge, may I make one more point?

18 THE COURT: Yes.

19 MS. WENDT: Thank you, Your Honor. I just
20 wanted to add to the record, there are several
21 comments within the motions that have been filed about
22 the Haakon County State's Attorney being involved in
23 these proceedings. As this Court well knows and just
24 for purposes of the record, I have a private practice
25 at Wendt Law. I also am the part-time Haakon County

1 and part-time Jackson County State's Attorney.

2 Neither State's Attorneys' offices at any point
3 have been involved in these proceedings. I have been
4 representing Ms. Sammons under Wendt Law. Each
5 document is signed that way. So I just wanted to make
6 it very clear that the Haakon County and the Jackson
7 County State's Attorney's offices are not involved in
8 this whatsoever. Thank you, Judge.

9 THE COURT: All right.

10 So I have a question, Ms. Maher. There is in
11 Sjomeling the ability for someone that has had a
12 protection order entered against them to ask the Court
13 to make a modification. The Court entered it for two
14 years so I could technically increase it up to five
15 years or decrease it under the Sjomeling case.

16 If the Court were to agree that the 911 calls
17 one through seven were already the subject of the
18 first extensive protection order hearing and the
19 eighth request which occurred -- and the Court did
20 previously rule I cannot relitigate issues that were
21 already there. That protection order was granted
22 October 8th of 2024.

23 How would a pro se person, if the Court were to
24 deem maybe the eighth request of a 911 call occurring
25 in November, would she have to subpoena the 911

1 records for that or do you represent the 911 access as
2 State's Attorney? Do you know? And I know this isn't
3 a criminal case. If this were a criminal case, you've
4 got the authority to go get it but this is not a
5 criminal case.

6 MS. MAHER: That's right, Judge.

7 THE COURT: So who's the record custodian for
8 her? And she chooses to be pro se and I can't give
9 her legal advice. If any authority I have would be,
10 with a pro se litigant, to enter a very limited order
11 for that November 8th date to be delivered in to the
12 Court for it to take a confidential review to
13 determine any relevance that it would maybe have on
14 whether or not the Court believes it could affect a
15 modification. I could issue something of that nature,
16 possibly.

17 And I'll give you the overall ruling at the
18 end. I want to get through some of these other
19 motions and I'll make one big ruling. But I do have
20 that question. If I do see anything that's possibly
21 relevant to a modification with my previous ruling of
22 following the previous case law that this was
23 litigated, that was the venue, that was the time to
24 get these calls.

25 The Court heard extensive testimony from the

1 sheriff about the calls from both the parties -- or
2 from the parties about the calls. So at most possibly
3 relevant would be this November call for purposes of
4 her as a pro se litigant to see that and make a
5 request to the Court based on that there's some sort
6 of change in circumstances that warrant a
7 modification.

8 And I need to let, you know, Christina know as
9 well that, you know, I entered it for two years. It
10 could go up to five. I thought two was a fair
11 resolution and I think the parties may have concluded
12 that. But the Court could also, on the other hand,
13 depending on what's in this call -- I mean, number
14 one, I'm ruling the previous call is out. I cannot
15 relitigate it. I won't relitigate it. But the one
16 that might have some relevance for her to consider and
17 to see -- I know nothing about this November call and
18 that would be consistent with my previous ruling.

19 So to the extent you are the State's Attorney
20 and somewhat of a gatekeeper if it were a criminal
21 case, I could enter an order, a confidentiality order,
22 turn it over to the parties, not to be copied or
23 disseminated. You cannot use this as a discovery tool
24 either for another case. That would be inappropriate.
25 It would be limited to me to consider whether there's

1 anything in this November call that would warrant some
2 sort of a modification, either up or down.

3 And I'll let you respond.

4 But maybe you, Ms. Wendt, want to respond and
5 then, Ms. Maher, you respond because if anything, I'm
6 telling you right now the first seven calls are out.
7 That's been litigated. I can't go back and relitigate
8 it and I'm not going to. But the one that's left
9 alive, I would like your commentary because that's
10 where I'm tending to lean to go to grant that one
11 request with a confidentiality order and that it be
12 delivered into the Court. I would make an in camera
13 review to see if there's any relevance there. If
14 there is, I would then give it to the parties to
15 review and I'd make some more rulings there. What are
16 your thoughts on that, Ms. Wendt?

17 MS. WENDT: Judge, I was just pulling up the
18 case law and I apologize for jumping on my computer
19 but I was just pulling up the case law under Nixon. I
20 don't believe that these requests under Nixon meet the
21 test associated with requests for discovery. First of
22 all, it has to be -- it has to describe what they're
23 requesting and describe how it's relevant or how it
24 applies. Nixon flat out precludes fishing expeditions
25 and expeditions where we don't know what we're going

1 to get. This may contain something that's helpful.
2 That is not sufficient under the Nixon test to require
3 it be turned over and I was trying to pull that test
4 up, Judge, and I'll continue working on that.

5 THE COURT: Well, there's Milstead with a
6 subpoena of a law enforcement officer's personnel
7 records and that was also in a criminal context where
8 it went to the South Dakota Supreme Court and they
9 utilized that U.S. Supreme Court case. Again, this is
10 not a criminal case.

11 MS. WENDT: Correct. So under -- as quoted in
12 Nixon, it's under this test in order to require
13 production prior to trial, the moving party must show
14 that the documents are evidentiary -- this is talking
15 about documents so that's where they go -- and
16 relevant; that they are not otherwise procurable
17 reasonably in advance of a trial. We don't have a
18 trial at the moment or we're not here for that. That
19 the party cannot properly prepare for trial without
20 the production and inspection in advance and that the
21 application is made in good faith and is not intended
22 as a general fishing expedition. And you have to meet
23 all four of those, not just one of the four.

24 And so when we talk about -- and I agree with
25 you, Your Honor, Nixon is a criminal case and Milstead

1 is a criminal case. However, we're talking about
2 accessing criminal information, information from the
3 911 call center. And there again, it has to be
4 relevant and admissible and it has to be described and
5 described in order to determine the relevancy what it
6 is and what it's going to show us. And we already
7 have heard from the Respondent that her purpose is
8 that it may contain information for impeachment.

9 So when you look at what she's trying to obtain
10 together with the reason she's trying to obtain it,
11 the Court has already said we're not talking about
12 impeachment. We're beyond that point and so I would
13 ask the Court to deny based on those grounds.

14 THE COURT: Ms. Zuccaro, I've already made my
15 ruling on the seven 911 calls. Those are out. That
16 ship has passed. We're not going to relitigate it.
17 You do provide a specific date. Who do you say the
18 911 call is from and what time of day?

19 CHRISTINA ZUCCARO: Myself.

20 THE COURT: From you?

21 CHRISTINA ZUCCARO: Yes, all of them.

22 THE COURT: Well, I know but I've already
23 denied your request for the first seven. Okay?

24 CHRISTINA ZUCCARO: Yes.

25 THE COURT: So I want to look at this last

1 call. Specificity is the point that she raises and
2 it's true and that's the U.S. Supreme Court in
3 Milstead said that you can't have fishing expeditions.
4 I'm recognizing you're pro se. The limited issue here
5 is whether or not there's grounds under Sjomeling to
6 allow you to have a hearing to modify this protection
7 order. The 911 call, you know what it says. You made
8 the call. Do you know the time of the call,
9 approximately?

10 CHRISTINA ZUCCARO: It was in the afternoon,
11 roughly, approximately, I believe.

12 THE COURT: Go ahead.

13 CHRISTINA ZUCCARO: Yeah, I do. It's not a
14 fishing expedition. I was with my dad and
15 Ms. Sammons, she came in -- you had her confined. She
16 couldn't -- she could only come to the fence to work
17 on the fence. She came into my back gate and my
18 egress and she started taking out power poles that
19 belonged to my dad and she had another person with
20 her, too, on another machine.

21 So I mean, I can't take pictures of it but she
22 was, you know, basically taking my dad's poles and so
23 I called 911. And yeah, she was in my yard and that
24 just doesn't go with somebody who's supposed to be
25 afraid of me.

1 THE COURT: Okay. All right. Well, on the
2 ruling on that basis, I didn't know if that was you
3 were the caller or Ms. Sammons was the caller but you
4 know the subject of the call. You know the time and
5 date and it's almost like it's vouching for a call
6 that was made.

7 To the limited purpose that this may be grounds
8 for a modification of the current protection order in
9 place for two years, either as grounds for a dismissal
10 or as grounds for extension, you can testify to that
11 at your hearing. I don't need the 911 call for that
12 so -- and if it were, it's almost like witness
13 vouching that you made the call. I don't see any
14 relevance for getting that call. You can testify to
15 just what you've told me today if this matter proceeds
16 and we'll get to some of those other motions.

17 So to the extent that it's overbroad and vague,
18 I think she has provided to the Court what it is, when
19 it was, why she thinks it's relevant. And I think it
20 wouldn't be too difficult for the 911 center to locate
21 that call with her making the call.

22 Her grounds, though, on the other issues in her
23 support are all criminal cases. Those are legal
24 requirements in Brady v. Maryland and Kyles v.
25 Whitley. If this were a discovery case in a criminal

1 matter, we'd have a whole different result. There is
2 no civil case requiring this kind of speculative
3 discovery, at best marginally relevant that it may
4 contain other evidence.

5 I might have granted it if it was a call from
6 Ms. Sammons or some other person that you wouldn't
7 have access to but you know what it is, you know what
8 the subject was and when it was called and why it was
9 called and you can testify to that. So I'm not going
10 to relitigate what the Court heard previously at the
11 hearing that was extensive. You had legal counsel
12 representing you.

13 I'll get to your motion to quash in a minute
14 but I think it's important that Ms. Christina address
15 her other motions that she has. I want to hear what
16 you have to say about that. Okay?

17 I'm denying one through seven of those calls
18 because they're not relevant. The Court's already
19 heard it. It would be nothing new. We're not going
20 to relitigate the case on the merits. We've already
21 had that time. This is strictly on a modification
22 request.

23 To the extent that the eighth call in November
24 was a call made to 911 by Ms. Zuccaro, she can testify
25 to that and what the relevance of what that call was

1 about and why and it sounds like it would be her
2 testimony as to the merits of a modification. So I'm
3 not really seeing the necessity for granting --
4 somehow doing a court order ordering the 911 services
5 to produce that eighth call. She can testify to it.
6 She knows what it was. So that is -- that request is
7 denied.

8 And I want to now -- I'm going to go here to
9 the next motion. I will have -- Christina, since
10 you're pro se and I've ruled for the State and
11 Ms. Wendt on this one, who wants to draft that order?

12 MS. WENDT: I can draft it, Judge.

13 THE COURT: Okay. If you would draft that and
14 get a copy to Ms. Zuccaro and then you can submit it
15 into Odyssey and I'll review it.

16 MS. WENDT: Thank you, Judge.

17 THE COURT: I'm also noting that the case law
18 that was cited by the Respondent was in the context of
19 criminal matters not relevant and may contain other
20 information and it's speculative.

21 So let me look at -- I think you wanted to
22 allow some remote testimony for our upcoming hearing
23 for -- I think it's your sister that you wanted to
24 call to testify about -- again, it will only be new
25 information post that date. The weather, we can't --

1 we're in South Dakota. We can't control it. I don't
2 have any concerns with a Zoom like we have now for
3 safety concerns if we do proceed with this trial.

4 Is there any objection by you, Ms. Wendt? I
5 think you're probably out of this now.

6 MS. MAHER: Well, and Judge --

7 THE COURT: Go ahead.

8 MS. MAHER: I think that ends my involvement.
9 However, there was a filing on March 31st, so
10 yesterday, by the Respondent. It's entitled Motion to
11 Object to Involvement of State's Attorney Anna Maher
12 and Request to Question Her Under Oath. I haven't had
13 opportunity to review or respond. It's very odd --

14 THE COURT: All right. We'll get to that in a
15 minute. Stay around.

16 MS. MAHER: I'll stick around then.

17 THE COURT: You've got a motion with her
18 participation here and whether she can be brought in
19 as a witness. So this may have resolved matters with
20 my earlier ruling but I'm going to have her stick
21 around to respond to that, Christina. Let's get to
22 this other motion.

23 Ms. Wendt, any concern there?

24 MS. WENDT: Your Honor, my concerns go back to,
25 as stated in the motion, a majority of the testimony

1 that she's talking about is regarding that other civil
2 case, the Zuccaro, LLLP v. Bad River Cattle Company.
3 She specifically talks about Christian Alavi, who is
4 not a party to this case.

5 And my understanding is that Paula is a
6 resident of the state of Arizona. And there again, we
7 have a right to have these witnesses testify so that
8 the Court can judge their credibility. We have a
9 right to have them properly before us for purposes of
10 cross-examination so at this point we would object.

11 We talk again about severe weather. We're
12 coming into our spring and summer season. Weather
13 shouldn't be an issue in the same way that it would be
14 in this November-December time frame. So at this
15 point I would object and ask the Court to require her
16 personal presence.

17 THE COURT: All right. Well, I'm going to make
18 a ruling if we do go forward with this trial and
19 there's weather, I'm all about safety. I can see her
20 through the ITV. I can make a credibility judgment.
21 I will make a warning, though, that this is not -- I'm
22 not relitigating the merits on this issue. It would
23 be anything -- remember, let's stay focussed here for
24 whether or not the current protection order should be
25 modified. I'm not letting her talk about anything

1 prior to that ending date when I signed the protection
2 order.

3 MS. WENDT: October 8th.

4 THE COURT: October 8th. So anything she may
5 testify to, Christina, that is matters after
6 October 8th, I will allow that. The other -- that may
7 be relevant to a modification.

8 The other thing that's concerning, I'm going to
9 be very clear and I'm the judge on the civil case. I
10 am not going to litigate a civil case in this
11 protection order. I can't. I won't. If they object,
12 I'm going to cut off the testimony on it because
13 that's not fair to the other lawsuit, either. There's
14 lawyers in the other lawsuit. They're not present.
15 They could -- this witness could be making statements
16 that's against her interests. I don't know but it's
17 not relevant to this protection order.

18 If it's anything that's -- you know, you've got
19 the Sjomeling case -- you've been citing it to the
20 Court -- that would show that there is grounds for the
21 Court to consider shortening or dismissing the current
22 protection order. I'm happy to hear what Paula has to
23 say and she'd be subject to cross but I'm going to
24 tell you I'm going to limit it to matters that
25 happened after October 8, 2026 (sic).

1 She had the opportunity to testify in the other
2 hearing and wasn't called so I'm not going there. I'm
3 not relitigating it and I'm not going to get into the
4 cattle company case. That will happen on another day
5 and I'm the judge for that and I'll hear it then. I'm
6 not going to hear it now.

7 So if you would still -- you think there's
8 something that Paula needs to tell the Court on a
9 modification, Christina, I'm going to allow it and
10 we'll get a call-in number for her. You need to give
11 me a couple days' notice to get it set up and if we
12 don't need it, fine. You know, if she comes and then
13 we don't need it, that's fine. But I don't want her
14 out on the highway -- we are in spring. It's snowed
15 in May before. I'm just -- I don't know how old she
16 is. It's a long distance away. This is a
17 modification. I'm going to bend the rules a little
18 bit and allow her to testify in that way.

19 So I'm going to tell you, Christina, if you do
20 call her, it's what, when, who, where, why. And then
21 Ms. Wendt will have an opportunity to cross-examine
22 her and so you'll be able to ask her the questions
23 that you think are relevant of knowledge she may have
24 after October 8th of 2026 (sic), why you think this
25 supports your request to modify the protection order.

1 Okay?

2 MS. WENDT: Judge, do I understand you
3 correctly, she would be appearing via Zoom then?

4 THE COURT: Yes, as long as we can set it up
5 that way kind of like we have now. I think we can
6 over there in Jones County.

7 I think that's where we're set to go, isn't it,
8 Mona?

9 COURT REPORTER: Yes.

10 THE COURT: So we'll be over in Jones. We can
11 do Zoom there. We'll get a time for her to testify
12 and maybe we take her right out of the blocks so we
13 can get it set up on a specific time. Okay?

14 CHRISTINA ZUCCARO: Your Honor, she is
15 scheduled to -- she is a resident of South Dakota.
16 She is scheduled to return, if weather permits, in
17 April so she should be here in May.

18 Also, Your Honor, I would like to note that the
19 Mortenson law office forwarded me a court order that
20 specifically mentions Sammons. This was just done
21 recently. She was in the cabin and the Zuccaro, LLLP
22 had to get a court order to regain possession of the
23 cabin and this was done through the Petition so they
24 recently forwarded me that court order. I included it
25 in a response to Ms. Wendt's motion to dismiss. I

1 wrote a motion in opposition to that and included it
2 as an exhibit so -- with the brief.

3 THE COURT: Did you file that?

4 CHRISTINA ZUCCARO: I just -- I haven't put it
5 in the mail. However, I just sent it to your
6 secretary this morning.

7 THE COURT: Okay. With that, Ms. Wendt's
8 motion to dismiss came March 31st. She wants to
9 respond to it. I'll probably take it under advisement
10 so I can see what your response is and I'll probably
11 give the two of you a written decision on that.

12 If I dismiss it after I hear what your
13 arguments are and what your exhibits are -- I may not
14 dismiss it and if I do, then you'd have 30 days to
15 appeal.

16 But I think this just came in, Ms. Wendt, the
17 31st. I think I need to let her have an opportunity
18 to respond.

19 MS. WENDT: I agree.

20 THE COURT: So I will -- get your filings, get
21 it in there to the system, okay, Christina? I'm not
22 going to rule on that today.

23 CHRISTINA ZUCCARO: Okay. I appreciate that,
24 Your Honor.

25 THE COURT: I'm not comfortable making a ruling

1 on than portion of it today. I'll either have Mona
2 set up another phone conference call to give you my
3 oral ruling or I may write on it because that's a
4 pretty big motion that I might just dismiss the whole
5 case but I want to hear what Christina has to say.
6 I'm leaning to dismiss it but I want to hear what your
7 arguments are and I think that's fair.

8 So what we'll do going forward, I'm going to
9 hear from Ms. Maher on her motion again and any other
10 motions out there but make sure, if you wouldn't mind
11 e-mailing -- you said you e-mailed it to my court
12 reporter. I've got other decisions I'm working on,
13 too, but I'll do my best. It will definitely be made
14 before the hearing because if I grant it, we won't
15 need the hearing. If I don't grant it, then we're on
16 for the hearing and we've got all this preliminary --
17 these preliminary hearing issues hammered out.

18 Okay. So I think the other motion was to
19 vacate the restraining order and I think that is
20 really the request to modify. That was filed
21 March 20th. That's -- you know, you're asking, as I
22 understand, Christina, that you want this protection
23 order dismissed and that's --

24 CHRISTINA ZUCCARO: Well --

25 THE COURT: And that's what we're going to have

1 the hearing about if we have the hearing. Okay? So
2 I'm going to treat that as a brief for me to review
3 before the hearing on why you think it should be
4 vacated. That's the Sjomeling change of circumstances
5 that you're asking for. Is that fair? Is that what
6 you're wanting me to do?

7 CHRISTINA ZUCCARO: Well, yes, Your Honor, yes.
8 If you're reading everything that I'm submitting, I'm
9 comfortable -- which I'm sure you are -- I'm
10 comfortable with your --

11 THE COURT: Okay. Well, I'm reading the
12 submission that was filed March 20th, dated the 11th.
13 You're asking me in that document to vacate the
14 restraining order, which I'm going to take as that's
15 you want me to dismiss the current protection order
16 that I entered for two years and to not --

17 CHRISTINA ZUCCARO: Just on the -- I'm sorry.
18 I don't mean to talk over you. Just on the Zuccaro,
19 LLLP property. If she wants it somewhere else, I
20 mean, I never see her other than, you know, when I'm
21 there on a Saturday.

22 THE COURT: Okay.

23 CHRISTINA ZUCCARO: So I mean --

24 THE COURT: Well, I think that's the guts of
25 your motion to modify. And you know, I did hear the

1 merits of the case. You did have a lawyer. I did
2 look for input from you, your lawyer and Ms. Wendt and
3 her client. The parties went and kind of hammered
4 this out about, hey, how are we going to get along
5 here understanding, you know, the circumstances. And
6 that's what you're asking me to modify and also you're
7 asking me just to dismiss it outright. So I
8 understand.

9 CHRISTINA ZUCCARO: Yes, yes. Thank you.

10 THE COURT: So let me see what else we have in
11 the file here. And I'm going to take your motion
12 last, Ms. Maher. Hang on a minute. I'm looking in
13 the system.

14 I've got your exhibit lists, your witness
15 lists. I'm going to say there was a cover letter
16 which again I'm going to say is trying to prepare the
17 Court for your legal arguments you're trying to make
18 and I'm going to look at it as a pre-briefing to the
19 Court of what your concerns are.

20 And you've seen all this as well, I'm assuming,
21 Ms. Wendt.

22 MS. WENDT: I don't have a cover letter.

23 THE COURT: Okay.

24 MS. WENDT: I have been out of my office,
25 though, so if it's in the mail it might still be

1 sitting there.

2 CHRISTINA ZUCCARO: Ms. Wendt, it should be on
3 your disk with all pdfs together.

4 MS. WENDT: I don't have a disk.

5 THE COURT: Did you mail her a disk, Christina?

6 CHRISTINA ZUCCARO: Yes, and all the exhibits.

7 THE COURT: Okay. Do you know -- so it might
8 be --

9 MS. WENDT: Like I say, I was out all last week
10 so...

11 THE COURT: Okay. So once you get back in the
12 office and review that, that's how I'm viewing these
13 are like a legal brief ahead of trial to get the Court
14 squared away on the issues. And you can feel free
15 that once you get all of these submissions she's got
16 on a disk for you, if you feel you need to respond to
17 anything further, you can.

18 MS. WENDT: Thank you, Judge.

19 THE COURT: All right. So motion to object to
20 the State's Attorney. I think I already told you I'm
21 taking the motion to dismiss -- I was going to hear
22 the arguments on that today and make a ruling but
23 we're going to wait. I'm going to read what you have
24 to say and then I'll probably issue a letter,
25 Christina, or I'll ask Mona to get a time where you

1 can all appear. I might be able to just do it in
2 writing.

3 And frankly, with that motion I'm either going
4 to dismiss it or I'm going to deny it. So we're going
5 to hang on to our hearing date in May for the merits
6 on a modification until I can review the submissions
7 from both of you. Okay?

8 MS. WENDT: Thank you.

9 THE COURT: So Ms. Maher, there was this motion
10 to object to you being involved and for you to be
11 questioned. I'm going to let you respond. I think it
12 kind of ties in, possibly. You are the current
13 State's Attorney. I know from the previous lawsuit
14 there was a previous criminal action with Christina
15 that kind of went together with this protection order.

16 The previous State's Attorney, I believe,
17 dismissed that matter. You're the current State's
18 Attorney. I don't know. I didn't look if it's
19 dismissed with or without prejudice. I don't know if
20 you've looked into that, number one.

21 And number two, she wanted you to be involved
22 to get the 911 calls, which I've ruled now you're
23 not -- you're done. That issue is resolved.

24 What is your response to any other claims that
25 you be questioned under oath and how is that relevant

1 to this modification and not some sort of fishing
2 expedition? Go ahead and respond.

3 MS. MAHER: Judge, there was a Jones County
4 criminal simple assault matter in which Ms. Zuccaro
5 was the Defendant. That's before my time. However,
6 in just trying to figure out what was going on here, I
7 pulled that file out. That resulted in a very, very
8 favorable resolution to Ms. Zuccaro. It was a
9 deferred prosecution agreement.

10 She was, as a part of that, required to get a
11 mental health evaluation and submit proof of that to
12 the then Jones County State's Attorney's office. What
13 she did provide was accepted by the former Jones
14 County State's Attorney as sufficient for those
15 purposes.

16 The State's Attorney at that time filed a
17 dismissal and so that's been dismissed. There are
18 likely other conditions of the agreement. Generally I
19 include that there be no law violations for a period
20 of time. I don't have indication at this time that
21 that part of the agreement has been violated so it was
22 dismissed without prejudice. I understand that to
23 some degree it relates to the protection order because
24 the alleged victim there was Ms. Katherine Sammons and
25 the Defendant was Christina Zuccaro.

1 Now, to the extent that that relates to why
2 Ms. Zuccaro at first wanted me involved to give her
3 these -- to do her work for her and go get these
4 recordings for her and now is objecting to my
5 involvement as I respond to her requests, I guess I
6 don't understand that. You can't have it both ways.

7 I think it's wholly inappropriate. I have no
8 factual or expert evidence to provide as it would
9 relate to modification of a protection order and so I
10 don't think I am -- any testimony that I could provide
11 would have any level of relevance. And so I object to
12 her seeking to, I suppose, have me participate as a
13 witness in a modification hearing, if that's the
14 request here.

15 THE COURT: Okay. Well, I think maybe,
16 Christina, in an attempt to have concerns about that
17 other matter coming back to life, usually when State's
18 Attorneys leave office and the new State's Attorney
19 comes into office, they inherit all the cases. Okay.
20 That would be -- Mr. Kirby has no authority as the
21 State's Attorney there anymore. So if anybody is
22 going to say you didn't complete the obligations of
23 the deferred, that will be Ms. Maher. And what I
24 heard today, she's got no grounds to have any
25 knowledge that that's being violated.

1 Usually the way these diversions look is, if
2 that's the case, you'd be given notice, probably a
3 summons to appear, possibly, and to say, hey, you
4 didn't comply with the terms and I can refile.

5 And I assume in this case and I would order you
6 in this case that it would be -- well, not an order
7 but I think it would be wise to issue a summons. I
8 don't want the sheriff going and cuffing and stuffing
9 you. I don't want that to happen.

10 I think that's fair. She's been before the
11 Court before. She's obeying all of the Court's orders
12 up until this point and you do have the option, should
13 that come to fruition, you have the option to do a
14 summons to appear.

15 And again, I'm not the Jones County judge.
16 That's Judge Klinger. And I can't tell a prosecutor
17 what to do. But Christina, I am asking her to highly
18 consider and to address your concerns that, you know,
19 those terms or whatever is in that deferred
20 prosecution, she's got an obligation to know what it
21 is and enforce it. So if she as the prosecutor thinks
22 there's something in violation there, I am assuming in
23 a case like yours she'd probably issue a summons for
24 you to appear and then Judge Klinger would probably
25 hear it but since Judge Klinger has assigned me all of

1 your cases, it wouldn't surprise me that that would
2 come before me as well.

3 So to the extent that I can tell you a little
4 bit about your concerns and maybe now that the 911
5 tapes and my rulings have been made that those will
6 not be provided, maybe this was your way to try to
7 have her come and testify to that event. So to the
8 extent that I've maybe explained your concerns on the
9 criminal case coming back to life, there's where we
10 are.

11 Did you want to -- what did you want to tell me
12 about this motion to object to her involvement? She's
13 not involved. And I think now that you know that as
14 far as this case, she's not coming to testify so maybe
15 that really makes this motion moot. It's been
16 resolved. She's not testifying in the temporary
17 protection order modification trial.

18 CHRISTINA ZUCCARO: I just found it highly
19 unusual, Your Honor, that a State's Attorney would
20 involve herself in a civil matter so that's why, you
21 know, I started thinking about that.

22 But I have issues regarding, you know, of
23 course, the other case and I regret signing that
24 deferred prosecution agreement and especially, you
25 know, when I found out about the September 16, 2023

1 video. Then that was provided by the sheriff's office
2 and it was to be used against me when it in fact
3 incriminated their -- Sammons. So I would like to
4 address that and so that is -- that was new evidence
5 after November 27th as well --

6 THE COURT: All right.

7 CHRISTINA ZUCCARO: -- when I got ahold of
8 those files after I signed the deferred prosecution
9 agreement and saw their tape.

10 THE COURT: Well, I'm giving you a little
11 leeway because you're pro se and you're electing to do
12 that and not have legal counsel. Deferred
13 prosecutions are pretty rare and hard to come by. I
14 suppose you could file a motion to revoke it but then
15 that brings the whole jury trial right back and you
16 could be looking at criminal responsibility for the
17 axe incident.

18 That's not my call to make. That's a
19 prosecutor's call. I think you heard Ms. Maher's
20 statement of what she knows as her executing and
21 implementing her duties as the new State's Attorney.
22 If she feels that that agreement you entered into is
23 not being followed, she would either issue a warrant
24 for a violation or a summons, which I'm asking, I
25 think is more relevant which gives you a time to

1 present yourself and turn yourself in. But what I'm
2 hearing today is she's not looking to revoke the
3 deferred.

4 And I would also say that you're the one that
5 brought her into this thing looking for the 911 tapes
6 so that's how she got involved. She has not thrown
7 herself into this modification of protection order
8 hearing. I think that's what you were attempting to
9 get her involved in to get those tapes. I ruled
10 they're not coming in.

11 And so to the extent that -- she wouldn't have
12 been here today or ever. She's not on anybody's
13 witness list. She's not relevant. You didn't
14 subpoena her. She provides nothing for a
15 modification, in my mind. So help me understand that.

16 CHRISTINA ZUCCARO: Okay. Your Honor, I
17 initially was told and I sent those e-mails to --
18 well, I have those e-mails and I can send them to you,
19 to Mr. Krogman regarding, you know, wanting the 911
20 tapes and that was before the January 1st when we were
21 to meet December 31st, after Sammons came into my yard
22 November 27th.

23 So I had -- and actually prior to that I wanted
24 those 911 tapes even prior to October 8th. But
25 Mr. Krogman, because I hadn't signed any deferred

1 prosecution agreement or whatever, was -- you know, he
2 wasn't wanting to talk to me, of course. Well, he
3 actually called me and told me he couldn't talk to me.

4 But anyway, I have e-mail correspondence with
5 him regarding asking for those tapes because then
6 after the deferred prosecution agreement was signed, I
7 didn't see why, you know, I couldn't have my own
8 emergency call tapes so Mr. Krogman e-mailed me back
9 and told me to subpoena them and this was at the end
10 of December.

11 And unfortunately, Ms. Kelly, the Clerk of
12 Courts, she went on like a really long vacation. And
13 I told him, my last e-mail to him was I would be over
14 there, you know, on Monday to, you know, to file that
15 subpoena or whatever I said.

16 THE COURT: Okay.

17 CHRISTINA ZUCCARO: And --

18 THE COURT: Okay. Let me -- I'm just pulling
19 this file up.

20 CHRISTINA ZUCCARO: Okay.

21 THE COURT: And it looks like some motions have
22 been filed to vacate this deferred prosecution. I'm
23 going to tell you right now, Christina, that is not
24 anything I'm getting into today. It would be improper
25 to bring Ms. Maher or Mr. Krogman into this protection

1 order modification.

2 The other things that were just recently filed
3 on March 31st, okay, so that was --

4 MS. MAHER: Yesterday, Judge.

5 THE COURT: Yesterday. Hang on a minute.
6 You're filing those as pro se and it looks like --
7 hang on a minute here -- that Paul Eisenbraun was your
8 previous attorney that helped you to get that deferred
9 deal and it was dismissed December 9th.

10 I'm going to -- I'm not even going to read
11 what's in there right now because I don't want you
12 to -- you might be asking for something you don't
13 want. Okay? So you don't have a lawyer with those
14 filings. That is a criminal case. That matter is
15 concluded. Your appeal time for that has run. You
16 signed a deferred.

17 I'm going to let Ms. Maher look at that and she
18 can bring up any responses and that is before Judge
19 Adamski because that was a misdemeanor so Judge
20 Adamski has that file. I'm not going to jump on
21 another judge's toes. That's not mine to hold.

22 If you wish, Christina, that you feel that you
23 should go forward with those filings, Ms. Maher will
24 respond and Judge Adamski will make the decisions on
25 these new filings in that case. Okay? And I just

1 want you to be -- I'm just going to tell you, be
2 careful what you're asking for here. You set that
3 aside, the whole criminal case comes back to life and
4 you could be looking at criminal responsibility.
5 Okay? And so as a judge I'm just giving you a duty of
6 your Fifth Amendment rights that you have to not
7 incriminate yourself before me today on this issue or
8 on a case before another judge.

9 So Ms. Maher, to the extent maybe you didn't
10 even see those filings there yet but they're there and
11 you need to look at those and whether that comes back
12 and set a hearing before Judge Adamski.

13 And if you feel you want -- you can't afford
14 legal counsel and you want to apply for one, she'll
15 handle that and go through what your rights are.

16 There may be a time frame to set aside or to
17 change a dismissal but it would be pretty unusual for
18 someone that's got a deferred and that it's concluded
19 and it's over and there's no violations to bring that
20 criminal case back alive. Okay? So that's your
21 decision to make in that file, Christina, not mine.

22 CHRISTINA ZUCCARO: Your Honor, I just want all
23 the -- I just want everything on the table. That's
24 it. I just want everything on the table, you know.

25 THE COURT: Well, it looks like -- hang on a

1 minute. You put back on the table the simple assault
2 charge, I'm just going to remind you that's a year in
3 the county jail, a \$2,000 fine or both. And I don't
4 know -- I know some of the facts and I don't know that
5 if there are sufficient facts in a new State's
6 Attorney mind to charge more crimes from that or
7 possibly a felony.

8 CHRISTINA ZUCCARO: Okay.

9 THE COURT: So I want you to be careful with
10 what you're doing here. Okay? I think it would be
11 wise for you to go either talk back to Mr. Eisenbraun
12 again about what you filed, whether he thinks that's
13 right. Raise those concerns to him before you or her
14 get a hearing filed and bring open this criminal case
15 again. Okay?

16 I just, as a duty and an officer, as a judicial
17 officer I think I owe it to you to just inform you,
18 you're pro se, I don't want you opening a can of worms
19 that you really don't intend to open. Okay? And
20 that's about as good as I can say it.

21 Ms. Maher is not going to be testifying.

22 There's no relevance to you testifying at this
23 modification hearing.

24 And she would be the prosecutor so she wouldn't
25 be testifying. If the criminal case comes back alive

1 and you get your wish granted, that then -- if Judge
2 Adamski sets it aside, then that's her call to make
3 and you go back to one and you'll have your jury trial
4 and a jury, if they convict you, you're looking at a
5 year in the county jail and a \$2,000 fine. She can
6 also look to see if there were any other charges
7 there.

8 So I highly encourage you to go talk to
9 Mr. Eisenbraun. If you feel you can't afford an
10 attorney, ask Judge Adamski to appoint you one, okay,
11 so they can advise you on any criminal exposure you're
12 facing yourself to. If I didn't care about you, I
13 wouldn't warn you. I would give this admonishment to
14 anyone coming before my courtroom. We're now bringing
15 in criminal issues and I want to make sure your rights
16 are followed there. Okay, Christina?

17 CHRISTINA ZUCCARO: I appreciate it but I am
18 not a criminal. Thank you.

19 THE COURT: And you may wish to keep this deal
20 you have because it was a deferred and you're not a
21 criminal right now. But if you bring that back alive
22 and a jury says otherwise -- you just, you need to
23 know that you're opening up some possible criminal
24 exposure there with that maneuver.

25 So what I need, I'll get your -- you get that

1 filed, your response to Ms. Wendt's motion to dismiss.
2 I'll look it over. I'll probably issue a written
3 decision on that.

4 You get me an order with the grounds fully
5 adopting both you and Ms. Maher's reasoning and also
6 my reasoning as to the 911 tapes. And also while
7 you're at it, go ahead and do the order that I'm going
8 to -- if you don't mind, that I'm allowing her sister
9 to --

10 MS. WENDT: Absolutely.

11 THE COURT: -- appear and testify remotely. If
12 she's here, great.

13 If we don't need it, Christina, and we are
14 going to go forward and I don't grant the motion to
15 dismiss, just let Mona know that we cancel our Zoom
16 hook-up for her because we're going to need to get
17 that information on how we get her information to hook
18 her up by our Zoom call so she can testify. Okay?

19 CHRISTINA ZUCCARO: Thank you, Your Honor.

20 THE COURT: Okay. Anything further from anyone
21 before I let you all go?

22 MS. WENDT: Nothing, Your Honor.

23 MS. MAHER: Judge, I don't know if you asked
24 Ms. Wendt to do it but I'm willing to do it. I'll
25 prepare an order on the request to question me --

1 THE COURT: Yes.

2 MS. MAHER: -- under oath, denying that.

3 MS. WENDT: Do you want me to just put it all
4 in one?

5 MS. MAHER: I'll prepare that one.

6 THE COURT: You prepare your own.

7 And then you've got everything else. Let her
8 know on the ones that you both made arguments on.

9 MS. WENDT: We'll get it figured out.

10 THE COURT: Make sure you get your proposed
11 orders to Christina at her e-mail so she can see them
12 and then she can -- you can submit your objections to
13 those, Christina, if you want, or your own proposals.
14 Okay?

15 MS. WENDT: Yep, perfect.

16 THE COURT: All right. Thank you, all of you,
17 for your civility today. We'll see you in May if I
18 don't grant the motion to dismiss. Otherwise, you'll
19 get my written order or I'll do another call here.

20 And then if I do dismiss it, Christina, you'll
21 have 30 days to appeal that decision if it's a
22 dismissal. If it's not a dismissal, we'll have our
23 hearing in May in Jones County. Okay?

24 CHRISTINA ZUCCARO: Thank you, Your Honor.

25 THE COURT: Thank you all. We'll be in recess.

<p>\$</p> <hr/> <p>\$2,000 [2] - 42:3, 43:5</p> <hr/> <p>1</p> <hr/> <p>1 [1] - 2:2 11:00 [1] - 2:2 11th [1] - 29:12 15-6-45(b) [1] - 10:7 16 [1] - 36:25 18th [1] - 7:11 1995 [1] - 4:9 1st [1] - 38:20</p> <hr/> <p>2</p> <hr/> <p>2023 [3] - 9:24, 10:25, 36:25 2024 [4] - 9:17, 9:24, 9:25, 12:22 2025 [2] - 2:2, 9:8 2026 [4] - 2:9, 2:10, 24:25, 25:24 20th [2] - 28:21, 29:12 27th [2] - 37:5, 38:22</p> <hr/> <p>3</p> <hr/> <p>30 [2] - 27:14, 45:21 31st [5] - 22:9, 27:8, 27:17, 38:21, 40:3 37TPO24-03 [1] - 2:3</p> <hr/> <p>4</p> <hr/> <p>419 [1] - 4:9</p> <hr/> <p>5</p> <hr/> <p>514 [1] - 4:9</p> <hr/> <p>8</p> <hr/> <p>8 [2] - 2:10, 24:25 8th [7] - 12:22, 13:11, 24:3, 24:4, 24:6, 25:24, 38:24</p> <hr/> <p>9</p> <hr/> <p>911 [32] - 2:19, 2:23,</p>	<p>3:3, 3:25, 4:3, 4:13, 4:17, 5:11, 5:19, 8:24, 9:13, 10:16, 11:4, 12:16, 12:24, 12:25, 13:1, 17:3, 17:15, 17:18, 18:7, 18:23, 19:11, 19:20, 20:24, 21:4, 32:22, 36:4, 38:5, 38:19, 38:24, 44:6 9th [1] - 40:9</p> <hr/> <p>A</p> <hr/> <p>a.m [1] - 2:2 ability [1] - 12:11 able [3] - 3:19, 25:22, 32:1 absolutely [1] - 44:10 accepted [1] - 33:13 access [4] - 3:3, 4:5, 13:1, 20:7 accessing [1] - 17:2 action [3] - 2:4, 8:19, 32:14 active [1] - 8:1 Adamski [6] - 40:19, 40:20, 40:24, 41:12, 43:2, 43:10 add [2] - 3:10, 11:20 addition [2] - 6:10, 7:7 additional [1] - 3:5 address [3] - 20:14, 35:18, 37:4 admissible [1] - 17:4 admonishment [1] - 43:13 adopting [1] - 44:5 advance [2] - 16:17, 16:20 advice [1] - 13:9 advise [1] - 43:11 advisement [1] - 27:9 affect [1] - 13:14 afford [2] - 41:13, 43:9 afraid [1] - 18:25 afternoon [1] - 18:10 agree [3] - 12:16, 16:24, 27:19 agreement [8] - 33:9, 33:18, 33:21, 36:24, 37:9, 37:22, 39:1, 39:6 ahead [6] - 4:1, 18:12, 22:7, 31:13,</p>	<p>33:2, 44:7 ahold [1] - 37:7 Alavi [1] - 23:3 alive [4] - 15:9, 41:20, 42:25, 43:21 alleged [1] - 33:24 allow [5] - 18:6, 21:22, 24:6, 25:9, 25:18 allowing [1] - 44:8 almost [2] - 19:5, 19:12 alone [2] - 5:7, 5:11 Amendment [1] - 41:6 Anna [2] - 2:17, 22:11 anyway [1] - 39:4 apologize [1] - 15:18 appeal [4] - 6:11, 27:15, 40:15, 45:21 appear [6] - 3:19, 32:1, 35:3, 35:14, 35:24, 44:11 appearing [1] - 26:3 applicability [1] - 7:4 application [1] - 16:21 applies [1] - 15:24 apply [1] - 41:14 appoint [1] - 43:10 appreciate [2] - 27:23, 43:17 appropriate [2] - 9:15, 11:8 April [2] - 2:2, 26:17 argument [4] - 3:5, 6:4, 8:16, 11:14 arguments [5] - 27:13, 28:7, 30:17, 31:22, 45:8 Arizona [1] - 23:6 aside [4] - 8:22, 41:3, 41:16, 43:2 assault [2] - 33:4, 42:1 assigned [1] - 35:25 associated [1] - 15:21 assume [1] - 35:5 assuming [2] - 30:20, 35:22 attempt [1] - 34:16 attempting [1] - 38:8 attention [1] - 9:7 attorney [4] - 2:13, 6:1, 40:8, 43:10 Attorney [22] - 2:17, 2:25, 3:1, 3:2, 9:5, 10:15, 11:22, 12:1,</p>	<p>13:2, 14:19, 22:11, 31:20, 32:13, 32:16, 32:18, 33:14, 33:16, 34:18, 34:21, 36:19, 37:21, 42:6 Attorney's [3] - 10:18, 12:7, 33:12 Attorneys [1] - 34:18 Attorneys' [1] - 12:2 authority [4] - 11:11, 13:4, 13:9, 34:20 axe [1] - 37:17</p> <hr/> <p>B</p> <hr/> <p>background [1] - 9:5 Bad [2] - 7:19, 23:2 badland [1] - 8:7 based [3] - 8:22, 14:5, 17:13 basis [1] - 19:2 believes [1] - 13:14 belonged [1] - 18:19 bend [1] - 25:17 best [3] - 3:18, 20:3, 28:13 between [2] - 7:19, 7:21 beyond [3] - 6:7, 7:4, 17:12 big [2] - 13:19, 28:4 bit [2] - 25:18, 36:4 blocks [1] - 26:12 Brady [4] - 4:14, 5:3, 6:14, 19:24 brief [3] - 27:2, 29:2, 31:13 briefing [1] - 30:18 briefly [1] - 3:8 bring [5] - 39:25, 40:18, 41:19, 42:14, 43:21 bringing [1] - 43:14 brings [1] - 37:15 broad [2] - 10:23, 11:13 brought [2] - 22:18, 38:5 burdensome [2] - 10:21, 11:13</p> <hr/> <p>C</p> <hr/> <p>cabin [2] - 26:21, 26:23 call-in [1] - 25:10 caller [2] - 19:3 camera [1] - 15:12</p>	<p>cancel [1] - 44:15 cannot [5] - 5:16, 12:20, 14:14, 14:23, 16:19 care [1] - 43:12 careful [2] - 41:2, 42:9 case [50] - 4:2, 4:12, 4:23, 6:17, 6:19, 7:2, 8:8, 8:12, 8:20, 10:11, 12:15, 13:3, 13:5, 13:22, 14:21, 14:24, 15:18, 15:19, 16:9, 16:10, 16:25, 17:1, 19:25, 20:2, 20:20, 21:17, 23:2, 23:4, 24:9, 24:10, 24:19, 25:4, 28:5, 30:1, 35:2, 35:5, 35:6, 35:23, 36:9, 36:14, 36:23, 40:14, 40:25, 41:3, 41:8, 41:20, 42:14, 42:25 cases [8] - 6:15, 6:16, 6:20, 8:15, 19:23, 34:19, 36:1 Cassie [1] - 2:13 Cattle [3] - 7:19, 8:8, 23:2 cattle [1] - 25:4 center [2] - 17:3, 19:20 challenge [1] - 4:19 challenging [2] - 6:19, 7:5 chance [1] - 4:24 change [5] - 9:22, 10:4, 14:6, 29:4, 41:17 changing [1] - 4:16 charge [2] - 42:2, 42:6 charges [1] - 43:6 chooses [1] - 13:8 Christian [1] - 23:3 Christina [28] - 2:14, 3:4, 3:14, 3:18, 14:8, 20:14, 21:9, 22:21, 24:5, 25:9, 25:19, 27:21, 28:5, 28:22, 31:5, 31:25, 32:14, 33:25, 34:16, 35:17, 39:23, 40:22, 41:21, 43:16, 44:13, 45:11, 45:13, 45:20 CHRISTINA [27] - 3:22, 4:2, 17:19, 17:21, 17:24, 18:10, 18:13, 26:14, 27:4, 27:23, 28:24, 29:7,</p>
---	--	--	---	---

Mona G. Weiger, Official Court Reporter 605-773-3971

- 29:17, 29:23, 30:9, 31:2, 31:6, 36:18, 37:7, 38:16, 39:17, 39:20, 41:22, 42:8, 43:17, 44:19, 45:24
circumstance [1] - 9:22
circumstances [4] - 10:5, 14:6, 29:4, 30:5
cited [1] - 21:18
citing [2] - 6:14, 24:19
Civil [1] - 9:9
civil [6] - 8:20, 20:2, 23:1, 24:9, 24:10, 36:20
civility [1] - 45:17
claims [3] - 5:1, 5:13, 32:24
clear [7] - 4:9, 4:15, 7:12, 7:17, 7:20, 12:6, 24:9
Clerk [1] - 39:11
client [1] - 30:3
Codified [1] - 10:7
collect [1] - 11:2
combined [1] - 5:11
comfortable [4] - 3:17, 27:25, 29:9, 29:10
coming [6] - 23:12, 34:17, 36:9, 36:14, 38:10, 43:14
commentary [1] - 15:9
comments [1] - 11:21
Company [3] - 7:19, 8:8, 23:2
company [1] - 25:4
complete [1] - 34:22
comply [1] - 35:4
computer [1] - 15:18
concern [1] - 22:23
concerning [1] - 24:8
concerns [9] - 22:2, 22:3, 22:24, 30:19, 34:16, 35:18, 36:4, 36:8, 42:13
concluded [3] - 14:11, 40:15, 41:18
conditions [1] - 33:18
conference [1] - 28:2
confidential [1] - 13:12
confidentiality [2] - 14:21, 15:11
confined [1] - 18:15
consider [4] - 14:16, 14:25, 24:21, 35:18
consistent [1] - 14:18
contain [8] - 4:17, 5:4, 6:24, 8:24, 16:1, 17:8, 20:4, 21:19
context [2] - 16:7, 21:18
continue [1] - 16:4
contract [2] - 7:19, 8:2
contradict [1] - 4:18
contradicts [1] - 5:13
contribute [1] - 10:4
control [1] - 22:1
convict [1] - 43:4
copied [1] - 14:22
copy [1] - 21:14
correct [2] - 2:9, 16:11
correctly [1] - 26:3
correspondence [3] - 7:21, 7:25, 39:4
counsel [5] - 2:16, 2:18, 20:11, 37:12, 41:14
county [2] - 42:3, 43:5
County [15] - 2:16, 9:5, 10:16, 10:18, 11:22, 11:25, 12:1, 12:6, 12:7, 26:6, 33:3, 33:12, 33:14, 35:15, 45:23
couple [1] - 25:11
course [3] - 9:20, 36:23, 39:2
court [8] - 5:20, 8:9, 8:11, 21:4, 26:19, 26:22, 26:24, 28:11
Court [43] - 2:7, 2:21, 3:14, 4:8, 4:21, 5:19, 7:1, 7:12, 7:15, 7:23, 9:11, 9:16, 9:17, 10:21, 11:23, 12:12, 12:13, 12:16, 12:19, 12:23, 13:12, 13:14, 13:25, 14:5, 14:12, 15:12, 16:8, 16:9, 17:11, 17:13, 18:2, 19:18, 20:10, 23:8, 23:15, 24:20, 24:21, 25:8, 30:17, 30:19, 31:13, 35:11
Court's [3] - 11:10, 20:18, 35:11
courtroom [1] - 43:14
Courts [1] - 39:12
cover [2] - 30:15, 30:22
credibility [4] - 4:20, 5:14, 23:8, 23:20
crimes [1] - 42:6
criminal [30] - 6:15, 6:16, 6:17, 13:3, 13:5, 14:20, 16:7, 16:10, 16:25, 17:1, 17:2, 19:23, 19:25, 21:19, 32:14, 33:4, 36:9, 37:16, 40:14, 41:3, 41:4, 41:20, 42:14, 42:25, 43:11, 43:15, 43:18, 43:21, 43:23
critical [1] - 4:5
cross [4] - 6:8, 23:10, 24:23, 25:21
cross-examination [2] - 6:8, 23:10
cross-examine [1] - 25:21
cuffing [1] - 35:8
cumulatively [1] - 5:10
current [7] - 2:16, 19:8, 23:24, 24:21, 29:15, 32:12, 32:17
custodian [3] - 11:3, 11:8, 13:7
cut [1] - 24:12
-
- D**
-
- dad** [2] - 18:14, 18:19
dad's [1] - 18:22
Dakota [4] - 10:7, 16:8, 22:1, 26:15
date [9] - 7:14, 9:23, 13:11, 17:17, 19:5, 21:25, 24:1, 32:5
dated [1] - 29:12
dates [1] - 2:24
dating [1] - 10:24
days [3] - 11:4, 27:14, 45:21
days' [1] - 25:11
deal [2] - 40:9, 43:19
December [5] - 9:1, 23:14, 38:21, 39:10, 40:9
decision [4] - 27:11, 41:21, 44:3, 45:21
decisions [2] - 28:12, 40:24
decrease [1] - 12:15
deem [1] - 12:24
defend [1] - 4:24
defendant [2] - 6:18, 6:22
Defendant [3] - 9:18, 33:5, 33:25
defense [1] - 5:2
deferred [14] - 33:9, 34:23, 35:19, 36:24, 37:8, 37:12, 38:3, 38:25, 39:6, 39:22, 40:8, 40:16, 41:18, 43:20
definitely [1] - 28:13
degree [1] - 33:23
delivered [2] - 13:11, 15:12
demand [1] - 9:13
denied [4] - 4:4, 11:12, 17:23, 21:7
denies [1] - 4:24
deny [3] - 8:18, 17:13, 32:4
denying [2] - 20:17, 45:2
describe [2] - 15:22, 15:23
described [2] - 17:4, 17:5
despite [1] - 4:4
determine [2] - 13:13, 17:5
different [1] - 20:1
difficult [1] - 19:20
directly [1] - 4:18
disclosed [1] - 4:17
discovery [5] - 6:16, 14:23, 15:21, 19:25, 20:3
disk [4] - 31:3, 31:4, 31:5, 31:16
dismiss [17] - 7:9, 8:4, 8:17, 26:25, 27:8, 27:12, 27:14, 28:4, 28:6, 29:15, 30:7, 31:21, 32:4, 44:1, 44:15, 45:18, 45:20
dismissal [5] - 19:9, 33:17, 41:17, 45:22
dismissed [7] - 7:8, 28:23, 32:17, 32:19, 33:17, 33:22, 40:9
dismissing [2] - 7:10, 24:21
dispute [2] - 7:22, 8:3
disseminated [1] - 14:23
distance [1] - 25:16
diversions [1] - 35:1
docketed [1] - 8:8
document [3] - 9:9, 12:5, 29:13
documents [2] - 16:14, 16:15
done [3] - 26:20, 26:23, 32:23
down [3] - 2:20, 11:7, 15:2
draft [3] - 21:11, 21:12, 21:13
due [1] - 4:12
duplicative [1] - 8:19
duties [1] - 37:21
duty [2] - 41:5, 42:16
-
- E**
-
- e-mail** [3] - 39:4, 39:13, 45:11
e-mailed [2] - 28:11, 39:8
e-mailing [1] - 28:11
e-mails [2] - 38:17, 38:18
effort [1] - 11:4
egress [1] - 18:18
eight [1] - 11:4
eighth [5] - 9:25, 12:19, 12:24, 20:23, 21:5
Eisenbraun [2] - 40:7, 43:9
eisenbraun [1] - 42:11
either [8] - 14:24, 15:2, 19:9, 24:13, 28:1, 32:3, 37:23, 42:11
electing [1] - 37:11
emergency [1] - 39:8
employ [1] - 10:17
encourage [1] - 43:8
end [2] - 13:18, 39:9
ending [1] - 24:1
ends [1] - 22:8
enforce [1] - 35:21
enforcement [1] - 16:6
enter [2] - 13:10, 14:21
entered [6] - 2:8, 12:12, 12:13, 14:9, 29:16, 37:22
entirety [1] - 7:10
entitled [1] - 22:10
especially [1] - 36:24
establish [1] - 8:2
establishes [1] - 5:9
evaluated [1] - 5:10

evaluation [1] - 33:11	fight [1] - 4:25	G	helped [1] - 40:8	input [1] - 30:2
event [1] - 36:7	figure [1] - 33:6		helpful [1] - 16:1	inspection [1] - 16:20
events [1] - 5:6	figured [1] - 45:9		herself [3] - 7:21, 36:20, 38:7	intend [1] - 42:19
evidence [1] - 4:4, 4:9, 4:10, 4:11, 4:15, 4:23, 5:9, 5:17, 20:4, 34:8, 37:4	file [9] - 7:9, 27:3, 30:11, 33:7, 37:14, 39:14, 39:19, 40:20, 41:21	gate [1] - 18:17	hidden [1] - 5:21	intended [1] - 16:21
evidentiary [1] - 16:14	filed [14] - 2:17, 2:22, 2:25, 7:21, 11:16, 11:21, 28:20, 29:12, 33:16, 39:22, 40:2, 42:12, 42:14, 44:1	gatekeeper [1] - 14:20	highly [3] - 35:17, 36:18, 43:8	interests [1] - 24:16
examination [2] - 6:8, 23:10	files [1] - 37:8	general [1] - 16:22	highway [1] - 25:14	investigation [1] - 10:19
examine [1] - 25:21	filling [2] - 22:9, 40:6	generally [1] - 33:18	hold [2] - 4:3, 40:21	involve [1] - 36:20
executing [1] - 37:20	filings [5] - 27:20, 40:14, 40:23, 40:25, 41:10	given [4] - 2:5, 11:10, 11:14, 35:2	Honor [23] - 3:24, 5:15, 5:22, 6:3, 6:6, 6:14, 6:23, 7:7, 8:16, 9:2, 11:19, 16:25, 22:24, 26:14, 26:18, 27:24, 29:7, 36:19, 38:16, 41:22, 44:19, 44:22, 45:24	involved [11] - 3:2, 11:6, 11:22, 12:3, 12:7, 32:10, 32:21, 34:2, 36:13, 38:6, 38:9
exhibit [2] - 27:2, 30:14	finally [3] - 5:9, 6:23, 11:10	grant [5] - 15:10, 28:14, 28:15, 44:14, 45:18	hook [2] - 44:16, 44:17	involvement [3] - 22:8, 34:5, 36:12
exhibits [2] - 27:13, 31:6	fine [4] - 25:12, 25:13, 42:3, 43:5	granting [1] - 21:3	hook-up [1] - 44:16	Involvement [1] - 22:11
exist [2] - 10:2, 11:1	finite [1] - 10:17	great [1] - 44:12		irrelevant [1] - 11:14
expedition [4] - 7:1, 16:22, 18:14, 33:2	first [12] - 2:18, 3:8, 4:14, 5:24, 6:3, 8:16, 10:1, 12:18, 15:6, 15:21, 17:23, 34:2	grounds [10] - 8:23, 17:13, 18:5, 19:7, 19:9, 19:10, 19:22, 24:20, 34:24, 44:4		issuance [2] - 10:2, 10:3
expeditions [3] - 15:24, 15:25, 18:3	fishing [7] - 7:1, 10:19, 15:24, 16:22, 18:3, 18:14, 33:1	guess [2] - 2:14, 34:5	I	issue [12] - 9:11, 13:15, 18:4, 23:13, 23:22, 31:24, 32:23, 35:7, 35:23, 37:23, 41:7, 44:2
expert [1] - 34:8	five [2] - 12:14, 14:10	guts [1] - 29:24	Immediate [1] - 5:19	issued [3] - 2:7, 9:17, 10:10
explained [1] - 36:8	flat [1] - 15:24		Impact [1] - 4:11	issues [6] - 12:20, 19:22, 28:17, 31:14, 36:22, 43:15
expose [2] - 4:6, 5:12	focussed [1] - 23:23		impeach [2] - 5:5, 6:5	ITV [2] - 3:18, 23:20
exposure [2] - 43:11, 43:24	followed [2] - 37:23, 43:16	H	impeachment [3] - 6:25, 17:8, 17:12	
extension [1] - 19:10	followed [2] - 37:23, 43:16	Haakon [3] - 11:22, 11:25, 12:6	implementing [1] - 37:21	
extensive [3] - 12:18, 13:25, 20:11	following [2] - 2:1, 13:22	hammered [2] - 28:17, 30:3	important [3] - 4:14, 9:15, 20:14	
extent [8] - 14:19, 19:17, 20:23, 34:1, 36:3, 36:8, 38:11, 41:9	foremost [1] - 8:16	hand [1] - 14:12	improper [1] - 39:24	
	Form [1] - 9:10	handle [1] - 41:15	inapplicable [1] - 6:20	
	form [2] - 9:10, 9:13	hang [5] - 30:12, 32:5, 40:5, 40:7, 41:25	inappropriate [4] - 6:13, 10:20, 14:24, 34:7	
	former [1] - 33:13	happy [1] - 24:22	incident [1] - 37:17	
	forward [4] - 23:18, 28:8, 40:23, 44:14	hard [1] - 37:13	include [2] - 7:10, 33:19	
	forwarded [2] - 26:19, 26:24	health [1] - 33:11	included [2] - 26:24, 27:1	
	four [3] - 4:13, 16:23	hear [13] - 2:21, 6:4, 20:15, 24:22, 25:5, 25:6, 27:12, 28:5, 28:6, 28:9, 29:25, 31:21, 35:25	inconsistencies [1] - 4:6	
	frame [2] - 23:14, 41:16	heard [8] - 8:23, 11:14, 13:25, 17:7, 20:10, 20:19, 34:24, 37:19	inconsistent [1] - 5:6	
	frankly [2] - 11:1, 32:3	hearing [25] - 7:12, 7:15, 8:14, 8:25, 12:18, 18:6, 19:11, 20:11, 21:22, 25:2, 28:14, 28:15, 28:16, 28:17, 29:1, 29:3, 32:5, 34:13, 38:2, 38:8, 41:12, 42:14, 42:23, 45:23	increase [1] - 12:14	
	free [1] - 31:14	held [1] - 2:1	incriminate [1] - 41:7	
	fruition [1] - 35:13	help [1] - 38:15	incriminated [1] - 37:3	
	full [3] - 5:1, 5:12, 11:4		indicated [1] - 3:6	
	fully [1] - 44:4		indication [1] - 33:20	
	fundamental [1] - 5:16		inform [1] - 42:17	
	furthermore [1] - 10:23		information [11] - 6:9, 6:25, 8:24, 11:7, 17:2, 17:8, 21:20, 21:25, 44:17	
			inherit [1] - 34:19	
F				J
facing [1] - 43:12				Jackson [2] - 12:1, 12:6
fact [2] - 8:4, 37:2				jail [2] - 42:3, 43:5
facts [4] - 4:18, 5:12, 42:4, 42:5				January [5] - 9:6, 9:8, 9:24, 10:25, 38:20
factual [1] - 34:8				Jones [11] - 2:16, 9:5, 10:16, 10:18, 26:6, 26:10, 33:3, 33:12, 33:13, 35:15, 45:23
fair [7] - 4:24, 5:2, 14:10, 24:13, 28:7, 29:5, 35:10				Judge [8] - 15:17, 23:8, 24:9, 25:5, 26:2, 35:15, 41:5, 41:8
fairness [2] - 5:8, 5:16				Judge [25] - 9:4, 9:17, 10:7, 10:20, 11:10, 11:17, 12:8, 13:6, 16:4, 21:12, 21:16, 22:6, 31:18, 33:3, 35:16, 35:24, 35:25, 40:4, 40:18, 40:19, 40:24, 41:12, 43:1, 43:10, 44:23
faith [1] - 16:21				Judge's [1] - 40:21
family [2] - 7:22, 7:24				
far [2] - 6:6, 36:14				
favorable [1] - 33:8				
felony [1] - 42:7				
felt [1] - 9:15				
fence [2] - 18:16, 18:17				
Fifth [1] - 41:6				

judgment [1] - 23:20
judicial [1] - 42:16
July [1] - 9:24
jump [1] - 40:20
jumping [1] - 15:18
jurisdiction [1] - 8:11
jury [4] - 37:15, 43:3, 43:4, 43:22

K

Katherine [2] - 2:12, 33:24
Katie [1] - 6:6
keep [1] - 43:19
Kelly [1] - 39:11
key [2] - 4:7, 5:18
kind [7] - 2:15, 3:13, 20:2, 26:5, 30:3, 32:12, 32:15
Kirby [1] - 34:20
Klinger [3] - 35:16, 35:24, 35:25
knowledge [2] - 25:23, 34:25
knows [5] - 7:1, 7:23, 11:23, 21:6, 37:20
Krogman [4] - 38:19, 38:25, 39:8, 39:25
Kyles [4] - 4:8, 5:9, 6:15, 19:24

L

ladies [1] - 3:23
last [4] - 17:25, 30:12, 31:9, 39:13
Law [3] - 10:7, 11:25, 12:4
law [10] - 4:15, 5:20, 7:2, 13:22, 15:18, 15:19, 16:6, 21:17, 26:19, 33:19
lawsuit [4] - 8:1, 24:13, 24:14, 32:13
lawyer [3] - 30:1, 30:2, 40:13
lawyers [2] - 3:13, 24:14
lean [1] - 15:10
leaning [1] - 28:6
leave [1] - 34:18
leeway [2] - 2:5, 37:11
left [2] - 4:25, 15:8
legal [9] - 2:18,

10:19, 13:9, 19:23, 20:11, 30:17, 31:13, 37:12, 41:14
legally [1] - 11:13
letter [4] - 3:12, 30:15, 30:22, 31:24
letting [1] - 23:25
level [1] - 34:11
life [3] - 34:17, 36:9, 41:3
likely [1] - 33:18
limit [1] - 24:24
limited [4] - 13:10, 14:25, 18:4, 19:7
line [1] - 2:20
list [1] - 38:13
listed [1] - 2:23
lists [2] - 30:14, 30:15
litigant [2] - 13:10, 14:4
litigate [2] - 8:20, 24:10
litigated [5] - 2:7, 8:13, 8:14, 13:23, 15:7
LLLP [5] - 7:20, 8:7, 23:2, 26:21, 29:19
locate [1] - 19:20
logically [1] - 11:14
look [12] - 8:10, 17:9, 17:25, 21:21, 30:2, 30:18, 32:18, 35:1, 40:17, 41:11, 43:6, 44:2
looked [1] - 32:20
looking [7] - 11:9, 30:12, 37:16, 38:2, 38:5, 41:4, 43:4
looks [3] - 39:21, 40:6, 41:25

M

machine [1] - 18:20
MAHER [10] - 9:4, 13:6, 22:6, 22:8, 22:16, 33:3, 40:4, 44:23, 45:2, 45:5
Maher [15] - 2:17, 7:22, 9:3, 12:10, 15:5, 22:11, 28:9, 30:12, 32:9, 34:23, 39:25, 40:17, 40:23, 41:9, 42:21
Maher's [2] - 37:19, 44:5
mail [6] - 27:5, 30:25, 31:5, 39:4, 39:13,

45:11
mailed [2] - 28:11, 39:8
mailing [1] - 28:11
mails [2] - 38:17, 38:18
main [1] - 6:1
maintained [1] - 10:13
majority [1] - 22:25
maneuver [1] - 43:24
March [6] - 7:11, 22:9, 27:8, 28:21, 29:12, 40:23
marginally [1] - 20:3
Maryland [2] - 4:14, 19:24
materiality [1] - 4:22
matter [14] - 2:6, 5:16, 6:21, 8:3, 8:10, 9:7, 11:16, 19:15, 20:1, 32:17, 33:4, 34:17, 36:20, 40:14
matters [7] - 7:24, 8:12, 8:20, 21:19, 22:19, 24:5, 24:24
mean [5] - 14:13, 18:21, 29:18, 29:20, 29:23
means [1] - 9:4
meat [4] - 4:13, 15:20, 16:22, 38:21
mental [1] - 33:11
mentioned [1] - 11:6
mentions [1] - 26:20
mere [1] - 6:25
merits [5] - 20:20, 21:2, 23:22, 30:1, 32:5
might [7] - 14:16, 20:5, 28:4, 30:25, 31:7, 32:1, 40:12
Millstead [3] - 16:5, 16:25, 18:3
mind [4] - 28:10, 38:15, 42:6, 44:8
mine [2] - 40:21, 41:21
minute [6] - 20:13, 22:15, 30:12, 40:5, 40:7, 42:1
misdeemeanor [1] - 40:19
modification [22] - 7:13, 9:22, 12:13, 13:15, 13:21, 14:7, 15:2, 19:8, 20:21, 21:2, 24:7, 25:9, 25:17, 32:6, 33:1, 34:9, 34:13, 36:17,

38:7, 38:15, 40:1, 42:23
modified [1] - 23:25
modify [8] - 7:9, 8:17, 9:19, 18:6, 25:25, 28:20, 29:25, 30:6
modifying [1] - 10:5
moment [1] - 16:18
Mona [4] - 26:8, 28:1, 31:25, 44:15
Monday [1] - 39:14
moot [1] - 36:15
morning [2] - 3:23, 27:6
Mortenson [1] - 26:19
most [1] - 14:2
Motion [1] - 22:10
motion [31] - 2:19, 3:8, 7:9, 8:3, 8:17, 8:18, 20:13, 21:9, 22:17, 22:22, 22:25, 26:25, 27:1, 27:8, 28:4, 28:9, 28:18, 29:25, 30:11, 31:19, 31:21, 32:3, 32:9, 36:12, 36:15, 37:14, 44:1, 44:14, 45:18
motions [10] - 2:18, 7:8, 7:11, 8:18, 11:21, 13:19, 19:16, 20:15, 28:10, 39:21
moving [1] - 16:13
must [3] - 4:16, 5:9, 16:13

N

narrow [1] - 11:7
nature [1] - 13:15
necessary [1] - 6:5
necessity [1] - 21:3
need [14] - 5:4, 14:8, 19:11, 25:10, 25:12, 25:13, 27:17, 28:15, 31:16, 41:11, 43:22, 43:25, 44:13, 44:16
needed [1] - 3:7
needs [1] - 25:8
never [2] - 5:20, 29:20
new [7] - 20:19, 21:24, 34:18, 37:4, 37:21, 40:25, 42:5
next [1] - 21:9
Nixon [8] - 15:19, 15:20, 15:24, 16:2, 16:12, 16:25

none [2] - 8:11, 8:14
note [2] - 10:9, 26:18
nothing [4] - 14:17, 20:19, 38:14, 44:22
notice [2] - 25:11, 35:2
noting [1] - 21:17
November [10] - 9:25, 12:25, 13:11, 14:3, 14:17, 15:1, 20:23, 23:14, 37:5, 38:22
November-December [1] - 23:14
number [4] - 14:13, 25:10, 32:20, 32:21

O

oath [2] - 32:25, 45:2
Oath [1] - 22:12
obeying [1] - 35:11
Object [1] - 22:11
object [7] - 23:10, 23:15, 24:11, 31:19, 32:10, 34:11, 36:12
objecting [1] - 34:4
objection [1] - 22:4
objections [1] - 45:12
obligation [1] - 35:20
obligations [1] - 34:22
obtain [2] - 17:9, 17:10
occur [1] - 10:16
occurred [4] - 7:6, 8:25, 10:2, 12:19
occurring [1] - 12:24
October [9] - 2:10, 9:17, 12:22, 24:3, 24:4, 24:6, 24:25, 25:24, 38:24
odd [1] - 22:13
Odyssey [1] - 21:15
office [14] - 9:8, 9:14, 10:10, 10:13, 10:19, 10:21, 11:2, 26:19, 30:24, 31:12, 33:12, 34:18, 34:19, 37:1
officer [2] - 42:16, 42:17
officer's [1] - 16:6
offices [2] - 12:2, 12:7
old [1] - 25:15
once [3] - 5:3, 31:11, 31:15

one [19] - 5:12, 6:21, 11:17, 12:17, 13:19, 14:14, 14:15, 15:8, 15:10, 16:23, 20:17, 21:11, 32:20, 38:4, 41:14, 43:3, 43:10, 45:4, 45:5
ones [1] - 45:8
open [2] - 42:14, 42:19
opening [4] - 3:24, 6:4, 42:18, 43:23
opportunity [4] - 22:13, 25:1, 25:21, 27:17
opposition [1] - 27:1
oppressive [1] - 10:9
option [2] - 35:12, 35:13
oral [1] - 28:3
order [54] - 2:7, 2:22, 5:19, 6:5, 6:11, 6:13, 6:21, 7:14, 7:18, 8:6, 9:7, 9:18, 10:4, 10:6, 10:22, 11:1, 12:12, 12:18, 12:21, 13:10, 14:21, 15:11, 16:12, 17:5, 18:7, 19:8, 21:4, 21:11, 23:24, 24:2, 24:11, 24:17, 24:22, 25:25, 26:19, 26:22, 26:24, 28:19, 28:23, 29:14, 29:15, 32:15, 33:23, 34:9, 35:5, 35:6, 36:17, 38:7, 40:1, 44:4, 44:7, 44:25, 45:19
ordering [1] - 21:4
orders [3] - 7:23, 35:11, 45:11
original [1] - 2:11
otherwise [3] - 16:16, 43:22, 45:18
outcome [1] - 4:11
outright [1] - 30:7
overall [1] - 13:17
overbroad [1] - 19:17
overly [2] - 10:23, 11:13
owe [1] - 42:17
own [3] - 39:7, 45:6, 45:13

P

part [7] - 6:18, 8:15, 10:14, 11:25, 12:1, 33:10, 33:21

part-time [3] - 10:14, 11:25, 12:1
participant [1] - 2:15
participate [1] - 34:12
participation [1] - 22:18
particular [1] - 2:4
parties [10] - 8:1, 8:13, 8:15, 11:5, 14:1, 14:2, 14:11, 14:22, 15:14, 30:3
party [4] - 8:21, 16:13, 16:19, 23:4
passed [1] - 17:16
Paul [1] - 40:7
Paula [3] - 23:5, 24:22, 25:8
pdfs [1] - 31:3
perfect [1] - 45:15
period [2] - 2:8, 33:19
permanent [2] - 9:18, 10:3
permits [1] - 26:16
person [4] - 6:21, 12:23, 18:19, 20:6
personal [1] - 23:16
personnel [1] - 16:6
Petition [1] - 26:23
Petitioner [2] - 2:11, 6:2
phone [1] - 28:2
picture [1] - 5:12
pictures [1] - 18:21
piece [3] - 4:3, 5:10
place [1] - 19:9
point [9] - 7:5, 7:7, 11:17, 12:2, 17:12, 18:1, 23:10, 23:15, 35:12
poles [2] - 18:18, 18:22
portion [1] - 28:1
position [4] - 9:6, 9:21, 11:2
possession [1] - 26:22
possible [1] - 43:23
possibly [6] - 13:16, 13:20, 14:2, 32:12, 35:3, 42:7
post [1] - 21:25
power [1] - 18:18
practice [2] - 10:14, 11:24
pre [1] - 30:18
pre-briefing [1] - 30:18
precludes [1] - 15:24

predate [1] - 10:25
prejudice [2] - 32:19, 33:22
preliminary [2] - 28:16, 28:17
prepare [5] - 16:19, 30:16, 44:25, 45:5, 45:6
prepared [1] - 6:9
presence [1] - 23:16
present [5] - 2:12, 5:1, 8:15, 24:14, 38:1
pretty [3] - 28:4, 37:13, 41:17
previous [8] - 13:21, 13:22, 14:14, 14:18, 32:13, 32:14, 32:16, 40:8
previously [3] - 2:6, 12:20, 20:10
private [2] - 10:14, 11:24
pro [11] - 2:5, 9:10, 12:23, 13:8, 13:10, 14:4, 18:4, 21:10, 37:11, 40:6, 42:18
probability [1] - 4:15
proceed [1] - 22:3
proceedings [4] - 2:1, 5:8, 11:23, 12:3
proceeds [1] - 19:15
process [1] - 4:12
procurable [1] - 16:16
produce [1] - 21:5
production [2] - 16:13, 16:20
proffered [1] - 9:12
proof [1] - 33:11
properly [2] - 16:19, 23:9
property [2] - 8:2, 29:19
proposals [1] - 45:13
proposed [1] - 45:10
prosecution [7] - 33:9, 35:20, 36:24, 37:8, 39:1, 39:6, 39:22
prosecutions [1] - 37:13
prosecutor [3] - 35:16, 35:21, 42:24
prosecutor's [1] - 37:19
protection [32] - 2:7, 6:11, 6:13, 6:21, 7:14, 7:18, 7:23, 8:6, 9:7, 9:18, 10:3, 10:6, 10:25, 12:12, 12:18,

12:21, 18:6, 19:8, 23:24, 24:1, 24:11, 24:17, 24:22, 25:25, 28:22, 29:15, 32:15, 33:23, 34:9, 36:17, 38:7, 39:25
provide [5] - 3:3, 17:17, 33:13, 34:8, 34:10
provided [4] - 7:17, 19:18, 36:6, 37:1
provides [2] - 10:8, 38:14
pull [1] - 16:3
pulled [1] - 33:7
pulling [3] - 15:17, 15:19, 39:18
purpose [3] - 7:3, 17:7, 19:7
purposes [5] - 10:5, 11:24, 14:3, 23:9, 33:15
put [4] - 7:23, 27:4, 42:1, 45:3

Q

quash [2] - 11:11, 20:13
quashed [1] - 10:8
questioned [2] - 32:11, 32:25
questions [1] - 25:22
quoted [1] - 16:11

R

raise [1] - 42:13
raises [1] - 18:1
rare [1] - 37:13
read [5] - 3:9, 6:18, 7:16, 31:23, 40:10
reading [2] - 29:8, 29:11
ready [1] - 6:10
really [5] - 21:3, 28:20, 36:15, 39:12, 42:19
reason [4] - 7:11, 9:14, 9:19, 17:10
reasonable [1] - 4:15
reasonably [3] - 4:10, 4:11, 16:17
reasoning [2] - 44:5, 44:6
reasons [1] - 4:14
receipt [1] - 10:15
recently [3] - 26:21, 26:24, 40:2

recess [1] - 45:25
recognizing [1] - 18:4
record [5] - 11:3, 11:8, 11:20, 11:24, 13:7
recordings [9] - 4:5, 9:14, 9:23, 10:1, 10:13, 10:16, 10:24, 11:4, 34:4
records [2] - 13:1, 16:7
refile [1] - 35:4
refute [1] - 5:17
regain [1] - 26:22
regarding [10] - 3:25, 6:16, 6:17, 6:24, 8:12, 8:20, 23:1, 36:22, 38:19, 39:5
regret [1] - 36:23
relate [1] - 34:9
relates [2] - 33:23, 34:1
release [1] - 5:19
relevance [7] - 13:13, 14:16, 15:13, 19:14, 20:25, 34:11, 42:22
relevancy [1] - 17:5
relevant [16] - 3:6, 13:21, 14:3, 15:23, 16:16, 17:4, 19:19, 20:3, 20:18, 21:19, 24:7, 24:17, 25:23, 32:25, 37:25, 38:13
relitigate [7] - 12:20, 14:15, 15:7, 17:16, 20:10, 20:20
relitigating [2] - 23:22, 25:3
rely [1] - 10:11
remedy [1] - 6:12
remember [1] - 23:23
remind [1] - 42:2
remote [1] - 21:22
remotely [1] - 44:11
REPORTER [1] - 26:9
reporter [1] - 28:12
represent [1] - 13:1
representing [2] - 12:4, 20:12
Request [2] - 9:9, 22:12
request [24] - 3:2, 3:5, 3:9, 5:15, 9:10, 9:12, 9:25, 10:12, 10:23, 10:24, 11:7, 11:11, 11:12, 12:19,

12:24, 14:5, 15:11, 17:23, 20:22, 21:6, 25:25, 28:20, 34:14, 44:25
requested [2] - 9:23, 10:12
requesting [1] - 15:23
requests [4] - 10:1, 15:20, 15:21, 34:5
require [3] - 16:2, 16:12, 23:15
required [1] - 33:10
requirements [1] - 19:24
requires [1] - 9:22
requiring [1] - 20:2
research [1] - 10:20
resident [2] - 23:6, 26:15
resistance [3] - 3:1, 10:11, 11:15
resituate [1] - 3:20
resolution [2] - 14:11, 33:8
resolved [3] - 22:19, 32:23, 36:16
resources [1] - 10:18
respectfully [1] - 5:18
respond [13] - 5:24, 15:3, 15:4, 15:5, 22:13, 22:21, 27:9, 27:18, 31:16, 32:11, 33:2, 34:5, 40:24
Respondent [1] - 2:4, 6:11, 6:14, 6:18, 6:23, 7:17, 9:12, 10:17, 17:7, 21:18, 22:10
Respondent's [1] - 11:12
response [5] - 9:16, 26:25, 27:10, 32:24, 44:1
responses [1] - 40:18
responsibility [2] - 37:16, 41:4
responsive [1] - 3:12
restraining [2] - 28:19, 29:14
result [2] - 4:16, 20:1
resulted [1] - 33:7
return [1] - 26:16
review [9] - 5:4, 13:12, 15:13, 15:15, 21:15, 22:13, 29:2, 31:12, 32:6
revoke [2] - 37:14,

38:2
rights [3] - 41:6, 41:15, 43:15
River [3] - 7:19, 8:7, 23:2
role [1] - 3:1
roughly [1] - 18:11
rule [2] - 12:20, 27:22
ruled [4] - 4:21, 21:10, 32:22, 38:9
rules [1] - 25:17
ruling [12] - 13:17, 13:19, 13:21, 14:14, 14:18, 17:15, 19:2, 22:20, 23:18, 27:25, 28:3, 31:22
rulings [2] - 15:15, 36:5
run [1] - 40:15

S

safety [2] - 22:3, 23:19
Sammons [12] - 2:12, 4:7, 5:5, 6:6, 12:4, 18:15, 19:3, 20:6, 26:20, 33:24, 37:3, 38:21
Sammons' [3] - 4:18, 5:13, 6:7
Saturday [1] - 29:21
saw [1] - 37:9
scheduled [2] - 26:15, 26:16
scoot [1] - 3:13
se [11] - 2:5, 9:10, 12:23, 13:8, 13:10, 14:4, 18:4, 21:10, 37:11, 40:6, 42:18
season [1] - 23:12
second [1] - 4:21
secretary [1] - 27:6
see [22] - 2:15, 3:14, 3:16, 3:20, 3:21, 13:20, 14:4, 14:17, 15:13, 19:13, 23:19, 27:10, 29:20, 30:10, 39:7, 41:10, 43:6, 45:11, 45:17
seeing [1] - 21:3
seeking [2] - 10:17, 34:12
send [1] - 38:18
sense [2] - 2:21, 3:1
sent [2] - 27:5, 38:17
September [1] - 36:25

serious [1] - 5:14
services [1] - 21:4
set [8] - 25:11, 26:4, 26:7, 26:13, 28:2, 41:2, 41:12, 41:16
sets [3] - 7:2, 8:4, 43:2
setup [1] - 3:18
seven [6] - 10:1, 12:17, 15:6, 17:15, 17:23, 20:17
several [2] - 2:17, 11:20
severe [1] - 23:11
sheriff [2] - 14:1, 35:8
sheriffs [1] - 37:1
ship [1] - 17:16
shortening [1] - 24:21
show [4] - 5:5, 16:13, 17:6, 24:20
sic [2] - 8:7, 25:24
sic [1] - 24:25
signed [6] - 12:5, 24:1, 37:8, 38:25, 39:6, 40:16
signing [1] - 36:23
simple [2] - 33:4, 42:1
sister [2] - 21:23, 44:8
sitting [1] - 31:1
Sjomeling [5] - 12:11, 12:15, 18:5, 24:19, 29:4
snowed [1] - 25:14
so... [1] - 31:10
someone [2] - 12:11, 41:18
somewhat [1] - 14:20
somewhere [1] - 29:19
sorry [1] - 29:17
sort [3] - 14:5, 15:2, 33:1
sought [1] - 9:19
sounds [1] - 21:1
South [4] - 10:7, 16:8, 22:1, 26:15
specific [2] - 17:17, 26:13
specifically [3] - 2:23, 23:3, 26:20
specificity [1] - 18:1
speculative [2] - 20:2, 21:20
spring [2] - 23:12, 25:14

squared [1] - 31:14
stand [2] - 5:11, 6:7
standard [1] - 4:13
started [2] - 18:18, 36:21
state [1] - 23:6
State [6] - 4:22, 5:16, 6:22, 9:20, 11:15, 21:10
State's [29] - 2:16, 2:25, 3:2, 6:17, 6:19, 9:5, 10:15, 10:18, 11:22, 12:1, 12:2, 12:7, 13:2, 14:19, 22:11, 31:20, 32:13, 32:16, 32:17, 33:12, 33:14, 33:16, 34:17, 34:18, 34:21, 36:19, 37:21, 42:5
statement [4] - 3:24, 6:4, 6:24, 37:20
statements [3] - 4:17, 5:5, 24:15
states [1] - 7:25
stay [2] - 22:15, 23:23
stick [2] - 22:16, 22:20
still [3] - 4:22, 25:7, 30:25
strictly [1] - 20:21
stuffing [1] - 35:8
subject [6] - 6:8, 8:10, 12:17, 19:4, 20:8, 24:23
submission [1] - 29:12
submissions [3] - 7:16, 31:15, 32:6
submit [5] - 3:11, 9:15, 21:14, 33:11, 45:12
submitted [1] - 9:8
submitting [2] - 9:10, 29:8
Subpoena [1] - 9:9
subpoena [12] - 9:11, 9:13, 10:8, 10:10, 10:12, 11:11, 11:12, 12:25, 16:6, 38:14, 39:9, 39:15
subpoenas [1] - 7:2
sufficient [4] - 11:6, 16:2, 33:14, 42:5
summer [1] - 23:12
summons [5] - 35:3, 35:7, 35:14, 35:23, 37:24
support [1] - 19:23
supports [1] - 25:25

suppose [2] - 34:12, 37:14
supposed [1] - 18:24
suppression [1] - 5:7
Supreme [5] - 4:8, 4:21, 16:8, 16:9, 18:2
surprise [1] - 36:1
system [3] - 7:23, 27:21, 30:13

T

table [4] - 2:16, 41:23, 41:24, 42:1
talks [1] - 23:3
tape [2] - 2:19, 37:9
tapes [23] - 2:23, 3:3, 3:25, 4:3, 4:13, 4:17, 4:25, 5:4, 5:11, 5:20, 6:5, 6:24, 7:3, 8:24, 36:5, 38:5, 38:9, 38:20, 38:24, 39:5, 39:8, 44:6
technically [1] - 12:14
temporary [1] - 36:16
tending [1] - 15:10
terms [2] - 35:4, 35:19
test [4] - 15:21, 16:2, 16:3, 16:12
testified [1] - 6:8
testify [15] - 19:10, 19:14, 20:9, 20:24, 21:5, 21:24, 23:7, 24:5, 25:1, 25:18, 26:11, 36:7, 36:14, 44:11, 44:18
testifying [4] - 36:16, 42:21, 42:22, 42:25
testimony [11] - 4:6, 4:18, 5:17, 6:6, 7:5, 13:25, 21:2, 21:22, 22:25, 24:12, 34:10
thinking [1] - 36:21
thinks [3] - 19:19, 35:21, 42:12
third [1] - 5:3
thoughts [1] - 15:16
thrown [1] - 38:6
ties [1] - 32:12
today [13] - 2:12, 8:6, 11:15, 19:15, 27:22, 28:1, 31:22, 34:24, 38:2, 38:12, 39:24, 41:7, 45:17
toes [1] - 40:21

together [3] - 17:10, 31:3, 32:15
took [2] - 6:7, 9:6
tool [1] - 14:23
treat [1] - 29:2
trial [13] - 4:16, 6:10, 10:3, 16:13, 16:17, 16:18, 16:19, 22:3, 23:18, 31:13, 36:17, 37:15, 43:3
true [2] - 11:3, 18:2
truth [3] - 4:2, 4:3, 5:20
try [1] - 36:6
trying [7] - 8:20, 16:3, 17:9, 17:10, 30:16, 30:17, 33:6
turn [3] - 8:23, 14:22, 38:1
turned [1] - 16:3
two [10] - 2:8, 3:20, 8:12, 12:13, 14:9, 14:10, 19:9, 27:11, 29:16, 32:21
two-year [1] - 2:8

U

U.S. [3] - 4:9, 16:9, 18:2
unable [1] - 5:1
Under [1] - 22:12
under [12] - 4:14, 12:4, 12:15, 15:19, 15:20, 16:2, 16:11, 16:12, 18:5, 27:9, 32:25, 45:2
underlying [1] - 8:18
undermine [1] - 5:7
unduly [2] - 10:21, 11:13
unfortunately [1] - 39:11
unreasonable [1] - 10:9
unrelated [1] - 9:19
unreliable [1] - 5:6
unusual [2] - 36:19, 41:17
unverified [1] - 5:1
up [16] - 12:14, 14:10, 15:2, 15:17, 15:19, 16:4, 25:11, 26:4, 26:13, 28:2, 35:12, 39:19, 40:18, 43:23, 44:16, 44:18
upcoming [1] - 21:22
utilized [1] - 16:9

V

vacate [3] - 28:19, 29:13, 39:22
vacated [1] - 29:4
vacation [1] - 39:12
vague [2] - 10:24, 19:17
value [1] - 6:25
venue [1] - 13:23
version [1] - 5:6
versus [1] - 6:22
via [1] - 26:3
victim [1] - 33:24
video [1] - 37:1
viewing [1] - 31:12
violated [3] - 4:12, 33:21, 34:25
violation [3] - 5:3, 35:22, 37:24
violations [2] - 33:19, 41:19
vouching [2] - 19:5, 19:13

W

wait [1] - 31:23
wants [3] - 21:11, 27:8, 29:19
warn [1] - 43:13
warning [1] - 23:21
warrant [3] - 14:6, 15:1, 37:23
ways [1] - 34:6
weather [5] - 21:25, 23:11, 23:12, 23:19, 26:16
week [1] - 31:9
WENDT [24] - 2:9, 5:25, 6:3, 11:17, 11:19, 15:17, 16:11, 21:12, 21:16, 22:24, 24:3, 26:2, 27:19, 30:22, 30:24, 31:4, 31:9, 31:18, 32:8, 44:10, 44:22, 45:3, 45:9, 45:15
Wendt [16] - 2:13, 3:15, 6:1, 11:25, 12:4, 15:4, 15:16, 21:11, 22:4, 22:23, 25:21, 27:16, 30:2, 30:21, 31:2, 44:24
Wendt's [3] - 26:25, 27:7, 44:1
whatsoever [1] - 12:8

Whitley [2] - 4:8, 19:25
whole [4] - 20:1, 28:4, 37:15, 41:3
wholly [2] - 10:20, 34:7
willing [1] - 44:24
wise [2] - 35:7, 42:11
wish [3] - 40:22, 43:1, 43:19
withdrew [1] - 2:19
withheld [1] - 4:10
withhold [1] - 5:17
withholding [1] - 4:24
witness [8] - 4:7, 5:18, 19:12, 22:19, 24:15, 30:14, 34:13, 38:13
witnesses [1] - 23:7
worms [1] - 42:18
write [1] - 28:3
writing [1] - 32:2
written [5] - 6:16, 6:17, 27:11, 44:2, 45:19
wrote [1] - 27:1

Y

yard [2] - 18:23, 38:21
year [3] - 2:8, 42:2, 43:5
years [5] - 12:14, 12:15, 14:9, 19:9, 29:16
yesterday [3] - 22:10, 40:4, 40:5
yourself [4] - 38:1, 41:7, 43:12
yourselves [1] - 3:17

Z

Zoom [5] - 22:2, 26:3, 26:11, 44:15, 44:18
ZUCCARO [27] - 3:22, 4:2, 17:19, 17:21, 17:24, 18:10, 18:13, 26:14, 27:4, 27:23, 28:24, 29:7, 29:17, 29:23, 30:9, 31:2, 31:6, 36:18, 37:7, 38:16, 39:17, 39:20, 41:22, 42:8, 43:17, 44:19, 45:24
Zuccaro [14] - 7:20,

IN THE SUPREME COURT
STATE OF SOUTH DAKOTA

No. 31126

KATHERINE SAMMONS,
Plaintiff and Appellee,
v.

CHRISTINA ZUCCARO,
Defendant and Appellant

APPEAL FROM THE CIRCUIT COURT
OF THE SIXTH JUDICIAL CIRCUIT
JONES COUNTY, SOUTH DAKOTA

HONORABLE M. Bridget Mayer
Circuit Court Judge

APPELLEE'S BRIEF

CHRISTINA ZUCCARO
22742 258th Avenue
Midland, SD 57552
Chrisyuccaro2@gmail.com

Pro se

CASSIE J. WENDT
Wendt Law, Prof. LLC
P.O. Box 280
Philip, SD 57567
wendtlaw@goldenwest.net
Attorney for Plaintiff/Appellee

Notice of Appeal filed June 25, 2025

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	i
PRELIMINARY STATEMENT.....	1
JURISDICTIONAL STATEMENT.....	1
STATEMENT OF LEGAL ISSUE	
ISSUE: WHETHER THE TRIAL COURT ERRED BY DENYING ZUCCARO’S REQUEST FOR POST-JUDGMENT RELIEF.....	2
STATEMENT OF THE CASE AND FACTS.....	2
ARGUMENT AND AUTHORITY	4
CONCLUSION	8
CERTIFICATE OF COMPLIANCE.....	9
CERTIFICATE OF SERVICE	9

TABLE OF AUTHORITIES

	<u>Page</u>
CASES:	
<i>Estate of Mack</i> , 2025 S.D. 7, 17 N.W.3d 874	4, 5
<i>Estate of Olson</i> , 2008 S.D. 97, 757 N.W.2d 219.....	4
<i>Hrachovec v. Kaarup</i> , 516 N.W.2d 309, 310 (S.D.1994)	6
<i>Hiller v. Hiller</i> , 2015 S.D. 58, 866 N.W.2d 536	2, 4,6,
<i>Lowe v. Schwartz</i> , 2006 S.D. 48, ¶ 10, 716 N.W.2d 777.....	7
<i>Pesicka v. Pesicka</i> , 2000 S.D. 137, 618 N.W.2d 725.....	6
<i>Rabo Agrifinance, Inc. v. Rock Creek Farms</i> , 2013 S.D. 64, 836 N.W.2d 631.....	7
<i>Sjomeling v. Stuber</i> , 2000 S.D. 103, 615 N.W2d 613	7
	<u>Page</u>
STATUTES:	
SDCL 15-6-52(a).....	4
SDCL§15-6-60	5,6
SDCL§15-19A-1	11, 13, 18
SDCL§15-19A-14	4,

PRELIMINARY STATEMENT

For the convenience of the Court, Appellant Christina Zuccaro is referred to as “Zuccaro.” Appellee Katherine Sammons is referred to as “Sammons.” Documents from the record of Jones County file 37TPO24-000003 from Sixth Circuit’s Jones County Clerk of Court are cited as “SR” followed by the first page number of the document cited as enumerated by the Clerk’s Chronological Index. The Appendix is cited as “APPX” followed by the first page number of the document and all subsequent page(s) cited.

The Permanent Order for Protection (Stalking), which was issued in this matter on October 8, 2024, following a contested court trial, is cited as “Protection Order.” SR 87. The order upon which Zuccaro appeals, incorporates by reference previous orders of the court entered in response to Zuccaro’s multiple motions to modify and/or vacate the Protection Order. That order is captioned Second Order Denying Respondents [sic] Motions to Vacate/Modify, and is cited as “Second Order.” SR 346, APPX 8-16. The multiple post-judgment pleadings filed by Zuccaro, which alternatively sought modification or vacation of the Protection Order, are cited jointly as “Motions to Modify/Vacate,” without specific reference to each of them. Consistent with the above court document citation method, the Clerk’s Index page number is included for these multiple motions and cited as SR 237, 246, 298, 326, 333, 340.

JURISDICTIONAL STATEMENT

This is an appeal of the final order in Jones County court file 37TPO24-000003, issued by Sixth Circuit Court Judge M. Bridget Mayer on June 15, 2025, and captioned “Second Order Denying Respondents Motions to Vacate/Modify.” SR 346, APPX 8-16. The Second Order incorporates by reference previous orders entered on May 6, 2025, and

May 7, 2025, both of which resulted in the denial of the Protection Order's modification or vacation. The Honorable M. Bridget Mayer entered the original Protection Order. Following an order issued by Sixth Circuit Presiding Judge Christina Klinger on December 4, 2024 denying Judge Mayer's Motion for Appointment of Substitute Judge, the Honorable M. Bridget Mayer presided over all proceedings held in response to Zuccaro's various post-judgment motions, ultimately issuing the Second Order.

The Notice of Appeal was filed and served on June 25, 2025. SR 355.

STATEMENT OF LEGAL ISSUE

- I. WHETHER THE TRIAL COURT ERRED BY DENYING ZUCCARO'S REQUEST FOR POST-JUDGMENT RELIEF.

Relevant Caselaw:

Sjomeling v. Stuber, 2000 S.D. 103, 615 N.W.2d 613
Hiller v. Hiller, 2015 S.D. 58, 866 N.W.2d 536

STATEMENT OF THE CASE AND FACTS

This is a protection order case venued in the circuit court for the Sixth Judicial Circuit, Jones County, State of South Dakota initiated upon Sammon's filing of a Petition and Affidavit for a Protection Order (Stalking) on February 13, 2024. SR 1. Following the issuance of a Temporary Protection Order (SR 9) that same day, which was amended several times due to continuances, to be replaced by a second Temporary Protection Order (SR 71) on August 23, 2024, a hearing was held on October 8, 2024. A permanent Order of Protection from Stalking (SR 87) resulted, following a contested hearing at which both oral and documentary evidence were presented.

Zuccaro did not appeal the trial court's issuance of the Protection Order. This appeal stems from the trial court's denial of multiple motions to modify/vacate the Protection Order, which came in the form of a petition and affidavit for a temporary protection order sought by Zuccaro in Jones County file 37TPO24-000006 and numerous other motions and pleadings following the December 31, 2024 hearing. Judge Mayer presided over all the post-judgment proceedings held in response to Zuccaro's request for modification or dismissal of the October 8, 2024 Protection Order,

In addition to Zuccaro's numerous filings, which were not only replete with factual assertions and argument, but oftentimes included attachments purported to serve as evidence of her claims, other pretrial motions were filed that involved Discovery, witnesses and parties. A motions hearing was held April 1, 2025, at which time Zuccaro continued pro se. Judge Mayer made rulings regarding matters not included in Zuccaro's appeal, and took under advisement Zuccaro's Motions to Modify/Vacate. SR 237, 246, 298, 326, 333, 340. Argument was also heard in support of Sammons' Motion to Dismiss Motion to Modify Protection Order and Motion for Attorney Fees. SR 279, APPX 1-2. Upon the conclusion of the trial court's review and consideration of all Zuccaro's filings, attachments, and exhibits, subsequent to the December 31, 2024 hearing, as well as arguments made both at that hearing, as well as those made on April 1, 2025, Judge Mayer denied Zuccaro's requested relief in an Order Denying Motion to Modify or Vacate Order, (SR 310, APPX 3-5), entered May 6, 2025, and an Order Granting Petitioner's Motion to Dismiss, (SR 319, APPX 6-7), entered May 7, 2025.

Following entry of those orders, Zuccaro filed at least three more motions seeking modification or dismissal of the Protection Order. The trial court affirmed her previous

rulings by incorporating them by reference into a final order, denying Zuccaro's requested relief. SR 346, APPX 8-16. Zuccaro appeals from that order.

ARGUMENT and AUTHORITY

Standard of Review

Recently this Court renewed its long-held rule that "[t]he circuit court's decision to grant or deny relief under Rule 60(b) will not be disturbed on appeal unless the circuit court abused its discretion." *Estate of Mack*, 2025 S.D. 7, ¶ 13, 17 N.W.3d 874, 879 (quoting *Hiller v. Hiller*, 2015 S.D. 58, ¶ 21, 866 N.W.2d 536, 543). It further confirmed its adherence to the standard provided in SDCL 15-6-52(a) as amended, which requires the Court to review the circuit court's factual findings for clear error. Under the clearly erroneous standard:

The question is not whether this Court would have made the same findings that the trial court did, but whether on the entire evidence, we are left with a definite and firm conviction that a mistake has been committed. This Court is not free to disturb the lower court's findings unless it is satisfied that they are contrary to a clear preponderance of the evidence. Doubts about whether the evidence supports the court's findings of fact are to be resolved in favor of the successful party's "version of the evidence and all inferences fairly deducible therefrom which are favorable to the court's action."

Estate of Mack, 2025 S.D. 7, ¶ 14, 17 N.W.3d at 879 (quoting *Estate of Olson*, 2008 S.D. 97, ¶ 9, 757 N.W.2d 219, 222).

ARGUMENT: The Trial Court did not err by denying Zuccaro's requests for post-judgment relief.

The jurisdiction of a trial court to modify protection orders issued pursuant to SDCL chapter 22-19A is explicitly granted by SDCL §22-19A-14: "Upon application, notice to all parties, and hearing, the court may modify the terms of an existing order for

protection." Based on the fact that the Protection Order obtained by Sammons was issued under SDCL 22-19A-1, the trial court's jurisdiction is without question, which moves the inquiry forward then to the grounds upon which modification can be granted. Should this Court proceed with review of Zuccaro's claims of fundamental property rights infringement, due process violations and inaccurate Rule 60(b) rulings by the trial court, analysis of the Second Order becomes necessary.

While the trial court in its Second Order endeavors to consider Zuccaro's request for post-judgment relief under the lens of SDCL 15-6-60(b), even finding that she sought relief specific to that statute, allow the record provides nothing more than generalities and vague claims that at best, could be considered pursuant to subsection 6.

15-6-60(b). Relief on ground of mistake--Inadvertence--Excusable neglect--Newly discovered evidence--Fraud.

On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) Mistake, inadvertence, surprise, or excusable neglect;
- (2) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under § 15-6-59(b);
- (3) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;
- (4) The judgment is void;
- (5) The judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or
- (6) Any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order or proceeding was entered or taken. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. Section 15-6-60 does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to grant relief to a defendant not actually personally notified as provided by statute or to set aside a judgment for fraud upon the court.

The issue of Rule 60(b) sufficiency has been addressed by this Court on many occasions. In *Hiller v. Hiller*, 2015 S.D. 58, 866 N.W.2d 536, the appellant unsuccessfully sought to reopen the matter of property division in a divorce action. Like *Hiller*, Zuccaro failed to state in her initial claim for relief to the circuit court any specific subsection of SDCL 15-6-60(b). Actually, Zuccaro didn't even claim entitlement to post-judgment relief pursuant to SDC 15-6-60(b) until at least three filings into her marathon pleadings, after the court's orders of May 6, 2025 and May 7, 2025. Rather, Zuccaro's pleadings made general and vague claims ranging from constitutional violations to loss of enjoyment of property. Like the *Hiller* trial court, which found that James "failed to establish a basis for relief from the [c]ourt's existing Judgment and Decree of Divorce under any and all subsections of Rule 60(b)," Judge Mayer saw through Zuccaro's attempt to do nothing more than relitigate an unfavorable result. *Hiller*, 2015 S.D. 58, ¶20.

The Court in *Hiller* succinctly summarized the underlying principles of SDCL 15-6-60(b) by harkening back to previous rulings. "Relief under SDCL 15-6-60(b) is granted only upon a showing of exceptional circumstances." *Pesicka v. Pesicka*, 2000 S.D. 137, ¶ 17, 618 N.W.2d 725, 728 (quoting *Hrachovec v. Kaarup*, 516 N.W.2d 309, 310 (S.D.1994)). "The purpose of Rule 60(b) is `to preserve the delicate balance between the sanctity of final judgments and the incessant command of a court's conscience that justice be done in light of all the facts.'" *Hrachovec*, 516 N.W.2d at 310 (quoting *Peterson v. La Croix*, 420 N.W.2d 18, 19 (S.D.1988)). The circuit court's decision to grant or deny relief under Rule 60(b) will not be disturbed on appeal unless the circuit court abused its discretion. *Pesicka*, 2000 S.D. 137, ¶ 18, 618 N.W.2d at 728. *Hiller*, 2015 S.D. 58, ¶21

Having reviewed and considered every submission of Zuccaro's filed either independently, or as attachments to pleadings, the trial court determined that nothing new had been presented to support relief pursuant to SDCL 15-6-60(b). In the absence of new evidence, the impetus for Zuccaro's repeated and noxious filings, was clearly to obtain a "do-over." A motion for relief from a judgment does not allow the relitigating of issues previously resolved by a judgment. Some change in conditions or circumstance must exist which make enforcement of the prior judgment inequitable. *Rabo Agrifinance, Inc. v. Rock Creek Farms*, 2013 S.D. 64, 836 N.W.2d 631.

"Rule 60(b) . . . is not a substitute for an appeal. It does not allow relitigation of issues that have been resolved by the judgment. Instead it refers to some change in conditions that makes continued enforcement inequitable." *Lowe v. Schwartz*, 2006 S.D. 48, ¶ 10, 716 N.W.2d 777, 779 (quoting *Sjomeling v. Stuber*, 2000 S.D. 103, ¶ 14, 615 N.W.2d 613, 616) (internal quotation marks omitted). Thus, "an appeal from a Rule 60(b) decision does not bring the original judgment 544*544 up for review, but only the decision on the request for relief from the judgment under Rule 60(b)." *Rabo Agrifinance, Inc. v. Rock Creek Farms*, 2013 S.D. 64, ¶ 14, 836 N.W.2d 631, 637 (quoting *Lowe*, 2006 S.D. 48, ¶ 10, 716 N.W.2d at 779).

Following the conclusion of the April 1, 2025 hearing, and prior to her issuance of both the May 6, 2025 and May 7, 2025 orders, Judge Mayer took the matter under advisement, reviewing all documents submitted by Zuccaro through her numerous court filings, letter attachments, and emails, as well as her oral and written arguments. All documentary evidence was admitted into the record without the typically required

compliance with the Rules of Evidence, and without objection by Sammons' attorney, affording her more rights and protections than those afforded her by either the United States or South Dakota Constitutions, or by statutes.

Contrary to Zuccaro's mere assertions, the record is replete with Judge Mayer's diligent efforts to protect her rights, even going so far as to guide her through the procedural pitfalls. Beyond that, the court conducted a thorough examination of Zuccaro's claim, purported evidence, unchallenged by Sammons, and concluded that Zuccaro's factual allegations in her multiple pleadings, attachments, correspondence, and oral statements, rose to the level of a change in circumstances required to either set aside or modification the Protection Order. SR 87

CONCLUSION

Sammons respectfully requests, based upon the argument and authorities above, that this Court find the circuit court did not abuse its discretion by denying Zuccaro's Motions to Modify/Vacate the Protection Order.

Dated this 1st day of December, 2025

Respectfully submitted,

WENDT LAW, PROF. LLC

/s/ Cassie J. Wendt
Cassie J. Wendt
Attorney for Defendant
P.O. Box 280
Philip, SD 57567-0280
WendtLaw@goldenwest.net

CERTIFICATE OF COMPLIANCE

1. I certify that the Appellant’s Brief complies with the requirements set forth in SDCL 15-26A-66(b), using Times New Roman Style typeface in 12-point type. Appellant’s Brief contains 2,418 words from the Statement of the Case through the Conclusion.
2. I certify that the word processing software used to prepare this brief was Microsoft Word 2016, which I have relied on to calculate word count in order to prepare this certificate.

Dated this 1st day of December 2025.

/s/ Cassie J. Wendt
Cassie J. Wendt
Attorney for Appellant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 16th day of December 2025, a true and corrected copy of Appellee’s Brief in Appeal No. 31126, Sammons v. Zuccaro was served via electronic mail upon Ms. Christina Zuccaro at chrisyuccaro2@gmail.com, the same also having been provided by depositing it with the USPS, first class, pre-paid postage to Appellant at 22742 258th Avenue, Midland, SD, 57552.

/s/ Cassie J. Wendt
Cassie J. Wendt
Attorney for Appellee

APPENDIX TABLE OF CONTENTS

	<u>PAGE</u>
Motion to Dismiss Motion to Modify Protection Order	1-2
Order Denying Motion to Modify or Vacate Order	3-5
Order Granting Petitioner’s Motion to Dismiss	6-7
Second Order Denying Respondent’s Motions to Vacate/Modify.....	8-16

STATE OF SOUTH DAKOTA) IN CIRCUIT COURT
) ss
 COUNTY OF HAAKON) SIXTH JUDICIAL CIRCUIT

KATHERINE SAMMONS,) 27TPO24-000003
 Petitioner,)
 vs.) MOTION TO DISMISS MOTION TO
) MODIFY PROTECTION ORDER
 CHRISTINA ZUCCARO,) AND MOTION FOR ATTORNEY
 Respondent.) FEES

COMES NOW, Katherine Sammons, Petitioner, by and through her attorney of record, Cassie J. Wendt of Wendt Law, Prof. L.L.C. and files this Motion to Dismiss Respondent’s Motion to Modify Protection Order. Petitioner’s Motion is made upon the following grounds and for the following reasons:

Petitioner moves to dismiss this matter for lack of jurisdiction, that Respondent’s actions constitute duplicitous action and for failure to state a claim. The Court should dismiss the Motion to Modify Protection Order, as Respondent is attempting to litigate Zuccaro Limited Liability Partnership v. Bad River Cattle Company, et al., 37CIV24-000005, in this protection order action. As those issues are already before a court in File No. 37CIV24-000005, this Court and this matter have no jurisdiction to step into that case. Finally, Respondent is seeking civil remedies which cannot be granted by this Court in this proceeding; aside from the request to vacate the Order of Protection.

Petitioner believes that this Court has made it clear that the protection order matter and the civil matter between Zuccaro vs. Bad River Cattle Company are two separate and distinct matters. Additionally, the Court advised Respondent, at the March 18, 2025 advisory hearing, that the Court would view actions from the date of the issuance of the protection order forward and would not hearing arguments regarding Zuccaro v. Bad River Cattle Company. Since the March 18, 2025 hearing, Respondent has filed numerous documents has sent numerous emails affirming that “this is a business sand property dispute” and that the “core issue revolves around property rights and lease agreements between Zuccaro LLLP and Bad River Cattle Company, LLC.” See Email dated March 15, 2024 from Respondent to Anna Maher. Additionally, Respondent states that “[t]he existence of an active lawsuit between these parties further establishes that this is a property and contract dispute, not a private family matter. *Id.*

There is absolutely no evidence that this protection order was “sought under false pretenses.” Petitioner testified before this Honorable Court and explained her concerns and her fear after being attacked by Respondent armed with an axe. However, the protection order does

quite clearly indicate that Respondent is not to have any communication with Petitioner, which include “no phone calls, emails, third party contact, including correspondence, direct or indirect”. See Permanent Order of Protection pg 2. Respondent was advised that posting information on Petitioners vehicle and sending mail to Petitioner were violations of the Order of Protection.

WHEREFORE, Petitioner respectfully requests that the Motion to Modify be dismissed for lack of jurisdiction, as it constitutes a duplicitous action before the Court and for failure to state a claim for which the relief requested may be granted. Petitioner also seeks attorney fees in this matter as, but for Respondent’s attempt to litigate another action in this Protection Order Matter, Petitioner would not have incurred the expenses of defending this Motion.

Dated this 31st day of March, 2025.

WENDT LAW, PROF. L.L.C.

/s/ Cassie J. Wendt
Cassie J. Wendt
P.O. Box 280
Philip, SD 575687
(605) 859-2026
WendtLaw@goldenwest.net

CERTIFICATE OF SERVICE

I, Cassie J. Wendt, Wendt Law, Prof. L.L.C., hereby certify that I did deliver a true and correct copy of **Motion to Dismiss Motion to Modify** on the date below shown, as follows:

Christina M. Zuccaro 22742 258 th Avenue Midland, SD 57552 chrisyzuccaro2@gmail.com	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Federal Express <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Electronic Mail
---	---

Dated this 31st day March, 2025.

/s/ Cassie J. Wendt
Cassie J. Wendt
Attorney for Petitioner

STATE OF SOUTH DAKOTA	)	IN CIRCUIT COURT
	):ss	
COUNTY OF JONES	)	SIXTH JUDICIAL CIRCUIT
)	
Katherine Marie Samons,	)	37TPO24-03
	)	See also 27TPO24-01 Haakon
)	
Petitioner,	)	ORDER GRANTING
v.	)	PETITIONER'S MOTION TO
	)	DISMISS
)	
Christina Marie Zuccaro,)	
)	
Respondent.)	

Christina Marie Zuccaro (Zuccaro or Respondent), pro se, signed a Motion to Modify or Vacate Restraining Order on March 5, 2025 which was filed on March 11, 2025. On March 31, 2025, a Motion to Dismiss Motion Modify Protection Order and Request for Attorney’s Fees, was filed by Katherine Marie Samons (Samons or Petitioner), via her attorney Cassie Wendt. The court heard and ruled on motions filed by Respondent, Petitioner and the current Jones County State’s Attorney at a hearing held on April 1, 2025. The court took the Motion to Modify/Vacate and the Motion to Dismiss and request for attorney’s fees under advisement. More documents were filed and considered by the court up and through the date of this ruling, including but not limited to Petitioner’s Motion to Modify or Dismiss Protection Order, filed on May 5, 2025.

The Court has now carefully reviewed the files, submissions, Respondent’s numerous arguments and exhibits, as well as Petitioner’s response and legal arguments. After reviewing court cases, the legal arguments and authorities presented, this Court entered an Order on May 6, 2025 denying Respondent’s motions, which Order is hereby incorporated by this reference without restating the same.

IT IS HEREBY NOW ORDERED that Petitioner's Motion to Dismiss Respondent's Motions to Modify or Vacate (and dismiss) the protection order entered on October 8, 2024, is GRANTED.

IT IS FURTHER ORDERED that the protection order entered on October 8, 2024, shall continue as issued on that date.

IT IS FURTHER ORDERED that Petitioner's request for attorney's fees is DENIED and each party will bear their own expenses and costs.

Dated this 7th day of May, 2025.

Attest:
Caviness, Kelly
Clerk/Deputy



BY THE COURT:

M. Bridget Mayer

M. Bridget Mayer
Circuit Court Judge

STATE OF SOUTH DAKOTA	)	IN CIRCUIT COURT
	):ss	
COUNTY OF JONES	)	SIXTH JUDICIAL CIRCUIT
)	
Katherine Marie Samons,)	
	)	37TPO24-03
	)	See also 27TPO24-01 Haakon
Petitioner,)	
	)	ORDER DENYING
v.	)	MOTION TO MODIFY OR VACATE
	)	ORDER
Christina Marie Zuccaro,)	
)	
Respondent.)	

Christina Marie Zuccaro (Zuccaro or Respondent), initially appeared with her attorney Phillip Stiles, and Katherine Marie Samons (Samons or Petitioner), appeared with her attorney Cassie Wendt, on October 8, 2024 for a contested trial regarding the issuance of a permanent protection order. The court heard extensive testimony, reviewed exhibits and basically had a full trial on the issues. At the conclusion of the trial, the parties agreed and signed a permanent protection order to be entered for 2 years, with agreed upon restrictions in the order.

Subsequently Respondent filed pro se, a Motion to Vacate Restraining Order on March 20, 2025. A Motion to Dismiss was filed by Petitioner on March 31, 2025. Respondent filed another Motion to Modify or Dismiss Protection Order, filed on May 5, 2025. The court heard and ruled on other motions filed by Respondent, Petitioner and the current Jones County State’s Attorney at a hearing held on April 1, 2025. The court took the Motion to Modify/Vacate under advisement. More documents were filed and considered by the court up and through the date of this ruling.

The Court has now carefully reviewed the files, Respondent’s numerous arguments and exhibits. Petitioner’s response and legal arguments to Respondent’s Motion to modify/vacate/dismiss was also reviewed. After reviewing court cases and filings pertinent to the issues, the legal arguments and authorities presented, this Court now states:

IT IS HEREBY ORDERED that Respondent's Motions to Modify/Vacate/Dismiss is DENIED as there has been no prima facia case for the necessity of conducting a hearing. There is no credible material change in circumstances sufficient to warrant a modification, vacation or dismissal. The court makes this ruling on grounds noted herein. Generally, *Sjomeling v. Stuber*, 2000 SD 103, 615 N.W.2d 613 and *Batchelder v. Batchelder*, 2021 SD 60, 965 N.W.2d 800.

As noted in *Sjomeling*, there should not be a relitigated of issues that have been resolved by judgment. Also, as pointed out in *Batchelder*, if the issues are better addressed in another other civil matter, which is pending before a court, such should be the case.

There has been no material change in circumstances that make the continued enforcement of the court's earlier judgment inequitable. In fact, the court finds after reviewing the filings and arguments presented, Respondent's actions have demonstrated a stubborn non-acceptance of the court's decision, and to her own agreement to the terms of the same. See *Sjomeling*. Respondent's stubborn lack of acceptance of the order or judgment that Respondent fully agreed to, was later rethought or exacerbated after Respondent's criminal case was given leniency and dismissed *without* prejudice. Moreover, Respondent's concerns will ultimately and appropriately be resolved in another civil matter that is pending before the court. See *Batchelder*. This court should not, nor will not piecemeal that litigation nor relitigate the issues already determined as to what happened with the ax event on the date in question in the matter at hand in this case, regardless of who had right of possession. This court further adopts the arguments made in Petitioner's response to Respondent's motion to vacate/ modify by this reference, without having to restate the same.

Based upon the analysis herein, no further hearing is required or merited under the circumstances of this case. The hearing currently set for May 20, 2025 is therefore cancelled.

IT IS ORDERED that the protection order entered with the agreement of Respondent and Petitioner, entered and confirmed by this court on October 8, 2024 shall be enforced as issued. Respondent's Motion to Vacate/dismiss/modify is denied.

Dated this 6th day of May, 2025.

Attest:
Caviness, Kelly
Clerk/Deputy



BY THE COURT:

M. Bridget Mayer

M. Bridget Mayer
Circuit Court Judge

STATE OF SOUTH DAKOTA	)	IN CIRCUIT COURT
	):ss	
COUNTY OF JONES	)	SIXTH JUDICIAL CIRCUIT
)	
Katherine Marie Sammons,	)	37TPO24-03
	)	See also 27TPO24-01 Haakon
Petitioner,	)	SECOND
v.	)	ORDER DENYING RESPONDENTS
	)	MOTIONS TO VACATE/MODIFY
)	
Christina Marie Zuccaro,)	
)	
Respondent.)	

PROCEDURAL HISTORY

On May 6, 2025, the Court denied Christina Marie Zuccaro’s (Respondent or Zuccaro) motion to set aside/modify or vacate a permanent protection order entered for two (2) years against Respondent. On May 7, 2025, the Court confirmed its order and granted Petitioner’s (Petitioner or Sammons) Order to Dismiss on alternative grounds. The court denied attorney fees. In recapping, a motion to modify or vacate permanent protection order was filed pro se by Zuccaro on March 5, 2025. The hearing on the motion and other matters was set for March 18, 2025, which was continued to April 1, 2025. The hearing for the modification was scheduled to May 20, 2025. That was cancelled due to the courts Order Denying the Modification, filed on May 6 and 7, 2025.

Respondent filed a Motion to Inform the Court of Harassment signed on May 5, 2025. It was filed on May 13, 2025. The Court reviewed this submission via email, before entering the Orders in the above paragraph. Some of the allegations were that presumedly Petitioner placed a security camera on nearby property directed at Respondent’s property and that Petitioner berated Respondent’s father for leaving a cattle gate open. Respondent also claimed Petitioner admitted to

unlawfully being in the cabin when the ax incident occurred. The ax behavior was primarily the basis for the courts permanent protection order issued for two years with conditions.

On May 23, 2025, Zuccaro filed another Motion to Vacate/Modify Permanent Protection Order based upon equity, legal misapplication and unclean hands (signed May 14, 2025) pursuant to SDCL 15-6-60(b)(6). Zuccaro asserts that Sammons continues to trespass, interferes with Zuccaros' (including her Father Charles') enjoyment and use of their property and that Sammons has misused the TPO legal proceedings.

On May 27, 2025 (signed May 20, 2025), Zuccaro filed a supplement motion based upon newly discovered evidence. This evidence was an email that Sammons' legal counsel had misaddressed to Zuccaro about the court's ruling denying modification. The email was intended for Christian Alavi (Alavi), who is Zuccaro's nephew and a party to a separate pending civil action concerning the property and the partnership among Zuccaro family members.

On June 4, 2024 another Motion to Modify/Vacate Order was filed by Zuccaro (signed May 29, 2025). The claims were that new evidence exists. This included in part that Zuccaro's game camera captured Sammons where she "could not be", that cattle was dumped on her ground and there was a notice to vacate property in the separate civil dispute action regarding the Zuccaro partnership.

Lastly, on June 7, 2025, the Court (and others) were emailed a copy of Respondent's letter to the Jones County Sheriff's office with allegations and pictures of devices installed without the Zuccaro general partner's permission and thus was harassment to Respondent. The email was entitled "unauthorized surveillance and continued trespass". The Court has again reviewed the files, the alleged new facts or circumstances, motions and arguments.

As background history to these current motions before the court, Zuccaro had filed another Petition for Protection Order against Sammons on December 3, 2024 in 37 TPO 24-06. Presiding Judge Klingler denied the Petition. Judge Klingler determined the 37 TPO 24-06 action was really a request to Modify the Permanent Protection Order in 37TPO24-03. Judge Klingler indicated in that Order that Zuccaro could request a hearing with Judge Mayer in 37 TPO 24-03. Zuccaro filed a motion to recuse Judge Mayer. Judge Klingler denied the same on December 4, 2024. This court did grant a hearing and set an advisory hearing on the modification for December 31, 2024.

As a reminder, this court held original dueling protection order trials between these two parties on October 8, 2024 in Haakon County. See 37 TPO 24-01 and 37 TPO 24-03. Respondent dismissed her TPO action (37 TPO 24-01) against Petitioner that same date towards the end of the case. Both parties were represented by legal counsel.

At that TPO trial, the Court found that on February 3, 2024, Petitioner and her daughter were performing calving duties for Bad River Cattle Company (owned by Respondent's nephew Christian Alavi or "Alavi"). Petitioner used to work for Respondents father, Charles Zuccaro and had use of the cabin for her ranch hand work. At some point Alavi leased the land from Respondents Father, Charles Zuccaro or the Zuccaro LLC. Petitioner then worked for Alavi.

It was established at the TPO trial that when Petitioner went to the barn on February 3, 2024 to check the heifer, Respondent took a spade and knocked the outer door handle off of the outer cabin door. When Petitioner returned to the cabin (with her minor daughter and niece) to get warm, Petitioner saw the broken knob and told the minors to leave for safety concerns of what was happening and being familiar with Respondent's demeanors and prior aggressive behaviors. Respondent went back to check on the heifer. When she returned to the cabin, Respondent followed Petitioner up the walk and tried to force her way in. Petitioner locked the inner door

(which had a glass top). Respondent then retrieved an ax and started hitting the door lock with it, yelling at Petitioner to get out and that she was trespassing. Petitioner was on the other side of that door when the ax was being used. Petitioner testified she was in fear for her safety. Petitioner testified Respondent was using vulgarity and berated her that she was trespassing. Both parties called 911. The Jones County Sheriff could not timely get there, so Petitioner called the neighbors for help. Petitioner testified that she believed she was authorized to use the cabin during calving and had been given a key from her boss Alavi. (Alavi though was not authorized to use the cabin at that time). At the trial, Petitioner was extensively cross examined about her authority to be in the cabin by Respondent's attorney. Respondent claimed she had a lease to the cabin and that Sammons was not allowed to be in there (and thus Respondent seems to believe she had a right to behave the way she did with the ax). The court disagreed with that defense, found Petitioner credible and granted the protection order.

The court gave Respondent and her attorney the opportunity to provide input on the duration and terms of the protection order, as obviously Sammons would need to continue work as a ranch hand in the area. The court gave orders to *Respondent* to allow Petitioner to do her work on the ranch (which is near Respondent's house), to quit videoing, drive directly to the house and make no hand gestures. See (5) of the Order of Protection. No limits were imposed on Petitioner.

Later in the day of the incident, on February 3, 2024, the sheriff arrived. Respondent was arrested for simple assault. 37Cri24-06. Respondent's criminal case was subsequently dismissed, without prejudice, under a deferred prosecution agreement on December 9, 2024. It appears that after the dismissal, Respondent began, and has continued, to file documents for modification or dismissal of the permanent protection order.

Overall, Respondent argues that she is not relitigating facts, but wants to highlight ongoing inequities due to the continued enforcement of the two year permanent protection order. Recapping again some of Respondent claims are that Sammons is a trespasser, that Respondent has been denied access to and enjoyment of her property, and that Sammons interferes with her road access and access to her mother's grave. Respondent states that her Father (Charles) is being harassed in his enjoyment of the cabin and that surveillance cameras are placed in a position facing Respondent's home; that cattle are allowed into her property area; that fences have been reinforced and cameras are placed to record her and her property as harassment. Respondent acknowledged that a separate civil action is pending and in dispute with Petitioner's employer. See 37Civ24-05.

LAW

SDCL 15-6-60 (b) provides that a court, based "on motion and upon such terms as are just," may give relief to a party from a final order. Respondent asserts under SDCL 15-6-60(b)(5), that it is no longer be equitable to enforce the protection order. Respondent also argues that SDCL 15-6-60(b)(6) provides that "any other response justifying relief from the operation of the judgment" should provide her requested relief (i.e. to dismiss or modify the protection order). Respondent further cites to SDCL 15-6-60(b)(3), an alternate ground for relief. This states that fraud, misrepresentation or other misconduct was committed by the Petitioner. Lastly, Respondent asserts that there is newly discovered evidence, for which, Respondent should be provided relief from the protection order, under SDCL 15-6-60(b)(2).

A motion for relief from a judgment does not allow the relitigating of issues that have been resolved by a judgment. It refers instead to some change in conditions that make the continued enforcement inequitable. *Rabo Agrifinance, Inc. v. Rock Creek Farms*, 2013 S. D. 64, 836 N.W.2d 631.

It is further provided in the case law that intervening equities may defeat an otherwise legitimate claim for relief from judgment. *In re Ibanez*, 2013 S.D. 45, 834 N.W.2d 306. When a court is faced with deciding this issue, that is, to determine whether to grant relief or not, it must strive to maintain the difficult balance between finality and justice. *Id.* Lastly, a motion for relief from judgment can be granted *only* when exceptional circumstances exist. *In re Ibanez*, and *Hiller v. Hiller*, 2015 S.D. 58, ¶ 21 and, ¶ 24, 866 N.W.2d 536, 543-544. As noted in *Hiller*, the purpose of the rule to allow relief from judgment due to exceptional circumstance is “to preserve the delicate balance between the sanctity of final judgments and the incessant command of a courts conscience that justice be done in light of all the facts”. *Id.* at ¶ 21, 866 N.W.2d at 543.

ANALYSIS

The only thing that has changed since the court entered the permanent protection order is that a plea agreement was reached in the criminal case and it was dismissed. Respondent now wants to reopen up everything. Respondent further claims that Petitioner admits to being illegally in cabin and that would have a marked change on the court’s decision. It does not.

This court did find Petitioner was in the cabin at the time of the assault on the door with the ax, while Petitioner was on the other side. Petitioner, who was well aware of Respondent’s history and behaviors, validly feared for her safety and well-being. The court rejected and continues to reject that even if Respondent had a valid lease of the cabin, Respondent could attack with an ax, threats and vulgarity. This was one of the main factors that the court provided as a basis to grant Petitioner’s request for the protection order. Respondent continues to argue that this is her property and Petitioner is interfering with her enjoyment of the same and that Petitioner continues to trespass and harass (in reality, annoy) Respondent because of the court order.

Again, Respondent is attempting to relitigate the issues. Even if the court were to assume Petitioner did not have “legal right” to be in the cabin (the court chose and still chooses to believe Petitioner, who testified that she used the cabin to brand, calf, warm up, store vaccines and the like for many years; was given a key and told it could be used for calving in the winter), one cannot take an ax to the door to get someone out and spew and behave erratically. The court found that Petitioner (and her minor daughter), were in need of protection from Respondent by Respondent’s terrifying actions that day. That view was supported by the previous actions of Respondent to others and Petitioner. The court heard testimony of Respondent’s history of agitation towards others, including Petitioner, and that Respondent gets very vocal and can be vulgar. With knowledge of this, Petitioner tried to keep her distance from Respondent when Respondent moved into the main house at the home place. There was a history with Respondent constantly calling the sheriff about Petitioner trespassing, that Respondent was constantly filming Petitioner and her kids, and that Respondent was leaving gates open. The court agreed with the Petitioner that this was a pattern of harassment and stalking by Respondent. The court only provided a 2-year protection order, instead of the requested 5 years. The additional specific limitations in the Order, were limits that the court placed *upon Respondent*, and to where Respondent could be, while allowing Sammons to perform her ranch hand work nearby. No limits were placed upon Petitioner. The court found Petitioner credible.

The court does not find the Respondent’s alleged facts in her motions rise to the level of any change of circumstances that demonstrate exceptional circumstances to set aside or modify the protection or order. *See Hiller and Ibanez, infra; Sjomeling v Stuber*, 2000 S.D. 103, ¶10-17, 615 N.W.2d 613, 616-618. After reviewing all of her submission, a hearing on the issue is a waste of judicial resources. As stated previously, Respondent is attempting to relitigate the issues already

determined. In the courts mind, the “new” or triggering event was the dismissal of the criminal case against Respondent. This emboldened Respondent to try to relitigate everything. In addition, many of these matters will be determined in a separate civil case and the court will not piecemeal that litigation.

Respondent’s alleged “new allegations” are nothing new. Respondent continues to act the way she has historically acted since she came back to be an interested party to the home property and its area. Respondent’s allegations, even if true, do not change the court’s mind that Petitioner was and is in need of and deserves the protection in the form that has been set out in the permanent protection order. Respondent’s allegations are rejected as speculative, irrelevant or overstated. Respondent’s motions and pleadings are consistent with her demonstrated erratic behaviors. Respondent obviously does not like the terms that the court has place on her via its court order of protection. Even if her allegation are to be assumed as true, such are not facts that would change the court’s opinion for the need of the protection order to be terminated or modified. Nor do these allegations constitute a showing of any material or exceptional change in circumstances. Respondent is simply continuing her erratic behaviors with calls to the sheriff’s office, pictures and game camera and constant monitoring and complaining about Petitioner. It is obvious Respondent loathes Petitioner and she will continue to stay agitated with this court’s ruling. The court will not tolerate this anymore. The court will consider ordering additional terms or counseling if her behaviors do not cease immediately. As noted in its other submission, these matters Respondent complains of will be address in the separate civil matter.

As directed by the South Dakota Supreme Court, a court should not grant relief just because a party is unhappy with the judgment. *Hiller*, 2015 S.D. 58, ¶ 24, 866 N.W. 2d at 543. That

appears to continue to be the case. In sum, there is no exceptional or material factual circumstances that would make the continued enforcement of the permanent protection order inequitable

IT IS ORDERED that the protection order entered on October 8, 2024, is continued as issued. The previous orders on this issue are incorporated herein by this reference. All of Respondent's motions are DENIED. **The court will not address further emails or motions.**

Since Respondent is pro-se, Respondent is hereby notified that she has 30 days from the filing of this decision to appeal to the South Dakota Supreme Court.

Dated this 15th day of June, 2025.

Attest:
Caviness, Kelly
Clerk/Deputy



BY THE COURT:

M. Bridget Mayer

M. Bridget Mayer
Circuit Court Judge

IN THE SUPREME COURT OF THE STATE OF SOUTH DAKOTA

APPEAL NO. 31126

CHRISTINA M. ZUCCARO,

Appellant/Respondent,

v.

KATHERINE SAMMONS,

Appellee/Petitioner.

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

JAN 29 2026

Shirley A. Johnson Legal
Clerk

APPELLANT'S REPLY BRIEF

January 22, 2026

I. INTRODUCTION

Appellee's corrected brief does not respond to the dispositive issues raised on appeal. Rather than engage the factual record or the legal errors identified by Appellant, Appellee relies on generalized assertions, procedural labels, and conclusory characterizations, while leaving the core arguments unanswered.

A reply brief exists to address what the appellee actually argued. Here, Appellee's repeated failure to address material facts and controlling legal questions confirms the errors identified in Appellant's opening brief and supports reversal.

II. APPELLEE DOES NOT REBUT THE UNLAWFUL ENTRY THAT UNDERLIES THIS CASE

Appellant established, with record citations, that Appellee admitted she took a key and entered the cabin without permission and without lawful authority. Appellee's corrected brief does not dispute this admission, does not identify any legal basis for entry, and does not explain why the trial court refused to classify or address the conduct as unlawful entry.

Because Appellee offers no justification for her presence in the cabin, the unlawful entry remains unrebutted and central to this appeal.

III. APPELLEE FAILS TO ADDRESS APPELLANT'S LEASE AND EXCLUSIVE POSSESSION

Appellant demonstrated that she held a valid lease granting exclusive possession of the cabin. Appellee's corrected brief does not challenge the lease's validity, argue termination, or reconcile Appellee's presence with Appellant's lawful possession.

Most significantly, Appellee cites no authority permitting a protection order to dispossess a lawful tenant without due process. The trial court's refusal to consider property rights was legal error, and Appellee's silence confirms the absence of a lawful counterargument.

IV. APPELLEE DOES NOT ADDRESS LAW-ENFORCEMENT NOTICE OR MISREPRESENTATIONS THAT ENABLED DISPOSSESSION

The record reflects that Appellant contacted law enforcement multiple times to report unlawful entry and that the Sheriff possessed Appellant's lease months before Appellant's arrest. Appellee's corrected brief does not address these 911 calls, the prior notice, or the lack of enforcement.

Appellant also presented evidence that Appellee misrepresented to law enforcement that she had a right to be in the cabin. Those misrepresentations enabled Appellee to remain on or near the property and facilitated continued interference with Appellant's lawful possession, including the effective takeover and control of the residence during enforcement of the protection order.

Appellee does not deny making these representations, does not reconcile them with the lease, and does not explain how law enforcement could lawfully rely on claims of authority contradicted by documents already in their possession. These omissions undermine any claim that the trial court's findings were supported by substantial evidence or that Appellee acted in good faith.

V. APPELLEE RELIES ON CONCLUSORY ASSERTIONS OF “FEAR” WITHOUT RECORD ANALYSIS

Appellee asserts that she was “fearful,” but provides no analysis linking that assertion to specific facts in the record. Appellee does not address the timing of the alleged fear, reconcile it with her continued presence and entry onto the property, or explain how fear justifies unlawful entry, misrepresentation of authority, or dispossession of a lawful tenant.

Conclusory assertions cannot substitute for record evidence or legal analysis, particularly where constitutional and property rights are implicated.

VI. APPELLEE MISCHARACTERIZES RULE 60(b) WITHOUT APPLYING THE STANDARD

Appellee characterizes Appellant’s Rule 60(b) motion as “relitigation,” but does not apply the Rule 60(b) factors to the evidence presented. Appellant raised newly discovered evidence, admissions, and legal error that the trial court refused to consider. Merely invoking the term “relitigation” does not address whether the trial court abused its discretion by refusing to consider material evidence or by applying an incorrect legal framework.

VII. APPELLEE DOES NOT ADDRESS ONGOING PREJUDICE AND CONTINUING HARM

Evidence submitted during the appeal demonstrated ongoing harm, including interference with Appellant’s livestock and unsafe access to the property due to Appellee’s continued unauthorized presence and reliance on misrepresented authority.

Appellee's corrected brief does not deny this conduct, explain it, or address the resulting prejudice. This silence is particularly significant where Appellee seeks procedural indulgence while Appellant continues to suffer concrete and ongoing harm.

VIII. RHETORIC CANNOT CURE FACTUAL OR LEGAL OMISSIONS

Appellee's corrected brief relies on characterizations rather than record citations. Appellate review is confined to evidence and law. Assertions unsupported by the record do not rebut Appellant's arguments and cannot sustain the trial court's ruling.

IX. CONCLUSION

An order that effectively dispossesses a lawful tenant, based on un rebutted unlawful entry and without application of the correct legal standards, cannot be sustained on appeal.

Appellee's corrected brief does not rebut the core issues on appeal. The unlawful entry, lack of authority, misrepresentations to law enforcement, valid lease, due-process violations, and ongoing prejudice remain unanswered.

Because Appellee has failed to engage the record or address dispositive legal errors, this Court should reverse the protection order and grant appropriate relief.

Respectfully submitted,

/s/ Christina M. Zuccaro

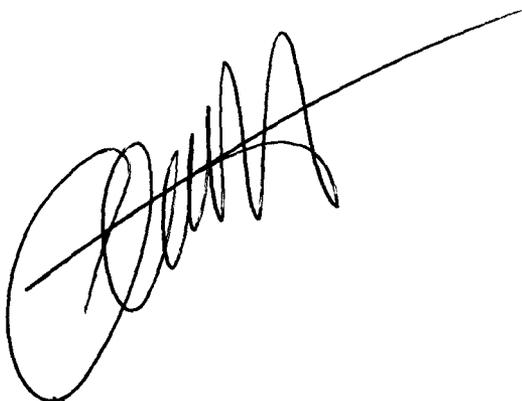
Christina M. Zuccaro

Appellant, Pro Se

22742 258th Avenue

Midland, SD 57552

Email: chrisyzuccaro2@gmail.com

A handwritten signature in black ink, appearing to read 'Christina M. Zuccaro', is written over a horizontal line. The signature is stylized and cursive.

CERTIFICATE OF SERVICE

I certify that on this 22 day of January, 2026, a true and correct copy of the foregoing Appellant's Reply Brief was served upon:

Cassie J. Wendt

Wendt Law, Prof. LLC

P.O. Box 280

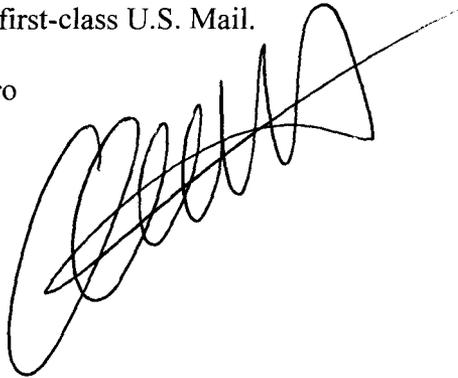
Philip, SD 57567

Email: wendtlaw@goldenwest.net

by electronic mail and first-class U.S. Mail.

/s/ Christina M. Zuccaro

Appellant, Pro Se

A handwritten signature in black ink, appearing to read 'Christina M. Zuccaro', written over a horizontal line.