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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 GRAHAM CHASE ROBINSON,

4 Plaintiff,

New York, N.Y.

5 v.

19 Civ. 9156 (LJL)

6 ROBERT DENIRO, *et al.*,

7 Defendants.

8 -----x
9 October 30, 2023
9:20 a.m.

10 Before:

11 HON. LEWIS J. LIMAN,

12 U.S. District Judge

13 -and a Jury-

14 APPEARANCES

15
16 SANFORD HEISLER SHARP, LLP
17 Attorneys for Plaintiff
18 BY: BRENT HANNAFAN
19 ANDREW MACURDY
KATE MACMULLIN
VINCENT MCKNIGHT, JR.

20
21 TARTER, KRINSKY & DROGIN, LLP
22 Attorneys for Defendants
23 BY: RICHARD C. SCHOENSTEIN
INGRID CARDONA
24 LAURENT DROGIN
BRITTANY LAZZARO
-and-
25 TRAUB LIEBERMAN STRAUS & SHREWSBERRY LLP
BY: GREGORY BENNETT

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1 (Case called)

2 THE DEPUTY CLERK: Starting with counsel for the
3 plaintiff, please state your appearances for the record.

4 MR. McKNIGHT: Good morning, your Honor. Vincent
5 McKnight for plaintiff.

6 MR. HANNAFAN: Good morning, your Honor. Brent
7 Hannafan for the plaintiff.

8 MR. MACURDY: Andrew Macurdy for the plaintiff, your
9 Honor.

10 MS. MACMULLIN: Good morning, your Honor. Kate
11 MacMullin for the plaintiff.

12 THE COURT: Good morning.

13 And for defense?

14 MR. SCHOENSTEIN: Richard Schoenstein for defendants.
15 Good morning, your Honor.

16 MR. DROGIN: Laurent Drogin for defendants. Good
17 morning.

18 MR. BENNETT: Good morning, your Honor. Gregory
19 Bennett for defendants.

20 MS. LAZZARO: Good morning, your Honor. Brittany
21 Lazzaro for defendants.

22 MS. CARDONA: Good morning, your Honor. Cardona card
23 for defendants.

24 THE COURT: Good morning, all. I understand that each
25 side has issues that they wish to raise with the Court. Why

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1 don't I hear from plaintiff first and then I will hear from
2 defendants while we are waiting for the jury.

3 MR. MACURDY: Thank you, your Honor. A couple things
4 I think will hopefully make our presentation faster.

5 The first is on opening statements. So, both sides
6 have agreed no mention of Netflix in the opening or their
7 expert Dr. Resnick's testimony about cognitive distortions or
8 personality traits which are the subject of motions *in limine*
9 that your Honor has reserved on. We do have a disagreement
10 about mention of Ms. Robinson's retention of certain Canal
11 property after her employment ended that she returned during
12 the discovery period. I won't put words in defendants' mouth
13 but I understand they want to mention that in their opening and
14 your Honor has reserved on our motion *in limine* on that, and we
15 think that there is really no relevance or basis and it is just
16 prejudicial for them to begin mentioning that in opening,
17 particularly given the history, your Honor. I won't rehash our
18 motion *in limine* but, essentially, Ms. Robinson worked from
19 home and when her employment ended, she had certain items at
20 her home. At the very first Rule 26(f) conference our counsel,
21 back in the beginning of 2020, mentioned that she had bankers'
22 boxes and odds and ends and made them available for inspection
23 and defense counsel never took us up on that, and subsequently
24 those items were returned at the end of discovery. So, for
25 them to bring in the retention of this property into the case

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1 would get into Ms. Robinson's advice from her counsel and
2 things like that so we would submit that shouldn't be brought
3 up at all and certainly not in opening statements.

4 THE COURT: Is that the only issue that you have got?

5 MR. MACURDY: No. I can tick through my list.

6 THE COURT: Why don't you tick through them and then I
7 will hear from the defendants on your issues, and then after
8 that I will hear from defendants on their issues.

9 MR. MACURDY: Sounds good, your Honor.

10 Just so you know, your Honor, we have redacted private
11 e-mail addresses throughout the exhibits. Both parties agree
12 that witnesses won't get up there, to the extent they have
13 control over the witnesses won't get up there and say no, it is
14 not my e-mail because my e-mail address is blacked out.

15 Your Honor, plaintiffs would invoke the sequestration
16 rule of witnesses.

17 THE COURT: Let me just ask, is that an issue,
18 Mr. Schoenstein, from your perspective?

19 MR. SCHOENSTEIN: No. We agree.

20 THE COURT: All right.

21 MR. SCHOENSTEIN: Your Honor, I will say, obviously
22 Mr. De Niro is a party and Tom Harvey will be our corporate
23 representative for Canal so he will be entitled to be here.
24 Otherwise, we agree.

25 THE COURT: I assume that that's fine from plaintiff.

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1 Ms. Robinson will also be here.

2 MR. MACURDY: Correct, your Honor; so long as
3 Mr. De Niro isn't also.

4 MR. SCHOENSTEIN: Sure. Mr. De Niro is a party and
5 Mr. Harvey represents Canal that is a party, they'll both be
6 here.

7 THE COURT: Parties are entitled to be here.

8 MR. MACURDY: I understand.

9 Your Honor, I wanted to see how you would like to
10 handle judicial notice of things like the day of a week that a
11 date was that is likely to be relevant. Is that something that
12 I would offer up to your Honor as it comes up? We have a
13 calendar we could use.

14 THE COURT: I think the most efficient way for you to
15 do that is just to stipulate with the other side as to what the
16 dates are and then you can just say that it is stipulated, and
17 if you want to prepare for a formal stipulation, that's fine,
18 but a statement on the record that indicates that your Honor
19 stipulated and then I will ask Mr. Schoenstein or defendants
20 whether that is correct and that will take care of it.

21 MR. MACURDY: OK. Thank you, your Honor.

22 THE COURT: That avoids the issue of judicial notice
23 because of stipulation.

24 MR. MACURDY: Understood.

25 Your Honor, you had asked us to bring to your

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1 attention if we had intended to get into conduct that was
2 pre-statutory period on the other side's claims. With
3 Mr. De Niro, there likely will be not relevant to our claims
4 but relevant to Ms. Robinson's defenses to their counterclaims,
5 so testimony that predates 2016, relevant to the dynamic of
6 their employment relationship, Mr. De Niro's degree of control
7 over Ms. Robinson, and knowledge of her whereabouts, as well as
8 negotiations, discussions, arrangements regarding
9 Ms. Robinson's work expenses, perks, benefits that predated
10 2016, but are certainly relevant to the conduct that's been
11 alleged in the case.

12 THE COURT: OK.

13 MR. MACURDY: Your Honor, I just wanted to see what
14 your preference was on impeachment. In Mr. De Niro's
15 deposition there are some fairly lengthy answers that we would
16 argue are not totally relevant or responsive to the question.
17 Do we need to impeach with a full answer? Can we propose the
18 relevant portion of the answer to keep things efficient?

19 THE COURT: I think the proper way to handle that is
20 for you when you are going to impeach the witness, to refer to
21 the page and particular lines that you want to impeach him with
22 and then for the defendants, if as a matter of completeness,
23 they want to have a remainder asked then they can do that and
24 ask that you read the whole statement. Do it that way up until
25 it becomes abusive. If it looks like the remainder is not

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1 actually appropriate under the rule of completeness, then we
2 will just go with whatever is inconsistent.

3 MR. MACURDY: So, your Honor, we will make a decision
4 for each one about whether it is --

5 THE COURT: I think that is the right way to do it,
6 unless I hear otherwise from the defendant.

7 MR. MACURDY: OK. Another thing, I can speed things
8 along, your Honor, after an exhibit is admitted do we need to
9 ask another question about publishing it to the jury?

10 THE COURT: No. I should make that clear. Once an
11 exhibit is in evidence either side can publish it to the jury
12 without asking permission.

13 MR. MACURDY: And, your Honor, for the purposes of
14 keeping time for our presentation when we go into a side bar
15 that is excluded from our time?

16 THE COURT: That is excluded from the time.

17 MR. MACURDY: Two other things, your Honor. So we
18 talked about in the motions *in limine*, Dan Harvey was another
19 worker at Canal. We have decided we are not going to pursue
20 damages based on disparity between Ms. Robinson's pay and Dan
21 Harvey's pay at Canal as part of the gender discrimination
22 claim. However, we would still want to present evidence about
23 what Mr. De Niro said to Ms. Robinson when she brought up the
24 issue of pay disparity, namely that she was single and he had a
25 family to support, as support of our gender discrimination

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1 claim and the cumulative environment that it created. But we
2 wouldn't seek specifically to pursue damages based on that
3 disparity so that should save some time in terms of putting in
4 Mr. Harvey's W-2s or salary, putting him on the stand, things
5 like that.

6 THE COURT: I am going to hear from the other side
7 with respect to the admissibility of the evidence but with
8 respect to the claim, you had a claim in your complaint based
9 on New York City Human Rights Law of pay disparity. Do I
10 understand that you have made the decision to abandon that
11 claim?

12 MR. MACURDY: Yes, your Honor, so long as we are still
13 allowed to put on the evidence of the statement that was made
14 to Ms. Robinson and the fact of the disparity.

15 THE COURT: Well, no. I think the first question is
16 what claims are you pursuing and then the question is, is the
17 evidence relevant. I am indifferent to whether you are
18 pursuing the claim but I just want the record to be clear for
19 all kinds of purposes whether the claim is being pursued or
20 not.

21 MR. MACURDY: We don't want to pursue damages based on
22 a pay disparity but we want to present the evidence of this,
23 what we allege to be discriminatory comment, and what evidence
24 of defendant's motive and mindset when it came to gender.

25 THE COURT: So if you are not pursuing damages with

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1 respect to a claim, do you have a claim for that alleged
2 violation?

3 MR. MACURDY: I think it can go to emotional damages
4 as well as potentially punitive damages, your Honor.

5 THE COURT: So, I take it you are not abandoning your
6 claim based on the New York City Human Rights Law with respect
7 to gender disparity. You just need to be clear with me.

8 MR. MACURDY: I understand. I was trying to help --
9 defendants raised that they thought this would make the trial a
10 lot longer for them having to call Mr. Harvey. I think we were
11 trying to streamline the presentation so we are not pursuing
12 economic damages based on that. So it doesn't have to get into
13 the details of Mr. Harvey's pay, things like that.

14 THE COURT: I hear what you are saying.

15 MR. MACURDY: It doesn't do us any good, your Honor,
16 but --

17 THE COURT: I hear what you are saying. I am not sure
18 whether it does it good or not.

19 MR. MACURDY: And the last thing, your Honor. So
20 Canal, in addition to this lawsuit, they brought the
21 allegations to the Manhattan district attorney for the purpose
22 of essentially pressing charges against Ms. Robinson and we
23 would propose to be able to ask Mr. De Niro essentially three
24 questions about that: You and Canal in fact brought these
25 allegations to the Manhattan district attorney for the purposes

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1 of initiating a criminal case against Ms. Robinson; Manhattan
2 District Attorney did an investigation and did not bring
3 criminal charges against Ms. Robinson; and any other employee
4 at Canal that you suspected of wrongdoing you have never
5 brought that wrongdoing to the Manhattan district attorney.

6 THE COURT: What relevance does any of that have?

7 MR. MACURDY: It goes to Ms. Robinson's targeting
8 versus other employees, how she was treated differently based
9 on her gender and to retaliation based on her protected
10 activity.

11 THE COURT: OK. Anything more on your list?

12 MR. MACURDY: No, your Honor.

13 THE COURT: Mr. Schoenstein, I think I can strike off
14 of the plaintiff's list private e-mail addresses,
15 sequestration, stipulations/judicial notice with respect to
16 items such as day of the week, side bars excluded from
17 timekeeping and that's it. Do you disagree that as to those
18 issues there is no decision I need to make?

19 MR. SCHOENSTEIN: Yes, your Honor. Just to be clear,
20 we have seen the calendar in plaintiff's exhibits and we
21 stipulate that the dates in that calendar are, indeed, the
22 dates.

23 THE COURT: Why don't you even prepare a written
24 stipulation to that effect. It makes life cleaner.

25 All right, Mr. Schoenstein, what do you have to say.

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1 MR. SCHOENSTEIN: Let me connect the last thing they
2 said with the first thing they said because they're connected,
3 your Honor.

4 They want to argue in this case that Canal made up all
5 of these issues about Ms. Robinson's conduct and targeted her
6 and went to the Manhattan DA but they want to preclude us from
7 pointing out that she took stuff, including almost \$30,000 of
8 cash and gift cards, and when asked to give it back, didn't.
9 They can't have it both ways. If they're going to challenge
10 Canal for what Canal did, then the evidence of what plaintiff
11 did, keeping stuff, keeping money, keeping files, keeping a
12 safe, keeping electronic documents and not return it when she
13 was requested to do so in, by the way, a letter that plaintiffs
14 are going to put into evidence, they are going to put
15 Mr. Harvey's letter asking her to return property into
16 evidence, but they want to preclude us from pointing out that
17 she didn't return the property. That does not seem fair to me.

18 THE COURT: So let's go through these point by point.

19 What is the relevance of the evidence that the
20 plaintiff -- I gather you have got evidence that the plaintiff
21 continued to retain property belonging to Canal even after she
22 was asked to return it; is that right?

23 MR. SCHOENSTEIN: Yes, your Honor. We have property
24 that was eventually returned a couple years later.

25 THE COURT: And what's the nature of that property?

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1 MR. SCHOENSTEIN: So, it is a mix. There was cash,
2 there were gift cards, there were files, there was camera
3 equipment, there was a safe, there were computers.

4 THE COURT: How is that evidence relevant to any of
5 your claims?

6 MR. SCHOENSTEIN: Well, because it shows that she was
7 acting beyond her authority, and inappropriately, and it tied
8 into the actions that Canal took at the end of her employment.
9 It ties into why Mr. De Niro was upset. It ties into why
10 Mr. Harvey sent her a demand letter which demand letter the
11 plaintiffs want to put into evidence in the case. It is all
12 connected. It goes to her credibility that she had stuff and,
13 when asked to return it, didn't. It all connects.

14 THE COURT: I take it you are not asserting that
15 retention of property as a separate element of conversion, that
16 is, that during the period of time after Mr. Harvey demanded it
17 and before she returned it, the property was converted and you
18 are entitled to damages.

19 MR. SCHOENSTEIN: We are not making a claim for the
20 property that we now have back.

21 THE COURT: OK.

22 MR. SCHOENSTEIN: Correct, your Honor. Correct. But
23 I think if we are going to tell one side of the story you have
24 to be able to tell both sides of the story, that's my
25 fundamental contention about this. If plaintiff's argument is

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1 that Canal viciously attacked this poor, innocent woman because
2 she had a discrimination claim, they actually have it
3 backwards. She left, made demands, refused to return stuff,
4 and then came up with a discrimination claim.

5 THE COURT: What's the timing of the Harvey demand for
6 the return of property and the filing of this lawsuit of the
7 claim's conversion with respect to the property that was not
8 returned?

9 MR. SCHOENSTEIN: Plaintiff leaves on April 6, 2019.
10 On June 11, 2019, she sends an e-mail to Mr. De Niro: I want
11 severance, \$600,000. I want a press release. I want
12 recommendations. I want attorneys fees. And if you don't give
13 me all of that stuff, I'm going to hire attorneys. And then,
14 on July 2, she forwards that e-mail again because she hasn't
15 received a response. On July 2 Mr. De Niro and Ms. Chen
16 exchange some texts. Plaintiff is going to put those texts
17 into evidence. The texts on July 2 are a direct response to
18 plaintiff's e-mail. Plaintiff's e-mail demanded a response by
19 July 12. On July 11, Mr. Harvey sent his letter and his letter
20 said, amongst other things, return property. No property
21 returned.

22 On August 17, Canal files its lawsuit. No property
23 has been returned.

24 THE COURT: OK. Let me ask you one other question.
25 This pertains both to opening and I gather to the scope of your

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1 examination of Mr. De Niro, as well as other witnesses.

2 Mr. De Niro is expected to be the first witness in the trial.

3 Is all of that correct, Mr. Schoenstein?

4 MR. SCHOENSTEIN: Yes, your Honor.

5 THE COURT: Let me ask a question of plaintiff. Is it
6 fair to say from plaintiff's perspective -- is plaintiff
7 preparing to introduce the Harvey demand for the return of
8 property in their examination of Mr. De Niro?

9 MR. MACURDY: No.

10 THE COURT: Is plaintiff planning to go into, with
11 Mr. De Niro, the accusations of conversion of property, the
12 decision to commence an investigation into Ms. Robinson to look
13 at whether she took property that belonged to Canal and to
14 return it?

15 MR. MACURDY: No. I'm sorry.

16 THE COURT: You are not going to do any of that --

17 MR. MACURDY: I'm sorry?

18 THE COURT: What is going to be the scope of your
19 examination of Mr. De Niro?

20 MR. MACURDY: It will go both to our claims --
21 specifically go into the retention of this property, your
22 Honor?

23 THE COURT: No, no, no. Are you going to explore in
24 your examination of Mr. De Niro the claims by the defendants,
25 the counterclaims of the defendants of conversion and breach of

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1 fiduciary duty? I assume you are.

2 MR. MACURDY: Yes, your Honor.

3 THE COURT: OK. All right. Thank you.

4 MR. SCHOENSTEIN: And, your Honor, they have
5 specifically told us they intend to use Mr. De Niro's text
6 messages on July 2, which were his direct reaction to the July
7 2 e-mail from Ms. Robinson forwarding her June 11 e-mail.

8 THE COURT: OK. All right. Let me hear from you with
9 respect to the issue of the conduct prior to 2016 as it relates
10 to the conversion and breach of fiduciary duty claim and the
11 defense's authorization ratification -- authorization, really.

12 MR. SCHOENSTEIN: Well, if there are documents that go
13 to authorization and ratification they're probably OK, your
14 Honor. I think plaintiffs have the right to put on that part
15 of their case. A lot of this is document-specific and will
16 depend on the foundation. I know we want to resolve as many of
17 these issues in advance as possible.

18 THE COURT: Some of it may be testimonial.

19 MR. SCHOENSTEIN: Yes. I mean, they certainly have a
20 right to ask Mr. De Niro whether plaintiff was authorized to do
21 this, that, or the other thing.

22 THE COURT: I think they also would have a right to
23 ask about how close the relationship was and wasn't
24 Ms. Robinson informing Mr. De Niro of everything that she was
25 doing.

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1 MR. SCHOENSTEIN: No problem.

2 THE COURT: OK. All right. Let me hear from you with
3 respect to the Harvey issue.

4 MR. SCHOENSTEIN: So, I'm giving an opening statement
5 in a couple hours and I need to know if this claim is in or out
6 of the case and I, frankly, found the presentation by plaintiff
7 equivocal.

8 THE COURT: I think it is in the case.

9 MR. SCHOENSTEIN: OK.

10 THE COURT: I don't think it was equivocal at all. I
11 think what I heard is that they're not seeking economic damages
12 from it but they are claiming that there is a violation. And I
13 don't know whether they will be permitted any further damages
14 but there is at least a possibility, I suppose, of nominal
15 damages.

16 MR. SCHOENSTEIN: I think -- I thought what they were
17 saying is we want to present evidence that Mr. De Niro made a
18 comment to Ms. Robinson that Mr. Harvey was paid differently
19 because he has children and family.

20 THE COURT: They did say that, but then when I asked
21 the question of is the claim in or is the claim out, they just
22 said, listen, there is a form of damages we are not seeking.

23 MR. SCHOENSTEIN: OK. Well, if --

24 THE COURT: Unless there is any more definitive
25 statement from the plaintiff, it's in.

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1 MR. SCHOENSTEIN: OK. So if the claim is in then they
2 can present their evidence.

3 THE COURT: They can present their evidence, you can
4 present your evidence.

5 MR. SCHOENSTEIN: Absolutely, your Honor.

6 THE COURT: OK. Let me tell you how I'm going to rule
7 with respect to the issues raised by the plaintiff.

8 With respect to the retention of Canal property after
9 it was demanded by Mr. Harvey and then its return at a later
10 date, the defendant can open with respect to that. The extent
11 of any evidence with respect to that issue will depend upon the
12 way in which the door is opened during either the opening of
13 the plaintiff or during the examination of Mr. De Niro. So,
14 defendant can open on it and defendant takes the risk, as all
15 parties take risk, with respect to opening statements, that
16 what they promise the jury they will not be able to deliver on.

17 With respect to the conduct predating 2016, as a
18 general matter, I'm not going to preclude conduct predating
19 2016 to the extent that it goes to issues of ratification or
20 acquiescence or that the defendant did not -- sorry, the
21 plaintiff did not, during the relevant time period, breach her
22 fiduciary duties. Whether there are particular questions that
23 would be excludable under 401 or 403 is best addressed on a
24 question by question basis.

25 With respect to the Harvey issue, I think it is in the

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1 case.

2 I didn't hear from the defendant with respect to the
3 issue about going to the Manhattan DA's office.

4 Mr. Schoenstein?

5 MR. SCHOENSTEIN: Yes, I think it is a 403 issue. I
6 think the prejudicial value of that outweighs the probative.
7 You know, there is no need to get into the fact that -- there
8 is nothing in there that is germane to the discrimination or
9 retaliation claim that is left in the case since the
10 retaliation in the case cuts off at the end of her employment.
11 So, the thing about reporting to the Manhattan DA is just not
12 germane to any of that. And I would add if that didn't -- if
13 the Manhattan DA stuff comes in at all, that door to the return
14 of property issue has been kicked wide open because that's one
15 of the things they would have talked to the DA about and we
16 would have a right to show that that was part of the decision
17 to go to the DA.

18 THE COURT: Let me go back to plaintiff with respect
19 to that issue.

20 I have got two concerns with respect to that evidence,
21 one is whether Mr. Schoenstein mentioned, which is that it
22 seems to predate and be relevant to the acts of discrimination
23 that are still in the case; and second, it could lead the jury,
24 impermissibly, to infer that the Manhattan DA's decision was a
25 reflection of the quality or the quantity of the evidence

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1 presented by the defendant, in other words that the Manhattan
2 DA's office made an affirmative decision that there wasn't a
3 crime here where it could have just as easily represented a
4 decision by the Manhattan DA's office about where it wanted to
5 devote its resources or any other issues so it just would be a
6 side show. Those are the two things I would like you to
7 address.

8 MR. MACURDY: I understand, your Honor. We wanted to
9 be very narrow so I suggested it would be essentially three
10 questions, and the purpose of it is not to a point of
11 discrimination or -- well, it is to discrimination, it is not
12 to retaliation. It is to say there were others -- and we will
13 present evidence -- other male employees who were suspected,
14 accused of misconduct, similar unauthorized spending, and that
15 no criminal investigation was brought against them. So, it
16 goes to show the disparity, the discriminatory treatment, as
17 well as motive evidence to go get Ms. Robinson and, therefore,
18 undermine Mr. De Niro's credibility on the stand.

19 So that's the very specific purpose of the testimony,
20 your Honor.

21 THE COURT: I am going to exclude it under Rule 403.
22 Like any *in limine* decision, it's subject to reconsideration if
23 the defendant does something that opens the door or changes the
24 playing field.

25 Mr. Schoenstein, you had a series of issues?

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1 MR. SCHOENSTEIN: Mr. Drogin, do we have issues?

2 MR. DROGIN: Judge, we exchanged a list of documents
3 that are anticipated to be used during Mr. De Niro's direct
4 testimony and cross and we have narrowed the disagreements
5 regarding those documents down to a total of 14 and I am
6 wondering if you would like to hear about that now or if we are
7 going to take it up when the particular document is offered.

8 THE COURT: Let me see where we are in terms of
9 getting a jury. Hold on for a moment. We are calling to see
10 how close we are to getting a jury. While we are waiting, let
11 me ask plaintiffs, you sent me an e-mail indicating that you
12 were going to send a markup of the jury instructions with all
13 of the defendant's exceptions to my proposed instructions and
14 plaintiff's exceptions. I don't think I have received that
15 from you.

16 MR. HANNAFAN: No, your Honor. We were working on
17 that over the weekend and I had actually emailed with
18 Mr. Schoenstein last night about trying to figure out whether
19 there were some things we could agree on. We can send your
20 Honor what we have, but we thought it might make more sense to
21 speak with them again before sending that version to the Court.
22 If you would like us to send you what we have now we can
23 certainly do that, but that's why the delay, your Honor.

24 THE COURT: OK. I don't need it right now. When do
25 you think your meet and confers will come to a point where it

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1 doesn't make sense to meet and confer anymore?

2 MR. HANNAFAN: I don't think it has been acrimonious,
3 your Honor.

4 THE COURT: I mean just in terms of you need a Judge
5 to make a decision.

6 MR. HANNAFAN: I think we can talk at the end of the
7 day. Today is a full day so perhaps we can have it to your
8 Honor tomorrow. If there are any issues, we will let the Court
9 know.

10 THE COURT: Maybe by, before we begin Court tomorrow
11 if you it to send me.

12 MR. HANNAFAN: Sure. Yes, your Honor.

13 THE COURT: Just give me one moment.

14 MR. MACURDY: Your Honor, may I say one other thing
15 about the retention of the property?

16 THE COURT: Yes.

17 MR. MACURDY: As I mentioned, Ms. Robinson's counsel,
18 in our initial Rule 26(f) conference in January of 2020,
19 mentioned that she had items from Canal and offered them to be
20 available for inspection. That was never taken up by Canal's
21 counsel, so what I am worried about is them getting up and
22 opening and her saying she retained this property for years, I
23 think is something he mentioned just now. I think, your Honor,
24 if they are able to talk about it, I would request that they
25 can't talk about her retention of property for years, only up

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1 until the point that Rule 26(f) conference. Because then it
2 becomes an issue between her advice and discussions with her
3 counsel.

4 THE COURT: Mr. Schoenstein, from the defense side, is
5 there any reason why you would need to say anything beyond, you
6 know, even after we made a demand for it, she continued to hold
7 on to the property.

8 MR. DROGIN: Yes, and I just want to clarify something
9 that counsel said. What they have omitted is they're talking
10 about a 26(f) conference in a federal court action that was
11 filed two months after I filed the state court action and that
12 is where the conversion claim came from. It was filed in
13 August of 2019 and there was not a peep from defense -- they
14 were then the defendants. So Ms. Robinson's counsel, faced
15 with a state court action, made absolutely no representation or
16 statement or offer to return that property. I was not involved
17 at the 26(f) conference and Mr. Bennett was not representing a
18 party that had a conversion claim. I was. So the nonsense --
19 withdrawn. I apologize. So, the contention that somehow they
20 raised this issue at a 26(f) conference, they raised it in the
21 wrong court. They should have come to me and said, hey, we
22 have got this property, can we return it to you? But that
23 never happened so they are omitting that.

24 THE COURT: Listen. I mean, in your opening
25 statement, unless the plaintiff opens the door, you are going

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1 to limit yourself to the notion that even after she -- even
2 after we retained the property -- I'm sorry, even after we
3 demanded return of property, she still continued to hold on to
4 all of this property. You are not going to go beyond that into
5 the details of, you know, when it was returned, the state court
6 lawsuit and the like. All of that may become relevant in this
7 case but we are talking about evidence that is intended to
8 respond to an argument that you anticipate with some reason
9 that the plaintiffs will make but it's not direct evidence of a
10 conversion claim so you can limit yourself on your opening.

11 MR. DROGIN: Mr. Schoenstein is going to do the
12 opening statement. Will he be permitted to identify the
13 property --

14 THE COURT: Yes.

15 MR. DROGIN: -- specifically that was requested?

16 THE COURT: Yes, you can do that.

17 MR. DROGIN: Which, to be clear, was identified in the
18 Harvey letter. Mr. Harvey's letter, among them, the SkyMiles
19 which are a major issue in this case so it is going to be hard
20 to have an opening statement where we can't --

21 THE COURT: You have got my ruling.

22 I am informed that we have about 20 minutes until we
23 have got the jury. I have the e-mail with objections. Why
24 don't I get some sense first from the defendants as to their
25 objections to plaintiff's potential exhibits and then from the

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1 plaintiffs to their objections to defendant's potential
2 exhibits with the notion that some of this I may not be able to
3 resolve until after I hear the opening statements.

4 Let me first ask the plaintiff, there are six exhibits
5 listed in the e-mail to me as plaintiff's potential exhibits to
6 which defendants have objections. Do you intend to use each of
7 those six exhibits in the direct of Mr. De Niro?

8 MR. MACURDY: Yes, your Honor.

9 THE COURT: OK. All right, so there is a live issue.
10 The first one is 148.

11 MR. DROGIN: Your Honor, this appears to be an e-mail
12 from July 2014 from Ms. Robinson to Mr. De Niro regarding
13 flights and it is, from our perspective, completely irrelevant
14 to the issues that are to be tried. We don't understand here
15 what they're looking to show with this document and if we do,
16 we can address it. It doesn't appear to have anything to do
17 with SkyMiles and there is no dispute in this case that, at
18 times, Ms. Robinson was permitted to use SkyMiles both for
19 business travel and even for personal travel when she took her
20 vacations. So it is unclear to us how this document fits into
21 this case.

22 THE COURT: Let me hear from plaintiff.

23 MR. DROGIN: Relevance objection.

24 MR. MACURDY: Your Honor, it is highly relevant, it is
25 about SkyMiles, it is about Ms. Robinson discussing with

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1 Mr. De Niro a flight that she is going to take, the indication
2 that it is in a personal capacity. He asks: How are you doing
3 tickets? And she says: Miles/purchase, depending on what we
4 have and what is the cheapest way to do it. So, it shows their
5 course of conduct going back all the way to 2014 and evidences
6 the arrangement that they had then and, you know, is a basis
7 for the evolving arrangements regarding SkyMiles over the
8 course of her decade at Canal.

9 MR. DROGIN: But that's not the --

10 THE COURT: I am going to permit it to be used. The
11 jury can make an inference from the e-mail as to authorization
12 with respect to later conduct and defendants can re-examine to
13 show that it has very little weight, if any, but under the 403
14 balancing test the probative value is slightly outweighs any
15 prejudicial effect.

16 Next one I think is PX- 154.

17 MR. DROGIN: Correct.

18 THE COURT: Let me hear from defendants.

19 MR. DROGIN: This appears to be a random e-mail from
20 2013 where Ms. Robinson is thanking Mr. De Niro for agreeing to
21 change the expenses she says that you are being generous.
22 There is absolutely no context to know what is being spoken
23 about here. There isn't a debate or discussion or even a
24 dispute that Ms. Robinson was permitted to make some
25 expenditures but this document sits in a complete vacuum and it

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1 appears that they're just looking to show that all expenses
2 were approved and, look, here is a random e-mail from 2013
3 without any context or explanation, so there. And we don't
4 think that that is right. We think in that case the prejudice
5 outweighs any probative value.

6 THE COURT: Let me hear from plaintiff.

7 MR. MACURDY: Your Honor, there is no prejudice from a
8 document like this. The defendants may not like what it says
9 but there is no prejudice to Mr. De Niro or Canal to this and
10 this, once again --

11 THE COURT: What will Ms. Robinson say about what the
12 nature is of the expenses.

13 MR. MACURDY: Your Honor, at that time starting at the
14 end of 2013, Ms. Robinson began working in L.A. remotely for
15 Mr. De Niro. He permitted that and he also had Canal pay for
16 \$2,000 worth of her rent expense as a business expense of Canal
17 during that time period, and so this is memorializing that
18 agreement. And so, your Honor, it shows their arrangements
19 regarding expenses which then evolved from there, as you
20 mentioned before, over time. There is no prejudice to Canal
21 and our position is we should be able to cross-examine
22 Mr. De Niro about the context.

23 THE COURT: So what you want to bring out is that in
24 2013 he agreed to permit her to work from L.A. and to cover
25 some of her expenses in L.A.?

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1 MR. MACURDY: That Canal paid for her rent in L.A.;

2 yes, your Honor, and that that came about, well, for a variety

3 of reasons. I can get into it if it would be helpful to your

4 Honor but, yes. And it goes to the course of conduct of them

5 having arrangements between the two of them to figure out what

6 expenses Canal would pay for of hers and this is, you know, a

7 couple of years into her employment but it establishes sort of

8 an understanding and then these sort of conversations evolved

9 from there, your Honor.

10 MR. DROGIN: So now we know and the irrelevance

11 becomes equally clear. This doesn't have to do with any

12 improper expenses. We now know it has to do with living

13 expenses and rent relating to the time Mr. De Niro permitted

14 her to work from Los Angeles. There is no dispute about that

15 so it is not clear what this shows. There is no issue here --

16 THE COURT: Do you object to questions to Mr. De Niro

17 to the effect of when she was working in L.A. that he agreed

18 that Canal could pay for her rent in L.A.?

19 MR. DROGIN: It is not disputed. He was very

20 generous.

21 THE COURT: So I take it that Mr. De Niro can be asked

22 questions to that effect?

23 MR. DROGIN: Yes.

24 THE COURT: All right. I am going to exclude 154 but

25 if Mr. De Niro ends up denying that he agreed that Canal could

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1 cover the expenses -- rental expenses in L.A. while she was
2 permitted to work in L.A., then that ruling is subject to
3 reconsideration.

4 Next one is 193.

5 MR. DROGIN: This is another exceedingly random e-mail
6 from December 2014. We just don't understand what the
7 relevance is to this case.

8 THE COURT: I had a question about this one also. Let
9 me hear from plaintiff.

10 MR. MACURDY: Your Honor, one of the allegations made
11 against Ms. Robinson is the L.A. trip. And what we heard from
12 defense questioning the reasoning for that trip, which was
13 Mr. De Niro asking Ms. Robinson to scout hotels for his ex-wife
14 Toukie Smith in L.A. So this is an example of her doing one of
15 her job functions, which is negotiation for a day's visit to
16 scout a hotel which she mentions here she is doing on a
17 Saturday, as part of her job duty. So this is showing that
18 that was a regular job duty that she did.

19 THE COURT: This is not with respect to the challenged
20 trip; correct?

21 MR. MACURDY: Correct, your Honor, but to the -- I
22 expect them to challenge the trip and the purpose of the trip
23 and this is to show that it is something that she regularly
24 did. As a separate matter, your Honor, it is her doing this
25 work on a weekend day, which also goes as defense to the

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1 counterclaims, their allegations that she had, was reimbursed
2 improperly for vacation days so it goes to the nature of her
3 work, her relationship with Mr. De Niro, as well as a basis for
4 her going to scout a hotel in L.A.

5 THE COURT: It seems a marginal relevance but I will
6 wait to see how the testimony develops with respect to this.

7 MR. DROGIN: May I just add something on that, just to
8 be clear, the trip that they're talking about that is actually
9 an issue in this case was in March of 2018. It is also
10 undisputed that Ms. Robinson would scout hotels or homes for
11 Mr. De Niro on shooting sites where he was going to be filming.
12 That was part of her job. So I have no idea from this document
13 whether this relates to Mr. De Niro, whether it relates to
14 somebody else. It is completely out of context and, again,
15 this relates to undisputed facts. If they want to ask --

16 THE COURT: I have heard you. I understand the point.

17 195. What is the next one?

18 MR. DROGIN: 195 is an e-mail which had been sent in
19 2011, five years outside of the statute of limitations where,
20 as it appears, all plaintiff is doing is talking about how hard
21 she works for Mr. De Niro. She may have worked very hard. She
22 can certainly testify to that. I don't think Mr. De Niro is
23 going to deny that she worked very hard but this is, you know,
24 in substance, just a self-serving e-mail that she can be asked
25 about or that he can be asked what he thought of her work

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1 performance and it is quite remote in time. And, obviously, we
2 know things went bad. So, if things went bad in 2019, what
3 does it matter how plaintiff viewed herself in 2011?

4 MR. MACURDY: Your Honor, this e-mail is hugely
5 relevant to Ms. Robinson's defenses to their counterclaims.
6 The third-party down, second sentence she writes -- you are
7 incredibly generous with allowing me to travel on miles and
8 sometimes paying to allow me to be in Spain or L.A. when you
9 are away and all the other things.

10 So, your Honor, this goes to show that back in 2011,
11 six years, eight years before the period that they're even
12 focusing on, she had this understanding with Mr. De Niro that
13 she could travel, the implication is personally on the
14 SkyMiles, and then she could work remotely in Spain or L.A. So
15 that goes both to their conversion claims about her using
16 SkyMiles personally, as well as to their claims about vacation
17 days that he allowed her to work remotely in Spain or L.A. and
18 their assertions, thus far, have been that simply because she
19 was out of the country she must have been on vacation, which is
20 not the case at all, she worked remotely regularly, he knew
21 that, he authorized it, it was happening as early as 2011 and
22 so their objection here is a 403. There is no prejudice to
23 Canal, no undue prejudice for an e-mail like this, and it is
24 very, very relevant, not only to defeating the elements of
25 their counterclaims, the authorization, but also to the

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1 affirmative defenses that we have the burden of proving of
2 acquiescence and ratification.

3 (Continued on next page)

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1 THE COURT: Let me ask you a question. I'll hear from
2 defendants in a moment.

3 Everything after that particular paragraph, the
4 paragraph also that says "I handle a lot for you," the
5 paragraph that says "I take my job seriously," the paragraph
6 that says "I do love my job," the one that says "I will always
7 give it a hundred percent," and so on, how is all of that not
8 self-serving hearsay that even if your point with respect to
9 the one paragraph you mentioned was well-taken, the rest of it
10 should be excluded.

11 MR. MACURDY: We could happily redact the rest,
12 your Honor. I think this e-mail is also relevant for a
13 nonhearsay purpose that, again, goes to our defenses that
14 Mr. De Niro was aware that she had this understanding that she
15 could use SkyMiles for personal travel, that she could work
16 remotely in Spain and LA, and she has conveyed that to him.
17 And this is an e-mail he received in 2011 that sets the
18 undertone for all the context for the claims that they brought
19 against her.

20 So if your Honor is concerned about all those other
21 parts, we can certainly redact those out. But this is relevant
22 for a nonhearsay purpose.

23 MR. SCHOENSTEIN: I'm so glad to be able to address
24 this now. This is a jury confusion issue. And they keep
25 coming back to the SkyMiles. The issue in the SkyMiles here

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1 has nothing to do with pre2019, we're not pursuing claims for
2 the use of SkyMiles in 2011, 2012, '13, '14, '15, '16, '17,
3 '18.

4 What we're focusing on is in a four-month period in
5 2019, plaintiff, knowing that she was leaving, planning her
6 exit strategy, methodically on four separate occasions made
7 transfers of 999,000 miles from the Canal account to her
8 personal SkyMiles account. That is all this case is about.
9 Nothing else regarding SkyMiles.

10 And if she's going to say that she is authorized to
11 take those miles and keep them, then she's going to have to
12 change her deposition testimony before the jury. Because at
13 deposition, she told us under oath, "we never had such a
14 conversation." And we'll hear an audio tape of Robin Chambers
15 in a call that she recorded saying, "no, it's like a computer.
16 When you leave the job, you give it back." She got so upset
17 when she heard that, she hung up on Robin Chambers. That's
18 what this is about.

19 THE COURT: I'm going to reserve on this. This is,
20 again, a 403-type issue. And so that will depend on what I
21 hear in the openings. So next one is 362.

22 MR. SCHOENSTEIN: Do I begin.

23 THE COURT: 362 is the next one from defendant.

24 MR. SCHOENSTEIN: The only objection here that we have
25 is to the dollar value that's mentioned. We think this is just

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1 put in here for shock value. If they want to use it for some
2 other purpose, that this trip was charged on Amex, we don't
3 have a problem with that. We think it's only being used here
4 to show that this was an expensive rental. That's it. If they
5 can redact the dollar amount, we're fine with it.

6 MR. MACURDY: Your Honor, the purpose of this is to
7 show an example of Ms. Robinson's job duties which is vetting
8 vacation rentals for Mr. De Niro and his family, and not just a
9 matter of picking out any old vacation rental. These are
10 monster transactions that require a lot of coordinating and
11 figuring out. So this is offered as an example of that.

12 THE COURT: I think the dollar amounts is hardly --
13 the relevance of the dollar amount is extremely small and the
14 prejudicial impact is great. So the -- I'm going to authorize
15 the redaction of the dollar amount in front of the jury and it
16 can be offered with the dollar amount redacted.

17 Next one is 372.

18 MR. SCHOENSTEIN: This is an e-mail from 2017.
19 Mr. De Niro's e-mail at the top is exactly my point. He says,
20 "Not clear what you mean. I don't understand what they mean
21 here."

22 This is simply offered to show that she handled
23 bookings for Mr. De Niro or his family or another Canal
24 employee. That's not disputed, so it's unclear what this
25 e-mail is necessary for. And if it's going to come in, I would

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1 also ask that the dollar amounts be removed. It's not relevant
2 here.

3 THE COURT: The dollar amounts here looks like it's
4 \$359 a night per room. That's not a figure that in this day
5 and age shocks the conscious, is it?

6 MR. SCHOENSTEIN: I'm looking at the June 17 -- sorry,
7 June 19th e-mail, where it says "Did you approve Dan at the
8 Greenwich Hotel in May and June," is that what you're looking
9 at?

10 THE COURT: I'm sorry, I think I'm looking at the
11 wrong exhibit.

12 MR. MACURDY: 378.

13 THE COURT: I was looking at 372. Let me look at 378.
14 Just to be clear, I don't see what the relevance if it's simply
15 to show her job duties, which among other things are not in
16 dispute or at least regarding this aspect of her job, why do we
17 need this document and why do we need this dollar amount?

18 MR. MACURDY: Your Honor, this document is also
19 extremely relevant to Ms. Robinson's defenses. In the first in
20 time e-mail, she is bringing up to Mr. De Niro, an e-mail to
21 Mr. De Niro about Dan Harvey, the trainer that we've been
22 talking about, asking if Mr. De Niro approved Mr. Harvey's
23 hotel expenses at the Greenwich Hotel in a single month that he
24 charged his company Amex.

25 If you add it up, it's over \$5,000 worth of hotel

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1 charges in a single month, she's asking him did he approve it.
2 And Mr. De Niro writes back, no, really -- not really, but
3 leave it. The rest of it is not necessarily what we're focused
4 on.

5 But it's going to show that for this other employee,
6 Ms. Robinson raised the issue of approval of expenses.
7 Mr. De Niro now has knowledge and he explicitly said, no, we'll
8 leave it. So it goes to show disparate treatment, shows
9 discrimination, it shows how this was a focus, it goes --
10 focused investigation on Ms. Robinson for retaliatory purposes
11 and all that.

12 THE COURT: So what does defendant have to say about
13 that? The equal payment thing about Mr. Harvey is in the case.
14 You're going to bring out all the testimony about how
15 Mr. Harvey actually helped train Mr. De Niro for some of his
16 performances. That he was the physical trainer, and that he's
17 not at all similarly situated to the plaintiff. Isn't -- isn't
18 all this the -- I mean...

19 MR. SCHOENSTEIN: I mean, I think it's very
20 tangentially related, I don't see why we need the dollar
21 amounts next to the dates. This can all be explained as to why
22 he's there.

23 What I would further object to is any sort of
24 characterization that this is showing any form of gender
25 discrimination. If that's what it's being offered for, I don't

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1 see any connection. If it's simply being offered for Dan
2 Harvey, who I sort of get the sense they may not even call,
3 then I don't see the connection.

4 MR. MACURDY: Your Honor, I mean, this is Ms. Robinson
5 bringing up to Mr. De Niro whether he approved specific Amex
6 charges for a hotel by another employee. She has been accused
7 in this case of making unauthorized charges for hotels, meals,
8 Ubers, things like that. And Mr. De Niro is saying "not
9 really, but leave it."

10 So it goes directly to our affirmative defenses,
11 acquiescence, gratification, as well as how he handled this
12 disparately for this employee versus Ms. Robinson who Ms. Chen
13 had serious issues with, based on her intimate position --

14 THE COURT: Okay. So I will permit it to be offered
15 solely with respect to its relevance on the New York City equal
16 pay act claim. Which means that if the equal pay act claim
17 does not survive the defendant's motion at the close of
18 plaintiff's case, then it will not be something that the jury
19 will be permitted to consider. And I'll give a limiting
20 instruction that this is being offered solely with respect to
21 the claim of equal pay by the plaintiff and can be considered
22 only for the purposes of whether -- of an equal pay claim.

23 All right. That brings us to the question of
24 plaintiff's objection to defendant's exhibits. Before we get
25 into those, let me check again on the jury.

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1 Actually, before I do that, I should note there are a
2 number of people in the gallery. Once we have the jury, we're
3 going to fill up the box, and then the other jurors are going
4 to be sitting in the first couple of rows.

5 If there is -- the jurors take priority, so people who
6 are in the gallery will have to move and relocate themselves in
7 order to make space for the jurors.

8 MR. SCHOENSTEIN: Can I ask the Court a question about
9 timing?

10 So I assume the jury will be up here soon and we'll do
11 jury selection. It seems to me likely that will take into
12 lunch. Will we then have a lunch break and then have openings?

13 THE COURT: That's my expectation.

14 MR. SCHOENSTEIN: I'm trying to make sure we have our
15 client here at the appropriate time. So I will make sure. I
16 will anticipate we'll have a lunch break and we'll be back up
17 at 2 o'clock.

18 THE COURT: I don't think you should anticipate that
19 your client would be put on the stand until after -- some point
20 after lunch.

21 MR. SCHOENSTEIN: Okay.

22 THE COURT: When after lunch, I don't know.

23 MR. SCHOENSTEIN: Okay.

24 THE COURT: Hold on for a second.

25 (Pause)

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1 THE COURT: It looks like within the next ten minutes
2 we'll have the jury. Let me go to the plaintiff's objections
3 to the defendant's exhibits.

4 The first is DX8

5 MR. MACURDY: Your Honor, we withdraw our objection to
6 DX8.

7 THE COURT: Okay. Next is DX61.

8 MR. MACURDY: DX61 you'll see is an e-mail from
9 counsel conveying metadata about audio recordings. So this is
10 hearsay, your Honor.

11 THE COURT: How is that admissible in Mr. De Niro's
12 testimony?

13 MR. SCHOENSTEIN: So it is anticipated that
14 Mr. De Niro will -- while testifying an audio clip will be
15 played. And this document contains the metadata to show the
16 date that the recording was made. If counsel will stipulate to
17 that date, then on Mr. De Niro's testimony it won't be
18 necessary.

19 THE COURT: That may be right, but it still doesn't
20 mean that Mr. De Niro can authenticate this document or
21 establish that it's not hearsay.

22 MR. SCHOENSTEIN: It's a document they produced to us
23 in discovery. We would have no other way authenticating the
24 document. They were in possession of the audio recordings. We
25 asked them to provide the metadata as to when the recordings

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1 were actually made, and this is their response.

2 We included counsel's letter just for completeness.

3 THE COURT: Which portion of DX61 do you believe is
4 relevant?

5 MR. SCHOENSTEIN: So it relates only to defendant's
6 Exhibit 285, which is also on their list. And --

7 THE COURT: There's a lot of lines in PX61.

8 MR. SCHOENSTEIN: Can someone give me the RB number
9 for Exhibit 285?

10 MR. MACURDY: Your Honor, while we're waiting for
11 that --

12 MR. SCHOENSTEIN: Found it.

13 THE COURT: Yes. Let me hear from plaintiff with
14 respect to that.

15 MR. MACURDY: Just, your Honor, it is -- under that
16 argument, any document that we produce would be admissible
17 against us, that's certainly not the case. These are
18 out-of-court statements offered for the truth that this
19 recording took place on this date. So I'm not hearing any
20 response to how they get around the hearsay issue.

21 MR. SCHOENSTEIN: Well, we asked -- again, they were
22 in control of these recordings to which there's no dispute.
23 This is essentially a part of the recording, and they've
24 gathered this information for us to simply tell us when the
25 recordings were made. I mean, it goes to authenticity of the

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1 recording themselves. Nobody is arguing that Ms. Robinson
2 crafted these recordings after the fact.

3 As it relates to this particular recording, it's
4 our -- Robinson 7178. And it was recorded, according to this,
5 on April 2, 2019. If they'll stipulate that that's when it was
6 recorded, then we don't -- this document is not necessary for
7 any other purpose during Mr. De Niro's testimony. Unless, of
8 course, there's another audio clip that comes up.

9 THE COURT: So let me hear. You said this also ties
10 into the admissibility of DX285; is that right?

11 MR. SCHOENSTEIN: That's what I just told you. In
12 other words, we're looking to introduce and play an excerpt
13 from DX285. They objected.

14 THE COURT: Let me hear the objection with respect to
15 DX285.

16 MR. MACURDY: I'm not objecting for them to play it.
17 It's about a two-minute call between Ms. Robinson and
18 Mr. De Niro. We just ask that they play the full call, rather
19 than jumping in the middle. So two minutes instead of one
20 minute.

21 THE COURT: I've listened to it. The full two minutes
22 has all kinds of information about prescriptions he was --
23 drugs that he's taking. How is that relevant?

24 MR. MACURDY: I think it sets the context for the
25 call. If she's coming to him to do her job and it's also

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1 evidence of what her job entails. It's intimate personal
2 details and daily coordination with him about things like
3 prescriptions.

4 THE COURT: Let me hear from defendant.

5 MR. SCHOENSTEIN: The purpose of the excerpt we're
6 playing is it ties into the calendar here and the sequence of
7 events. It's an April 2nd call. And he very directly says to,
8 "I need to speak to you in person. I want to talk to you."

9 That's --

10 THE COURT: I gather that's the purpose for which
11 you're offering it. So I'm going to permit 285 to be offered
12 without objection as to the portion that the defendants have
13 proffered. And under the rule of completeness, I'm going to
14 reject the plaintiff's portion because I don't think that it is
15 necessary to under the rule of completeness to provide the
16 proper context.

17 So that's my ruling with respect to 285.

18 With respect to DX61, I'm actually going to need you
19 all to give me a little bit of legal authority for it. I'm
20 well aware of the proposition that if a party provides in
21 discovery a business record of its business, that the provision
22 of that document by the party establishes authenticity. And
23 then the document can come in as a business record because the
24 business record foundations are established. That takes care
25 of the hearsay issues.

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1 But that proposition doesn't self-evidently apply to
2 DX61. So you'll have to put in some evidence. Meanwhile,
3 Mr. De Niro can testify as to when he believes approximately
4 this conversation took place.

5 MR. SCHOENSTEIN: To at least either avoid the issue
6 for Mr. De Niro or perhaps to kick it down the road to another
7 point in the trial, will counsel stipulate that that recording
8 was made on April 2, 2019?

9 THE COURT: Why don't you talk to them before -- over
10 the lunch break on that.

11 MR. SCHOENSTEIN: Okay.

12 THE COURT: All right. Next one is DX87.

13 MR. MACURDY: Your Honor, we have the same objection
14 to this one as well as a couple others. So I can try to bucket
15 it for you. They have e-mails on here and DX87 is one where
16 Mr. De Niro is not a recipient or a sender. He's not involved
17 with the e-mail at all, so there's no foundation to ask
18 Mr. De Niro about this e-mail.

19 And the same holds for DX162, DX247, which are text
20 messages between Michael Kaplan and Tiffany Chen. And
21 Plaintiff's 97 which is Ms. Chen's text messages with other
22 people besides Mr. De Niro.

23 THE COURT: I'm informed the jury is on its way up.
24 So I'll hear from the defendants with respect to that issue
25 after we've completed jury selection.

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1 MR. SCHOENSTEIN: May I say one thing, Judge? It
2 takes me five seconds to read on something. We can withdraw
3 87.

4 THE COURT: 87 is withdrawn?

5 MR. SCHOENSTEIN: Yes.

6 THE COURT: Great. Do you want to withdraw anything
7 else to make my life easier?

8 MR. SCHOENSTEIN: No.

9 MR. HANNAFAN: Excuse me, your Honor, is there a
10 possibility to take a quick bathroom break or have counsel step
11 out?

12 THE COURT: Let me see where the jury is.

13 MR. HANNAFAN: I'll live, if not.

14 THE COURT: Why don't you wait.

15 You can take a quick break, if you want. I'm going to
16 stay on the bench.

17 MR. HANNAFAN: I appreciate it, your Honor.

18 (Recess)

19 (A jury of eight was impanelled and sworn)

20 THE COURT: You may be seated.

21 Members of the jury, I'm going to give you some
22 preliminary instructions. It will take us right until about
23 1:00 o'clock, and then you'll have your lunch break, and we'll
24 return for opening statements.

25 Now that you have been sworn, I am going to give you

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1 preliminary instructions to guide you in your participation in
2 the trial.

3 To begin with, you are here to administer justice in
4 this case according to the law and the evidence. You are to
5 perform this task with complete fairness and impartiality, and
6 without bias, prejudice, or sympathy, for or against the
7 plaintiff or the defendants.

8 It will be your duty to find from the evidence what
9 the facts are. You and you alone will be the judges of the
10 facts. You will then have to apply those facts to the law as
11 the Court will give it to you. You must follow that law,
12 whether you agree with it or not. Nothing the Court may say or
13 do during the trial is intended to indicate or should be taken
14 by you as indicating what your verdict should be.

15 The evidence from which you will find the facts will
16 consist of the testimony of witnesses, documents, and other
17 things received into the record as exhibits, as well as any
18 facts that the parties agree to or stipulate to, or that the
19 Court may instruct you to find.

20 Certain things that are not evidence must not be
21 considered by you. I will list them for you now.

22 First, statements, arguments, and questions by lawyers
23 are not evidence, nor are my own statements to you evidence.
24 Only the answers given by the witnesses and the documents
25 admitted as exhibits are evidence.

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1 Second, objections to questions are not evidence. The
2 lawyers have an obligation to their clients to make an
3 objection when they believe evidence being offered is improper
4 under the rules of evidence. You should not be influenced by
5 the Court's ruling on an objection. If the objection is
6 sustained, ignore the question. If it is overruled, treat the
7 answer like any other. If you are instructed that some item of
8 evidence is received for a limited purpose only, you must
9 follow that instruction.

10 Third, testimony that the Court has excluded or told
11 you to disregard is not evidence. It must not be considered.

12 Finally, anything you may have seen or heard outside
13 the courtroom is not evidence and must be disregarded. You are
14 to decide the case solely on the evidence presented here in the
15 courtroom. When you are determining the facts, keep in mind
16 that there are two types of evidence: Direct evidence and
17 circumstantial.

18 Direct evidence is direct proof of a fact such as the
19 testimony of an eyewitness. Circumstantial evidence is proof
20 of facts from which you may infer or conclude that other facts
21 exist. The word "infer" or the expression "to draw an
22 inference" means to find that a fact exists from proof of
23 another fact. An inference is to be drawn only if it is
24 logical and reasonable to do so and not by speculation or
25 guesswork.

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1 In deciding whether to draw an inference you must look
2 at and consider all the facts in light of reason, commonsense,
3 and experience. Whether a given inference is or is not to be
4 drawn is entirely a matter for you, the jury, to decide.
5 Circumstantial evidence, does not necessarily prove less than
6 direct evidence nor does it necessarily prove more.

7 Here is an example to help you think about the
8 difference between direct and circumstantial evidence. Assume
9 that when you came into the courthouse this morning the sun was
10 shining and it was a nice day outdoors. Also assume that the
11 courtroom blinds were drawn and that you could not look
12 outside. Assume further as you were sitting here someone
13 walked in with an umbrella that was dripping wet and a few
14 moments later, somebody else walked in with a raincoat that was
15 also dripping wet.

16 Now, because you could not look outside the courtroom
17 and you could not see whether it was raining and because no
18 witness has testified that it is raining, you would have no
19 direct evidence that it was raining. But on the combination of
20 facts that I have asked you to assume, it would be reasonable
21 and logical for you to conclude that it was raining.

22 That is all there is to circumstantial evidence. You
23 infer on the basis of reason, experience and commonsense from
24 one established fact the existence or nonexistence of some
25 other fact. I will give you further instructions on these as

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1 well as other matters at the end of the case. But keep in mind
2 that you may consider both kinds of evidence.

3 One of your most important tasks as jurors is to
4 evaluate the credibility of the witnesses who will testify
5 before you, that is, how truthful and believable they are.
6 Listen carefully as each witness testifies during both direct
7 and cross-examination and consider whether the witness is
8 telling the truth. It will be up to you to decide which
9 witnesses to believe, which witnesses not to believe, and how
10 much of any witness' testimony to accept or reject.

11 Now, how do you decide what to believe and what not to
12 believe? You are to listen to the witnesses, observe their
13 testimony, and then decide as you would decide such questions
14 in your own life. Did they know what they were talking about,
15 were they candid, honest, open and truthful, did they have a
16 reason to falsify, exaggerate or distort their testimony?

17 Sometimes it is not what a witness says, but how he or
18 she says it that may give you a clue as to whether or not to
19 accept that witness' version of an incident or an event as
20 credible or believable. In short, the way a witness testifies
21 may play an important part in your reaching a judgment as to
22 whether or not you can expect the witness' testimony as
23 reliable.

24 Now, a few words about your conduct as jurors.

25 First, during the trial you are not to discuss the

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1 case with anyone, nor are you to permit anyone to discuss it
2 with you. This includes posting anything on the Internet about
3 the case, whether it be on personal blogs, Facebook, Twitter,
4 or X, Threads, or TikTok. Until you retire to the jury room at
5 the end of the case to deliberate, you simply are not to talk
6 about this case with anyone, including your spouse, partner,
7 family or close friends. Do not even discuss the case with
8 each other until you begin your actual deliberations at the end
9 of the trial.

10 Second, please do not, while you are serving as jurors
11 in this trial, have any conversations with the parties, the
12 attorneys, or any witnesses in this case whether in the
13 courtroom, in the hallways, in the elevators outside or
14 anywhere else. By this, I mean not only to avoid talking about
15 the case, do not talk at all, even to say good morning or to
16 acknowledge any of these people. Someone seeing a juror in
17 conversation with a party, lawyer or witness might think
18 something improper was being discussed. To avoid even the
19 appearance of impropriety then avoid any such contacts or
20 conversations.

21 So I can tell you that when the parties, lawyers or
22 witnesses pass you in the halls without even acknowledging your
23 presence, they do not mean to be rude. They are simply
24 following my instructions.

25 Third, do not read or listen to anything outside the

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1 courtroom that relates to this case in any way. Similarly, you
2 are not to allow anyone to speak to you about this case. If
3 you are approached by anyone to speak about it, politely but
4 firmly tell them that the judge has directed you not to do so.
5 If anyone seeks to contact you about this case, you are
6 required to report the incident promptly to me by sending me a
7 note through my courtroom deputy, Mr. Fishman.

8 Also be sure that I am informed of any person that you
9 know that comes into this courtroom. This is a public trial,
10 so that could happen. But it is important that you do not hear
11 from them what may have happened in the court while the jury
12 was not present. If you should see a friend or a relative come
13 into the court, please send me a note through Mr. Fishman at
14 your first opportunity.

15 Fourth, do not try to do any research or make any
16 investigation about the case or the issues presented by the
17 case. For example, do not go onto the Internet tonight and
18 research any matters pertaining to the case. Do not call up
19 your lawyer friends to ask about the types of matters at issue
20 in this case.

21 Fifth, I know that many of you use cell phones,
22 smartphones, the Internet and social media and other tools of
23 technology. You must not use these tools to communicate
24 electronically with anyone about the case. This includes your
25 family and friends. You may not communicate with anyone about

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1 the case on your cell phone which includes smartphones, through
2 e-mail, text messaging, any blog or website, any Internet chat
3 room or by way of any other social-networking websites
4 including Facebook, Twitter, X, Threads, TikTok, LinkedIn, or
5 YouTube.

6 Finally, do not form any opinion until all the
7 evidence is in. The case can only be presented step by step,
8 witness by witness, until all the evidence is before you. Keep
9 an open mind until you start your deliberations at the end of
10 the case.

11 You are permitted to take notes during the trial.
12 Mr. Fishman will give each of you a notepad and pen. Please
13 write your name on the cover of the pad. If you do take notes,
14 please do so only in these pads. Remember that any notes you
15 take are for your use only and they are only to be used as an
16 aid for your memory. Your memory controls. If you do take
17 notes be careful to not get so involved in taking notes that
18 you're not listening to the evidence.

19 Once you are in your deliberations if there is any
20 disagreement between one juror's notes and another juror's
21 notes or between one juror's notes and another juror's
22 recollection, you can ask to have the court reporter to read
23 back the testimony or to have that portion of the transcript
24 sent to you, for it is the official court transcript that
25 controls, not any particular juror's notes.

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1 During the course of the trial, exhibits will be
2 received into evidence, they will be marked by exhibit number.
3 If there is an exhibit that you are particularly interested in
4 seeing during your deliberations, write down the exhibit
5 number. At the end of the trial, as you begin your
6 deliberations, we will provide each of you with a list of all
7 of the witnesses who testified during the trial, as well as a
8 list of all exhibits that have been received in evidence.

9 We will now begin the trial. As I told you earlier,
10 the trail is expected to be done by next Friday. Let me tell
11 you again about the trial day. We will begin each day at
12 9:00 a.m. It is very important, it's critically important that
13 you each be on time. To help ensure that we start on time,
14 please be in the jury room by 8:45 a.m. at the latest so that
15 we can begin without delay.

16 I will add that a light breakfast will be available in
17 the jury room each morning at 8:30 a.m. You are not required
18 to take us up on that hospitality. But in my experience many
19 jurors do.

20 The key thing is nobody be late. If any of you are
21 late, we will have to wait, for we cannot start unless all of
22 you are here. And all of us, myself, the lawyers, the parties,
23 the witnesses, and most importantly, your fellow jurors, will
24 have to wait. And if we lose ten or 20 minutes every day, we
25 may not be able to get the trial completed on time.

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1 As to the rest of the trial day, we will take a lunch
2 break at approximately 1:00 p.m., we'll take a short
3 mid-morning comfort break and we'll take a midday comfort break
4 in which refreshments will be served.

5 This is how the trial will proceed. First, after
6 lunch we will have opening statements. An attorney for the
7 plaintiff will make an opening statement, then an attorney for
8 the defendants will do so. The opening statements are neither
9 evidence nor argument. They are simply outlines of what the
10 attorneys believe the evidence will show and they are given to
11 help you follow the evidence as it is presented.

12 After the opening statements, the plaintiff will
13 present her case. The plaintiff will call her witnesses and
14 after each witness testifies on direct examination, counsel for
15 the defendants will have an opportunity to cross-examine the
16 witness. If that witness is also one of the witnesses that the
17 defendants would have called on their counterclaim, the
18 defendants may also examine on matters relevant to that case so
19 that the witnesses do not have to testify twice for both
20 plaintiff's claims and defendant's counterclaims. After the
21 cross-examination, there may be a little bit of what we call
22 redirect and recross examination.

23 Following the plaintiff's case, the plaintiff will
24 rest, defendant Canal will then present its case, including its
25 defense to plaintiff's case in its counterclaims. The defense

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1 witnesses will testify and plaintiff will have an opportunity
2 to cross-examine them.

3 Plaintiff and the counterclaim defendant will then
4 have an opportunity to present any additional evidence relevant
5 to defendant's counterclaim alone.

6 After the evidence is completed and all sides have
7 rested, the attorneys will give their summations. This is the
8 opportunity for the lawyers to summarize the evidence and to
9 give their closing arguments. Following the summations I will
10 give you instructions on the law. You will then finally retire
11 to deliberate on your verdict.

12 You have a tremendously important task as jurors. It
13 is to determine the facts. You, and not the Court, are the
14 sole judges of the facts. The Constitution itself recognizes
15 your unique role in our system of justice. So please pay
16 careful attention to the witnesses and the evidence received at
17 trial as well as my instructions on the law.

18 (Continued on next page)

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1 THE COURT: We will now break for lunch. I'm going to
2 ask each of you to be back here a couple minutes before 2:00,
3 by 1:55 at the latest, so that we can start promptly at 2:00.
4 Please don't discuss the case amongst yourselves or with anyone
5 else during the break. Please don't do any investigation of
6 the case during the break.

7 There is one final thing that I will mention. You
8 will have noticed that when I came in this morning you were all
9 asked to rise for me. You will no longer have to do that. In
10 fact, there is a different custom that presides in this court
11 house and court houses across the country and it is a sign of
12 respect for you and your role in our system. Now when you
13 enter, I will be on the bench, and when you enter, everybody
14 will rise for you. Same thing holds true for when you retire,
15 everybody will rise for you out of respect for you. So have a
16 good lunch, be back here by 1:55 at the latest, and I now
17 direct everybody to please rise.

18 (Continued on next page)

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1 (Jury not present)

2 THE COURT: How long do we expect the direct
3 examination of Mr. De Niro to go?

4 MR. MACURDY: I would expect it would go into
5 tomorrow, your Honor.

6 THE COURT: Then in that event, I think there is no
7 need for me now to address the objections that plaintiff had to
8 defendant's exhibits. Do you agree with that?

9 MR. MACURDY: I agree.

10 THE COURT: I think what we will do is at the end of
11 the trial day, 5:00 today, I will be prepared to address those
12 issues and hear any argument with respect to those issues, as
13 well as with respect to anything else that we can expect for
14 tomorrow.

15 Is there anything else from plaintiff before we break
16 for lunch?

17 MR. MACURDY: Your Honor, a small thing. I was
18 wondering, since it is eight jurors, is it possible to do them
19 four and four or?

20 THE COURT: I will confer with my deputy but you
21 should assume not. We will also move the podium so that you
22 can address all of the jurors.

23 MR. MACURDY: Thank you, your Honor.

24 THE COURT: Anything else from the defendant?

25 MR. SCHOENSTEIN: Not at this time.

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1 THE COURT: Have a good lunch, everyone. Be here at
2 10 of 2:00.

3 MR. HANNAFAN: Yes, your Honor. Thank you.

4 (Luncheon recess)

5 (Continued on next page)

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1 A F T E R N O O N S E S S I O N

2 2:05 p.m.

3 THE COURT: We may still be waiting for one juror.

4 During the break, my courtroom deputy was informed by
5 one of the jurors, juror no. 3, that she has some child care
6 issues that she was worried about. I don't propose to do
7 anything with respect to juror no. 3 right now but I am just
8 bringing that to the parties' attention unless, in case there
9 is an application. I do think that it highlights the need for
10 the parties to be efficient in terms of their examinations. To
11 that end, I think one of the lawyers asked about Veterans Day
12 and whether we will be sitting on Veterans Day. The answer is
13 that we can't sit on Veterans Day. I don't know the answer to
14 the question as to whether, if the jury has been charged and
15 has started to deliberate whether they want to sit on Veterans
16 Day, continue to deliberate, they can. I rather doubt it.
17 When we calculated the hours for the parties we did not -- we
18 factored in that Veterans Day was not going to be a court day,
19 a day for testimony.

20 Let's see where we stand on the jurors.

21 Mr. Schoenstein, is your client prepared to take the
22 stand right at 3:00 if that is when we finish the opening
23 statements?

24 MR. SCHOENSTEIN: He is, your Honor. He is right
25 here.

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1 THE COURT: OK. I am informed that the jurors are
2 prepared to walk in so it shouldn't be much longer. (pause)

3 We have everybody. Let's bring in the jury.

4 (Continued on next page)

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1 (Jury present)

2 THE COURT: Be seated.

3 Welcome back, members of the jury. We will now
4 proceed to opening statements. Plaintiff will go first.

5 MR. HANNAFAN: Thank you, your Honor.

6 May it please the Court: *This bitch needs to get put*
7 *in her fucking place.* Those are the words of Tiffany Chen,
8 Robert De Niro's girlfriend. And the person Ms. Chen was
9 referring to as "this bitch", who she wanted to put in her
10 place, is Chase Robinson, the plaintiff in this case. When
11 Ms. Chen made that statement in April of 2019, Chase Robinson
12 had worked for Mr. De Niro's company, Canal Productions, for
13 over a decade. Mr. De Niro was her boss. He had put Tiffany
14 Chen in charge of managing and supervising Chase on a project
15 of his since 2018. Within days of making this statement about
16 how Ms. Chen wanted to put Chase in her place Ms. Chen, with
17 Mr. De Niro's knowledge and approval, sent an e-mail to some of
18 Chase's co-workers at Canal stripping her of some of her duties
19 and removing her assistant. She told the employees at Canal
20 that they were not to have any contact with Chase on any
21 projects that either Ms. Chen or her boss Mr. De Niro were
22 working on. Because of that, because of that action, the
23 defendants -- Canal Productions and Mr. De Niro -- violated
24 anti-discrimination and retaliation laws. Now, Ms. Chen's
25 retaliation against Chase Robinson is the end of the story and

1 now I would like to go to the beginning of the story.

2 Chase Robinson was hired by Canal Productions in 2008
3 as the executive assistant to Mr. De Niro. Although her
4 responsibilities and titles changed over the next decade, her
5 job, at its core, never really did. Her job, at its core, was
6 to do what Mr. De Niro wanted when he wanted her to do it. And
7 Mr. De Niro is a very busy man and he wanted Chase to be
8 available 24/7. And she was. She worked nights, she worked
9 weekends, she worked holidays. Regardless of where she was,
10 whether she was here in New York or she was traveling, Chase
11 was to be available for Mr. De Niro 24/7. She had to be
12 on-call all the time. And call her, he would. He would call
13 her early in the morning. He would call her late at night. He
14 would text or call or e-mail her throughout the day. If Chase
15 said to him, I'm going to be unavailable for a few minutes, I'm
16 going to go for a run, he would call her. if She would tell
17 him I'm going to be unavailable tomorrow, I'm going to my
18 grandmother's funeral, he would call her, twice. She said to
19 him on the phone, I'm with my elderly mother and I have to take
20 her to the emergency room, I'm going to be unavailable, he
21 called her 10 minutes later as she is in a taxicab to the ER.

22 Chase's job at Canal involved handling production
23 matters on Mr. De Niro's many films. Mr. De Niro also had her
24 taking care of many personal matters for him and his many
25 family members. For Mr. De Niro, there was no line between his

1 professional life and his personal life in terms of what he
2 expected Chase to take care of. He came to rely upon her for
3 some of the most intimate aspects of his personal life. She
4 even helped him pick out a school for his young son. She
5 worked with his divorce attorney on his latest divorce
6 proceedings. She would make sure his prescriptions were being
7 refilled and picked up. She would attend medical appointments
8 with him.

9 When Mr. De Niro had an accident and had to go to the
10 emergency room at the crack of dawn, who did he call to take
11 him? Chase Robinson. When he got there and he needed to have
12 his medical forms filled out, who did he have do it? Chase
13 Robinson. Who did he tell her to put down as his emergency
14 contact? Not his wife, not his adult children -- chase
15 Robinson.

16 When a fire started in Mr. De Niro's home and the
17 alarm goes off, who rushed over to try and put it out? Got a
18 case of smoke inhalation and a trip to the emergency room
19 herself? Chase Robinson.

20 Now, it may seem odd that an employer would have an
21 employee take care of some of these most intimate aspects of
22 their personal life but for Mr. De Niro, there wasn't any line
23 between them. Unfortunately for Ms. Robinson, the longer she
24 worked for Mr. De Niro the less of a line there was between her
25 personal life and her professional life. Ultimately, her work

1 was her life and her life was her work. And the fact that her
2 work had become her life and her life had become her work was
3 incredibly frustrating to her. She didn't want to be taking
4 care of all these personal matters for Mr. De Niro. She wanted
5 to do, focus on the production work of Canal Productions. She
6 wanted to try and focus on a career. On several occasions she
7 had enough, she went to Mr. De Niro and said I can't take it
8 anymore, I want to resign. Each time she did that his response
9 was the same. It was the carrot and the stick. He would say
10 to her, *You can't leave me. Please don't go. I need you.* He
11 would promise her to pay her more money or give her more perks
12 or benefits at her job. He would promise her that she wouldn't
13 have to do certain work. He would promise her that things
14 would change. He would promise her that he would change. That
15 was the carrot. He would also give her the stick. And the
16 stick was if she left him, he wouldn't give her a
17 recommendation. And the thought of Mr. De Niro not giving her
18 a recommendation terrified her. Mr. De Niro is one of the most
19 well-known, wealthy, and powerful individuals in the
20 entertainment industry. In addition to his acting, he is the
21 owner of many successful businesses. Chase was worried that if
22 he wouldn't give her a recommendation, she would not be able to
23 get another job.

24 So eventually, because she was afraid of not having
25 that recommendation, afraid of not getting another job, she

1 would stay. Every time she agreed to stay she would think to
2 herself, Well, things will change. Things will be different
3 this time. And every time she was wrong. Not long thereafter,
4 she would be back to taking care of all these personal matters
5 she would be back to working insane hours. It was a vicious
6 cycle that repeated over and over.

7 Now, working for Mr. De Niro was a roller coaster for
8 Chase Robinson. He could be quite generous. He is a very
9 wealthy man and he could be quite generous with his employees.
10 But, he was a very demanding boss. If he didn't do what Chase
11 wanted him to do when he wanted it and how he wanted it done,
12 he would yell at her, he would berate her, he would make her
13 life difficult. And on top of that, while she was working for
14 him, he would make sexist remarks that he treated her less well
15 because she was a woman.

16 As you will hear, Mr. De Niro repeatedly make sexist
17 remarks about Chase and other women. He called his female
18 business partner a cunt. He called Chase and other women a
19 bitch. He called Chase a bitch to her face repeatedly. And he
20 also had her taking care of tasks that he didn't ask his male
21 employees to take care of. He asked her to help choose gifts
22 for his children, wash his sheets, pick out items for his home,
23 vacuum his home, setting the table for a dinner party.

24 Something else he had her do was to ask her to scratch
25 his back. To literally scratch his back. And when Chase

1 objected, when she said, rather than me doing this why don't
2 you use that back scratcher you got from a friend, he looked at
3 her and he said, I like the way you do it. That's what the
4 male employer said to his female employee about scratching his
5 back: I like the way you do it.

6 When Chase went to Mr. De Niro to seek a raise and ask
7 to be paid as well as one of his male employees, he trotted out
8 the old line of how that man was a breadwinner, he had a family
9 to support. Chase heard that. She was furious. It was
10 insulting to her, it was demeaning to her, Mr. De Niro knew
11 very well that she was a single woman with no children.

12 Ladies and gentlemen, you will hear other evidence
13 about how Mr. De Niro and Canal discriminated against Chase
14 based upon her gender and that is why she has sued Mr. De Niro
15 and Canal for gender discrimination. The other claim that
16 Chase Robinson has made in this case is one of retaliation
17 based upon her gender and that brings us back to Tiffany Chen.

18 In 2018, when Mr. De Niro introduced Ms. Chen to Chase
19 as his girlfriend, Chase had been working for him for over a
20 decade. Mr. De Niro told Chase that he and Ms. Chen were going
21 to be moving into a luxury townhouse here in Manhattan and he
22 told Chase that she had to do what Ms. Chen wanted; Ms. Chen
23 was going to manage and supervise her on this townhouse
24 project. Chase, whose title at the time was vice president of
25 production and finance at Canal, objected. She didn't want to

1 be working on this townhouse project and she certainly didn't
2 want to be working for the defendant's girlfriend, but as
3 always, she did what Mr. De Niro wanted her to do.

4 Now, Ms. Chen, who at the time was the other woman to
5 Mr. De Niro's wife, looked at Chase Robinson, an even younger
6 woman, and did not like what she saw. She did not like how
7 involved Chase was with Mr. De Niro's life. She did not like
8 how much Mr. De Niro relied upon Chase, particularly when he
9 relied upon her instead of Tiffany Chen. Although Ms. Chen
10 played nice with Chase for a little while, it wasn't long
11 before she began trying to make things difficult. She made
12 wild allegations about Chase. Ms. Chen said that Chase wanted
13 to marry Mr. De Niro, that Chase wanted to move into the house
14 with him, that Chase had imaginary intimacy that she wanted to
15 be the lady of the house. Ladies and gentlemen, none of that
16 was true. Chase Robinson never had any romantic interest in
17 Mr. De Niro. Zero. None. He was her boss and that is all.

18 Now, she cared for Mr. De Niro as her boss? Of
19 course. Did she want what was best for him as her boss? Of
20 course. But there was never anything romantic between the two
21 of them. She didn't want to be his girlfriend, she didn't want
22 to move in with him, she didn't want to have children with him.
23 It was never anything like that. But Ms. Chen did not see it
24 that way. Ms. Chen was jealous of Chase and her relationship
25 with Mr. De Niro. She wanted Chase out of Mr. De Niro's life,

1 she wanted to do so by making Chase miserable.

2 After a few months of working on the townhouse, Chase
3 went to Mr. De Niro in 2018 and said I can't take this anymore,
4 I want to resign. His reaction was the same as always, the
5 carrot and the stick. He threatened her that if she left, he
6 wouldn't give her a recommendation and, again, she was afraid
7 that without a recommendation of her boss of 10 years, how
8 would she be able to get another job. He also eventually made
9 promises to her; he would give her a raise, she wouldn't have
10 to work for Ms. Chen, she wouldn't have to work on the
11 townhouse project anymore. Once again, reluctantly, she agreed
12 to stay. She thought things would change but they didn't.
13 Very quickly, Ms. Chen was once again ordering her around.

14 By late March of 2019 Chase was a mess. She wasn't
15 eating, she wasn't sleeping, she was a nervous wreck. She
16 didn't know what to do. She thought no matter what she did she
17 couldn't make Ms. Chen happy and she thought that Ms. Chen was
18 out to get her, targeting her, because she was a woman. And
19 Chase was right. At the end of March after a series of e-mails
20 with Ms. Chen about this townhouse, Chase forwarded an e-mail
21 to Mr. De Niro and asked if they could talk. This is that
22 e-mail: Chase says: *It has been pretty obvious for a while*
23 *that there is an issue with me working for you and I have tried*
24 *really hard, without bothering you, to get out of the middle*
25 *and out of your home and get back to my job. It's not working.*

1 Rather than respond to Chase, Mr. De Niro forwarded her e-mail
2 to Tiffany Chen and, as you will hear, Ms. Chen was furious
3 when she read that e-mail. After getting no response from
4 Mr. De Niro to that e-mail, Chase emailed him a couple days
5 later on April 2nd. Now, as background for this e-mail, Chase
6 understood that Mr. De Niro had fired a prior female assistant
7 of his, a woman named Robin, years before, because his prior
8 wife -- his wife still at the time but his wife Grace, was
9 jealous of Robin. Chase saw the writing on the wall and she
10 thought to herself, well, Mr. De Niro fired Robin because Grace
11 was jealous. Mr. De Niro is going to fire me because Tiffany
12 is jealous. So she wrote in this e-mail, she said: *I'm*
13 *worried that my presence in the house, amongst other things, is*
14 *not working for Tiffany and, therefore, you. And I've felt*
15 *this way since September/November. It's been very difficult.*
16 *Part of me worrying is thinking about what happened to Robin*
17 *with Grace, and I don't want it to get to that point. I want*
18 *to be able to finish what we agreed upon and fulfill my*
19 *commitment to you and the job.* Mr. De Niro forwarded that
20 e-mail on, once again, to Ms. Chen. Ms. Chen did not take it
21 well.

22 A few days later, after Tiffany Chen made that
23 statement with Mr. De Niro's approval and knowledge, Ms. Chen
24 did put Chase in her place. Ms. Chen sent an e-mail to several
25 of Chase's co-workers at Canal telling them that Chase was no

1 longer working on the townhouse project. She also told them
2 that they were no longer to communicate with Chase about any
3 project with either Ms. Chen or Mr. De Niro. She told Chase's
4 assistant, I would like to remind you that we all work for Bob
5 and you are no longer Chase's assistant. On top of that,
6 Ms. Chen asked Canal employees to begin looking into Chase's
7 spending.

8 Now as you hear, Canal is a small company and word
9 travels fast. Chase soon found out what Ms. Chen had done and
10 she was devastated. She didn't want to be on that townhouse
11 project. She didn't want to work for Ms. Chen, that's for
12 sure. But what Ms. Chen had done had gone far beyond that,
13 telling her co-workers they weren't to talk to her about any
14 projects with her boss Mr. De Niro. Without that, Chase didn't
15 feel she could do her job. She felt she had no choice but to
16 resign and resign immediately, and she did so. Unfortunately
17 for Chase, her fears about Mr. De Niro's threats about not
18 giving her a recommendation came true. He did not give her a
19 recommendation he knew she desperately craved. He did not give
20 her a recommendation that she had certainly earned. When he
21 wouldn't respond to her and she told him that she might seek
22 outside counsel to protect herself, he became enraged.
23 Employees at Canal were told to dig up whatever dirt they could
24 find on Chase and the dirt that they tried to dig up is the
25 basis for Canal's claims against Chase.

1 As Judge Liman has explained earlier today, Canal is
2 not only a defendant to Chase's claims of gender discrimination
3 and retaliation, Canal has brought claims against Chase. Judge
4 Liman will give you the instructions on exactly what those
5 claims mean under the law, but essentially what they have
6 accused Chase of doing is stealing from Canal and not being a
7 loyal employee.

8 Now, ladies and gentlemen, just as we, here
9 representing Ms. Robinson, representing Chase, have the burden
10 to prove our claims, so, too, does Canal have the burden to
11 prove their claims. Ladies and gentlemen, based upon the
12 evidence, Canal will not be able to prove their claims. As for
13 their claim that Chase stole from Canal, the evidence will be
14 that she did not steal from Canal in any way, shape, or form.
15 Over the decade that they worked together, Chase and
16 Mr. De Niro had many conversations, many agreements about what
17 her job was and what she could spend money on while working for
18 him. And because he relied on her so much, because she was
19 there for him 24/7, because he trusted her so much and she
20 worked for him so long, he gave her benefits and perks over the
21 years and you will hear about those. One of those perks was
22 that Chase was allowed to use frequent flier miles that built
23 up from Canal's American Express spending. She was allowed to
24 do that for her personal travel and she had done that for years
25 before she was resigned.

1 Ladies and gentlemen, the evidence will be that Chase
2 Robinson would not have and did not spend a dime of Canal's
3 money that she hadn't been authorized to spend. The evidence
4 will be that she did not transfer a single frequent flyer mile
5 that she hadn't been authorized to spend by her boss.

6 Just as Mr. De Niro came to trust Chase Robinson over
7 the years that she worked for him and with good reason, she
8 trusted him. She trusted him that he would keep his word on
9 the agreements they made, that he would keep his word about the
10 promises he made to her as to how she could spend the money
11 when she was working for him. Now that she isn't working for
12 him, now that she isn't on call 24/7, Mr. De Niro wants to
13 claim those agreements didn't exist, or he wants to claim he
14 just doesn't remember ever making them.

15 As for Canal's claim that Chase Robinson is a disloyal
16 employee, we will ask you at the close of this case whether a
17 disloyal employee would run into her boss' townhouse when there
18 is a fire. We will ask you whether a disloyal employee would
19 meet her boss at the crack of dawn to take him to the ER and
20 whether a disloyal employee would agree to give her own
21 personal contact information as his emergency contact.

22 Ladies and gentlemen, the evidence will be that there
23 was no one -- there was no one -- more loyal to Canal and
24 Robert De Niro than Chase Robinson.

25 As for Chase's claims, the evidence will establish

1 that Mr. De Niro and Canal discriminated against her and
2 retaliated against her, at least in part, based upon the fact
3 that she is a woman. The evidence will be that Chase, as a
4 result of the defendant's actions, has suffered greatly. She
5 has suffered severe emotional distress. She has suffered
6 severe reputational harm. She will testify -- she will sit in
7 that chair and you will get to see just how damaged she is.
8 You will hear how she has been afraid to leave her home, how
9 she has not been able to get a job for the past four years, how
10 she has had to get on medication because she has crippling
11 anxiety. Because of what the defendants did, because of their
12 actions, we will ask you to award Chase Robinson significant
13 damages.

14 Ladies and gentlemen, I am almost done. During this
15 trial you will get to hear Mr. De Niro testify. You will get
16 to hear Chase Robinson testify. You will be the judges of
17 their credibility. You will get to decide who has a better
18 recollection. You will get to decide who has a better memory
19 about what happened and about the agreements that they made.
20 You will get to decide what the truth is.

21 Ladies and gentlemen, at the close of this case, after
22 you have seen and heard all of the evidence during trial and
23 based upon Judge Liman's instructions on the law, we will ask
24 you -- excuse me -- we will return and we will ask you to
25 return a verdict that puts Mr. De Niro and puts Canal in their

1 place. We will ask you to return a verdict that does justice
2 for Chase Robinson. We will ask you to return a verdict in her
3 favor on all counts.

4 Thank you very much.

5 THE COURT: Thank you, counsel.

6 MR. HANNAFAN: Thank you, your Honor.

7 THE COURT: We will now hear from defendants' counsel.

8 MR. SCHOENSTEIN: I never get to answer the
9 questionnaire they give you all jurors in the morning but you
10 know what kind of movies I like -- if you're interested -- I
11 like a movie that seems like one thing at the beginning but
12 turns out to be something completely different than what you
13 thought; plot twists, surprises. Sometimes when a movie starts
14 it is not even clear who is the hero and who is the villain.
15 This trial is going to be a little bit like a movie, although
16 it is terribly long and I apologize there is no popcorn, but if
17 you forgive me a couple of spoilers, the story that is going to
18 unfold is much different from the one you just heard from
19 plaintiff's counsel.

20 This is not a story about a helpless woman subjected
21 to discrimination by her employer. This is about a breach of
22 trust. This is about a person who was treated very well by her
23 employer but always felt she deserved more. It is about an
24 employee who created conflict and drama in the workplace only
25 to complain that she was the victim. Plaintiff treated others

1 badly, dreamed up enemies, did not respect appropriate
2 boundaries, and took advantage of her position. And you will
3 learn whenever she was called on it she always had an excuse.
4 She always had someone to blame. And I will tell you right off
5 that we should all be as lucky to work for Robert De Niro.
6 Kind, reasonable, generous, supportive. His requirements for
7 employees are simple: Do the right thing. If you made a
8 mistake, admit it and we will move on. It's the honor system.
9 You do right and I will do right by you. Plaintiff breached
10 that trust.

11 The evidence will show that everything that happened
12 to Ms. Robinson happened because of the way she conducted
13 herself, not because she's a woman. The evidence will show
14 that Chase Robinson is not the hero of this story. What
15 counsel just said to you and what I'm saying now are not
16 evidence, it's only the introduction. These are the opening
17 credits, so to speak. And just as typically you don't know how
18 a movie is going to turn out right at the beginning, my
19 fundamental request is that you hold off reaching conclusions
20 now. We want you to hear all of the witnesses who will testify
21 including, of course, Ms. Robinson and Mr. De Niro, but also
22 many others who will be here, especially the people who worked
23 with them both. We want you to see all the evidence, not just
24 a few texts that we pick to show you, but all of them. And
25 when you see an e-mail you have to see the beginning of the

1 e-mail stream and the end, not just the middle part.

2 Now, that being said, my job is to tell you from our
3 table's point of view what this case is about and what is going
4 to unfold so let's start with the parties.

5 To tell you that Robert De Niro is accomplished would
6 be a great understatement. He is a prolific and beloved actor
7 who has been on movie screens for 60 years. He has two Academy
8 Awards, he has countless other honors but, if you asked him,
9 more important than all of that are his seven children and his
10 grandchildren. He is super talented, very hard-working. He
11 grew up in Greenwich village not very far from this court
12 house. He developed an interest in acting. He studied and
13 worked, got film roles, and eventually became one of the
14 biggest movie stars, really, in the history of cinema.

15 Bob -- he goes by Bob, by the way -- Bob took his
16 acting income and got involved in business. He founded the
17 Tribeca Film Center in 1989 he opened a restaurant you may have
18 heard of called the Tribeca Grill. He converted an old
19 building into condo units for film makers. And in 1994, he
20 opened Nobu. You may have heard of that too, that's another
21 restaurant and is now 55 restaurants and 36 Hotels worldwide.

22 After 9/11, Bob doubled down on New York. He founded
23 the Tribeca Film Festival, opened the Greenwich Hotel, and
24 built out offices in Tribeca. He acts, he produces, he
25 directs, he has other business ventures. He works very hard to

1 oversee all of that. Bob has earned everything he has
2 achieved. Why do I tell you all of that? Not to embellish
3 him, but because you will learn that Bob is also a great guy
4 and a good boss. With the exception of plaintiff, every other
5 witness who testifies at this trial will tell you he is down to
6 earth and a pleasure to work with.

7 The other defendant in this case is called Canal
8 Productions. You will hear that that company is Bob's hub or
9 what they call in entertainment a "loan out company". That's
10 where he gets paid his acting income. I know it is called
11 Canal Productions but Canal does not produce anything. It
12 doesn't make movies or television, it doesn't run restaurants
13 or hotels. There are other companies that do all of that.
14 Canal Productions also doesn't finance anything, it's just the
15 corporation through which Bob coordinates his professional and
16 his personal life. Canal is Bob, Bob is Canal. And you will
17 find out at trial that being Robert De Niro is very hard work
18 and requires a lot of support. That's why Canal, the company,
19 has employees -- to make sure, Bob is where he needs to be when
20 he needs to be there, to help take care of Bob and his family,
21 to handle Bob's every need.

22 Ms. Robinson was an employee of Canal from 2008 until
23 she resigned in 2019. She was Bob's lead assistant. And for
24 most of the time she was a happy employee. She loved her job
25 and adored Bob. That's what she wrote in some of the e-mails

1 counsel didn't show you. And Bob trusted and valued her. That
2 trust was so important to him. So, how do we all end up in
3 federal court in downtown Manhattan with a lawsuit?
4 Plaintiff's lawyer has told you her version but the truth is
5 much different and this story begins with a flashback.

6 When Ms. Robinson was hired in early 2008 she was 25
7 years old. She had a liberal arts degree and almost no work
8 experience. She got the job and her job was to service the
9 professional and personal needs of Bob, to be his assistant.
10 That remained her job until the day she left Canal. The
11 evidence will show the job of plaintiff, and every other
12 employee at Canal, is to do whatever Bob needs. And taking
13 care of Bob requires getting him where he needs to be when he
14 needs to be there, getting him what he needs when he needs it.
15 His schedule has to be organized, he has to be kept on schedule
16 every day. He requires help organizing his professional life
17 and his personal life and it is interconnected.

18 Bob's office does all sorts of things. It assists
19 with medical appointments and prescriptions, it runs his
20 errands, it does his gift shopping, it helps with his family,
21 and it serves as the backbone of the very hard job of being
22 Robert De Niro. Now, if that sounds unglamorous, I can assure
23 you, it often is. It is nice to work for a movie star but it
24 can be a little mundane. I think someone said this morning
25 there are positives and negatives about being an assistant.

1 And that's true here too. And almost every worker I have ever
2 met in any line of work wants two things: More money and a
3 better title. Plaintiff was no different. And she also
4 eventually wanted to get into the entertainment business
5 herself. There is nothing wrong with that. There is nothing
6 wrong with wanting to advance and further your career, that's
7 the American way. But, at the same time, make no mistake about
8 it, plaintiff had a great job at Canal. Wait until you hear
9 what she was paid and what the perks were. In addition, she
10 was permitted to work remotely from her home years before the
11 COVID pandemic made that more common. In fact, she was allowed
12 to work while she lived in Los Angeles, while she lived in
13 Spain, while she lived in London. She was permitted to work
14 all over the world.

15 Jump forward to 2017, she's been there now for nine
16 years, and she talked about leaving Canal but she decided to
17 stay and she pushed for a new title: Vice president of
18 production and finance. And just to be really clear about
19 this, that was not a job that existed at Canal. That was not a
20 title somebody else had. That was a title plaintiff made up.
21 Again, Canal does not produce or finance anything but she
22 wanted the title. The job, at its core, did not change. You
23 heard opposing counsel confirm that this morning. The title
24 changed, the job did not.

25 As you listen to the witnesses in this case, most of

1 whom worked or still work at Canal, you will hear confirmed
2 again and again that Bob is a great guy, he is kind and
3 generous, he is supportive, he is very easy to get along with,
4 and reasonable. His basic requirements are do the right thing,
5 be honest. And you will learn that the single most difficult
6 person to work with at Canal was plaintiff. Her fellow
7 employees are going to tell you the truth. She was
8 condescending, demeaning, controlling, abusive. I could go on
9 but it would be better to hear from them directly when they
10 take the stand. They will all come in here to testify.

11 You will also learn that Ms. Robinson manufactured
12 grievances with a variety of people in and around Canal, male
13 and female, over the years. She always played the victim. If
14 anybody made Canal a challenging workplace, it was the
15 plaintiff herself. And in that regard, you will learn that it
16 has been significantly better since the day she left.

17 In 2018, as counsel said, Bob separated from his wife.
18 He had a new relationship, and in the fall there was a lot
19 going on because he was moving into a newly rented townhouse on
20 the upper east side, a big one, that could accommodate his kids
21 and grandkids. A big townhouse, upper east side, it needed
22 work. It needed furniture. It needed a lot. They were
23 building a home from scratch. And like everything in Bob's
24 life, he engaged the employees of Canal to assist. Everyone,
25 from his lawyer and his accountant to the lowest level

1 employees at Canal, had to do stuff with respect to the
2 townhouse. That's the way it is at Canal.

3 Now, Ms. Robinson took on responsibility for the
4 townhouse project. She might tell you she did it because she
5 felt badly for Bob. She might even tell you that she did it
6 reluctantly, but her co-workers are going to testify and
7 they're going to tell you she relished the opportunity to be in
8 charge of the project. She threw herself in it asserting
9 herself as head of operation, shopping up a storm, and
10 requiring that she got to approve every detail. Do you know
11 why she had to run into the house when the fire alarm went off?
12 She hadn't given anybody else the codes. She was controlling
13 them and kept them for herself, that's why she had to go in the
14 house.

15 She seized the opportunity to be in charge. And at
16 the same time, you will see from the evidence that she was
17 talking again about moving on from Canal. She used that and
18 the fact that Bob needed her help at the time to negotiate.
19 She told Bob she had another opportunity in London and was
20 thinking of leaving Canal. You are going to hear, by the way,
21 there was no opportunity in London but that's what she told
22 Bob.

23 Ms. Robinson said she could stick around if only they
24 could come up with some money, a lot of money. And in a series
25 of discussions culminating in January 2019, Ms. Robinson and

1 Bob worked out an arrangement, a pretty sweet arrangement for
2 her. She would stay at Canal and transition out of her role
3 over the next two years and he would increase her salary to
4 \$300,000 a year. You did not hear counsel tell you that she
5 was being paid \$300,000 a year. Bob thought the matter had
6 been resolved. In fact, when we pull back the curtains and we
7 see the evidence, it reveals that Ms. Robinson took the money
8 but never intended to stay at Canal. She kept working on her
9 resume, she was working on a film treatment, she was telling
10 people she was in exiting mode -- another e-mail that her
11 lawyers didn't show you. She was telling others she was
12 planning to leave but just waiting for the right time.

13 Back to the townhouse. By early 2019, work on the
14 townhouse was largely done and by March the end was well in
15 sight. It was almost over on the townhouse. Now, let me talk
16 about Tiffany Chen. Plaintiff's counsel showed you a picture.
17 You don't have to go by a picture, she will be here in person
18 and you will meet her. And the staunch defenders of women's
19 rights on the front table left out a few things about Tiffany
20 Chen. She was a New York State golden glove boxer, she was a
21 martial arts world champion, she helped run a very prominent
22 family business for years all before meeting Bob. She is smart
23 and dedicated and, yeah, sometimes she is a little opinionated.

24 So Tiffany was moving in with Bob and moving into the
25 townhouse. And in her role as Bob's lead assistant, one would

1 think that Ms. Robinson would have made it her job to warmly
2 greet her and help her out. That was part of her job. But
3 instead you will hear plaintiff immediately treated Tiffany
4 with suspicion and disdain, acted rudely, and perpetrated a
5 series of micro aggressions, for lack of a better term. And,
6 insulted Tiffany behind her back.

7 Now, without even hearing that trash talking, Tiffany
8 was offput. She felt the plaintiff wasn't acting appropriately
9 and was not respecting appropriate boundaries. Too pushy, too
10 controlling in the home that Tiffany was moving into. Tiffany
11 tried to deal with Ms. Robinson as best she could. She tried
12 being nice. She asked Ms. Robinson to clarify what her role
13 was, or what she did and didn't want to work on. None of it
14 worked. Plaintiff is going to tell you a different story, not
15 surprising. Again, she always plays the victim.

16 Plaintiff's counsel showed you some snippets of texts
17 and e-mails with Tiffany's name on it and they're going to keep
18 coming back to those in this case. They're going to keep
19 saying a couple of texts must tell you the whole story. But,
20 you know, those texts and e-mails, first of all, they're not
21 even all of the e-mails which you are going to have to see and
22 they start very late in this story, they start in March 27 of
23 2019. There was so much that happened before that that you are
24 going to have to hear about to know what happened. You need
25 the full story and I'm going to say, flat out, at no point was

1 Tiffany Chen worried that plaintiff was trying to steal her
2 boyfriend. She just didn't like the way Ms. Robinson conducted
3 herself. Tiffany Chen did not want Ms. Robinson out of Bob's
4 life, she just wanted her out of the house that she lived in,
5 which was her right.

6 So, it all blows up a little bit in this late March
7 2019 weekend. You are going to hear about it in probably more
8 detail than you want. Tiffany was trying to get some painting
9 done in the house on the walls. Bob was off skiing with his
10 youngest daughter out of town. So, Tiffany reached out to
11 Ms. Robinson with a simple question: Can you help get me in
12 touch with the painters? Because I want to remove some artwork
13 before they paint. Ms. Robinson refused to help. She wasn't
14 being asked to paint or to come in and do anything, she was
15 just being asked for some phone numbers. But she refused to
16 help and she complained to Bob. Again, you saw a teeny part of
17 that chain, we are going to make sure you see all of it. So,
18 Ms. Chen was offended by that and being upset led to some of
19 the texts that you saw and some bad language, for sure, but you
20 are also going to see and hear in this case that there was bad
21 language on both sides. For her part, you will see evidence
22 that plaintiff, Ms. Robinson, called Tiffany a bitch, a whore,
23 and a psychopath. That's somehow she spoke of her boss'
24 girlfriend. At the time it seemed like the eminently logical
25 thing to do was to remove Ms. Robinson from the townhouse

1 project. I think counsel just said that's what she wanted, she
2 didn't want to be on the townhouse project. Thus, a decision
3 was made to take plaintiff off of it and to do it decisively,
4 to do it clearly, to tell employees you are not dealing with
5 Ms. Robinson on the townhouse project anymore, she officially
6 will have nothing to do with the townhouse. Nobody was firing
7 or demoting Ms. Robinson, the plan was to keep her working on
8 all of the other job duties that she said she had and loved.
9 She was just being taken off the townhouse, which is what
10 people thought she wanted, but it seems now that either
11 plaintiff didn't really want it or changed her mind, or saw yet
12 another opportunity to negotiate. I told you she was planning
13 to leave Canal for several months at this point but she was
14 doing some other stuff that only came to light after she left.

15 Defendants did not know then but now know that
16 Ms. Robinson was secretly accessing and reading some of Bob's
17 private communications with his girlfriend. We now know that
18 plaintiff was secretly recording phone calls with some of her
19 Canal colleagues. There are something like a hundred recorded
20 phone calls that she made in a three-month period. We now know
21 that Ms. Robinson secretly accessed e-mails that were sent to
22 and from Canal people where she wasn't copied on them. They
23 say word travels fast. Well, word travels really fast when you
24 are spying.

25 While plaintiff was doing that, Tiffany Chen was

1 getting organized with a new team to go forward with the
2 townhouse without Ms. Robinson. And she started to look at the
3 spending that had been done. Tiffany will take the stand and
4 she will tell you something didn't smell right. She was
5 becoming concerned that plaintiff, and some others -- including
6 both men and women, by the way -- were taking advantage of Bob.
7 There was a plan to have a serious meeting to sit down with
8 Ms. Robinson to address those issues. But, before they could
9 do that, she quit. As I said, despite her agreement to stay
10 for two years, Ms. Robinson was planning to leave when the time
11 was right.

12 You will see, plainly set forth in the documents, and
13 apparently the right time came and the timing itself is a
14 little suspicious, but on April 6, 2019, plaintiff quit her
15 job. She sent an e-mail to Bob resigning, effective
16 immediately, no notice, after 11 years. And after Ms. Robinson
17 resigned there was, frankly, relief and celebration by her
18 co-workers. You will see the texts. They were happy plaintiff
19 was leaving. They had not enjoyed working with her and were
20 glad she was gone. And you will also hear that Canal worked to
21 gather information regarding the concerns that had been raised.
22 It started to become clear that plaintiff had taken advantage
23 of her position at Canal and had not acted appropriately. The
24 evidence will show the following:

25 Plaintiff had charged an extraordinary amount of

1 personal expenses, like Ubers and taxis, food and groceries and
2 personal items, to the company. In the few months preceding
3 her resignation, during the period where she had committed to
4 stay but was -- and in between then and her April resignation
5 she transferred -- get this -- 5 million Delta SkyMiles from
6 Canal's account to her own account. Now, at times during her
7 employment she had been allowed to use the company's miles to
8 book a flight but there was never any agreement that she could
9 sweep 5 million valuable miles out of Canal's account into hers
10 while she was planning to leave. And there was certainly no
11 agreement that she could keep them after she left.

12 There were improprieties regarding plaintiff paying
13 herself for unused vacation days. She claimed, year after year
14 after year, she hadn't taken a single vacation day and she had
15 to be paid for all of them. She had taken a trip to
16 Los Angeles in 2018 for personal reasons but on the company
17 dime and under false pretenses. All of this was adding up to a
18 serious breach of trust. Again, Bob has a plain and reasonable
19 code about stuff like this: Mistakes are fine and understood,
20 but you have to do the right thing and you have to tell the
21 truth. And plaintiff did neither.

22 About two months after she left Canal, Ms. Robinson
23 sent an e-mail to Bob. Plaintiff referred to that e-mail, they
24 said she let Bob know she was thinking about hiring a lawyer.
25 But this is what else she said in that e-mail. She demanded

1 that he pay her two years of severance and healthcare even
2 though she had resigned. She wanted an in-person meeting with
3 Bob, she wanted multiple signed recommendations, she wanted a
4 press release, she wanted legal fees paid. And here is the
5 kicker -- not one word about discrimination or retaliation.
6 Just her trying to negotiate money. Those demands were
7 outrageous, particularly in the context of everything that had
8 come out about plaintiff's actions while she was employed.
9 Breaching trust, taking advantage, and making demands is a bad
10 combination.

11 Canal's lawyer, Tom Harvey, wrote to plaintiff in
12 response to her e-mails raising the issues relating to her
13 conduct and to insist she return any company property in her
14 possession. Plaintiff did not return the company property in
15 her possession. Instead, she suddenly said for the first time:
16 I have discrimination claims. Now she claimed, months after
17 leaving, that she had been discriminated against because of her
18 gender and retaliated against by having job duties taken away
19 from her. And it will be clear from the evidence that those
20 arguments came about only after her misconduct had been
21 identified. Look out for the timing. Always in this case,
22 look out for the timing.

23 All of a sudden, plaintiff was full of complaints
24 about the job she loved and the boss she adored, little things
25 all out of context. She says her job at 11 years was

1 demeaning. She says Bob was too demanding, or he urinated too
2 loudly, or that she hadn't been paid as much as a personal
3 trainer who, by the way, had been working with Bob for 40
4 years. She makes ludicrous assertions that the things were
5 taken away from her because Tiffany Chen thought she was having
6 a romantic relationship with Bob. Nobody thought she was
7 having a romantic relationship with Bob, certainly not Tiffany
8 Chen.

9 Plaintiff says a lot of things, more opportunities to
10 explore, more people to play. Nobody discriminated against
11 Ms. Robinson for any reason, certainly not because she is
12 female. What happened to plaintiff at the end of her
13 employment had nothing to do with her gender, it had everything
14 to do with her conduct.

15 Claims went back and forth and eventually we ended up
16 here with you all, and over the next two weeks you will hear
17 about all of this in great detail. You will see testimony from
18 Ms. Robinson and Mr. De Niro but also from Ms. Chen,
19 Mr. Harvey, and the Canal employees and representatives who
20 worked with plaintiff. And you are also going to see a lot of
21 documents and hear some audio recordings probably, as well.
22 And let me tell you how it is going to play out. Plaintiff
23 gets to go first, that's the way it is in a case like this.
24 They get to call whatever witnesses they want in whatever order
25 they want. So Ms. Robinson can step right up there on the

1 stand and tell you her story and look you right in the eye or
2 they can do something differently and try the case a different
3 way. But whoever they call, we get to examine the witnesses
4 after they do. We can also wait and examine them later under
5 certain circumstances. We might do that. But, when plaintiff
6 is done presenting its case, we will present ours. My point
7 here about all of that is that this movie is not necessarily
8 sequential. Right, it is like one of those art films that goes
9 back and forth from different perspectives and you have to put
10 it together at the end.

11 (Continued on next page)

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NAU6ROB4A

1 MR. SCHOENSTEIN: But since you're here until the end,
2 I'm going to ask you to watch it all. Defendants want you to
3 see every witness, hear every question, see every document
4 before you render your decision.

5 We think the evidence will show the following: One,
6 there was no discrimination against plaintiff, she was treated
7 very well, salary increases, title changes, lots of perks. Did
8 she love every day at work? Of course not. Some days are
9 better than others. But none of the things that happened
10 occurred to her because she's a woman.

11 Two, there was no retaliation against plaintiff. She
12 was removed from the townhouse before she made any claims about
13 discrimination and because of what was going on. And she
14 supposedly wanted out of the townhouse, so it wasn't
15 retaliation in any event.

16 Three, plaintiff abused her privileges at Canal. She
17 had no business transferring 5 million SkyMiles to her own
18 account. And she took advantage of the ability to charge
19 expenses. And you'll see from the totality of the conduct that
20 plaintiff did not do the right thing.

21 THE COURT: Mr. Schoenstein, your time is up.

22 MR. SCHOENSTEIN: Thank you, your Honor.

23 Thank you, all, very much for being here and for
24 listening to me this morning. I'll get to talk to you one more
25 time at the end of the case.

NAU6ROB4A

1 THE COURT: We're done with the opening statements.
2 Plaintiff will call their first witness. I'm going to take a
3 very brief stretch break, and I commend that to you also, and
4 we'll take our midafternoon break at 3:30.

5 Plaintiff can call their witness.

6 MR. MACURDY: Your Honor, may we approach just
7 previously before that?

8 THE COURT: No.

9 MR. MACURDY: Your Honor, the plaintiff calls Robert
10 De Niro.

11 THE COURT: Mr. De Niro, you may step up. Step into
12 the witness box, and remain standing. My deputy will
13 administer the oath.

14 ROBERT ANTHONY DE NIRO,

15 called as a witness by the Plaintiff,

16 having been duly sworn, testified as follows:

17 DEPUTY CLERK: Please state your full name for the
18 record and please spell out your first and last name.

19 THE WITNESS: Robert Anthony De Niro. R-O-B-E-R-T.
20 Capital D, small E, small space, capital N, small I-R-O.

21 THE COURT: Counsel, you may proceed.

22 Mr. De Niro, I ask you to keep your voice up, speak
23 into the microphone, speak loudly, and clearly.

24 Go ahead, Counsel.

25 MR. MACURDY: Thank you, your Honor.

1 DIRECT EXAMINATION

2 BY MR. MACURDY:

3 Q. Good afternoon, sir.

4 Sir, who owns Canal Productions?

5 A. Oh, I own it.

6 Q. Who runs Canal?

7 A. Technically I run it.

8 Q. You run Canal Productions, correct?

9 A. Well, I run, yeah -- I mean, I have people run it for me,
10 but I own it, if you will.

11 Q. You run Canal Productions, correct?

12 A. Yeah.

13 Q. You're the boss at Canal?

14 A. The what? Sorry.

15 Q. You're the boss at Canal?

16 A. All right. Yeah. All right.

17 Q. Correct?

18 A. Yeah.

19 Q. And it's a loan-out company, as the attorney said, right?

20 A. Yes.

21 Q. It loans out --

22 THE COURT: Hold on for a second. Let me ask you not
23 to speak over each other. Counsel, wait until the witness'
24 answer is done. Witness should wait until counsel's question
25 is done. Go ahead.

NAU6ROB4A

De Niro - Direct

1 BY MR. MACURDY:

2 Q. It loans out the services of Robert De Niro, correct?

3 A. Yes.

4 Q. One reason to have a company like that is because you can
5 have tax benefits of claiming business expenses, correct?

6 A. Well, that's part of it, yes, I guess it is. Yeah.

7 Q. Canal has a lawyer that serves as its general counsel,
8 right?

9 A. Mm-hmm, yes.

10 Q. His name is Tom Harvey?

11 A. Yes.

12 Q. He's sitting here today, right?

13 A. Yes.

14 Q. It has an accounting firm that reviews and pays its bills,
15 correct?

16 A. Right.

17 Q. It's called Berdon; that's the accounting firm?

18 A. Yes.

19 Q. Michael Tasch is the main accountant?

20 A. Yes.

21 Q. You were the final decision-maker when it came to policies
22 at Canal; is that correct?

23 A. Yes, ultimately.

24 Q. You were the final decision-maker, correct?

25 A. Yes.

NAU6ROB4A

De Niro - Direct

1 Q. Now, you hired Ms. Robinson as an executive assistant,
2 right?

3 A. Mm-hmm, yes.

4 Q. 2008?

5 A. Yes.

6 Q. She gained responsibility over time to become your lead
7 assistant?

8 A. I forget. I mean, she was my assistant, my main person,
9 from the time that I hired her.

10 Q. So going all the way back, she was your lead assistant; is
11 that your testimony?

12 A. More or less. I mean, she might need help from other
13 people to find out what to do exactly, this and that, you know.

14 Q. So she gained responsibility over time, correct?

15 A. Yeah.

16 Q. At the time that Ms. Robinson departed from Canal, she was
17 the Vice President of Production and Finance, correct?

18 A. Yeah, that was a title I gave her because she wanted it.
19 You told her it really doesn't matter, but I'll give you the
20 title if you want.

21 Q. Well, she didn't force you to give her the title, correct?

22 A. She wanted me to give her the title. She was very -- put a
23 lot of pressure on me to put the title, give her the title.

24 Q. She worked for you, correct, sir?

25 A. Mm-hmm.

NAU6ROB4A

De Niro - Direct

1 THE COURT: Hold on for a second. Mr. De Niro, you
2 have to answer yes.

3 THE WITNESS: Yes, yes, yes.

4 BY MR. MACURDY:

5 Q. You were the decision-maker at Canal?

6 A. Yes.

7 Q. You gave her that title, correct?

8 A. Yes.

9 Q. Throughout her tenure, ten or 11-year tenure at Canal,
10 Ms. Robinson was your point person at Canal?

11 A. Yes.

12 Q. She had been your point person for many years, correct?

13 A. Yes.

14 Q. She did anything and everything that you asked?

15 A. Well, not anything and everything. Anything within the
16 norms of a job like she had.

17 Q. Did you give a deposition in this case, sir?

18 A. Excuse me?

19 Q. You gave a deposition in this case?

20 A. Yes, I did.

21 Q. You were asked questions --

22 THE COURT: Hold on a second. Do I have a copy of the
23 deposition?

24 MR. MACURDY: Yes, your Honor, I can bring it up.

25 (Pause)

1 THE COURT: You may approach.

2 MR. MACURDY: Thank you, your Honor. This is all of
3 them.

4 THE COURT: That's good to hear. Don't worry, members
5 of the jury, it's not going to all be read to you.

6 Go ahead, Counsel.

7 BY MR. MACURDY:

8 Q. Sir, you gave a deposition. You were asked questions by an
9 attorney for Ms. Robinson, right?

10 A. Yes.

11 Q. You had an attorney present?

12 A. Yes.

13 Q. And you swore to tell the truth in that deposition?

14 A. Yes.

15 Q. And it was video recorded and transcribed, correct?

16 A. Yes, it was.

17 MR. MACURDY: Your Honor, I'd like to read from
18 deposition day one of Mr. De Niro, April 4, 2022, Page 98,
19 Lines 5 through 19.

20 THE COURT: Hold on for a second.

21 Any objection?

22 MR. DROGIN: No.

23 THE COURT: Go ahead.

24 "Q. So besides getting presents and going to stores, what else
25 would she do?

1 "A. Well, you know, whatever, whatever. She helped me with the
2 house. She pulled in a friend of hers. I said fine, the
3 interior designer. We would go to the Design Center or here
4 and there, look for furniture, order furniture to certain
5 specifications. She helped me with this, a piece of furniture.
6 Be there waiting when it would come in, or somebody. She'd
7 have Michael there waiting for when it would come in. You
8 know, it was anything, anything and everything."

9 A. Yes.

10 Q. So was anything and --

11 THE COURT: Your question is, did he give that
12 testimony?

13 BY MR. MACURDY:

14 Q. Did you give that testimony, sir?

15 A. Yes.

16 Q. So it was anything and everything related to your
17 professional life?

18 A. No, it was -- yeah, it was related to my professional life,
19 of course it was. When I said anything and everything, it's
20 anything and everything related to, in this case, the townhouse
21 or any other duties that she had as my personal assistant.

22 Q. Right, sir. So anything and everything you asked her to do
23 related to your professional --

24 A. I don't know what you're trying to say. Are you trying to
25 say I asked her anything and everything, or are you asking me a

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De Niro - Direct

1 commonsense question? I asked her to do anything within reason
2 and within the confines of her job.

3 THE COURT: Hold on, Mr. De Niro. Let him finish the
4 question.

5 THE WITNESS: Okay.

6 THE COURT: Then we can know what he's asking.

7 Go ahead.

8 BY MR. MACURDY:

9 Q. My question, sir, is anything and everything that you asked
10 Ms. Robinson to do, related to your professional life, she had
11 to do, correct?

12 A. Again, I have to say what do you mean by anything and
13 everything? Anything and everything within the confines of her
14 job. Yes.

15 Q. Those were your words at the deposition, correct, sir?

16 A. They are my words but those words mean something
17 specifically. They don't mean anything and everything. I'm
18 careful about what I ask her to do because she works for me and
19 has to do certain things but not everything.

20 Q. She also had to do anything and everything related to your
21 personal life, correct?

22 A. No, that makes it sound like it's something that it's not.
23 I don't like that implication. She -- anything and everything
24 within the confines of her job working for me as my assistant.

25 Q. So she worked her way up over time to supervise other

NAU6ROB4A

De Niro - Direct

1 assistants at Canal, correct?

2 A. Say that again, sorry.

3 Q. She worked her way up over time to supervise the other
4 assistants at Canal, right?

5 A. Yes.

6 Q. She was your enforcer with those other assistants, correct?

7 A. I don't like to use that word, "enforcer." She's not an
8 enforcer. And if she ever enforced with people, I wouldn't
9 approve of that. I wouldn't like it.

10 Q. Any assignment you had for anybody to do at Canal, one of
11 the assistants, would go through Ms. Robinson, correct?

12 A. More or less unless she wasn't there and I had to have
13 somebody else do it. That was a job, a privilege that she had
14 to do that, and I trusted her to do that. That meant doing it
15 properly, not doing anything that's wrong, not bullying,
16 nothing improper. That's the number one rule.

17 THE COURT: Mr. De Niro, can you try to limit yourself
18 to the question that's being asked. You'll have the
19 opportunity on examination by your counsel to elaborate.

20 Go ahead, Counsel.

21 BY MR. MACURDY:

22 Q. For example, it would be up to Ms. Robinson to make sure
23 other assistants were available and on call for you to contact
24 them if needed, correct?

25 A. Yes.

NAU6ROB4A

De Niro - Direct

1 Q. You employed Ms. Robinson for over a decade because she was
2 a good worker, right, sir?

3 A. Well, yes, she was a good worker, I relied on her, I
4 trusted her. As I said say, I've always -- I work on the honor
5 system. I expect people to treat people the way they would
6 want to be treated. And it's that simple.

7 Q. You increased her responsibilities over time because she
8 was a good worker, correct?

9 A. Yes.

10 Q. She took care of business?

11 A. She took care of business.

12 THE WITNESS: Can I say one thing, your Honor?

13 THE COURT: If you need to make --

14 THE WITNESS: I'll just say one thing. She took care
15 of business as long as she did it the right way with the
16 people. If she did it the wrong way, which came to me later
17 after all this past, no, that I don't accept and don't like and
18 would never support.

19 BY MR. MACURDY:

20 Q. She took care of business, correct, sir?

21 A. Fine. You want to say she took take care of business,
22 yeah, she took care of business.

23 Q. She was thorough?

24 A. Well, I hope she was thorough.

25 Q. She was thorough, correct, sir?

NAU6ROB4A

De Niro - Direct

1 A. She was thorough, I hope.

2 Q. Ms. Robinson was a thorough worker?

3 A. She claimed to be -- gave me the impression she was. I
4 cannot say in all certainty whether she was a thorough worker
5 completely, no.

6 Q. She was conscientious?

7 A. Excuse me?

8 Q. She was a conscientious worker?

9 A. Yes.

10 Q. There was a time when she found an e-mail?

11 A. Sorry.

12 Q. There was a time when she found an e-mail in which someone
13 you knew falsified something. And she found a letter to --
14 that identified the falsification?

15 A. Right.

16 Q. You paid her more than your other assistants, correct?

17 A. Yes. I paid her more eventually, yes, I paid her well.

18 Q. And that was because you valued the work that she did?

19 A. Well, that was one part of it. Then later on it was
20 because I needed her and I was at a time going through a
21 divorce, getting rent -- starting to rent a new townhouse. And
22 it wasn't an elaborate townhouse, it was a functioning, good,
23 practical townhouse, which is what I needed.

24 And so she said, "I'm going to leave just before
25 Christmas." And I said, well, let's figure this out. And we

NAU6ROB4A

De Niro - Direct

1 worked out a situation where I would pay her more, give her a
2 title and so on.

3 Q. The townhouse was 3200 square feet by Central Park,
4 correct, sir?

5 A. It's a few blocks east of Central Park.

6 Q. It was large?

7 A. It's large by -- yeah. Not that large, but it's large.

8 Q. And you paid her more, you needed her for that work because
9 she did valuable work for you, correct?

10 A. Yes. It was valuable to me, and, again, I always stress
11 this, as long as she was doing it properly.

12 Q. Sir, my question is a yes-or-no question. You valued the
13 work that Ms. Robinson did for you?

14 A. I did value the work. And I valued the work if it's not
15 done right because that reflects on me. So, yes, in that way I
16 did value the work.

17 Q. At a certain point Canal even hired someone to work as an
18 assistant to Ms. Robinson, correct?

19 A. Say that again, sorry.

20 Q. At a certain point, Canal even hired a person to work as an
21 assistant to Ms. Robinson?

22 A. It might have been at her request.

23 Q. Her name was Lulu White, correct?

24 A. Yes.

25 Q. Is that correct, sir?

NAU6ROB4A

De Niro - Direct

1 A. That's correct, yes.

2 Q. Now, on multiple times throughout Ms. Robinson's 11 years
3 with you, you had negotiations with her about her position,
4 correct?

5 A. Yes.

6 Q. Negotiations about her job duties?

7 A. Yes.

8 Q. Negotiations about her compensation at Canal?

9 A. Mm-hmm, yes.

10 Q. You knew that she aspired to be an executive in the film
11 industry, correct?

12 A. I didn't really know that, no.

13 Q. So it's your testimony you didn't have any idea about
14 Ms. Robinson's aspirations in the film industry?

15 A. No, I didn't, not really, no.

16 Q. She asked to be more involved in production at Canal,
17 correct?

18 A. Well, yes, people want and I can only do so much. The way
19 my situation works, I don't want people to think that they are
20 getting into something that's going to give them an opportunity
21 when it's not there. If it is there, I tell them take the job,
22 it's better for you, it's better for your career. I never get
23 in the way of that.

24 I tell them go, it's most important that you take care
25 of what you want to do because I'm not sure, this could be a

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De Niro - Direct

1 steppingstone but I'm not sure it's going to be what you
2 ultimately are going to be satisfied with. I wish I could help
3 you more, that's all I can do.

4 Q. Sir, my question was, Ms. Robinson asked --

5 A. No, I'm not saying to you, I'm saying to them, I wish I
6 could help you more, that's all I can do.

7 Q. To get back to my question, sir, Ms. Robinson asked to be
8 more involved in production at Canal, yes or no?

9 A. Yes, and my job -- the job is what it is. So I couldn't do
10 more than say, look, this is it, you know.

11 Q. First in 2011, you elevated her to director of production
12 at Canal, correct?

13 A. She wanted the title, she bugged me about it, and I said,
14 okay. It's not going to really matter. The most important
15 thing is that you just do your job, work for me, do the right
16 thing, and I will always have a good thing to say about you,
17 you know, period. That's the most important thing.

18 Q. The most important thing was how you would or would not
19 recommend her, correct?

20 A. What do you mean how I would or would not recommend her?

21 Q. Well, you just said, sir, the most important thing is what
22 you would say about her?

23 A. Yes, it was -- I don't think I said would not, I think I
24 said what I would say about her. It's that simple. The titles
25 were not important. It was doing the job, doing it well, doing

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De Niro - Direct

1 it honorably. As I say, it's the honor system, I trust you're
2 going to do the right thing. That's all I ask. And you are
3 protecting me. By doing the right thing, you are in turn doing
4 the right thing by me.

5 Q. Sir, you elevated Ms. Robinson's title because you wanted
6 her to continue working for you in 2011, correct?

7 A. Yes.

8 Q. In 2017, you elevated her title to VP of production and
9 finance because you wanted her to continue working --

10 A. That's what she wanted and that's what I said, okay, I'll
11 give it to you.

12 Q. You did it so she would continue working for you?

13 A. If you want to put it that way, okay.

14 Q. You thought she was pushy about these titles, right?

15 A. I did. I don't think she understood what was really
16 important.

17 Q. You thought she was forward in asking for that, correct?

18 A. I don't want to say forward. If somebody wants something
19 and it's important to them, part of me says, okay, if it's
20 important to you, I'll give it to you, though I'm giving you
21 some other advice and saying that's really not what's the most
22 important thing. But if you want it, okay, I'll give it to
23 you.

24 Q. You also negotiated with her over the years about her
25 compensation, correct?

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De Niro - Direct

- 1 A. Yes.
- 2 Q. Including the perks and benefits of her job.
- 3 A. Yeah, I guess, we did, or she did maybe with Michael Tasch
4 or even I guess with Berdon, some things.
- 5 Q. She spoke with you, sir --
- 6 A. Yeah, no problem. I'm not saying we didn't, I'm saying
7 there might be other things. But basically yes, it was us.
- 8 Q. I'd like to go through some of the tasks you regularly had
9 Ms. Robinson do for you over those 11 years at Canal.
- 10 She would manage your schedule?
- 11 A. Mm-hmm. Yes.
- 12 Q. She would remind you often multiple times a day the next
13 event on your schedule?
- 14 A. Yes.
- 15 Q. She would manage your contacts list?
- 16 A. Yes.
- 17 Q. Field media requests on your behalf?
- 18 A. Yes.
- 19 Q. Interview candidates for other assistant positions at
20 Canal?
- 21 A. Yes.
- 22 Q. Sir, you frequently traveled on private jets, correct?
- 23 A. Yes.
- 24 Q. Probably once a month you take a private jet?
- 25 A. Not that often, no.

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De Niro - Direct

1 Q. Multiple times a year?

2 A. A few times a year, sometimes.

3 Q. Ms. Robinson arranged your travel on a private jet?

4 A. She did, yes.

5 Q. Now, in the period Ms. Robinson worked for you from 2008 to
6 2019, you had over 25 movies come out. Does that sound about
7 right?

8 A. Could be, yes.

9 Q. Ms. Robinson would scout hotels for you when you had to
10 shoot on location?

11 A. She would what, sorry?

12 Q. She would scout hotels for you.

13 A. There were times she started doing that, yes.

14 MR. MACURDY: Mr. Kelly, can we bring up plaintiff's
15 211?

16 BY MR. MACURDY:

17 Q. Mr. De Niro, this is an e-mail from Ms. Robinson, top one
18 is from Ms. Robinson to you. Sunday March 26, 2017, at
19 8:52 a.m., do you see that? Do you see that, sir?

20 A. I'm trying to, sorry.

21 THE COURT: Give him a moment to look at it.

22 Sir, do you recognize that as an e-mail from you to
23 Ms. Robinson?

24 THE WITNESS: Yeah, I'm just...

25 THE COURT: The question is really simple, do you

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De Niro - Direct

1 recognize that?

2 THE WITNESS: Yes, I do, of course.

3 THE COURT: From Ms. Robinson.

4 Okay, go ahead.

5 BY MR. MACURDY:

6 Q. This is an e-mail on March 26 on this Sunday, Ms. Robinson
7 telling you that she's going to tour a hotel that day, correct?

8 THE COURT: Are you offering the --

9 MR. MACURDY: Yes, I can go ahead and offer
10 Plaintiff's 211.

11 A. I'm sorry, but it says --

12 THE COURT: Hold on, Mr. De Niro.

13 Is there any objection to this exhibit?

14 MR. DROGIN: Your Honor, can there be a representation
15 as to what time zone the parties were in. Because this can be
16 misleading with a lot of these e-mails and there's been
17 testimony -- sorry, there's been mention that at times,
18 Ms. Robinson was in Los Angeles or London or Spain. We don't
19 really know where any of these people are.

20 THE COURT: Is there representation about time zone?

21 MR. MACURDY: I don't have a representation about time
22 zone, your Honor.

23 THE COURT: I take it there's no other objection to
24 the exhibit?

25 MR. DROGIN: No.

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De Niro - Direct

1 THE COURT: The exhibit is received.

2 Members of the jury with respect to the time zone,
3 that will be a judgment you will have to make if there's
4 evidence with respect to it. Go ahead.

5 (Plaintiff's Exhibit 211 received in evidence)

6 MR. MACURDY: Mr. Kelly, you can show that to the
7 jury.

8 BY MR. MACURDY:

9 Q. So, sir, this is the Sunday March 26, 2017, 7:23 a.m., the
10 first e-mail, Ms. Robinson writes, second line down: My flight
11 leaves to Atlanta at 11:55 a.m. and lands at 2:46 p.m. I'll
12 tour the hotel and return on a 7:45 p.m. flight landing at
13 10:05 p.m.

14 You see that, sir?

15 A. Yes.

16 Q. So this is an example of Ms. Robinson on a Sunday going to
17 tour a hotel for you in Atlanta prior to you going there; is
18 that right?

19 A. Yes. Yes.

20 MR. MACURDY: You can take that down, Mr. Kelly.

21 Thank you.

22 BY MR. MACURDY:

23 Q. Ms. Robinson would coordinate your production schedule for
24 shoots?

25 A. I'm sorry, say that again.

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De Niro - Direct

1 Q. Ms. Robinson would also coordinate your production schedule
2 for your movie shoots?

3 A. Yes, yeah, we would coordinate -- there's a few parts to
4 that, yeah.

5 THE COURT: Sir, let me just ask the exhibit that we
6 just saw, was that Plaintiff's Exhibit 211, is that what it is?

7 MR. MACURDY: Yes.

8 THE COURT: So 211 is received.

9 BY MR. MACURDY:

10 Q. She would help create initial budgets for your production
11 costs, correct?

12 A. Not for production costs of the film. There was a period
13 where she was doing stuff for me. I would be given a certain
14 amount of money and I had to figure out how I would pay people
15 who work directly with me. So it wasn't the budget of the film
16 or anything like that, it was just that small area.

17 Q. So you would coordinate or work on the budget related to
18 your costs, sir?

19 A. With my costs.

20 Q. Ms. Robinson communicated with your agent?

21 A. She did, yeah.

22 Q. She communicated with your entertainment lawyer?

23 A. Yes.

24 Q. And, sir, we heard from your counsel, you're the owner or
25 part owner of many businesses, right?

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De Niro - Direct

- 1 A. Yes.
- 2 Q. Greenwich Hotel?
- 3 A. Excuse me.
- 4 Q. You're the owner of the Greenwich Hotel?
- 5 A. Yes.
- 6 Q. Tribeca Film Festival?
- 7 A. Yes.
- 8 Q. Ms. Robinson helped vet the schedule for the film festival?
- 9 A. Yes.
- 10 Q. You own Nobu restaurants and hotels around the world?
- 11 A. Sorry?
- 12 Q. You own Nobu restaurants and hotels around the world?
- 13 A. Yes.
- 14 Q. You also had Ms. Robinson perform errands for you and your
15 family, correct?
- 16 A. What kind of errands Can you be specific?
- 17 Q. As a general manager, you would agree you had Ms. Robinson
18 perform errands for you and your family?
- 19 A. Yeah, at certain -- yes, okay.
- 20 Q. For example, it was Ms. Robinson's job to remind you about
21 gifts for certain people, whether it be professional or
22 personal relationships, each year, correct?
- 23 A. Yes.
- 24 Q. Birthdays?
- 25 A. Yes.

1 Q. Christmas?

2 A. Yes.

3 Q. So you had a list of Christmas presents for hundreds of
4 people in your life, correct?

5 A. A lot of people.

6 Q. You had her help you shop for the gifts?

7 A. Sometimes.

8 Q. You had her send flowers to coworkers and family members on
9 your behalf?

10 A. Yes.

11 Q. You had her vet and coordinate vacation rentals for you?

12 A. What did you say, vet?

13 Q. Vet and coordinate vacation rentals for you?

14 A. Yes.

15 Q. You had her research schools for your kids?

16 A. I don't remember that, but maybe she did.

17 THE COURT: Counsel, whenever you get to a convenient
18 breaking point, we'll take our midafternoon break.

19 MR. MACURDY: Now is fine, your Honor.

20 THE COURT: Members of the jury, it's just about 3:30,
21 so we'll take a 15-minute break now. Please don't talk about
22 the case amongst yourselves or with anybody else and please
23 don't do any research on the case. Enjoy your break.

24

25

1 (Jury not present)

2 THE COURT: Mr. De Niro, you may step down. Please be
3 back here and ready to be on the stand in ten minutes.

4 Plaintiff's counsel, you had an issue you wanted to
5 raise at sidebar. Can you raise it from where you are?

6 MR. MACURDY: Yes, your Honor.

7 THE COURT: Okay.

8 MR. MACURDY: It relates to counsel's opening
9 statement. Two points, I think that counsel violated two of
10 your *in limine* rulings during their opening statement. So one
11 is -- relates to talking about personal dislike by other
12 employees. This was our motion *in limine* 8.

13 THE COURT: I recall -- did I give any instructions
14 with respect to the opening statement?

15 MR. MACURDY: Not opening statement.

16 THE COURT: What's your next issue, because I just --
17 I only ruled on the admissibility of evidence on that. So
18 what's your next issue?

19 MR. MACURDY: If I could just say one thing, your
20 Honor?

21 So your Honor said that they can pull the poison by
22 asking -- their witnesses are going to be cross-examined on the
23 fact that they personally dislike the plaintiff and that they
24 dislike colors of testimony. They can't be asked about the
25 specific events that caused them to have negative personal

1 feelings towards plaintiff unless, of course, we get into that
2 on cross-examination, and they talked about specifics about
3 celebrations after she left.

4 THE COURT: You've got your record. I understand your
5 point. The motion is denied.

6 MR. MACURDY: The other one, your Honor, is they went
7 into the details of a June 11th e-mail that Ms. Robinson sent
8 with a severance proposal which your Honor had ruled that that
9 comes in only for impeachment reasons. And I'm suggesting that
10 they opened the door -- that comes on the heels of them sending
11 a waiver of claims to her. And your Honor has ruled the waiver
12 is not coming in.

13 But if they're able to go into the details of what she
14 put in that responsive proposal, I think we should be able to
15 discuss the waiver that went to her from Canal before that, and
16 admit that into evidence.

17 THE COURT: I would think that's not at issue with
18 respect to the De Niro testimony, but only with respect to the
19 Harvey testimony; is that correct?

20 MR. MACURDY: I think -- you'd like have to --

21 THE COURT: Let me put it more specifically. Is that
22 something that you're intending to do through Mr. De Niro this
23 afternoon?

24 MR. MACURDY: Not this afternoon, your Honor, but I
25 would --

1 THE COURT: I'll hear from the parties with respect to
2 that this afternoon after we break from court.

3 MR. DROGIN: Your Honor, I may be able to make it a
4 lot easier. We would withdraw the objection provided that
5 there were simply two redactions.

6 THE COURT: So you'll meet and confer and you'll see
7 if there's an issue for me to address.

8 Is there anything else from plaintiff?

9 MR. MACURDY: No, your Honor. Thank you.

10 THE COURT: Anything from defendant?

11 MR. SCHOENSTEIN: Nope.

12 THE COURT: See you back here at -- make sure you are
13 back at 3:40, so we can start promptly at 3:45.

14 (Recess)

15 THE COURT: All right. Let's bring in the jury.

16 Mr. De Niro, please take the stand.
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NAU6ROB4

De Niro - Direct

1 (Jury present)

2 THE COURT: Counsel, you may continue.

3 MR. MACURDY: Thank you, your Honor.

4 BY MR. MACURDY:

5 Q. So, Mr. De Niro, we were talking about the tasks that you
6 had Ms. Robinson perform in the course of her employment. One
7 was that you had her assist with your pets.

8 A. With my pets?

9 Q. Correct.

10 A. Yes. Sometimes, yeah, when -- Tiffany had pets. We had a
11 lot of dogs. She might have asked her to help in that area,
12 yeah.

13 Q. You had Ms. Robinson vet housekeepers for you?

14 A. Sorry?

15 Q. You had Ms. Robinson vet housekeepers?

16 A. I can't remember, but I might have.

17 Q. Had her in charge of finding plants for your homes?

18 A. Yes.

19 Q. Had her pick out photos to be framed in your home?

20 A. Yes.

21 Q. You often had Ms. Robinson work on sensitive assignments,
22 correct?

23 A. I'm not sure what is meant by that.

24 Q. Well, things that needed to be handled discreetly, correct?

25 A. One thing, two things -- I don't know what they are, so

NAU6ROB4

De Niro - Direct

1 sometimes but not that discreet, not that sensitive.

2 Q. For example, you tasked Ms. Robinson with various items
3 related to your former partner, Toukie Smith, who has multiple
4 sclerosis, correct?

5 A. Yes, that's -- that would be, I asked her at one point to
6 help with her -- yes.

7 Q. You have two kids with Ms. Smith, correct?

8 A. Yes.

9 Q. You asked Ms. Robinson to help out with Ms. Smith's
10 caregivers and social workers?

11 A. Yes.

12 Q. You asked Ms. Robinson to help clear out Ms. Smith's Miami
13 apartment for sale?

14 A. Yes.

15 Q. You had Ms. Robinson address Ms. Smith's home health needs,
16 correct?

17 A. I'm sorry?

18 Q. Her home health needs.

19 A. That could have been, yes.

20 Q. And you decided Ms. Robinson's assignments in conversations
21 between you and her?

22 A. Yes.

23 Q. You didn't discuss with others at Canal assignments you had
24 Ms. Robinson doing for Ms. Smith?

25 A. No. In this case, it was with her, Robinson.

NAU6ROB4

De Niro - Direct

1 Q. You instructed Ms. Robinson to collect evidence for you to
2 use in your divorce proceeding against Grace Hightower,
3 correct?

4 A. I don't know exactly about that. She might have been asked
5 by the lawyers to go back and search through e-mails and
6 records of that sort, maybe.

7 Q. So, yes or no, sir, you instructed Ms. Robinson to collect
8 evidence for you to use in your divorce proceeding with
9 Grace Hightower?

10 A. I guess if it was like that, I'd have to say yes, I
11 suppose.

12 THE COURT: Sir, just, answer the question to the best
13 of your ability.

14 THE WITNESS: Okay.

15 A. To the best of my ability, I -- you know, I did -- she did
16 do that.

17 Q. You had Ms. Robinson communicate with your divorce attorney
18 on your behalf, correct?

19 A. Yes.

20 Q. You had Ms. Robinson go with you to doctors' appointments?

21 A. At times. It was only one. There was one where I had
22 gotten hurt, and she took me early in the morning to a doctor
23 or to the hospital, you know.

24 Q. She went with you to the emergency room, correct?

25 A. She did, yes.

NAU6ROB4

De Niro - Direct

1 Q. And that was in 2017, you fell down the stairs, correct?

2 A. Yes.

3 Q. Early in the morning, before 6:00 a.m.?

4 A. Yeah, it was very early.

5 Q. You called Ms. Robinson to come to your house?

6 A. I called her -- I guess it happened about 1:00, 2:00 in the
7 morning, and I didn't want to call her too early. I didn't
8 want to go -- I went back up, managed to get back in bed, and
9 then I called her around 4:30, 5:00, and then said if you can
10 come with a car, cab, or whatever, we can go to a hospital.

11 Q. She went with you to the ER?

12 A. Mm-hmm, yes.

13 Q. Your wife, Grace Hightower, didn't go with you?

14 A. She was sleeping. I didn't want to bother her.

15 Q. You had Ms. Robinson fill out medical forms for you,
16 correct?

17 A. Yes.

18 Q. You had Ms. Robinson list herself as the emergency contact
19 on your medical forms?

20 A. I could have, yes.

21 Q. You didn't list your wife?

22 A. That doesn't matter. It's another type of thing. It's
23 more of a professional -- nothing to do with anything. She's
24 going to contact my wife if there's anything serious, so it was
25 just the office way.

1 Q. You did not list your wife --

2 A. No, I didn't.

3 Q. Sir, please wait for me to finish the question.

4 A. Go ahead.

5 Q. You did not list your wife on your emergency contact forms?

6 A. No.

7 Q. Ms. Robinson knew more about you than any other person in
8 your life; isn't that right?

9 A. No, she didn't.

10 MR. DROGIN: Objection.

11 THE COURT: Sustained.

12 BY MR. MACURDY:

13 Q. You asked Ms. Robinson to make photo albums for your kids'
14 birthdays?

15 A. Yes.

16 Q. You have seven kids?

17 A. Yes.

18 Q. You had her make photo cards for your former wife on
19 Valentine's Day?

20 A. Yes, I did. And she's very good at it.

21 Q. You had Ms. Robinson --

22 A. It's one of the things -- few things, good things that she
23 really was quite good at.

24 Q. You had Ms. Robinson go to one of your houses to assess
25 what you should keep before the house was demolished?

NAU6ROB4

De Niro - Direct

1 A. Oh, after the fire?

2 Q. House in Montauk.

3 A. I don't remember. I could have.

4 Q. 2018, you were moving into a new home, correct?

5 A. Yeah.

6 Q. You were separating from your wife, Grace Hightower, and
7 moving in with your new girlfriend, Tiffany Chen?

8 A. Yes.

9 Q. You had Ms. Robinson walk through apartment rentals for you
10 while you were on FaceTime, correct?

11 A. Yes.

12 Q. You eventually selected the townhouse we've been talking
13 about, which is near Central Park, correct?

14 A. Right.

15 Q. You wanted Ms. Robinson to help you set up that home?

16 A. Well, she was helping me with basic things. She introduced
17 me to her friend, Rachel, who was an interior designer. I
18 said, okay, we'll use her. And, you know, yeah, she was
19 helping me get moved in.

20 Q. Well, she was helping with more than just basic things.
21 She helped you fully set up that townhouse in a matter
22 of months, correct?

23 A. She -- yeah. Well, she was helping me, as she should,
24 yeah.

25 Q. She was filling five bedrooms, five baths all from scratch,

NAU6ROB4

De Niro - Direct

1 correct?

2 A. If you want to say it like that, okay.

3 Q. Well, she furnished it all?

4 THE COURT: You don't need to subscribe or not
5 subscribe. You just need to answer the question.

6 THE WITNESS: Okay. All right.

7 A. Yes.

8 BY MR. MACURDY:

9 Q. Ms. Robinson helped you furnish that entire townhouse,
10 correct?

11 A. With Rachel, she helped -- I guess all the other people she
12 brought in like Sabrina a little bit and Lulu, yes.

13 Q. Ms. Robinson oversaw the furnishing of this entire
14 four-story townhouse, correct?

15 A. I can't remember, but you could say I guess she did, yeah.

16 Q. By 2019, you had Ms. Robinson spending the majority of the
17 time on your townhouse, right?

18 A. A lot of the time, yes.

19 Q. A majority of the time, correct?

20 A. A lot of time.

21 Q. A majority of the time?

22 A. I wouldn't say majority. I said a lot of time.

23 Q. You tasked her with interior design for the townhouse?

24 A. I'm sorry?

25 Q. You tasked her with interior design for your townhouse?

NAU6ROB4

De Niro - Direct

1 A. I asked -- you know, I didn't even ask. She suggested
2 Rachel. I said okay, I met her, I liked her. I said okay.

3 Q. You had Ms. Robinson work -- design the room layouts in
4 your townhouse, correct?

5 A. Not really. She did it with my looking at stuff, saying I
6 want this here, I want that, those paintings here, I want the
7 bed here, and all that stuff.

8 Q. She helped you pick out artwork?

9 A. The artwork was all my father's, so she might have helped
10 in some ways, but it was all basically his.

11 Q. She ordered furniture?

12 A. Yes. That I picked out.

13 Q. You had her unpack your belongings in the townhouse?

14 A. There might be times that she did, yeah, putting stuff
15 away.

16 Q. You had her childproof the townhouse?

17 A. I could have.

18 Q. Did you or did you not, sir?

19 A. I don't know. I don't remember. If she said she did,
20 then, okay, she did.

21 THE COURT: No, sir. It's just you give what you
22 know.

23 THE WITNESS: I don't remember really if she
24 childproofed the townhouse. There were certain commonsense
25 things that I had to do with the -- in the townhouse to make

NAU6ROB4

De Niro - Direct

1 sure that the kids -- my little daughter would be safe or any
2 other kids would be there. So I can't remember specifically
3 but there might have been stuff. But I was also looking at
4 this and saying, you got to do this, you go to do that.

5 MR. MACURDY: Your Honor, I'd like to read from
6 Mr. De Niro's deposition from April 4, 2022, 173, 3 to 6.

7 THE COURT: Any objection?

8 MR. SCHOENSTEIN: No objection.

9 THE COURT: Go ahead.

10 "Q. Ms. Robinson helped coordinate in 2018 childproofing for
11 your townhouse windows, didn't she?

12 "A. Yes."

13 That was your testimony, correct?

14 A. Yes.

15 Q. And when Tiffany Chen, your current girlfriend, came into
16 the picture, you told Ms. Robinson to assist Ms. Chen with
17 whatever Ms. Chen needed?

18 A. She didn't tell her to assist. She asked her certain
19 things, to do certain things. I introduced them, knowing that
20 this was the time to be introduced, and that what Chase
21 Robinson --

22 Q. Sir, can I clarify my question?

23 THE COURT: Your question is what Mr. De Niro
24 instructed?

25 MR. MACURDY: Yes, your Honor.

NAU6ROB4

De Niro - Direct

1 THE COURT: Let's do the question again. Ask the
2 question again.

3 BY MR. MACURDY:

4 Q. When Tiffany Chen, your current girlfriend, came into the
5 picture, you told Ms. Robinson to assist Tiffany Chen with
6 whatever Ms. Chen needed. Yes or no.

7 A. Yes, that was the implication, if you will. Introduced
8 them and she should help us move forward.

9 Q. That was in September of 2018?

10 A. Okay.

11 Q. Is that correct?

12 A. I don't remember, but if you say so, it must be.

13 Q. Eventually --

14 THE COURT: Sir, the questions are not evidence, so
15 you just give your best recollection.

16 THE WITNESS: Then I'll say yes, because I'm not sure
17 if it's there, then that's yes.

18 BY MR. MACURDY:

19 Q. Eventually, Ms. Robinson was -- Ms. Chen was supervising
20 Ms. Robinson at that point when it came to setting up the
21 townhouse, correct?

22 A. Yeah. I mean, she was -- I guess you would say she was
23 supervising.

24 Q. It became part of Ms. Robinson's job to work for Ms. Chen?

25 A. To work for us.

NAU6ROB4

De Niro - Direct

1 MR. DROGIN: Objection.

2 THE COURT: Objection is overruled.

3 A. To work for me and Ms. Chen.

4 (Continued on next page)

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1 BY MR. MACURDY:

2 Q. Part of Ms. Robinson's job was to work for Ms. Chen; yes or
3 no.

4 A. For me and Ms. Chen. Period. I make decisions there. We
5 make decisions together.

6 Q. Part of Ms. Robinson's job was to work --

7 A. Part of it --

8 MR. DROGIN: Objection.

9 THE COURT: Objection sustained. New question.

10 Q. Ms. Chen also directed other employees at Canal; is that
11 right?

12 A. Sorry?

13 Q. Ms. Chen also directed other employees at Canal; isn't that
14 right?

15 A. Can you give me an example?

16 Q. Michael Kaplan?

17 A. She could have told him, yes, things to do; yes.

18 Q. Michael Tasch, the accountant?

19 A. Yes.

20 Q. Tom Harvey, the lawyer?

21 A. Not told him but she made him aware of certain things.

22 Q. She gave him instructions; yes or no.

23 A. Who? Who did she give instructions to?

24 Q. To Tom Harvey, Canal's lawyer.

25 A. That doesn't quite sound right. The lawyer is there for

NAU5rob5

De Niro - Direct

1 advice and certain things, it is not instructions. I don't
2 like the way that's put. I'm sorry.

3 Q. Sir, working for you doing anything and everything is a
4 demanding job, correct?

5 A. Depends on how you look at it.

6 Q. It would be unpredictable hours?

7 A. No. The hours were civilized. I never went over and --
8 somebody made some statement before at all hours of the night.
9 No, I never did that. I was very proper as far as my hours and
10 times. What Chase did on her own working and saying she worked
11 all night, that's her thing. But what I had is I called at a
12 decent hour in the morning and I go until a decent hour at
13 night.

14 Q. Sir, you testified a few minutes ago that you called her at
15 4:30 a.m.?

16 A. That was one time when I cracked my back falling down the
17 stairs, yes. I was just about to bring that up.

18 THE COURT: Mr. De Niro, let me instruct you -- both
19 the questioner and counsel -- keep your voices down and wait
20 until each other finishes, respectively, the question and the
21 answer.

22 Go ahead.

23 Q. Sir, is it your testimony that you did not call
24 Ms. Robinson late at night on a regular basis?

25 A. No.

NAU5rob5

De Niro - Direct

1 Q. You didn't call her early in the morning on a regular
2 basis?

3 A. 7:00 in the morning? Yes. If it -- I don't even think
4 much earlier than that I could have but it was not like 4:00 in
5 the morning, 3:00 in the morning. I just didn't do those
6 things. And at night I called her at a reasonable hour unless
7 it was an important thing that then it would be understood that
8 I would have to call her, like when I hurt my back and I asked
9 her to come. And I waited to call her at 5:00 or something to
10 come in a cab to pick me up. I didn't call her at 2:00 or 3:00
11 in the morning when it actually happened. It actually happened
12 at 1:00, 1:30, 2:00 at the latest.

13 Q. Sir, you relied on Ms. Robinson picking up your phone call
14 at 4:30 in the morning; correct?

15 A. I relied, not necessarily at that time. If she did, she
16 picked it up. If she hadn't, I would have left her a message.
17 But it wasn't like I relied on her to be on standby at 4:00,
18 4:30 in the morning.

19 Q. Well, Canal always had assistants who were on call;
20 correct?

21 A. Yes, but not in the middle of the night like that.

22 Q. So it is your testimony --

23 A. Civilized hours.

24 Q. It is your testimony, sir, that Canal did not have
25 assistants who were to be waiting by their phone for you to

NAU5rob5

De Niro - Direct

1 call?

2 A. No, they did, but not in the middle of the night.

3 Q. So you did not -- it is your testimony you did not expect
4 Canal's assistant, or at least one Canal assistant to be
5 available to answer your call in the middle of the night?

6 A. No.

7 MR. DROGIN: Objection. Your Honor, we are talking
8 about an 11-year period of time.

9 THE COURT: That's a fair point. Objection is
10 sustained. Why don't you frame it in terms of time periods.

11 BY MR. MACURDY:

12 Q. So at any point, Mr. De Niro, during Ms. Robinson's tenure
13 at Canal, is it your testimony that Canal did not have an
14 assistant available to answer your phone call any time of day
15 or night?

16 MR. DROGIN: Objection.

17 THE COURT: Sustained.

18 A. There --

19 THE COURT: Sir.

20 THE WITNESS: I don't have to answer?

21 THE COURT: Right. When there is an objection, you
22 pause. If I sustain the objection, the questioner goes on to
23 something new. If I overrule it, you answer.

24 Go ahead.

25 Q. Ms. Robinson was in fact available to you 24 hours a day

NAU5rob5

De Niro - Direct

1 seven days a week; correct?

2 MR. DROGIN: Same objection.

3 THE WITNESS: I will answer it.

4 THE COURT: Basis.

5 MR. DROGIN: I don't understand what available --

6 THE WITNESS: Yeah. Exactly. So sorry.

7 MR. DROGIN: -- means and he is talking about 24 hours
8 a day. She can be in Spain, she can be in California.

9 THE COURT: Objection is overruled. Overruled.

10 THE WITNESS: So --

11 THE COURT: So you have answer the question.

12 THE WITNESS: OK. When she moved to Spain to work I
13 let her. I didn't question her. I said as long as you can
14 take care of the things that I need taken care of and the hours
15 are different, say in Europe it is a six-hour difference, L.A.
16 it is a three-hour difference in the other direction, or
17 England it is a five-hour direction over there, then you -- it
18 is unsaid even that you know you have to -- if you have to wake
19 me up or remind me of something, then even if it is in the
20 middle of the night for you, that's the deal. But you go over,
21 I don't question what you do over there, you are working for
22 me. As long as you take care of what I need, no problem. That
23 was it. So in that sense, if she was over there in the middle
24 of the night but it was my morning or my, whatever the time is
25 middle of the night there but say it was -- I don't know I

1 can't -- but anyway, where the time difference is different it
2 is not in the middle of the night for her and another time for
3 me, then I would expect it and she would know that. But not
4 like in New York, 2:00, 3:00 in the morning, I call her any
5 time she is available. That's something that I never would do,
6 unless it was a total emergency like the one time I had the
7 accident.

8 MR. MACURDY: Your Honor, I ask that you instruct the
9 witness to answer my questions.

10 THE COURT: No. I think it is responsive.

11 BY MR. MACURDY:

12 Q. You expected that Ms. Robinson be available to you at all
13 hours; correct?

14 A. No, I did not expect her. If I called her in the middle of
15 the night and she didn't answer I would say, OK, I don't expect
16 her to. I don't expect the kids working for me now to answer
17 at that time and sometimes they don't.

18 Q. So it is your testimony, sir, that you did not rely on
19 Ms. Robinson being available to you at all hours?

20 MR. DROGIN: Objection.

21 A. No.

22 THE COURT: Sustained.

23 Q. Ms. Robinson let you know whenever she was traveling;
24 correct?

25 A. Yes. Well, she would have to.

NAU5rob5

De Niro - Direct

1 Q. You expected her to, correct?

2 A. Well, that's what she knows she has to do. That's the
3 least that she can do. If she says I'm going to go here for
4 this period of time in Europe, or London, or L.A., and I will
5 be here and this and that so I would say, OK. So, we keep in
6 touch, when needed.

7 Q. You wanted to know where Ms. Robinson was at all times;
8 correct?

9 A. I didn't want to know where she was at all times. It was
10 set up that I would know where she was because she told me.

11 Q. She was meticulous about keeping you informed about her
12 whereabouts; correct?

13 A. She let me know, yes, as she should.

14 Q. Even when it was --

15 A. You are making it look like I demanded and this and that.
16 She wanted to take, go to a place like Europe or L.A. or London
17 or England. She knew that that was an unusual request. I said
18 if you can get the job done, go ahead. And she did, so.

19 Q. Sir, she let you know where she was going even though it
20 was on a weekend; correct?

21 A. I don't remember. Sometimes. If it was something we had
22 to deal with on the weekend and I needed to talk to her about
23 something then she of course knew, as we both did, that we had
24 to talk about it and deal with it.

25 Q. She let you know, as a regular course of business, if she

NAU5rob5

De Niro - Direct

1 was going anywhere on the weekend; correct?

2 MR. DROGIN: Objection.

3 THE COURT: Sustained.

4 Mr. De Niro, when there is an objection, you pause --

5 THE WITNESS: Sorry.

6 THE COURT: -- and then I will rule.

7 Next question.

8 THE WITNESS: Sorry.

9 MR. MACURDY: Mr. Kelly, can you bring up Plaintiff's
10 116?

11 BY MR. MACURDY:

12 Q. Mr. De Niro, plaintiff's 116 is an e-mail exchange between
13 you and Ms. Robinson on Friday, March 1, 2019, around 8:00 p.m.

14 Do you see that?

15 A. Yeah. Yes.

16 MR. MACURDY: Your Honor, I would move to admit
17 Plaintiff's Exhibit 116 into evidence. I don't believe there
18 is any objection.

19 MR. DROGIN: No objection.

20 THE COURT: 116 is received.

21 (Plaintiff's Exhibit 116 received in evidence)

22 BY MR. MACURDY:

23 Q. The first e-mail here, Mr. De Niro, Ms. Robinson writes on
24 this Friday evening, at 7:10 p.m: I'm going to be out of town
25 at a friend's birthday next weekend. I'll leave on Friday

NAU5rob5

De Niro - Direct

1 night and back Sunday so I won't be in NYC for the weekend.
2 Just wanted to let you know. If you need anything this
3 weekend, let me know. I'm around.

4 Do you see that, sir?

5 A. Yeah.

6 Q. You write back: OK.

7 A. I don't know if I wrote -- I did write back, yes. OK.

8 MR. MACURDY: Mr. Kelly, can you pull up Plaintiff's
9 Exhibit 227?

10 Q. Mr. De Niro this is an e-mail from Ms. Robinson now on
11 Monday, December 24, 2018, at 9:43 a.m.

12 Do you see that?

13 A. Yeah.

14 MR. MACURDY: Your Honor, I move to admit Plaintiff's
15 Exhibit 227 into evidence.

16 MR. DROGIN: No objection.

17 THE COURT: Received.

18 (Plaintiff's Exhibit 227 received in evidence)

19 BY MR. MACURDY:

20 Q. This is on Christmas Eve, sir?

21 A. Yes?

22 Q. Ms. Robinson writes: Taking off. I land at 9:30 p.m. NYC
23 time. I hope you enjoy a relaxing and peaceful Christmas Eve.

24 Do you see that?

25 A. Uh-huh.

NAU5rob5

De Niro - Direct

1 THE COURT: You have to answer yes or no.

2 A. Yes. Sorry.

3 MR. MACURDY: Mr. Kelly, can you pull up Plaintiff's
4 Exhibit 225?

5 Q. Sir, this is an e-mail from Ms. Robinson on Friday,
6 September 28, 2018, at 10:33 p.m.

7 Do you see that?

8 A. Yes.

9 MR. MACURDY: I move to admit Plaintiff's Exhibit 225
10 into evidence.

11 MR. DROGIN: No objection.

12 THE COURT: Received.

13 (Plaintiff's Exhibit 225 received in evidence)

14 BY MR. MACURDY:

15 Q. The subject is flight, sir? Do you see that?

16 A. Yes.

17 Q. She writes: Taking off. Land at 5:45 a.m. your time.

18 A. Yes. OK.

19 Q. She is telling you this on a Friday night at 10:33 p.m.?

20 A. Yes.

21 Q. She is letting you know where she is going from 10:33 p.m.
22 to 5:45 a.m. your time; is that right?

23 MR. DROGIN: Objection.

24 A. Well, especially that she is probably going to Europe
25 because if it is 5:45 a.m. my time, most likely she was going

NAU5rob5

De Niro - Direct

1 to Europe or England.

2 THE COURT: I realize that there is an objection but
3 the witness answered before I had a chance to rule so the
4 objection is overruled.

5 Go ahead.

6 BY MR. MACURDY:

7 Q. Sir, she is telling you she is going to land at 5:45 a.m.
8 your time so she is letting you know that she is unavailable
9 overnight; correct?

10 A. Yes.

11 MR. DROGIN: Objection.

12 THE COURT: Sustained.

13 MR. DROGIN: Beat me to the punch.

14 THE WITNESS: Sorry. Sorry.

15 OFFICIAL REPORTER: I could use everyone to slow down,
16 your Honor.

17 THE COURT: Yes. That's a good point.

18 Both counsel and the witness are to slow down. The
19 court reporter is taking down the testimony. If you don't slow
20 down, the court reporter is not going to have an accurate
21 record and it is critical that we have an accurate record.
22 Question, pause, answer, pause.

23 Go ahead.

24 MR. MACURDY: Mr. Kelly, can you pull up Plaintiff's
25 Exhibit 221?

NAU5rob5

De Niro - Direct

1 BY MR. MACURDY:

2 Q. Mr. De Niro, this is an e-mail exchange between you and
3 Ms. Robinson on Sunday, April 1, 2018.

4 Do you see that?

5 A. Yes.

6 MR. MACURDY: I move Plaintiff's Exhibit 221 into
7 evidence.

8 MR. DROGIN: No objection.

9 THE COURT: Received.

10 (Plaintiff's Exhibit 221 received in evidence)

11 BY MR. MACURDY:

12 Q. The subject is: Flight. Do you see that, sir?

13 A. That she -- yes.

14 Q. And Ms. Robinson is writing on a Sunday: I take off at
15 5:30 your time and land at 1:30 p.m. If you are around, I will
16 try to call you before my call with Elizabeth. Happy Easter.

17 Do you see that?

18 A. Yes.

19 Q. She is letting you know of her whereabouts on Easter
20 Sunday?

21 A. Uh-huh. Yes.

22 Q. And she is saying that she will call you on Easter Sunday;
23 correct?

24 A. Yes.

25 MR. DROGIN: Objection.

1 THE WITNESS: Sorry.

2 THE COURT: Overruled.

3 MR. DROGIN: The document speaks for itself. The
4 document speaks for itself.

5 THE COURT: I know the document speaks for itself.
6 Go ahead.

7 MR. MACURDY: Mr. Kelly, can you pull up Plaintiff's
8 Exhibit 303?

9 THE COURT: It is relevant what the witness'
10 understanding is of the document when he received it.

11 BY MR. MACURDY:

12 Q. Sir, this is two e-mails sent from Ms. Robinson to you
13 February 9, 2018.

14 Do you see that?

15 A. Yes.

16 MR. MACURDY: Your Honor, I move Plaintiff's Exhibit
17 303 into evidence.

18 MR. DROGIN: No objection.

19 THE COURT: Received.

20 (Plaintiff's Exhibit 303 received in evidence)

21 BY MR. MACURDY:

22 Q. February 3rd Ms. Robinson wrote you: Since Morgan is
23 taking a vacation from February 15 to 20, was planning on
24 staying in town just in case you will be in NYC. I would like
25 to take a long weekend to celebrate my birthday with friends

NAU5rob5

De Niro - Direct

1 from Friday 2/23 and Monday 2/26, returning on Tuesday 2/27,
2 late morning. I will still be working normal hours but I want
3 to take a long weekend.

4 She writes back: Reminder, I'm going to take a long
5 weekend at the end of February.

6 Do you see that, sir?

7 A. Yes.

8 Q. She is telling you three weeks in advance about a long
9 weekend?

10 A. OK.

11 THE COURT: The question is you are being asked your
12 understanding of the communication that you received.

13 Go ahead.

14 THE WITNESS: Yes.

15 BY MR. MACURDY:

16 Q. You had no problem with her working remotely there;
17 correct, sir?

18 A. We had established it so, yeah, she went and she was
19 checking in.

20 MR. MACURDY: Mr. Kelly, can you pull up Plaintiff's
21 Exhibit 207?

22 Q. This is an e-mail from Ms. Robinson to you, Saturday,
23 December 17, 2016.

24 Do you see that?

25 A. Yes.

NAU5rob5

De Niro - Direct

1 MR. MACURDY: Your Honor, I move Plaintiff's Exhibit
2 207 into evidence.

3 MR. DROGIN: No objection.

4 THE COURT: Received.

5 (Plaintiff's Exhibit 207 received in evidence)

6 BY MR. MACURDY:

7 Q. The subject is "taking off", Mr. De Niro.

8 Do you see that?

9 A. Yes.

10 Q. She writes: Taking off shortly. Land at 5:30 a.m. your
11 time.

12 Do you see that?

13 A. Yes.

14 MR. MACURDY: Mr. Kelly, can you pull up Plaintiff's
15 Exhibit 204?

16 Q. This is an e-mail from Ms. Robinson to you on Friday,
17 September 9, at 11:43 p.m.

18 A. Right. Yes.

19 MR. MACURDY: Your Honor, I move Plaintiff's Exhibit
20 204 into evidence.

21 MR. DROGIN: No objection.

22 THE COURT: Received.

23 (Plaintiff's Exhibit 204 received in evidence)

24 BY MR. MACURDY:

25 Q. She writes: Taking off in an hour. Land around 5:45 a.m.

NAU5rob5

De Niro - Direct

1 A. Right.

2 Q. She is once again telling you where she will be overnight,
3 your time, on a Friday night?

4 A. OK.

5 Q. Correct?

6 A. Uh-huh. Yes.

7 MR. MACURDY: Mr. Kelly, can you pull up Plaintiff's
8 Exhibit 203?

9 Q. This is an e-mail exchange between you and Ms. Robinson on
10 Monday, September 5, 2016; do you see that?

11 A. Yes.

12 MR. MACURDY: Your Honor, I move Plaintiff's Exhibit
13 203 into evidence.

14 MR. DROGIN: No objection.

15 THE COURT: Received.

16 (Plaintiff's Exhibit 203 received in evidence)

17 BY MR. MACURDY:

18 Q. The first in time e-mail is Ms. Robinson writing: Getting
19 on my flight from San Francisco to L.A. Lands around 3:30 your
20 time. Happy Labor Day.

21 Do you see that?

22 A. Uh-huh. Yes.

23 Q. You write back: K.

24 A. Right. Right.

25 Q. A few hours later she writes to you: Landed.

NAU5rob5

De Niro - Direct

1 Correct?

2 A. Yes.

3 Q. And you write back: K.

4 A. Right.

5 Q. You didn't write back: *Stop telling me your status.*

6 Correct?

7 MR. DROGIN: Objection.

8 A. Why would I do that? She's checking in.

9 THE COURT: Sustained.

10 MR. MACURDY: Mr. Kelly, can you pull up Plaintiff's
11 Exhibit 304?

12 Q. This is an e-mail from Ms. Robinson to you, February 24,
13 2016. Do you see that, sir?

14 A. Yes.

15 MR. MACURDY: Move to admit Plaintiff's Exhibit 304
16 into evidence, your Honor.

17 MR. DROGIN: No objection.

18 THE COURT: Received.

19 (Plaintiff's Exhibit 304 received in evidence)

20 BY MR. MACURDY:

21 Q. The first in time e-mail she is writing to you about taking
22 a birthday trip; correct?

23 A. Can I ask a question?

24 THE COURT: No.

25 THE WITNESS: Your Honor --

NAU5rob5

De Niro - Direct

1 THE COURT: You don't get to ask questions.

2 THE WITNESS: Is this birthday trip? Is this a
3 vacation? She never took vacation time. She always charged me
4 for them. So now I see birthday trips and all this stuff. I'm
5 just throwing it up there.

6 BY MR. MACURDY:

7 Q. Sir, do you see the last line in her e-mail: While I am
8 away, I will always be reachable and I will be working.

9 Do you see that, sir?

10 A. OK. Yes, she did. She says it there.

11 Q. She writes back to you again on the 24th, said: Hi. Just
12 wanted to make sure a few days during this time was OK.

13 Do you see that?

14 A. Yes.

15 Q. So she routinely worked all night in NYC for you; correct?

16 MR. DROGIN: Objection.

17 THE COURT: You are not asking about the e-mail, you
18 are just asking -- not the e-mail. Ask the question again.

19 BY MR. MACURDY:

20 Q. So sir, routinely, Ms. Robinson worked for you remotely
21 while she was not in New York City; correct?

22 A. She said she worked for me, I always believed her. As I
23 said, it is the honor system, I never questioned it. So who
24 she -- she is the only one who knows.

25 Q. You were certainly aware that you had an arrangement with

NAU5rob5

De Niro - Direct

1 her that she could work remotely for you; correct?

2 A. But she said she worked all this time. You know, what can
3 I say? I trusted her. What can I say? Only she knows.

4 Q. So, sir, your testimony, yes or no, you were aware --

5 A. I was sure aware.

6 Q. -- you were aware --

7 THE COURT: Wait for the question --

8 THE WITNESS: Sorry.

9 THE COURT: -- to be completed.

10 Go ahead, counsel.

11 Q. Yes or no, sir. You were aware that you had an arrangement
12 with Ms. Robinson that she could work for you remotely outside
13 New York City; correct?

14 MR. DROGIN: Objection.

15 THE COURT: Basis.

16 MR. DROGIN: This is a completely open-ended question.

17 THE COURT: Sustained. You can make it a little bit
18 more limited in terms of time.

19 With respect to yes or no, when you are asked the
20 question: "Answer it yes or no", you are to answer yes or no
21 if you can answer yes or no truthfully.

22 THE WITNESS: OK.

23 THE COURT: If you need to, if you can't answer yes or
24 no truthfully, then you give the answer to the question.

25 Go ahead, counsel.

NAU5rob5

De Niro - Direct

1 BY MR. MACURDY:

2 Q. Let's take this e-mail in front of us, sir, Plaintiff's
3 Exhibit 304. This e-mail is taking place February of 2016,
4 correct?

5 A. Yes.

6 Q. So at least at the time of February 2016 you were
7 allowed -- you would allow Ms. Robinson to work for you from
8 places other than New York City?

9 MR. DROGIN: Objection.

10 THE COURT: Overruled.

11 THE WITNESS: Yes.

12 MR. MACURDY: Mr. Kelly, can you pull up Plaintiff's
13 Exhibit 199?

14 Q. This is an e-mail from Ms. Robinson to you, sir, on
15 Thursday, December 24, 2015?

16 A. OK. Yes.

17 MR. MACURDY: Your Honor, I move Plaintiff's Exhibit
18 199 into evidence.

19 MR. DROGIN: No objection.

20 THE COURT: Received.

21 (Plaintiff's Exhibit 199 received in evidence)

22 BY MR. MACURDY:

23 Q. Ms. Robinson writes: Boarding my flight for Miami. I take
24 off in about 15 and land at 2:45. Should have Internet on the
25 plane.

NAU5rob5

De Niro - Direct

1 Do you see that, sir?

2 A. Yes.

3 Q. This is on Christmas Eve?

4 A. Yeah. That's what it says.

5 Q. Ms. Robinson would let you know if she was going for a run;
6 isn't that right, sir?

7 MR. DROGIN: Objection.

8 A. What's that?

9 THE COURT: Did Ms. Robinson ever let you know if she
10 was going for a run?

11 THE WITNESS: For a run? Sometimes she did, yes.

12 MR. MACURDY: Mr. Kelly, can you pull up Plaintiff's
13 117?

14 Q. This is an e-mail from Ms. Robinson on Saturday, November
15 22nd, 2014. Do you see that?

16 A. Yes.

17 MR. MACURDY: Your Honor, move Plaintiff's Exhibit 117
18 into evidence.

19 MR. DROGIN: No objection.

20 THE COURT: Received.

21 (Plaintiff's Exhibit 117 received in evidence)

22 BY MR. MACURDY:

23 Q. Subject is: Run. Do you see that, sir?

24 A. I'm sorry? Yes, subject is run, yes.

25 Q. She says: Going on a 7 miles run (1 hour)?

NAU5rob5

De Niro - Direct

1 A. Right.

2 Q. On iPhone and gives her number. Do you see that?

3 A. Uh-huh. Yes.

4 Q. That was a Saturday?

5 A. Yes.

6 Q. She is letting you know when she is going for an hour run
7 on a Saturday afternoon?

8 A. OK.

9 Q. Yes or no, sir.

10 A. Yes.

11 Q. That's because you expected her to let you know her
12 availability at all times; correct?

13 MR. DROGIN: Objection.

14 THE COURT: Sustained.

15 THE WITNESS: Uh, can I answer?

16 THE COURT: Sir --

17 THE WITNESS: No. I didn't expect her at all times.

18 THE COURT: Sir, you are not answering that question.

19 You are not answering that question.

20 MR. DROGIN: We won that one.

21 THE WITNESS: That's ridiculous.

22 THE COURT: The answer is stricken.

23 THE WITNESS: Sorry.

24 THE COURT: Go ahead. New question.

25 MR. MACURDY: Mr. Kelly, can you pull up Plaintiff's

1 Exhibit 214?

2 BY MR. MACURDY:

3 Q. This is an e-mail between you and Ms. Robinson, September
4 26, 2016; do you see that?

5 A. Yes.

6 MR. MACURDY: Move to admit, your Honor, Plaintiff's
7 Exhibit 214.

8 THE COURT: Any objection?

9 MR. DROGIN: No.

10 THE COURT: Received.

11 (Plaintiff's Exhibit 214 received in evidence)

12 BY MR. MACURDY:

13 Q. Ms. Robinson wrote you, 8:30 that morning: I know I
14 mentioned this to you a while ago. My father is having surgery
15 today. Since I'm not able to be with him, I might be on the
16 phone throughout the afternoon with the doctors. Just wanted
17 to let you know in case you were trying to reach me but I was
18 on a call.

19 A. OK. Yes.

20 Q. Ms. Robinson was a conscientious employee?

21 A. Well, not after everything I am going through now but --
22 you know, as far as I'm concerned. But she was doing this and
23 checking in and that she is supposed to do, let me know if she
24 is taking time off, doing this, going there, traveling,
25 especially for a family member, of course.

NAU5rob5

De Niro - Direct

1 Q. She was a conscientious employee; correct, sir?

2 MR. DROGIN: Objection.

3 THE COURT: Sustained. Asked and answered.

4 Q. Tiffany Chen is your current girlfriend?

5 A. Yes.

6 Q. You met her on the set of the movie "The Intern," right?

7 A. Yes.

8 Q. That was filmed in 2014?

9 A. Yes.

10 Q. And you were married, at the time, to Grace Hightower?

11 A. Yes.

12 Q. And when did you start dating Ms. Chen?

13 A. Oh, about two years after I finished the movie.

14 Q. You guys moved in together in fall of 2018?

15 A. Yeah.

16 Q. That was when Ms. Robinson began interacting with Ms. Chen;
17 correct?

18 A. I guess about that time, yeah.

19 Q. September of 2018?

20 A. I don't remember. If that's what you have and that's what
21 she said then I'll say OK.

22 Q. And the first time they met you had Ms. Robinson let
23 Ms. Chen into your home so that no one would see you going in
24 with her; correct?

25 A. No, I don't remember that.

NAU5rob5

De Niro - Direct

1 Q. Ms. Robinson had been working for you for 10 years at that
2 point?

3 A. About I guess, yes.

4 Q. And you wanted, of course, Ms. Chen to be happy; correct?

5 A. Wouldn't you want your girlfriend to be happy? To a point?

6 Q. If something makes Ms. Chen unhappy, you want to deal with
7 it if you can; right?

8 MR. DROGIN: Objection.

9 THE COURT: Sustained.

10 Q. In late 2018, early 2019, it is fair to say Ms. Chen was
11 not happy with Ms. Robinson's role in your life; correct?

12 MR. DROGIN: Objection.

13 THE COURT: Sustained.

14 Q. Ms. Chen told you that she thought Ms. Robinson was in love
15 with you?

16 A. Yes.

17 Q. Ms. Chen told you that she thought Ms. Robinson wanted to
18 move in with you?

19 A. I -- yes, and I just -- jeez, I said I couldn't believe
20 that but now, looking in hindsight, she might have had a point.

21 Q. Ms. Chen was jealous of Ms. Robinson's place in your life?

22 A. She wasn't jealous.

23 MR. DROGIN: Objection.

24 A. No, she wasn't.

25 THE COURT: Objection is sustained.

1 Q. Well, Ms. Chen --

2 THE COURT: You can ask questions, obviously, about
3 what Ms. Chen said to the witness. You can't ask the witness
4 what was in Ms. Chen's mind.

5 Q. Well, Ms. Chen expressed to you that she felt like that you
6 couldn't make decisions without Ms. Robinson; isn't that right?

7 A. Well, I relied on her to, Robinson, to do things, because I
8 had -- I relied on her and I was hoping that they both would be
9 working well together, you know, so that was, like, what I
10 hoped for.

11 THE COURT: Mr. De Niro, the question I think was just
12 directed to whether Ms. Chen said a certain thing to you or
13 not.

14 THE WITNESS: What was the alleged question? Sorry.

15 BY MR. MACURDY:

16 Q. Sir, it was that Ms. Chen expressed to you that she felt
17 like you couldn't make decisions without Ms. Robinson; correct?

18 A. She might have.

19 Q. Now, Ms. Chen would tell you that she felt like
20 Ms. Robinson lived with you and Ms. Chen?

21 A. Well, no. That's too far.

22 Q. Your testimony --

23 A. She might have been saying stuff because she was annoyed
24 but she was annoyed because Robinson was disrespectful to her.
25 Period. And that is unacceptable. She has to -- she is

NAU5rob5

De Niro - Direct

1 working for me, she has to do what I'm asking. It is not like
2 I'm asking her to go out on the floor and scrape floors and go
3 out and mop the floor. I didn't do any of that and neither did
4 Tiffany, so this is all nonsense.

5 Q. So, sir, it is your testimony that Ms. Chen did not tell
6 you she felt like Ms. Robinson lived with you and Ms. Chen?

7 A. Excuse me? Could you say that again?

8 Q. It is your testimony, sir --

9 THE COURT: Did Ms. Chen tell you that she felt like
10 Ms. Robinson lived with you and her? Ms. Chen?

11 THE WITNESS: Did she say it in an e-mail?

12 THE COURT: Do you remember her saying it?

13 THE WITNESS: I don't -- she might have said it out of
14 anger and annoyance because I was -- I was loyal to Chase. I
15 said I want her to work for me. She is doing stuff. She's
16 supposed to do this stuff. I didn't want her to break
17 everybody's chops and create a big chaotic problem. Of course
18 I wanted it all to work. I wanted everybody to be happy and
19 play nice and unfortunately it didn't happen.

20 BY MR. MACURDY:

21 Q. Your testimony is that you were loyal to Chase as far as --

22 A. Yes, I was loyal to Chase as an employee of mine, yes. I
23 wanted her to do things and I was sorry it didn't work out but
24 it didn't, she was not behaving properly. What am I supposed
25 to do? I didn't fire her, I said you have to leave the

NAU5rob5

De Niro - Direct

1 townhouse.

2 Q. And so you, is it your testimony, sir, that you defended
3 Ms. Robinson to Ms. Chen during this time?

4 A. Not -- well, sort of. I said no, no, she is a little like
5 that but she'll be OK. I am always trying to make it work.

6 Q. Ms. Chen would tell you that Ms. Robinson acted like a
7 stepmother to your kids; isn't that right?

8 A. She sometimes took a little liberty to talk to, in a way or
9 this and she -- and if you want to go further, I had one of my
10 kids who was kind of annoyed by it.

11 Q. So yes or no, sir. Ms. Chen would tell you that
12 Ms. Robinson acted like a stepmother to your kids?

13 MR. DROGIN: Objection.

14 THE COURT: Overruled.

15 THE WITNESS: So you are asking me if she acted like a
16 stepmother to my kids?

17 THE COURT: No, no. The question is did Ms. Chen ever
18 say words to you to the effect of Ms. Chen acted like a
19 stepmother to your kids. Did she say words to you to that
20 effect?

21 MR. DROGIN: I think Ms. Robinson.

22 THE WITNESS: That Robinson acted like a stepmother.

23 THE COURT: Yes.

24 THE WITNESS: I don't remember that.

25 BY MR. MACURDY:

NAU5rob5

De Niro - Direct

1 Q. Let's talk about an example, sir. When you were setting up
2 the Central Park townhouse, you had Ms. Robinson decorate your
3 Christmas tree in 2018; correct?

4 A. Yes.

5 MR. DROGIN: Objection, there is --

6 THE WITNESS: OK. Sorry, I didn't --

7 THE COURT: What is the objection.

8 MR. DROGIN: I don't know what a Central Park
9 townhouse is.

10 THE COURT: The townhouse. Is that what you mean to
11 refer to?

12 MR. MACURDY: Yes, your Honor.

13 THE COURT: OK, we don't know where the townhouse is,
14 we are not going to say where the townhouse is.

15 THE WITNESS: Do we have to say the address?

16 THE COURT: No, you don't.

17 Ask your question.

18 BY MR. MACURDY:

19 Q. The townhouse in Manhattan, Ms. Robinson, you had her help
20 decorate your Christmas tree at the townhouse; correct?

21 A. Yes.

22 THE COURT: Where Mr. De Niro's townhouse is is a
23 matter of complete irrelevance in this lawsuit.

24 MR. MACURDY: Mr. Kelly, can you pull up Plaintiff's
25 Exhibit 172?

NAU5rob5

De Niro - Direct

1 Your Honor, I move to admit this. I don't believe
2 there is any objection.

3 MR. DROGIN: Can you just scroll up? No objection.

4 THE COURT: 172 is received.

5 (Plaintiff's Exhibit 172 received in evidence)

6 BY MR. MACURDY:

7 Q. The first page, this shows that this is text messages
8 between you and Ms. Chen on December 6, 2018. Do you see that?

9 A. Yes.

10 MR. MACURDY: Mr. Kelly, can you pull up a 1:00 a.m.
11 text from Ms. Chen?

12 Q. I'm not going to read this full text message but I will,
13 Mr. Kelly, if you could highlight a couple points, lines, I
14 will read from Ms. Chen.

15 Mr. De Niro this is at 1:00 a.m.: In all honesty, I
16 don't like her having to do with anything that contributes to
17 the feeling of our place. She was an asshole when she came
18 over to help with Marty's birthday.

19 The "her" in that sentence is Ms. Robinson; correct?

20 A. Yes. Yes.

21 MR. MACURDY: And Mr. Kelly, a few sentences down?

22 Q. And I don't need to hear any more about how Helen should
23 pick the tree.

24 Helen is your daughter, sir?

25 A. Yes.

NAU5rob5

De Niro - Direct

1 Q. She's so out of line and lost in her fantasy she talks like
2 she is the stepmother.

3 Do you see that, sir?

4 A. Yes.

5 Q. So Ms. Chen is saying here that Ms. Robinson is talking
6 like she's a stepmother; do you see that?

7 MR. DROGIN: Objection.

8 THE COURT: Sustained.

9 Q. The next line I would like to read: But I'm really done
10 with her fooling with me and her doing it with your indirect
11 consent. It's like you can't make decisions with me but you
12 can't make them without her. This bothers me, I find it weird,
13 and it makes me feel like she does live with us more than I
14 exist here.

15 A. Well, you know --

16 THE COURT: Mr. De Niro, there is actually no question
17 pending.

18 I assume there is going to be a question?

19 BY MR. MACURDY:

20 Q. Do you see that, sir?

21 A. I see it, yeah.

22 MR. MACURDY: Mr. Kelly, can we move on to 6:20 p.m.
23 in this text exchange?

24 Q. Hours later that day Ms. Chen is writing to you about the
25 Christmas tree again. Do you see that, sir?

NAU5rob5

De Niro - Direct

1 A. Uh-huh. Yes.

2 Q. She writes: You know what? I can decorate a tree. I will
3 go through photos of different looks with you and I will just
4 do it.

5 At the end of that text she writes: I prefer for her
6 not to do too much more with anything having to do with the
7 interior feeling here.

8 Do you see that, sir?

9 A. Yes.

10 Q. Now, Ms. Chen also told you that Ms. Robinson had imaginary
11 intimacy with you; correct?

12 A. Did she say it in an e-mail?

13 Q. Sir, my question to you --

14 THE COURT: Do you remember her saying that.

15 THE WITNESS: I don't remember her saying that but
16 it's possible.

17 Q. Ms. Chen told you that Ms. Robinson thought she was your
18 wife; correct?

19 A. She did.

20 Q. Ms. Chen expressed to you that she believed Ms. Robinson
21 was messing with Ms. Chen's belongings at your house; correct?

22 A. She did.

23 Q. In January 2019, Ms. Chen believed Ms. Robinson had
24 purposefully failed to have Ms. Chen's private plane from
25 Antigua stocked with catering during a trip; correct?

NAU5rob5

De Niro - Direct

1 A. Can I see that? Is that in an e-mail?

2 THE COURT: It is just your recollection.

3 THE WITNESS: What's the question again?

4 Q. In January of 2019, Ms. Chen believed that Ms. Robinson had
5 purposefully failed to have Ms. Chen's private plane from
6 Antigua --

7 A. It wasn't Ms. Chen's private plane, it was a plane that I
8 chartered. So we are not flying around in private planes all
9 the time and all. Let's keep it in perspective. Sorry.

10 Q. Well, sir, it was a plane that you chartered from
11 Antigua --

12 A. Yes.

13 Q. -- that Ms. Chen believed that Ms. Robinson purposefully
14 failed to stock it with catering; correct?

15 A. Sorry? No. She did feel that she somehow had messed with
16 that. I don't know what it was but she felt there was
17 something there and she could have been right.

18 Q. Well, sir, you are aware now that it was the airline's
19 mistake and they actually refunded some of the cost?

20 A. Well, that doesn't mean that -- if they refund it they want
21 to make -- the customer is always right, especially for those
22 planes, so they say, well, we are sorry that that happened, it
23 shouldn't have happened under any circumstances we will refund
24 to you, absolutely, so.

25 MR. MACURDY: Mr. Kelly, can we pull up Plaintiff's

NAU5rob5

De Niro - Direct

1 Exhibit 4?

2 Your Honor, I move this into evidence. I don't
3 believe there is any objection.

4 MR. DROGIN: This is 4?

5 MR. MACURDY: Correct.

6 MR. DROGIN: No objection.

7 THE COURT: Received.

8 (Plaintiff's Exhibit 4 received in evidence)

9 BY MR. MACURDY:

10 Q. Mr. De Niro, from this first page these are texts between
11 you and Ms. Chen, January 22nd, 2019; right?

12 A. I don't see them, I just see --

13 THE COURT: What you are showing is just something
14 that is a short message report, so.

15 MR. MACURDY: Yes.

16 Q. Sir, this is the cover page to text messages, an outline of
17 conversations. Do you see now on the screen text messages?

18 A. Yes.

19 MR. MACURDY: Mr. Kelly, if we can go to the 6:08 p.m.
20 text message?

21 Q. Once again I'm not going to read this full text message at
22 6:08 p.m. but a few excerpts. Ms. Chen writes to you: In my
23 experience, on private planes they rarely have a mixup like
24 Chase claims happened. I don't trust her when it comes to me.
25 Her sense of entitlement stems from this imaginary intimacy she

NAU5rob5

De Niro - Direct

1 has with you and I have seen it in her texts about the house
2 all over again. She thinks she's your wife and I'm tired of
3 her rearranging things and throwing my stuff on the floor in
4 chaos whenever she decides she wants to be "the lady of the
5 house." It's very bizarre and it really has to stop.

6 Do you see that, sir?

7 A. Yes.

8 MR. MACURDY: Mr. Kelly, can you bring up Plaintiff's
9 Exhibit 57?

10 Your Honor, I move Plaintiff's Exhibit 57 into
11 evidence.

12 THE COURT: Any objection?

13 MR. DROGIN: No objection.

14 THE COURT: Received.

15 (Plaintiff's Exhibit 57 received in evidence)

16 THE WITNESS: Should I --

17 THE COURT: You are not being asked a question yet but
18 you can review the document.

19 BY MR. MACURDY:

20 Q. Mr. De Niro, this is a March 27 e-mail exchange involving,
21 at the end, you and Ms. Robinson; prior to that Ms. Robinson
22 and Ms. Chen.

23 Do you see that?

24 A. Yes.

25 Q. This is an e-mail exchange your counsel spoke about in his

NAU5rob5

De Niro - Direct

1 opening argument?

2 A. Sorry?

3 Q. This is an e-mail exchange your counsel spoke about in
4 opening argument regarding painting removal?

5 A. Uh-huh.

6 Q. In the townhouse?

7 A. Yes.

8 MR. MACURDY: Mr. Kelly, can we go to the first in
9 time e-mail? And we will go through each one. The very first
10 in time e-mail, Mr. Kelly.

11 Q. So March 27, 2019, at 11:14 a.m. Ms. Chen writes: Has any
12 of this been put into motion yet? They're coming tomorrow
13 morning to do the living room, Elliot's room and the gym.

14 Do you see that, sir?

15 A. Yes.

16 Q. And that was to Ms. Robinson?

17 A. This is the response from --

18 MR. MACURDY: Mr. Kelly, can we take a look at the
19 response?

20 Q. It is from Ms. Robinson so that e-mail was from -- was to
21 Ms. Robinson. Do you agree?

22 A. Now which one am I looking at again? Sorry.

23 MR. MACURDY: Mr. Kelly, can you highlight the last
24 two e-mails in this exchange, the earliest in time two e-mails?

25 Q. So we read the one on the right, sir. Ms. Robinson writes

NAU5rob5

De Niro - Direct

1 back six minutes later at 11:20: Jerry and his guys are
2 handling everything so I'm not sure what additional painting
3 removal would need to be done. I can ask Jerry and have him
4 contact you about the work.

5 Do you see that?

6 A. Yes.

7 MR. MACURDY: Mr. Kelly, can you go to the next two
8 e-mails?

9 Q. Ms. Chen writes back six minutes later: The paintings that
10 are hanging on the walls. Ms. Robinson writes back four
11 minutes after that: That would be a Kap question.

12 "Kap" refers to Michael Kaplan who is another
13 assistant at Canal; correct?

14 A. Yeah.

15 Q. Ms. Robinson writes: Kap, possible to get Force over there
16 to get the RDN, Sr.s down?

17 Do you see that?

18 A. Yes.

19 Q. The RDN, Sr.s refer to the artwork; correct?

20 A. Yes.

21 THE COURT: That your father's artwork?

22 THE WITNESS: Yes, it is. Yes.

23 MR. MACURDY: Mr. Kelly, can we go to the next e-mail
24 on this chain?

25 Q. A few minutes later, sir, Ms. Chen wrote: I sent the

NAU5rob5

De Niro - Direct

1 e-mail to both of you with Bob's cc. Bob said to e-mail you
2 both. It is sometimes hard to fully understand your hierarchy
3 of responsibilities, who does what for who and when. This
4 needs to get done by the time the painters are here tomorrow.
5 It is time sensitive. It is necessary for you to have to pick
6 on a detail like this --

7 A. Is it necessary.

8 Q. Correct; is it necessary for you to have to pick on a
9 detail like this and waste time addressing Kap when you have a
10 contact for the people who handle the artwork? This could have
11 gotten started when you instead had to ask Kap if he could get
12 it done. Bob, we just spoke. This is time sensitive. Do you
13 want to go over Chase's list of rules of who does what so that
14 we don't have this silliness in the future?

15 Do you see that, sir?

16 A. I do.

17 MR. MACURDY: Mr. Kelly, can you pull up the next?

18 Q. Ms. Robinson writes back 10 minutes later: Hi, Tiffany.
19 Unfortunately, I'm not in touch with Force, nor do I have their
20 direct numbers. I know Kap will handle and make sure it's
21 done.

22 Do you see that?

23 A. Yeah.

24 Q. So, sir, only about 30 minutes has elapsed during this
25 exchange; right?

NAU5rob5

De Niro - Direct

1 A. OK.

2 Q. Do you agree?

3 A. If that's what it is it is 30 minutes. OK.

4 MR. MACURDY: Can you pull up the next e-mail,
5 Mr. Kelly?

6 Q. Ms. Chen writes back, at 12:00 p.m. again on March 27, 2019
7 to Ms. Robinson, and Michael Kaplan is cc'd as well as
8 yourself: You handled this in the past as well as other things
9 where we didn't have to have so much of a definition of what
10 you do and don't do. It is becoming increasingly difficult to
11 understand what do or don't know. What you will do versus what
12 you don't do. Maybe you should make a new guide for both Bob
13 and myself. This way he and I know what you have determined
14 your responsibilities to be. This way, going forward, we have
15 less confusion about what you have determined your job
16 responsibilities to be. Again, this is time sensitive. As you
17 yourself have pointed out in the past, Kap has kids and now has
18 health issues that come first and foremost. There is no way to
19 find an old invoice from this company to contact them? Again,
20 this is time-sensitive. Kap may be in a doctor appointment. I
21 don't know why I have to go through explaining this logic to
22 you. It is clear there are things you do not and will not do.
23 Bob said to e-mail you and Kap. I think we all have to be
24 sensitive to Kap's current and ongoing recovery. Bob, should I
25 ask the girls in the office to look up an old invoice and

NAU5rob5

De Niro - Direct

1 contact Force myself? Chase clearly is saying she does not
2 want to be helpful here.

3 Do you see that, sir?

4 A. Yes.

5 MR. MACURDY: Mr. Kelly, can you pull up the next two
6 e-mails?

7 Q. Later that day Ms. Robinson forwards the chain to you, sir.
8 She writes: It has been pretty obvious for a while that there
9 is an issue with me working for you, and I tried really hard
10 without bothering you, to get out of the middle and out of your
11 home and get back to my job. It is not working. When you can,
12 let's talk. It is not a heart attack conversation, it is not
13 about throwing in the towel, I just want to make sure that
14 everything runs smoothly. Your guidance will be helpful. Hope
15 you and Helen are having fun skiing.

16 Do you see that, sir?

17 A. Uh-huh. Yes.

18 Q. And your understanding of this was when Ms. Robinson wrote
19 it, the issue that she was raising was that Ms. Chen had an
20 issue with her; correct?

21 A. Yeah. It was a simple thing and if she had done the right
22 thing and set, got it in motion and got the people over there
23 to take the paintings down so that the place could be painted,
24 none of this would have happened. Already there is an issue.
25 That's what I don't understand.

1 Q. And Ms. Robinson, your understanding, is that she wanted to
2 get out of the middle and out of your home and you understood
3 that to mean that she wanted to get out of the middle of your
4 relationship with Ms. Chen; correct?

5 A. I want -- if she's not able to do what we ask her to do --

6 THE COURT: Mr. De Niro, listen to the question. The
7 question goes to what you understood Ms. Robinson to be saying.
8 That's what he is asking about.

9 Counsel, why don't you ask it again.

10 THE WITNESS: I understood to --

11 THE COURT: No.

12 THE WITNESS: Sorry.

13 THE COURT: Mr. De Niro, hold on.

14 THE WITNESS: Sorry.

15 THE COURT: Counsel is going to ask the question
16 again.

17 BY MR. MACURDY:

18 Q. Sir, when Ms. Robinson wrote to you --

19 A. Yes.

20 Q. -- that she has tried really hard to get out of the middle
21 and out of your home, you understood that to mean that she was
22 trying to get out of the middle of your romantic relationship
23 with Tiffany Chen; correct?

24 A. Yes, but she created the situation. Instead of just doing
25 what we had asked, what Tiffany had asked her to do -- that

NAU5rob5

De Niro - Direct

1 would have been the right thing to do, that would have been the
2 things to say jeez, that's great, she rose above this
3 squabbling and just did it.

4 Q. Yes or no, sir --

5 A. You wanted yes? Yes.

6 Q. When you forward --

7 THE COURT: Actually, you don't have an answer to your
8 question because he just said yes or no and he gave a "yes"
9 answer to something that has no -- nothing attached to it.

10 So I realize you may be in a rush, Mr. De Niro -- I
11 realize you may be in a rush -- but ask the question again and,
12 again, let's get a clean answer.

13 MR. DROGIN: Your Honor, can we strike the response
14 which was not to a question?

15 THE COURT: I think what the transcript reads is:

16 "Yes or no, sir --"

17 "You wanted yes? Yes."

18 I think that's meaningful so it doesn't need to be
19 stricken. New question.

20 MR. MACURDY: I will ask it again, your Honor.

21 THE WITNESS: OK.

22 BY MR. MACURDY:

23 Q. Mr. De Niro, when Ms. Robinson wrote to you: I tried
24 really hard to get out of the middle and out of your home, you
25 understood her to mean that she was trying to get out of the

NAU5rob5

De Niro - Direct

1 middle of your romantic relationship with Ms. Chen; correct?

2 A. OK. Yes.

3 Q. And you forward Ms. Robinson's e-mail on to Ms. Chen; do
4 you see that?

5 A. OK.

6 Q. And you write: Just sending for no reason but just to be
7 aware; correct?

8 A. Yes. Uh-huh.

9 MR. MACURDY: Mr. Kelly, can we pull up Plaintiff's
10 Exhibit 5?

11 Q. Sir, you subsequently texted with Ms. Chen on that same day
12 about this e-mail that you just forwarded to Ms. Chen; correct?

13 A. What was that? I'm sorry.

14 Q. You texted with Ms. Chen about that e-mail that you just
15 forwarded to her that same day; correct?

16 A. Yes.

17 MR. MACURDY: Now I move Plaintiff's Exhibit 5 into
18 evidence.

19 MR. DROGIN: No objection.

20 THE COURT: Received.

21 (Plaintiff's Exhibit 5 received in evidence)

22 BY MR. MACURDY:

23 Q. Plaintiff's 5 are texts between you and Ms. Chen on March
24 27, that same day; correct, sir?

25 A. What's the question again?

NAU5rob5

De Niro - Direct

1 Q. This exhibit --

2 A. Yeah.

3 Q. -- Plaintiff's Exhibit 5 --

4 A. Yeah.

5 Q. -- are text messages between you and Ms. Chen on that same
6 day as that e-mail on March 27th; correct?

7 A. Yeah.

8 Q. You write -- or Ms. Chen writes at 3:27: Did you see
9 Chase's bitchy e-mail? I've had it with Chase's bullshit.

10 Do you see that, sir?

11 A. Yeah.

12 Q. At 5:12 Ms. Chen writes: Just so you know, because of
13 Chase's bullshit we had to scramble to move the movers who
14 adjusted their schedule for us today to be able to accommodate
15 Kap because he has a doctor's checkup for his heart. This is
16 all because Chase is a straight up, nasty, bitch.

17 Do you see that, sir?

18 A. Yeah.

19 Q. Then you writ at 6:38: I'm going to forward an e-mail she
20 sent.

21 A. Yes.

22 Q. Ms. Chen writes: OK.

23 Three minutes later she writes: Where is it?

24 MR. MACURDY: Mr. Kelly, can you go into the 8:31 p.m.
25 texts?

NAU5rob5

De Niro - Direct

1 Q. 8:31, Ms. Chen writes to you: The e-mail is a bit strange.

2 And you understood her to be talking about the e-mail
3 exchange we just read; correct, sir?

4 A. Sorry? What was that? Sorry.

5 Q. Well, Ms. Chen refreshes to an e-mail that is a bit strange
6 and you understood her to be talking about that e-mail exchange
7 we just discussed?

8 A. Yes.

9 Q. Ms. Chen writes: I sense an undertone of worry with
10 blanketed by her imaginary intimacy. To say she is in the
11 middle is odd.

12 A. Yup. It is odd.

13 Q. It is an odd desire to instigate her personal relationship
14 with you, which in her mind is far more developed and weird
15 than what is really happening.

16 And the last sentence: She is scared now because her
17 persistent manner and demented imaginary intimacy with you has
18 finally pissed me off.

19 Do you see that?

20 A. Yes.

21 Q. Ms. Chen communicated with you at other times and told you
22 you were too attached to Ms. Robinson; correct?

23 A. What was that question?

24 Q. Ms. Chen communicated with you at other times and told you
25 that you were too attached to Ms. Robinson; correct?

NAU5rob5

De Niro - Direct

1 A. Yes. She did. She -- yeah. Well, I was. I worked with
2 her a long time, I wanted her to do things. I relied on her.
3 I thought she was going to do this and this is what happened.

4 Q. Ms. Chen gave you an ultimatum for getting rid of
5 Ms. Robinson; correct?

6 A. This was about her not being in the townhouse. Period.

7 Q. So, sir, yes or no, Ms. Chen gave you an ultimatum for
8 getting rid of --

9 A. From the townhouse.

10 MR. DROGIN: Objection.

11 THE COURT: Sustained.

12 MR. MACURDY: Mr. Kelly, can we pull up Plaintiff's
13 Exhibit 6?

14 Your Honor, I move Plaintiff's Exhibit 6 into
15 evidence.

16 THE COURT: Any objection?

17 MR. DROGIN: Give me a minute to retrieve it, your
18 Honor, please?

19 THE WITNESS: Can you --

20 MR. DROGIN: No objection.

21 THE COURT: Plaintiff's Exhibit 6 is received.

22 (Plaintiff's Exhibit 6 received in evidence)

23 THE WITNESS: Can you blow it up a little?

24 MR. MACURDY: Mr. Kelly, can we pull up or blow up
25 half of it, the 1:53 a.m. text?

NAU5rob5

De Niro - Direct

1 BY MR. MACURDY:

2 Q. Mr. De Niro, these are texts between you and Ms. Chen on
3 that night at 1:53 in the morning, March 28, 2019. Do you see
4 that? Correct, sir?

5 A. I'm -- yes.

6 Q. So, Ms. Chen --

7 THE COURT: Give him a moment to read it.

8 Sir, when you are ready to answer the question, let me
9 know.

10 THE WITNESS: OK.

11 Q. 1:53 a.m. --

12 A. Wait, wait. Sorry. Yes. OK.

13 Q. 1:53 a.m. Ms. Chen writes: I was thinking about Chase's
14 e-mail.

15 Next sentence: She doesn't mind playing stepmom with
16 twins when you ask her to suffer them she is all in. She is a
17 real asshole.

18 Do you see that?

19 A. Yeah.

20 Q. She next texts 1:58 a.m.: My concern with her is that when
21 you are not around and I need help getting things together she
22 will pull exactly this kind of shit. You are away, she knows
23 this, she had to throw in her "hope and you and Helen are
24 having fun skiing." I asked for her help she did exactly what
25 I was worried about her doing, she is not good news.

NAU5rob5

De Niro - Direct

1 Do you see that?

2 A. Yes.

3 Q. And you wrote back: So she's doing nothing when I'm away,
4 is that what you are saying?

5 A. Yes.

6 Q. So your information about what Ms. Robinson is doing or
7 isn't doing is coming from Ms. Chen; correct?

8 A. Uh-huh. Yes.

9 Q. In your experience Ms. Robinson did what you asked;
10 correct?

11 A. She didn't do the whole thing about getting the paintings
12 taken from the wall and she says somewhere in here that she
13 didn't have the number, Kap has the number. She had the
14 number.

15 THE COURT: Counsel, when you get to a convenient
16 breaking point we will break for the day.

17 MR. DROGIN: Your Honor, may I object? On this
18 exhibit the text that was highlighted there actually continues
19 with a further answer that is not being shown. I think for
20 completeness there is a further dialogue where he explains that
21 answer.

22 MR. MACURDY: Your Honor, I'm sorry. I certainly am
23 not going to read all of these exchanges. I think counsel is
24 free to on their examination.

25 MR. DROGIN: I have an objection.

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De Niro - Direct

1 THE COURT: You can leave that for a later moment.

2 Are you done with your examination for the day?

3 MR. MACURDY: Now is a good breaking point, your
4 Honor. Thank you.

5 THE COURT: Members of the jury, that concludes
6 testimony for the day. Please follow my instructions. You are
7 not to have any communications with anybody about this case
8 overnight, you are not to talk to anybody about this case
9 overnight. That includes members of family, close friends and
10 the like. And you are not to do any investigation about the
11 case or issues related to the case.

12 We start tomorrow morning at 9:00. Please try to be
13 on time, a couple minutes early, so we can get started on time.
14 Have a good afternoon, everybody.

15 (Continued on next page)

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1 (Jury not present)

2 THE COURT: Mr. De Niro, you may step down.

3 (Witness steps down)

4 THE COURT: Counsel may be seated.

5 There were a couple of defense exhibits that I had not
6 yet ruled on. I believe those were 162 and 247, maybe PX- 18,
7 PX- 97. Are those the ones from plaintiff's counsel where
8 there still are issues outstanding?

9 MR. MACURDY: I think they withdrew 87, your Honor, I
10 have in my notes, and then Defendant's Exhibit 162, Defendant's
11 Exhibit 247 and Plaintiff's Exhibit 97, there is two other docs
12 but those three, they all don't involve Mr. De Niro so our
13 objection is to -- there is no foundation to ask this witness
14 about them.

15 THE COURT: Let me hear from defense counsel.

16 MR. DROGIN: I just need to find them. It was 61?

17 THE COURT: No. The issues are DX 162, 247, and 97,
18 none of which Mr. De Niro was copied on, and the objection as I
19 understand it is the use of those documents through
20 Mr. De Niro.

21 MR. DROGIN: So on the first one, 162, it is an e-mail
22 from Ms. Robinson to Mr. De Niro, it is a thread between them.

23 MR. MACURDY: I can pull it up as well, your Honor,
24 unless I am looking at the wrong one.

25 THE COURT: Yes, we are all looking at the wrong one

1 if that is the point.

2 MR. MACURDY: I have it as an e-mail from Ms. Robinson
3 to Ms. Robinson.

4 THE COURT: It is from Ms. Robinson to Ms. Robinson?

5 MR. DROGIN: Oh, I see where it is. Sorry.

6 You are showing me the wrong exhibit.

7 What this is, is there is a series of time sheets here
8 that --

9 THE COURT: I can read them but just me how you intend
10 to use it and why it is permissible.

11 MR. DROGIN: So it has to do with the date of a
12 meeting and in the event that Mr. De Niro is asked about the
13 meeting and does not recall the day, the plaintiff has recorded
14 the date of the meeting in her time sheet which we don't
15 dispute, so it is really just to refresh the witness'
16 recollection if there is a dispute over that date.

17 THE COURT: You are not looking to offer it, you are
18 just looking to use it to refresh recollection; is that
19 correct?

20 MR. DROGIN: Correct.

21 THE COURT: All right. So I don't think there is an
22 objection to rule on with respect to that. The document can be
23 used to refresh recollection if there is a need to refresh
24 recollection if the foundation for that is established.

25 Next one is 247. And this is a set of texts that

1 Mr. De Niro is not on so how are you going to use it?

2 MR. DROGIN: Give me a second, please?

3 So this also, your Honor, this has to do with the 9:51
4 text on April 2nd, and again, this is to be shown to the
5 witness just to refresh his recollection if he didn't recall.

6 THE COURT: So you are not looking to offer it into
7 evidence?

8 MR. DROGIN: Correct.

9 THE COURT: So we will see if a foundation is laid
10 that the witness' recollection needs to be refreshed. But
11 since it is not going to be offered into evidence, it is not
12 going to be read, it is just going to be shown to the witness
13 with a preface of I'm showing you this exhibit, I'm directing
14 you to these pages, does this refresh your recollection as to
15 the following and the witness will say either it refreshes his
16 recollection or it doesn't.

17 MR. DROGIN: Favor enough.

18 THE COURT: Next, PX- 97, it is a plaintiff's exhibit.
19 Again, this appears to be a set of messages on which the
20 witness Mr. De Niro is not copied, so let me hear from defense
21 counsel.

22 (Continued on next page)

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NAU6ROB6

1 MR. DROGIN: Okay. So on this one, he is copied on,
2 if you scroll down, it's -- here we go. It's -- the Bates
3 stamp number is Canal 4 -- I'm sorry. You know what? That's
4 98. That's the problem. Okay. So the Bates number, maybe
5 it's a matter of how it is stamped. It's stamped as
6 Exhibit 98.

7 THE COURT: All right. So you're not offering 97; is
8 that correct?

9 MR. DROGIN: Correct.

10 THE COURT: So that resolves that.

11 Okay. Do you know what 98 is, plaintiff's counsel?
12 Is there an issue with respect to 98?

13 MR. DROGIN: I don't think there is.

14 MR. MACURDY: I can look it up.

15 THE COURT: I wasn't asking defense counsel.

16 MR. DROGIN: There's no issue with 98, if you were
17 asking us.

18 THE COURT: I wasn't. Does defendant intend to use
19 98?

20 MR. DROGIN: Yes. But I don't think there's an
21 objection about 98.

22 THE COURT: Let me hear from plaintiffs.

23 MR. MACURDY: I think it's hearsay if they try and use
24 it, your Honor.

25 MR. DROGIN: Well, which part?

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1 THE COURT: No, you're not talking to each other. Let
2 me look at it.

3 Let me understand plaintiff's objection.

4 MR. MACURDY: It's Canal's internal e-mail exchange.
5 It doesn't involve a party opponent.

6 THE COURT: All right. Why is 98 admissible?

7 MR. DROGIN: Well, the top e-mail is from Ms. Chen to
8 Mr.-- it's actually to Michael Tasch copying Mr. De Niro, so
9 he's on this thread.

10 THE COURT: I understand that, but the objection was a
11 hearsay objection. So tell me what the relevance is of this,
12 and then I can figure out whether there's a well-founded
13 hearsay objection.

14 MR. DROGIN: So counsel raised this in their opening
15 statement about once Ms. Chen started asking questions about
16 Ms. Robinson, the professionals here were gathered up, and they
17 set out to find information on her. This is the -- this is the
18 thread that actually shows Ms. Chen making inquiry of the
19 accountant, Mr. Tasch, relaying what Mr. Drogin had
20 specifically asked that they locate.

21 So they are specifically asking for Mr. Tasch to find
22 and provide them with certain information first about purchases
23 and returns and then about American Express. So we're
24 literally watching this unfold through these e-mails.

25 And the timing is -- well, that's the answer to your

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1 question. There's no relevance objection, so I'm not going to
2 explain why it's relevant. But he's -- it specifically -- the
3 words are being attributed to him, and then he's on the e-mail,
4 the subsequent e-mail.

5 THE COURT: Let me hear from plaintiff's counsel why
6 there's only a small portion of this that, it seems to me, to
7 be admitted for its truth, and as to that, Mr. De Niro's audit
8 arguably falls within a shepherd-type of exception for a
9 statement of forward-looking intent. So why isn't it
10 admissible just for the purpose of showing what Ms. Chen's
11 directions were at a particular point in time?

12 MR. MACURDY: Your Honor, and this is on our exhibit
13 list. We may very well seek to use this. My point was that it
14 is hearsay as to them. They can --

15 THE COURT: All right. Listen, we'll wait and see
16 whether you use it, and if they seek to use it and you want to
17 object, you can object, and I'll rule on it at that time.

18 All right. Is there anything else from plaintiff
19 before we break?

20 MR. MACURDY: There was one other exhibit on their
21 list, your Honor, to use, which was another plaintiff's
22 exhibit.

23 THE COURT: Oh, yes.

24 MR. MACURDY: Plaintiff 18. So this is Ms. Robinson
25 writing to Mr. De Niro about, you haven't responded to my

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1 proposal in July of 2019, I'll see counsel unless I hear back
2 from you. And your Honor ruled on this and said that this is a
3 document that only can be used for impeachment purposes. It
4 goes back to again they don't want to let us bring in the fact
5 they sent -- well, we'll talk with counsel per your instruction
6 about maybe a redacted release, but pursuant to your Honor's
7 ruling, this is only coming in as impeachment.

8 THE COURT: I think I directed you to meet and confer
9 regarding the release, and this, we will await to see what you
10 bring out through your examination of Mr. De Niro. You also
11 opened some doors I think in your opening, but I don't need to
12 resolve this issue right now.

13 Anything else from plaintiff?

14 MR. MACURDY: One thing I will bring up, in
15 defendant's opening statement, I mean, they went on for a while
16 about Mr. De Niro and how he was a pleasure to work with, and
17 it seems like they have opened the door for something like the
18 voicemail that he left Ms. Robinson berating her and yelling at
19 her through those sort of statements to impeach that suggestion
20 that he was a pleasure to work with.

21 THE COURT: My ruling stands on that.

22 Okay. Anything from defendants?

23 MR. SCHOENSTEIN: Only thing, your Honor,
24 housekeeping. I assume it would assist the Court if the
25 parties collated a list of admitted exhibits every day and got

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1 that to your Honor?

2 THE COURT: Yes. Please do that with a brief
3 description of what the exhibits are in a form. When it comes
4 time for the jury to retire to deliberate, we can then convert
5 that into an exhibit list that goes back into the jury room.
6 Just send that to me before midnight tonight.

7 All right. I will see you all at 9:00 o'clock
8 tomorrow morning. Please try to be here a couple minutes
9 before that.

10 (Adjourned to October 31, 2023, at 9:00 a.m.)

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Direct By Mr. Macurdy92

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