

IN THE CIRCUIT COURT, OF THE
SEVENTH JUDICIAL CIRCUIT, IN AND
ST. JOHNS COUNTY, FLORIDA

CASE NO.: CA23-1820
DIVISION: 53

RACHEL MAY SCOTT

Plaintiff,

v.

FLORIDA FARM BUREAU
CASUALTY INSURANCE
COMPANY,

Defendant.

_____ /

HEARING BEFORE THE HONORABLE KENNETH J. JANESK
CIRCUIT COURT JUDGE

EXCERPT OF PROCEEDINGS

(Discussion and The Honorable Kenneth J. Janesk's
Ruling on Dr. Sanborn's testimony)

DATE TAKEN: Monday, December 9, 2024

PLACE: Richard O. Watson Judicial Center
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1 (The following is an excerpt of these proceedings.)
2 (Discussion and The Honorable Kenneth J. Janesk's ruling
3 on Dr. Sandborn's testimony)

4 * * * *

5 **MR. COLE:** I just want to put this as clearly
6 and concisely as I can.

7 **THE COURT:** Sure.

8 **MR. COLE:** I know I'm talking fast. I'm getting
9 tired.

10 **THE COURT:** You're fine.

11 **MR. COLE:** But the defense's position on this is
12 that it's not what the provider would accept for
13 reimbursement.

14 So Bailey can say I don't take CIGNA, or
15 Sandborn can say I take no insurance. It's not a
16 question of what they agree to accept. Under the LOP
17 scenario in that subsection, it's about what the
18 insurer would reimburse because what we're talking
19 about is the reasonable value of services. That is a
20 chiropractic manipulation whether it's Dr. Murphy or
21 Dr. Bailey, or whoever it is, that's the
22 standardization.

23 **THE COURT:** Well, let me ask you, the amount
24 that -- okay. Evidence the amount the claimant's
25 healthcare coverage would pay the healthcare provider

1 to satisfy the past unpaid medical charges -- okay.

2 So I'm with you part of the way, but my question
3 still is -- evidence the amount the claimant's
4 healthcare coverage would pay the healthcare
5 provider.

6 So your point's decently made. I don't mean
7 that sarcastically. I mean, like you got me one step
8 closer, but I still don't know how to get over the
9 finish line where you're trying to go because let's
10 say -- all right, let's take Sandborn. He says, "I
11 don't...I don't..." Let's simplify some things.

12 Hypothetically, let's say Sandborn goes, "Yeah,
13 I've got a letter of protection. I don't take
14 CIGNA."

15 Your position is the jury would still hear he
16 doesn't take -- or he does a letter of protection and
17 what that means. But had her insurance paid, it
18 would pay X and she would pay Y.

19 **MR. COLE:** Not exactly. I mean, I think that
20 the plaintiff would have to get the medical provider
21 to say what CIGNA would pay because an injection -- I
22 don't know the CPT code. We'll call it whatever the
23 CPT code is for a cervical steroid injection. It's
24 the same no matter who's doing it.

25 But from the insurer's perspective -- so that's

1 the point, is that it doesn't matter if it's Sandborn
2 or Dr. Smith or Dr. Jones or whoever, CIGNA will pay
3 for that CPT code, a certain amount. And so I think,
4 under that scenario, I would be allowed to still
5 cross-examine him on his financial interest because
6 if she doesn't win, he doesn't get paid. But the
7 evidence that he's allowed to put up is limited to
8 what they would pay.

9 **THE COURT:** But now let's say -- let's just say
10 Sandborn, you're saying he needs to be able to
11 testify to that, right?

12 **MR. COLE:** Or he's not allowed to testify about
13 it because the evidence -- the medical damage is
14 limited by the statute. So either they do what they
15 need to do to equip him to say what that would be, or
16 they put it in some other way, and he doesn't talk
17 about what the bill is.

18 I mean, complicated or not, that's what they
19 have to do. That's our position on it, that he can't
20 just get up here and say, "Well, it's \$9,000. And
21 "I'm sorry, but I don't take CIGNA, so it's \$9,000"
22 or "I don't take any insurance, therefore..."

23 **THE COURT:** Did you tell me at the end of the
24 depo with Bailey, Bailey reviewed some rates?

25 **MR. COLE:** Yes. I'm sorry. Yes, Your Honor.

1 **THE COURT:** What -- you're fine. Read me what
2 he --

3 **MR. COLE:** So the very end of the depo -- one
4 second.

5 **MR. BAGGETT:** Judge, forgive me. I just want to
6 excuse myself briefly. I've got a witness call
7 for --

8 **THE COURT:** Yeah, you're fine, sir. I
9 appreciate it. Have a great night.

10 **MR. BAGGETT:** Thank you.

11 **THE COURT:** Thank you.

12 **MR. BAGGETT:** See you in the morning.

13 **THE COURT:** Obviously, I'm sure you're not going
14 to wonder until tomorrow morning what happens here
15 tonight. But Ms. Schrader will let you know what
16 time to be here because all this is going to -- at
17 the culmination of all this, I think we'll be able to
18 figure out, hey, we need everyone here at such and
19 such time. Okay?

20 **MR. BAGGETT:** Okay. But you're saying earlier
21 when the jury will be here?

22 **THE COURT:** I think probably I'll tell you all
23 to be here at 8:15, probably.

24 **MR. BAGGETT:** Okay. Perfect. I'll plan on
25 that.

1 **MR. COLE:** Your Honor, so here's the question,
2 and this is my -- the end of my cross.

3 The question is: "But as you sit here today,
4 for the future care that you talked about on direct
5 examination, do you know what her healthcare coverage
6 would be obligated to repay you for those services?"

7 And then there was an objection as it relates to
8 insurance rates, and then he gave a long answer.

9 Do you want to see it?

10 **THE COURT:** Just read it to me. I'm fine with
11 that.

12 **MR. COLE:** Okay. It's pretty long.

13 He said, "Yes. So I gave different scenarios,
14 like typical treatment might be an adjustment and
15 traction which would fall under the \$40 copay. And
16 then a one-hour massage might be \$75, so that visit
17 would be 115. Also I did something else for her if I
18 think she did adjustment and traction -- traction, I
19 think. It's pretty important for her because of her
20 herniated disk.

21 "And then the high-powered laser and electrical
22 stem would be -- all those together would be a
23 hundred because we had the 40 copay for the
24 adjustment and traction. The laser is not covered by
25 insurance, and the electrical stem is an additional

1 therapy they wouldn't cover. So in that range, I
2 came up to a yearly range of costs to her of 1,200 to
3 2,700 out pocket."

4 And I said, "Is that based on her healthcare
5 coverage or something else?"

6 And he said, "That's based on her healthcare
7 coverage that we checked."

8 I said, "Which is through?"

9 And he said, "CIGNA."

10 And I said, "But since this is all protected,
11 she might be paying you 50 percent or less even when
12 this is all over."

13 And he said, "What do you mean?"

14 I said, "Depending on the outcome of the case."

15 And he said, "Yeah, 50 percent of my outstanding
16 bill."

17 And then that was the end of the cross.

18 **THE COURT:** So that part won't come in?

19 **MR. COLE:** Huh?

20 **THE COURT:** That last part won't come up in
21 front of a jury.

22 **MR. COLE:** What?

23 **THE COURT:** The whole it could be less if the
24 jury comes back with less. I don't think you should
25 be asking that in front of a jury.

1 **MR. COLE:** That he's got a financial stake in
2 the --

3 **THE COURT:** No, that's fine. But when you
4 said --

5 **MR. COLE:** Go ahead.

6 **THE COURT:** I think that question -- I think the
7 whole -- or it could be even 50 percent, depending on
8 what the jury comes back with. That may be a bridge
9 too far.

10 **MR. COLE:** So if we wanted to transition to
11 that, I asked him what his reduction rates are, and
12 he says that in the past he's reduced LOP bills by as
13 much as 50 percent. And it depends on the recovery
14 which is part of the plaintiff's cross.

15 **THE COURT:** That's fine. I thought you were
16 doing the math based on --

17 **MR. COLE:** Oh, no. The thing that we talked
18 about at the beginning?

19 **THE COURT:** No, I thought you were coming back
20 saying what the jury -- I understand. You're saying
21 he's -- his previous testimony said he's reduced it
22 up to 50 percent of an LOP, okay. All right.

23 **MS. SCHRADER:** Your Honor, again I guess this is
24 why we're here, to try to figure out how to apply
25 this, and Dr. Bailey was able to pull some of those.

1 That's not -- I don't think that's going to be a
2 complete list. It's not CPT codes. It was really
3 just trying to figure out what a general overview
4 would be as to what these charges are, and it's
5 future care. It doesn't even go to the -- what was
6 past, so that's related to futures.

7 **THE COURT:** That's the same difference. I mean,
8 obviously -- the reason I ask that is because the
9 doctor -- the person who is going to come in as an
10 expert is going to say essentially, whether it be
11 past or future, they know their rate. Had she had
12 insurance or had they accepted insurance, this is
13 what it would break down, and they know that because
14 where we can't run CIGNA --

15 **MS. SCHRADER:** Right.

16 **THE COURT:** -- they apparently can. So I guess
17 it is simpler than I thought. Dr. Sandborn probably
18 should do that and so should Dr. Bailey because it
19 sounds like -- it doesn't sound like, reading the
20 statute -- now, again I don't know if this is going
21 to open up a new market for more experts that we're
22 going to deal with that are going to be billing
23 experts, and they're somehow going to get some kind
24 of dispensation to get with all -- because I don't
25 know what you do when they say something otherwise

1 because -- you know what I mean?

2 **MR. COLE:** And just to illustrate, I mean, that
3 was the first -- I didn't take his depo, but that
4 was -- I mean, he didn't know he was going to say
5 that, and I had no idea what he did -- you know, like
6 the --

7 **THE COURT:** But my point is, you know, where we
8 usually have these -- I want to call them actuaries,
9 but --

10 **MR. COLE:** Billing and coding experts?

11 **THE COURT:** No, I was thinking more the life
12 care planners. Maybe the life care planners are
13 going to start evolving into life care planner/this
14 new realm. I don't know because a lot of them do
15 have medical billing backgrounds. But you're saying
16 if somebody from the outside -- if someone like that
17 goes and asks CIGNA, they're not going to get an
18 answer?

19 **MS. SCHRADER:** Right.

20 **THE COURT:** So it sounds like it's going to be
21 on the doctors.

22 **MS. SCHRADER:** Well, and the other thing is if
23 he doesn't take CIGNA -- so if Bailey takes CIGNA,
24 he's able to get that information. Right?

25 So if Sandborn doesn't take CIGNA, how is does

1 he get that information, is the next question.

2 **THE COURT:** Well, let's talk about what goes on
3 behind the scenes, and hopefully some of you all --
4 one of you or both of you know this.

5 So your point is Bailey, because he takes CIGNA,
6 has at least access to look at CIGNA because he has a
7 contract with them arguably.

8 **MS. SCHRADER:** Apparently, yes.

9 **THE COURT:** Okay. But Sandborn, who's saying "I
10 take no insurance" essentially won't have the same
11 access to look.

12 **MS. SCHRADER:** Correct, because he would have no
13 contracted rate with CIGNA.

14 **MR. COLE:** But the plaintiff can call and say
15 I'm thinking about this particular type of treatment
16 or these three doctors. I mean, there's ways that it
17 can be done. You know what I'm saying?

18 The plaintiff can call CIGNA. Why can't the
19 plaintiff call? She's the one that has to put on all
20 the evidence of what her damages are.

21 **THE COURT:** No, I understand that. I think --
22 give me a second.

23 Okay. So Bailey's easy because he was able to
24 give you an answer, right?

25 **MS. SCHRADER:** Yes.

1 **MR. COLE:** He gave me an answer.

2 **THE COURT:** Okay. So Sandborn's the only one
3 we're left dealing with. Yeah, I mean, that's the --
4 that's (pause).

5 Let's go back to the old way.

6 **MS. SCHRADER:** Please.

7 **THE COURT:** Right. And I understand why they
8 changed it, but I understand why one side doesn't
9 like it. I don't really have an opinion other than
10 it will be nice when we either get some case law -- I
11 don't want to make the case law apparently because --
12 trust me, apparently this is the first one that's
13 come up in this courthouse.

14 And you all do this all day, and it's the first
15 one that's come up for you, so it is what it is
16 because I honestly don't know -- I mean, what -- I
17 can't waterboard Sandborn to get the answer.

18 I can't -- even if the client looks at her
19 policy, especially when it comes to Sandborn -- I
20 mean, chiropractic services, maybe. But when you
21 come to pain management, MRI's covered, right? CT
22 scan's not. Facet injection is. Surgery maybe.

23 You know, I'll allow two RFAs, right? I mean,
24 so -- it's so in the weed that I don't know who's
25 supposed to answer that question --

1 **MR. COLE:** The point --

2 **THE COURT:** -- accurately --

3 **MR. COLE:** Right.

4 **THE COURT:** -- you know.

5 **MR. COLE:** I'm sorry to interrupt you.

6 **THE COURT:** You're fine.

7 **MR. COLE:** The point is what the reasonable
8 value of the charges are.

9 **THE COURT:** Of course.

10 **MR. COLE:** It's not about whether or not there's
11 a limitation by the medical insurer to only give you
12 two RFAs. If they give you two RFAs for a hundred
13 dollars, and your doctor says you need 500 of them,
14 then you know what the math is.

15 So you don't get into the nuances of what the
16 contract will or won't do. It's all about
17 establishing the reasonable value of charges.

18 **THE COURT:** But shouldn't you be -- because
19 let's say a doctor -- let's say -- because we want
20 the -- the whole point of this is the accuracy of the
21 billing for, like you said, the big number on the
22 board, right?

23 But let's say the doctor says -- let's leave out
24 letter of protection also. Let's just say the doctor
25 says, look, in the future, you need four RFAs a year,

1 right?

2 And, typically, the life care planner just said
3 RFAs are this much. We don't talk about the word
4 "insurance," you know, and the jury figures out the
5 big number, right? And then we worry about maybe
6 setoff stuff later. But in this new scheme, there's
7 going to be honesty in the numbers, if you will, from
8 your side, right? Well -- because we want to know
9 what they actually -- the insurance would cover.

10 But let's say insurance covers two. It would be
11 unjust the other way to go, well, the insurance will
12 pay a hundred dollars per RFA and they cost 200, so
13 it's a 50/50 split because insurance is only going to
14 pay a hundred dollars for the first two.

15 So the math is different. If there's four
16 needed, and insurance is going to pay one-hundred,
17 one-hundred, zero, zero, that means for that year
18 insurance pays 200. The person pays 600 which is
19 different than three and three.

20 **MR. COLE:** So I hear what you're saying, but my
21 argument and my explanation would be that if you get
22 in that scenario, you've got -- your provider says
23 you need four a year, but insurance will only pay
24 two.

25 You don't consider what insurance will pay in

1 terms of the number of them. They've established the
2 reasonable value. They're going to pay \$100 per RFA.
3 So then you get to argue that my damages are \$400 for
4 this year, not \$200 because insurance only pays for
5 two of them.

6 It's about establishing -- tying the CPT code
7 and the treatment to a reasonable value. That's --
8 this whole legislation was aimed at doing away with
9 the inflated number. It's give me the number that
10 they determined that insurance reimbursement is a
11 measure of reasonableness.

12 That's why for Medicare, which is obviously
13 less, they give you, what, 125 percent of it. So
14 it's not what -- we don't want to get into the weeds
15 of what will this insurer pay and for how many visits
16 and all this because what they would pay for, in
17 terms of how much they would reimburse, if there's
18 not a limitation, that's what you look at.

19 That's what I'm saying is that Sandborn can say
20 she needs as many of these as he wants to say. I've
21 got -- you know, that's my job. But he can't say
22 they're a thousand dollars a piece when insurance
23 pays a hundred dollars for at least a couple of them.

24 **THE COURT:** But when we talk about that, we talk
25 about what they would cover versus -- right?

1 **MR. COLE:** It just says -- it says what they
2 would pay. And I'm just not arguing that if there's
3 some limitation in your policy that you only get to a
4 chiropractor once a month as opposed to four times a
5 month that you can't argue that.

6 **THE COURT:** But this last part is plus the
7 claimant's share of medical expenses under the
8 insurance contract or regulation, right?

9 The claimant is the plaintiff. So evidence of
10 the amount for which the future charges for
11 healthcare providers could be satisfied if submitted
12 to such healthcare coverage, plus the claimant's
13 share of the medical expenses under the insurance
14 contract or regulation.

15 **MR. COLE:** Okay, so devil's advocate. I
16 understand, under that scenario, where if they stop
17 paying at two and you need four --

18 **THE COURT:** Sure.

19 **MR. COLE:** -- then the claimant's share becomes
20 the full price. But the problem is, is they don't
21 have those first two, right?

22 So you can't meet half the statute. And I'm not
23 saying I agree with that interpretation, but in your
24 example I still think, from our perspective, we would
25 argue that you get a sticker price for what they do

1 pay, and then you just use that number for your
2 futures. But -- I mean, you can't -- you can't say
3 that the whole statute gets thrown out because --

4 **THE COURT:** I'm not saying that.

5 **MR. COLE:** I know you're not.

6 **THE COURT:** I'm just trying to figure out who's
7 supposed to -- who's qualified to testify to any of
8 this.

9 **MR. COLE:** I think the plaintiff and/or the
10 doctor, but the doctor more than anything. All I
11 know is -- you know, for me to figure it out --

12 **THE COURT:** Well, the thing is like Bailey takes
13 CIGNA, so Bailey was able to hypothetically run it,
14 right?

15 **MR. COLE:** That's how I understood his
16 testimony.

17 **THE COURT:** So Sandborn -- two things with
18 Sandborn -- Sandborn doesn't have that same
19 opportunity because he says he takes no insurance.
20 Right? So Sandborn isn't going to be able to run it
21 through CIGNA.

22 **MR. COLE:** Well, not in his office. I mean, not
23 with just a push of a button or telling his assistant
24 to do it.

25 **THE COURT:** Sure.

1 **MR. COLE:** But, you know -- but, I mean, therein
2 lies the problem, and it's just not -- I mean, the
3 statute is clear that this is how we limit the
4 evidence. Now, how they figure that out really isn't
5 mine to explain. I don't have to explain that.

6 I'd love to be able to give you the best answer
7 possible. I've done my best, but our position is
8 that it's just not our job, and we're not asking for
9 any damages.

10 **MS. SCHRADER:** Your Honor, the purpose of the
11 lawsuit is to make the plaintiff whole. Let's just
12 go back all the way to the beginning. And just what
13 you were saying, if your insurance is only going to
14 pay for two of them and you need four of them, if the
15 insurance is going to pay a hundred dollars, and so
16 the jury awards her \$400 for four of them, that does
17 not make her whole because she is not going to be
18 able to get that care that she needs.

19 I'm fairly certain that the defense would not
20 allow the plaintiff or a layperson to come up and
21 talk about -- usually, under normal circumstances,
22 about CPT codes and insurance rates and billing to
23 that extent for future care.

24 **THE COURT:** Yeah. So this is how I'm going to
25 rule. And, again, we're on very uncharted territory.

1 Sandborn's going to have to figure it out to testify.
2 I don't know if that means using a colleague system
3 that takes CIGNA. I don't know what it means, to be
4 candid, because I don't know what's at his disposal.
5 But looking at the statute and just -- not worrying
6 about anyone's intent, hopes, dreams, et cetera, just
7 what it says.

8 "If the claimant has healthcare coverage but
9 obtains treatment under a letter of protection" --
10 which I understand Sandborn did not do a letter of
11 protection because the next part -- I know where
12 you're going with it, Mr. Cole. The part down below
13 is letters of protection, okay.

14 They're very clear what those are, okay. But,
15 (2), saw where Mr. Cole's concern was and filled in
16 that blank with "or otherwise does not submit charges
17 for any healthcare provider's medical treatment or
18 services to healthcare coverage."

19 So that's where Sandborn is. He didn't do a
20 written letter of protection, so be it, but he still
21 doesn't get out of it because of (2). Right?

22 If he did one -- if he did a written one, (3)
23 triggers. He didn't do one, so now -- but he doesn't
24 get out of number (2).

25 "Evidence of the amount that claimant's

1 healthcare coverage would pay the healthcare provider
2 to satisfy the past unpaid medical charges under the
3 insurance contract or regulation" -- insurance
4 contract being her insurance contract, so that would
5 have to be CIGNA.

6 "Plus the claimant's share of medical expenses
7 under the insurance contract or regulation."

8 Okay. "Had the claimant obtained medical
9 services or treatment pursuant to the healthcare
10 coverage."

11 So I mean, again, that's what I'm going to
12 order. How he gets there is going to be interesting.

13 If I'm him -- let's be honest. All these guys
14 talk. I mean, it's like -- it's like if I have -- I
15 mean, if I have a question, I have -- if I don't even
16 have -- if I don't leave this circuit, I have like 43
17 judges to call. Right?

18 You all have a whole website dedicated to the --
19 groups dedicated to the insurance defense world. You
20 have the exact opposite, Plaintiffs. So I can't
21 imagine doctors don't. I can't imagine he doesn't
22 know somebody in his profession that goes, "Hey, when
23 I run these bills with CIGNA..."

24 That's the best I can come up with, to be
25 honest.

1 **MR. COLE:** My only concern is we've already
2 taken his deposition, and he didn't have that
3 information. And this goes back to our motion that
4 we filed to strike him entirely because they didn't
5 file the disclosures. I don't know who referred
6 Sandborn. I don't know if it was a lawyer. I don't
7 know if there is an LOP. I surmise -- he
8 testified -- actually, he didn't even say LOP.

9 They all say it's not an LOP. They're just
10 holding the bill. "Her bill is her bill" is what he
11 said. We know what that means, but I don't have any
12 of that information. And now I'm going to -- I
13 appreciate the Court's ruling, but we're going to let
14 him come into court and just -- without a deposition
15 and without verification, just say I called
16 Dr. Jones, and he said CIGNA pays this?

17 They have to do that in advance. I mean, that
18 would be my position is that they can't wait until
19 6:10 p.m., you know, after we have a jury --

20 **THE COURT:** When is Sandborn going to testify?

21 **MR. COLE:** Tomorrow.

22 **MS. SCHRADER:** Tomorrow afternoon.

23 **THE COURT:** Have Sandborn --

24 **MS. SCHRADER:** Again, Your Honor, that goes --
25 what he's telling you right now, is he's going to

1 argue about the way that he gets this information.
2 So you're instructing us that he has to provide that
3 information even though he does not accept CIGNA or
4 any insurance.

5 And the defense is going to argue, "Well, I
6 didn't know about this and how did you get this
7 insurance, and I don't believe how you got the
8 insurance -- and I don't believe it's correct. That
9 opens up a whole other issue of --

10 **THE COURT:** I'm not striking him because
11 candidly we've all sat here for two hours plus and
12 don't have -- and round and round we went, and nobody
13 had a good answer, so I'm not striking him.

14 I mean, if two years from now, when the 5th and
15 the Supreme Court tells me I did everything totally
16 right today or I did everything wrong today, and a
17 bunch of other judges either follow suit or don't and
18 we have all this case law, it will be a much
19 different situation.

20 But in this situation, we all wandered through
21 this in the dark. This is the best answer I have.
22 I'm not striking him. That would be a too extreme
23 measure. What I'm going to say, is have Sandborn
24 here in the morning. Do your depo. You all got
25 enough attorneys. Somebody from your side, somebody

1 from your side.

2 **MS. SCHRADER:** I'm not saying that we can't make
3 it happen. I don't know that the doctor can make
4 that happen.

5 **THE COURT:** Too bad. Then he doesn't testify.
6 He'll make it happen. How much do you get charged an
7 hour to be here? I know the answer. He's in all my
8 trials, but how much?

9 **MS. SCHRADER:** I think he charges 5,000 for half
10 a day.

11 **THE COURT:** Sound like he'll be here. I'd be
12 here for \$5,000.

13 **MS. SCHRADER:** Well, it's not a matter of him
14 being here; it's a matter of his scheduling for
15 practice.

16 **THE COURT:** He'll free up for 5,000. That's
17 going to be my ruling. He needs to be here. I'm not
18 trying to be hard with you, but the fairest thing I
19 can do is not exclude your witness but make him
20 available for this very uncharted territory on the
21 fly, so...

22 Because if he shows up tomorrow for trial in the
23 afternoon, then when is he going to testify? Right?
24 I mean, that's the thing. He's probably a couple
25 hour testimony. I mean, we're going to have a hard

1 enough time essentially ironing out what happened at
2 the depo over the lunch hour, and we're going to
3 probably have to just eat lunch in here and talk
4 about it, right?

5 So I don't know of an answer, Ms. Schrader, to
6 be honest.

7 **MS. SCHRADER:** I just don't know that he's going
8 to cancel all of his patients to be here in the
9 morning for that when he's already scheduled the
10 afternoon.

11 **THE COURT:** Well, I don't know either, but it's
12 the best I've got.

13 **MS. SCHRADER:** Okay.

14 **THE COURT:** All right. Sounds great. Let's
15 everyone have a great night.

16 I don't know how much more you've got left
17 but is that it, at least?

18 **MR. COLE:** I think that's everything for
19 tomorrow. I mean, we're going to have some Bailey
20 designations that the Court's going to have to take
21 up, but we haven't -- I would ask that we do that
22 like tomorrow at -- on a break or something. I mean,
23 I don't think it's going to be heavy-lifting.

24 **THE COURT:** Yeah, we'll take that up. Yeah, I
25 think we've covered enough ground for tonight.

1 **MS. SCHRADER:** Okay.

2 **THE COURT:** Yeah. So, Ms. Schrader, what I
3 would tell you is this, stay in contact. It sounds
4 like -- I think Mr. Cole and opposing counsel said
5 they were going to talk later tonight anyway.

6 I would just stay in contact with each other
7 because if your doctor really can't be here tomorrow,
8 I'd hate for you to pay for a court reporter. I
9 don't know what the answer will be, to be honest. So
10 I would tell him -- you know, saying you're not
11 available is not really -- you don't know what the
12 answer is.

13 That may be you're right. This statute's out
14 there. You all should have read it ahead of time.
15 He's stricken. You know what I mean? I don't know
16 what the resolution will be, but I'd also just hate
17 for more money to get spent and wasted if we know
18 he's not going to be here in the morning for that
19 side to have a court reporter ready to go.

20 **MS. SCHRADER:** So, Your Honor, if he's already
21 scheduled and canceled patients for whatever his
22 schedule has to be in the afternoon, can we not take
23 his depo then when he's already scheduled to be here?

24 **THE COURT:** But then the problem is when do we
25 have him testify? You know what I mean? Just

1 because unless -- put it this way, yes, if you can
2 rearrange your witnesses, that's a good middle
3 ground.

4 But you have to rearrange your witnesses. I'm
5 not just going to -- I can't just -- we can't burn a
6 whole half day with doing a discovery depo. So if
7 you can move people, that may be -- maybe before or
8 after witnesses that are not charging you \$10,000 a
9 day to be here, probably more her family that should
10 be able to shift gears. If you can fill that time,
11 so it doesn't change overall deadline, then
12 absolutely.

13 **MS. SCHRADER:** Okay. So maybe I just
14 misunderstood. So, Your Honor, you're instructing
15 Dr. Bailey to be here to testify --

16 **THE COURT:** Sandborn.

17 **MS. SCHRADER:** Excuse me. Dr. Sandborn to
18 testify outside of the trial, but the trial continue?

19 **THE COURT:** Yeah. So my thought was this.

20 **MS. SCHRADER:** Okay.

21 **THE COURT:** I see at least two if not three
22 competent attorneys on each side. So a depo happens
23 somewhere outside of me, and then we have -- that's
24 why I said -- let's just say the depo happens from
25 9:00 to 11:00. I imagine the entire 45-minute lunch

1 break is us dealing with that.

2 **MS. SCHRADER:** Okay.

3 **THE COURT:** We'll literally eat in here, and
4 then he'll come -- we'll figure out what he's going
5 to testify to in the afternoon.

6 **MS. SCHRADER:** Okay.

7 **THE COURT:** Which is not going to be fun, but it
8 is what it is. My point is, if you guys already have
9 him for the afternoon, and -- I just don't want it --
10 I guess my biggest concern is this. Let's just say
11 we're going to do Sandborn -- you all were going to
12 do the Sandborn deposition outside of me tomorrow
13 afternoon. I'm fine with that as long as court keeps
14 going with other witnesses.

15 If you can, say whatever your Wednesday
16 morning -- if you can pull them to Tuesday afternoon
17 and then pop him Wednesday morning, I have no
18 problem, but I can't just give the jury a half day.

19 **MS. SCHRADER:** Okay. I just misunderstood. I
20 thought he was going to come in the morning. We were
21 going to take his deposition, kind of within this
22 scenario, but I --

23 **THE COURT:** No, no. I'm sorry.

24 **MS. SCHRADER:** -- understand now. It's outside
25 of this.

1 **THE COURT:** Yeah. I was going to try to --

2 **MS. SCHRADER:** Gotcha.

3 **THE COURT:** -- have two things going on at once
4 even it means, yeah, we'll put you in another room, a
5 courtroom or whatever we need. But again --

6 **MS. SCHRADER:** We'll see.

7 **THE COURT:** -- whatever it takes. Just
8 communicate with each other so we don't -- so there's
9 not unnecessary money. But if you want to do
10 Sandborn's depo tomorrow, but then the issue is he's
11 also got to make himself available Wednesday
12 afternoon or Wednesday morning, so I don't know kind
13 of which is the -- which is the worst poison I guess
14 is the word, so.

15 **MS. SCHRADER:** All right. Thank you, Your
16 Honor.

17 **THE COURT:** Let me know. All right. Sounds
18 great.

19 **MR. COLE:** Thank you, Your Honor.

20 **THE COURT:** Thanks everybody.

21 * * * *

22 (This ends this excerpt.)

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CERTIFICATE OF REPORTER

I, Cheryl L. Franzino, a Registered Professional Reporter and Notary Public, in and for the County of St. Johns, do hereby certify that I was authorized to and did report the foregoing proceedings, and that this EXCERPT OF PROCEEDINGS, pages 1 through 29, is a true and correct record of the proceedings to the best of my ability.

Done and dated this 27th day of July, 2025, at St. Augustine, St. Johns County, Florida.

Cheryl L. Franzino

Cheryl L. Franzino, RPR, FPR
Court Reporter

