

March 21<sup>st</sup> Motion Hearing

1. **JUSTICE BILLINGS:** Good morning, you may be seated. We're on the record here in Cumberland County Superior Court. It is the 21st of March 2024. We're here to deal with pending motions in the matter of Drew Pierce et al. versus Anthony Rinaldi et al. This is the CV 21-138 Can we have folks identify themselves for the record? Starting with counsel for the plaintiffs.
2. **ATTORNEY MONTELEONE:** Good morning, your honor. James Monteleone, plaintiffs.
3. **DEFENDANT RINALDI:** Good morning. Good morning, your honor. Anthony Rinaldi, pro se
4. **JUSTICE BILLINGS:** Thank you. So what I would like to do today is to try to work through the pending motions other than the motions in limine that deal with the conduct of trial and looking at them in order. Well, I'm going to start out in the order as filed. The first one is the Defendants motion to reconsider. And it's unclear to me where it was filed with the appeal, whether it's before the court, but just to give the defendant an opportunity to address it. Mr. Rinaldi, I'd be glad to hear from you in support of this motion, but it appears to me that you're simply re-arguing issues that were previously addressed by the court, and that's not the purpose of the motion to reconsider.
5. **DEFENDANT RINALDI** I didn't remember. I filed the motion to reconsider with you. Okay.
6. **JUSTICE BILLINGS:** Well, it was unclear from the filings. There was a motion to reconsider that was filed along with the notice of appeal on January 26, and a motion to reconsider would generally be considered by the trial court. But if you don't believe that's something we need to address at this point, that's fine.
7. **DEFENDANT RINALDI** I just submitted the motion to reconsider as like a statement of issue, basically. So I didn't intend it for this court. It was just basically sent along with the introductory appeal.
8. **JUSTICE BILLINGS:** Okay. Well, I understand the plaintiffs have filed a motion for enlargement of time for that the court not require them to respond to either the motion to dismiss or a motion for sanctions until we deal with the issue of the Spickler order. But I guess I want to hear from the defendant in support of those motions before we move on to the idea of the Spickler order. Because I think I need to consider the basis for those motions before I consider the request for a Spickler and a gag order. So, Mr. Rinaldi, can you address your motion to dismiss
9. **DEFENDANT RINALDI:** Yes.
10. **JUSTICE BILLINGS:** And, I mean, **frankly, my take on that motion, and I'll just let you know my initial reaction so you can address it, is you're effectively arguing facts, and that's what a trials are about. And they're not for a motion to dismiss. I mean, generally, motions to dismiss test the legal sufficiency of the complaint. So the plaintiff says A, B, and C, and the motion to dismiss is even if A, B, and C are true, there would be no legal claim here. I**

mean, you're effectively arguing, I mean, well, first you argue this jurisdictional issue, but there's no question that they argue that the claimed events occurred in the state of Maine, correct?

11. DEFENDANT RINALDI: That's correct.

12. JUSTICE BILLINGS: So why wouldn't a Maine court have jurisdiction?

13. DEFENDANT RINALDI: Because there's no injury. There's no concrete or particular injury. It's all hypothetical.

14. JUSTICE BILLINGS: Well, the plaintiffs say otherwise, so that's a disputed fact.

15. DEFENDANT RINALDI: Well, they even state that if they bought, hypothetically, if they purchased another house, they'd be damaged, or hypothetically, if they win, I have to pay attorney fees. So their allegations are, they're stating these are hypothetical injuries, as stated.

16. JUSTICE BILLINGS: But you also argue that there's no jurisdiction to the court because the plaintiffs are out-of-state litigants, correct?

17. DEFENDANT RINALDI I just brought up the fact that Maine has, you know, in the laws they, it usually applies to, my argument, if you look at my arguments, it has nothing to do with out-of-state. I just wanted to point out that, you know, Maine tends to protect their citizens from attacks from out-of-state litigants. In this case, a frivolous lawsuit from an out-of-state litigant, I just want to point out that I'm a Maine resident, a lifelong resident. I'm a coach. I'm, you know, a good contractor. And, you know, this lawsuit should never have been filed. And, you know, it was filed by an out-of-state litigant without any basis in reality or fact. So I just wanted to point that out. It wasn't an argument.

18. JUSTICE BILLINGS: Well, frankly, it's an inappropriate argument because it doesn't make any difference if the, it doesn't make any difference where the plaintiffs may live. If their arguments are valid, they're valid. If they're invalid, they're invalid. The court and the law treats people the same, no matter what their residency might be. And, again, on the motion for sanctions, you're basically asking me to decide on motion without a trial and without the court hearing any evidence that, I mean, basically that not only the plaintiff's claims are, the plaintiff can't prove their claims, but that they're completely frivolous and made up. How could the court make such a finding without hearing evidence first?

19. DEFENDANT RINALDI: Well, that's, should I stand up my argument?

20. JUSTICE BILLINGS: You should.

21. DEFENDANT RINALDI: Sorry.

22. JUSTICE BILLINGS: I didn't take it to be a lack of respect. That's why I didn't address it.

23. DEFENDANT RINALDI: Thank you. I, that's what I was hoping this hearing and that motion was for, for them to address it. I mean, when we went for summary judgment, they failed to prove prima facie. We had a hearing. I pointed that out. And then I even, after, when I got the ruling, I then filed a pretrial motion pointing out that they still failed to prove

prima facie. And Justice O'Neill said, well, they get to prove it during trial, which isn't your standard. I mean, prima facie is really the basic. It's been three years, and they don't have any evidence. They don't have any witnesses. And so I understand that's a big ask. I understand you just entered this, and it's a lot for you to process, considering this is going on so long.

24. JUSTICE BILLINGS: Well, it's not even that. I would have to be, have to make factual findings. I can only make factual findings based upon evidence. Basically, your motion is asking for trial before the trial. Why wouldn't we just have the trial? If it turns out the plaintiffs have no evidence to support their claims, the court can deal with that. But for me to find, you know, this conspiracy and frivolous, I mean, I'd have to hear evidence. Those are claims that have to be supported by facts. The court would have to find facts before being able to make, to take that action. So why wouldn't we just have a trial?
25. DEFENDANT RINALDI: So I've looked at countless motions to dismiss as well as motions for sanctions. I mean, I've read a crazy amount because my biggest fear was to file something that wasn't proper. Everything I've filed has been proper, supported by evidence. And I made sure not to file anything I, or allegedly.
26. JUSTICE BILLINGS: Here's what you're saying. No, I understand. You use terms like supported by evidence. So for, I mean, you know, evidence is not just your arguments.
27. DEFENDANT RINALDI: I understand So when I filed it, I basically used other ones as a template, and I presented all the evidence. I presented everything I needed to show you that this, what I'm alleging is in fact true. There's all the supporting evidence. There's all the case law. I mean, it is as clear as day. And at the very least, he should have to respond to it considering, you know, it didn't meet any of the, you know, requirements for standing. And the court has very limited resources. Why should we have a trial if they can't prove standing?
28. JUSTICE BILLINGS: But, well, one could suggest that your motions have taken up more time and judicial resources than a trial would take up. So it's hard to take your concerns about judicial resources seriously. I mean, in your own motion, you listed the multitude of motions you have filed. I would suggest to you that that is fairly unusual for litigation of this kind.
29. DEFENDANT RINALDI: Can I respond to that?
30. JUSTICE BILLINGS: Yes.
31. DEFENDANT RINALDI: so I agree this is fairly unusual. This is the worst abuse legal system in history. This lawsuit should never have been filed. It should have been denied when filed. When we went to the motion to dissolve hearing, I had a lawyer at the time. They showed up with all this new evidence and a whole new story. And my lawyer pointed out to the judge, like, how am I supposed to respond to this? I've never even seen this evidence. And he didn't respond to my lawyer. They ruled based on that new evidence. So

I did file a lot of motions. But if you look at each one individually, not one of them was filed frivolously. Not one of them was. Every one. It should never have gotten this far. So, like, it just stinks that it's used against me when the whole time all I've been asking for is just for this to be judged on its merits for me to have these pretrial, you know, these motions available to me. I should be able to file something and it taken serious. And, you know, at no point has Justice O'Neill said that my motions were frivolous or anything like that. So when I file them, they just get denied without any explanation. And, yes, I filed a lot of motions. But if you look at each one, every one was filed properly and for good cause. I'm not trying to waste the court's time. I'm trying to bring to the court's attention that this is wrong on so many levels. There's so many bad contractors out there. I'm not one of them. This should never have happened. This should never have been filed. And I should never have had to wait three years to be able to, you know, present anything to the court.

32. **JUSTICE BILLINGS:** Okay. Thank you.

33. **DEFENDANT RINALDI:** Thank you.

34. **JUSTICE BILLINGS:** So, Mr. Monteleone, I understand that your request was for the court to hold off on deciding these motions before or to deal with the Spickler issue first. But I think it's difficult for me to do that without some consideration of the recent motions. So, anyways, just before we move on to the Spickler order request and gag order request, to the extent you can, I'll give you an opportunity to respond to what I've heard about the motion to dismiss and motion for sanctions.

35. **ATTORNEY MONTELEONE:** Thank you, Your Honor. I'd echo the motion to dismiss, although it's characterized as a subject matter jurisdictional issue. **It, in fact, turns on the question of contract damages. Contract damages are a matter of fact. If a party's failure to perform on a contract gave rise to a hypothetical injury, a non-particularized injury that's not subject to standing, then enforcing any contract obligation would be impossible. Ultimately, it's the court's interpretation of the facts of the party's conduct and the facts of what the actual values of the contract were in order to determine what the damages are. Those are all on the table. In fact, in this case, defendant's prior counsel has stipulated to the amount of damages for what this property was worth at the time of the breach. So that's already in the record and having been established. To now come back three years later and say, oh, it's hypothetical, not only is reversing the stipulations that are on the record in this case, but also are wholly out of line with something that undercuts the court's subject matter jurisdiction. And for that reason, there's no basis for a dismissal on this motion.**

36. **JUSTICE BILLINGS:** And obviously the sanctions motion goes directly, you know, allegations of your conduct, and I don't expect you to try to defend yourself here today and don't really want to go into the merits too much. But I assume you agree with me that for the court to

decide that motion, the court would have to hear evidence, which frankly would probably be much of the evidence that would be necessary at trial.

**37. ATTORNEY MONTELEONE:** That's absolutely correct, Your Honor. The allegations throughout the motion for sanctions are that I personally acted frivolously to bring a bogus claim knowing that it's bogus and went out of my way to direct it at basically to cause harm to Mr. Rinaldi. At trial, the facts will be clear in terms of the obligations of the contract, the understanding of the parties, and which of those parties breached that obligation. What's clear, what will be clear upon review of the evidence at trial, is that there is nothing that is frivolous about this whatsoever. This isn't anywhere in the ballpark of a Rule 11 type of issue. Yet, the ability for Mr. Rinaldi to file these kind of 20-page motions attacking me personally, which then get forwarded on to the Board of Bar Overseers, to the Governor's Office, to essentially anyone who Mr. Rinaldi can find and say, look, it's on paper. There's this motion that this is all true. Take my word for it. I mean, not only is it unavailable for the court to act upon until the court can hear the evidence, but also allowing these motions to proceed, rather than just letting us go to trial and demonstrate the facts that are at issue here, allows this to perpetuate into something else entirely, while Mr. Rinaldi is taking advantage of really a public forum to attack me personally, which is frustrating to say the least.

**38. JUSTICE BILLINGS:** Okay. Mr. Rinaldi, in regards to these two motions.

**39. DEFENDANT RINALDI:** So I've spent several thousand hours studying the law and making sure I'm doing things right. One thing that's very clear is when you file a civil lawsuit, the court just doesn't grant a trial. I mean, there's all these procedures to go through to make sure a trial is warranted. He doesn't have any witnesses. He doesn't have any evidence. In a recent deposition when I deposed him.

**40. JUSTICE BILLINGS:** So what you just said. Yeah. I've been a judge about 12 years, and almost every civil case is resolved without the court doing any such thing. And there can be summary judgment, motion to dismiss, but the number of cases that are resolved in that way, at least in main state court, are a small percentage of the cases. And I think this may be an example of a little knowledge being dangerous. If you read the case law, you know, the case law tends to be matters that were appealed, matters that were resolved on a legal basis. So if you were to read those appellate decisions, frankly, if you read appellate decisions at all, you can get a twisted view of what actually goes on in court, because most matters are resolved, particularly civil matters, criminal matters too, are resolved on the facts. The party that has the burden of proof can either prove their case or not, and that's what resolves the cases. If you spend a lot of time reading appellate decisions, again, it can give you a twisted view about how most cases are resolved. And one of my former legal partners, one of his standard comments in an opening statement was, when somebody files a lawsuit, there's no line down at the clerk's office for good lawsuits and bad lawsuits, and

nobody looks at the filing and says, oh, sorry, this doesn't pass muster. Those decisions are ultimately made by the fact finder, be that the judge or a jury. Now, there are exceptions to that, obviously, motions for summary judgment and so forth, but you've had that opportunity, and those motions were denied.

**41. DEFENDANT RINALDI:** So can I address what he said?

**42. JUSTICE BILLINGS:** Yeah.

**43. DEFENDANT RINALDI:** So he says, I will send it to anyone that will listen. I mean, they go to the media all the time. When he defended the rank trust voting, he called the other parties' lawsuit frivolous in the media. So I've used my First Amendment rights. I didn't bring any of that into the court. I didn't try to sway the court with it. I just want to be heard. Yes, I filed a summary judgment, but it was denied without any explanation. The judge even acknowledged it. He failed to prove prima facie. I mean, it's been three years. They failed to present any evidence at all, and they have no witnesses. I just don't get how, like, I'm filing these motions exactly as the law states, and at the very least, you should have to respond to them. At the very least, you think you're responding to show. Yes, there is actually evidence. There is actually a case here. There are actual damages. I mean, at the very least, I feel like I deserve that.

**44. JUSTICE BILLINGS:** Okay. Thank you. So, Mr. Montiglioni, I'll hear from you in regards to your letter concerning a request for a Spickler order and a Gag order.

**45. ATTORNEY MONTELEONE:** Thank you, Your Honor. You know, as the court referenced earlier, Mr. Rinaldi's motion for sanctions on page 8 provides a snapshot of the motions that have been presented to this court and the court's action on it. And they are some fairly wild things that have consumed the court's time, such as the defendant's motion to amend plaintiff's complaint, such as there's been two motions for contempt, one motion for sanctions, all that are targeting personal conduct that is really centering on just the litigation of the matter, advocacy on behalf of a client. What's most concerning is even hearing Mr. Rinaldi's words here today, what Mr. Rinaldi apparently seeks is compelling me as counsel for plaintiff to do more work and give him more information in advance of trial, rather than just allow this to go to trial. We've seen that these motions, the pending motions have been the basis pointed to as I need more time. On the trial calendar, motion for enlargement of time to reschedule the trial because all the pending motions haven't been resolved. We've had on the eve of trial or just before trial in January 2023, there's an interlocutory motion and everything gets siloed. Plaintiffs have been pushing forward for three years trying to get this simple contract action resolved. We're eager to have a trial date and very concerned about Mr. Rinaldi's demonstrated ability to file interlocutory appeal number four or some other matter.

**46. JUSTICE BILLINGS:** So on that point, does the Superior Court have the authority to bar someone from filing an interlocutory appeal?

- 47. ATTORNEY MONTELEONE:** Yes, absolutely, Your Honor. And I think what the case law demonstrates, just like the Superior Court has authority to bar someone from filing a new action in a different court. And it's not an overly burdensome restriction because it's not a complete bar. It simply provides that to file anything, it needs to either be signed by an attorney or receive leave from the court to file in the effort to try and expedite the process to allow appropriate motions, such as motions in limiting trial procedure motions, to be heard as part of the process while avoiding these extraneous motions that cause delay. And what this case has experienced is undue delay.
- 48. JUSTICE BILLINGS** Frankly, I don't understand. I don't understand why. Because I hear on one hand Mr. Rinaldi saying that this has been going on for three years, I want to vindicate my rights, but on the other hand, insisting that some due process hook is going to must be titled and afforded to them before it goes on.
- 49. ATTORNEY MONTELEONE:** And I'm afraid that this can just perpetuate indefinitely as the list of motions shown here demonstrates. With that in mind, the line of Spickler case law, as then also enunciated in the St. Clair case, demonstrates that the court has authority to impose this reasonable restriction where a party has, where there's a detailed showing of a pattern of abusive and frivolous violence. What we see here is exactly that. And in order to expedite this process, that is not an unreasonable imposition on Mr. Rinaldi to allow this to come to an end through the fact.
- 50. JUSTICE BILLINGS:** What about the suggestion of a gag order? I can certainly understand why you and your clients may be unhappy about claims that have been made by Mr. Rinaldi. I suggest there may be, you know, remedies for that to the extent it is actually defamatory. But usually when there is a gag order involved, there is a concern about, you know, influencing a jury and those kind of things. I believe I have never entered a gag order, but I was the judge on a case that I took over where there had been a gag order entered previously that continued once I was presiding. And, again, the concerns there was a criminal matter where there was significant concerns about pretrial publicity. Why would a gag order be appropriate in a case where the matter is ultimately going to be decided by the court?
- 51. ATTORNEY MONTELEONE:** This case is unique as demonstrated by Justice O'Neill's order of refusal in which Justice O'Neill acknowledges that Justice O'Neill has never before allowed a litigant's conduct to affect the court's handling of a matter. In this case, representations made by Mr. Rinaldi in a public forum, repeatedly characterizing the court as lying, characterizing the court system as fraudulent, casting dispersion upon this proper judicial process, undercuts the administration of justice. Now, indeed, this is a bench trial. The standard that's often applied about influencing a jury pool are not at issue. However, this also is not an anticipatory restriction. Merely, it's a restriction, what's being requested is a restriction that's focusing on behavior that has already happened. In other words,

addressing the comments that Mr. Rinaldi has posted online in the past that's available today to see and review and prevent those from continuing as the court attempts to administrate this matter. The concern being is that court staff on one occasion, because of Mr. Rinaldi's comments and handling of public communications, have felt the need to step back and have nothing to do with this case. Now, the concern that's being expressed is that if that continues, that can happen again, where we have another round of court staff that feels uncomfortable or threatened by Mr. Rinaldi and can't pursue the case. And then we go back to the way it was. And being three years in, our focus is the risks of continuing delay. And I think that that's a core issue that makes this distinguishable from merely influencing a jury pool.

**52. JUSTICE BILLINGS:** Okay, thank you. Mr. Rinaldi, I give you an opportunity to be heard on the request to allow the plaintiffs to file a motion for a spickler order and or a gag order.

**53. DEFENDANT RINALDI:** I didn't see today going this way. And I mean, I mean, honestly, it's just I'm at a loss of words. I mean, once again, just dancing around the issue. If my motions were frivolous, why did it take him three years to call them frivolous? Why would he call them frivolous when filed? So Justice O'Neill made that statement. I don't agree with that statement. A court staff found this website. I never brought the website to the court's attention. I'm exercising my First Amendment right exactly how the founders of the Constitution intended. The founders of the Constitution would be proud that I'm standing up for my rights and proud that I'm saying this is wrong. Because it is wrong. What he's doing is wrong. He knows better. He still hasn't presented any evidence. He just says that my actions are bad, but he doesn't say how. He doesn't say anything I've done wrong. I've acted professional. I've literally studied the law. I've tried to do everything by the book. My intentions have only been good. And if you go on my website, it's just stating the facts, the same facts that are in the record. So he stands up and says, I'm delaying and I don't want to. This whole entire time, when I took over and I tried to get a hold of them, my lawyer, I couldn't afford my lawyer anymore. January 28th is when discovery ended. And July is when my lawyer removed himself. And I'm emailing them, emailing them, and they're not responding. What is going on? He waits to the day that discovery ended and then writes to the court and says that he can't get a hold of me. When the opposite was true. They literally delayed for six months and then told the court that they can't get a hold of me, which was a lie. And so I call him out on it. He immediately removes it. And then he's filed nine motions to enlarge. And I'm not scared to go to trial. I keep asking to get in front of the court to discuss this fraud, to discuss their actions, to discuss the evidence. And I've been denied every turn. So they're the ones who, when I email them and present them with additional evidence over and over again, that refuse to address it. When I have a discovery meeting with him, he refuses to. He just says I mischaracterized. I don't agree with the characterization. I don't agree with the characterization. Never. Literally, the day that closing



fell through, I stated four times I have a legal right to walk. I mean, I stated over and over and over again, so there was no question. So, nobody could say, you breached. I mean, I went over the top, because I just had this bad feeling. I recorded everything, documented everything. And so, it's just insane to think that I'm the one delaying. I'm the one who's stopping this. And they're ready to go to trial. They're ready to go to trial with no evidence, no witnesses. I mean, it's kind of confusing that they argue that, but yet he stands up and doesn't present one reason that... One actual action I've done that's frivolous or fraudulent or harassing, I'm just stating facts. I have a right to say you're committing fraud. I have a right to say what you're doing is frivolous. And I'm not saying it in a mean way. I'm not swearing. I'm not yelling at them. I'm not acting inappropriate. I'm exercising my constitutional rights here, and I have the right to this trial. I honestly thought today they'd finally have to show some evidence and show that they don't have it.

- 54. JUSTICE BILLINGS:** See, that's what a trial is about. A trial is when you present evidence. When people bring in witnesses, they're sworn to tell the truth, they testify before the fact finder, they're subject to cross-examination, and the court decides whether the evidence is persuasive or not, whether it believes the evidence, and then ultimately determines whether the party with the burden of proof has met its burden. I mean, that's what a trial is about.
- 55.** Now, I understand that, but this is a pretrial conference slash status conference, correct?
- 56. JUSTICE BILLINGS:** Yeah.
- 57. DEFENDANT RINALDI:** At a pretrial conference, don't both sides kind of give you a rundown of their case just to make sure it's valid?
- 58. JUSTICE BILLINGS:** No. No. Even if I agreed with you entirely, like, no. That's not how it works. The evidence is presented at trial. I have no authority to say, plaintiff, it seems like you have a really weak case, so we're not going to have a trial. That's not the role of the court. You talk about constitutional rights, one of the constitutional rights is the open court doctrine, where assuming people can overcome motions to dismiss and motions for summary judgment, which is what has occurred in this case, they have a right to a trial. Now, what happens at the trial? You know, who knows? But that's where the court considers evidence.
- 59. DEFENDANT RINALDI:** So, I filed a motion to dismiss based on the fact that they failed standing on all three accounts, causation, particular injury, and redressability. They failed on all accounts. I mean, they legitimately, miserably failed. If that motion was frivolous, why wouldn't he point out what I said that was frivolous? Like, he's saying, oh, I don't want to respond to that until we do the gag or spickler order.
- 60. JUSTICE BILLINGS:** Well, I mean, first, motions dismissed that have merits are usually brought, frankly, they're usually brought before an answer is even filed, because if the

complaint doesn't state a legal claim, usually that is litigated at the beginning of the case, not three years later.

- 61. DEFENDANT RINALDI:** I understand that. I wish I had noticed that this one was available to me. When I noticed it, I literally laughed and said, wow, I could have filed this three years ago. But this motion puts the burden on him, not me. For the first time, it puts the burden on him with a 12(b)1 The burden is completely on him. And yes, I could have filed before, but there's no timeline. You can file those during trial. You can file those the day before trial. And he should have to respond to that and explain how the court has jurisdiction.
- 62. JUSTICE BILLINGS:** Well, it looks a little different, and I just counted. Again, this may not even be a complete list, but I just counted on page 8 and 9 of your motion. I mean, when it's in context of 46 separate motions filed by you, it takes a different, it looks different than when someone files a motion to dismiss at the beginning of the case, challenging something like standing or the sufficiency of the complaint.
- 63. DEFENDANT RINALDI:** So I get 46 motions, but how can it be used against me if he can't even point out one of those motions that was frivolous? Not one. He hasn't pointed out one of them.
- 64. JUSTICE BILLINGS:** I mean, one he's pointed out, which is, I mean, your interlocutory appeal was frivolous.
- 65. DEFENDANT RINALDI:** How? Like, how?
- 66. JUSTICE BILLINGS:** I mean, it was summarily denied without requiring the other party to respond.
- 67. DEFENDANT RINALDI:** That doesn't mean it's frivolous, though. I mean, at the very least, it's been three years, at the very least he should have to respond to those motions. I don't see how this, I'm sorry, this is just making me a thousand times more upset and just losing faith in the legal system because I just don't understand. Like, I'm literally trying to do everything by the book. I'm trying to do everything right.
- 68. JUSTICE BILLINGS:** Well, it seems like you're doing everything to avoid a trial.
- 69. DEFENDANT RINALDI:** I'm not scared of trial. They just kept threatening to default me because I'm an LLC, even though I'm not. I'm not an LLC. I never claimed to be. And they just kept threatening to default me for that. That's what scared me. I didn't want to get defaulted. I've never been scared of the evidence. I'm proud of the evidence. I'm proud that I'm telling the truth and the facts are clear. Like, I've never shied away from talking. I've never shied away from anything. It literally sent them a gazillion emails trying to work with good faith. So trials, I'm not scared of at all. I mean, I could go to trial right now. I know this evidence really well, and I'm telling the truth. So the only reason, and it wasn't that I wasn't trying to avoid it. I was trying to bring the court's attention. This is kind of crazy that we're even talking about trial when they've told four or five stories, and I've deposed the plaintiff, the only one left, and he says he doesn't know why the closing fell through. And he said, I

don't remember to almost every question I asked. So the plaintiff, who, again, brought up the lawsuit, couldn't answer any questions. He doesn't know why the closing fell through. They have no witnesses. They have no evidence. Like, this isn't even a lawsuit. You have to have evidence to have a lawsuit. Like, I just don't get why the court isn't offended by their behavior.

**70. JUSTICE BILLINGS:** Okay. Thank you. Mr. Monteleone, anything else in regards to your request to have leave to file your motions?

**71. ATTORNEY MONTELEONE:** No, nothing further.

**72. JUSTICE BILLINGS:** Okay. First, in regards to the plaintiff's request for leave to file motions, I'm going to grant the plaintiff leave to file a motion for a stickler order. I'm going to deny the request for the leave to file for a gag order. I understand the concerns that are raised in the letter have been raised today. But given that this is not a jury trial and given the competing interests here and the fact that, you know, Mr. Monteleone and others who might believe they were damaged by Mr. and all these conduct have other remedies or other ways to seek remedies outside of this action, a gag order which attempts to control the actions and statements of a party outside of the courtroom is an extreme remedy. It may be appropriate in certain actions, but it's not a step that the court should consider lightly. Again, I'm not taking issue with the request. I believe the request was made in good faith, but it is not a road I think we need to go down in this matter, at least at this time. So the court, but the court will allow the plaintiff to file for a stickler order. And as a result of the court allowing the plaintiffs to file for a stickler order, I will also grant the plaintiff's motion to enlarge time to respond to the motion to dismiss and for the motion for sanctions and that the plaintiffs will not be required to respond to those motions until the court has acted upon their motion for a stickler order. So the court's not going to decide those motions at this point, but the plaintiffs will not be required to respond to those motions until the court decides on the stickler issue. So the issue that I want to discuss next is timing of trial. And I am told by the clerk that the court has time for trial in June, and I can make that work with my schedule. This matter has previously been determined. Again, it's going to be a bench trial, and it's previously been determined that three days were appropriate for trial. So the dates that I would suggest for trial are June 11th, 12th, and 13th. Starting with the plaintiff, Mr. Monteleone, at least preliminarily, do those dates look workable?

**73. ATTORNEY MONTELEONE:** Preliminarily, for counsel, absolutely. Of course, they need to cross-check with my clients and my expert witness, but I anticipate that those dates work well and would welcome them.

**74. JUSTICE BILLINGS:** Okay. Mr. Rinaldi, what about your thoughts on those dates?

**75. DEFENDANT RINALDI:** I'd rather go to trial as soon as possible. I'd rather go much sooner if we're going to do it. And I asked for seven days because this is an overwhelming amount of evidence, and I feel like I shouldn't be able to present a complete defense. And so I would

like it to be at least seven days. I wanted six of them. He said he only needed one because it's a lot of information, and I want to present all of it. Not only that, but I would much rather go to – I don't want to delay this any longer. So if we want to go to trial, let's go to trial. And then, second, may I just address one thing from the previous spickler, your decision? Yep. If their claims aren't frivolous and fraudulent, it would be the easiest thing in the world to respond to a motion to enlarge. If they're filing a spickler order, they're basically – their spickler order is going to talk about the motion to enlarge of why it's frivolous. So it's just – at the very least, the burden's on them on that one, not me. So I just don't understand why if their claims aren't frivolous and fraudulent, at the very least, they should – and not only that, I told them several weeks in advance that I'm filing that. So they had ample time. They got the motion enlarged. They literally had two months. So, I mean, it's just – I get you're ruling it's fine, but at the very least, the motion to enlarge the sanctions, that's fine. The motion to dismiss, I'm sorry, they should have to respond to that, like, immediately. I just don't see why they – if it's not fraudulent and frivolous, it's easy to do. So at the very least, why should we waste the court's time if they don't have jurisdiction?

**76. JUSTICE BILLINGS:** Again, things like alleging fraudulent and frivolous, those are the kind of things, particularly fraudulent, that requires evidence. The court would need to be able to make factual findings, and the court can – that something is fraudulent, and the court can only make factual findings after it has heard evidence.

**77. DEFENDANT RINALDI:** Wouldn't that err on the side of them responding now?

**78. JUSTICE BILLINGS:** No, because the only way – I mean, the only way I could find that the plaintiffs have acted fraudulently is to have a trial and to hear all the evidence. That's – I mean, I can't decide based upon, you know, affidavits or motions that something is fraudulent. That is a finding of fact that the law court has made clear. The court can only make findings of fact once it has heard evidence.

**79. DEFENDANT RINALDI:** I understand that, but still, forget the fraudulent – at the very least, if they have a valid case, they should have to respond to that. The burden is on them, not me. That's the only motion that the burden is on them. And they've had several – two months already. At the very least –

**80. JUSTICE BILLINGS:** You have three years to bring it, and you bring it on the eve of trial once trial has already been continued once. I mean, that's part of the consideration as well.

**81. DEFENDANT RINALDI:** again, I – he can't point to one of my motions. And, again, I'm a pro se. I'm doing my best here. I'm really trying not to waste – I get 99 percent of pro se litigants do waste the court's time. I'm not one of them. If you look at every one of my motions, they're supported by evidence and case law. So, I mean, at the very least, it just seems like why wouldn't – if I'm being frivolous and that my motion has no merit – If you're in a program that's supported by evidence,

- 82. JUSTICE BILLINGS:** your statements in a motion are not evidence.
- 83. DEFENDANT RINALDI:** Well, I presented, like, the text and recordings and their messages and their words. So the actual – I present stuff from them on the record I don't just say these things.
- 84. JUSTICE BILLINGS:** And, again, just submitting documents attached to a motion doesn't necessarily make them evidence. Again, there's, you know, before documents get admitted to trial, there has to be testimony to show their admissibility, you know.
- 85. DEFENDANT RINALDI:** So, again, just – But, again, it would be easy for them to respond to that if it's – you know, they're calling my stuff frivolous. So it would be very easy for them to just explain to the court why it isn't, and then we could save everyone this time. I mean, very easy. And the burden's on them, not me. It's not like the burden was on me on that one.
- 86. JUSTICE BILLINGS:** Well, the court's ruled on that. And, again, there's been a prior determination that three days were appropriate for trial. I mean, frankly, the idea that a case of this type would take 13 days –
- 87. DEFENDANT RINALDI:** Seven.
- 88. JUSTICE BILLINGS:** Well, you were saying you wanted seven.
- 89. DEFENDANT RINALDI:** I wanted six, and he said he needed one.
- 90. JUSTICE BILLINGS:** The – well, it would be pretty unusual to – again, the – the court's going to proceed assuming the case would need three days for trial. The court will – can reassess based upon the – how the trial goes. And it's a bench trial, so as we go along, if the court is convinced by the presentation of evidence that more time is justified, it can evaluate that. And those things happen, and we can proceed in that manner. It would be the court's intent to allow both parties an equal amount of time, both for openings, closings, direct examination of witnesses called by the party, and cross-examination by a the party.
- 91. JUSTICE BILLINGS:** So it would be the court's intent to try to, within reason, to allocate time equally between the parties at trial. Again, as we go along, if it appears that additional time is justified, the court can address that. But the party should plan their case, assuming that they will each have a day and a half for their presentation, their cross-examination, and their arguments. But, again, that can be reassessed as necessary at trial. So I'm going to direct the parties to indicate in writing to the court by April 4th whether the dates suggested for trial, June 11th, 12th, and 13th, are workable for them and their witnesses, and if not, to indicate why those dates are not workable. So basically two weeks, end of business two weeks from today, April 4th. Again, respond in writing. It doesn't have to be in the way of a motion. It can be a letter just indicating about whether those dates are workable for counsel, parties, and witnesses.
- 92. JUSTICE BILLINGS:** Mr. Monteleone, is there anything else you think the court needs to address today?

93. Nothing further, Your Honor. Thank you.

94. **JUSTICE BILLINGS:** Mr. Rinaldi, is there anything else you believe the court should address today?

95. **DEFENDANT RINALDI:** I'm speechless at this point. I just don't know. Yeah, nothing.

96. Okay, the court will be recessed. Court is adjourned.