

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

Docket No. 2023-P-0961

MIDDLESEX, ss.

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Yu-Fen Liu, Plaintiff/Appellant

V.

Tufts Medical Center, Inc, Et Al., Defendant/Appellees

---

On Appeal From Middlesex Superior Court's Judgement of  
Dismissal

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Record Appendix  
Volume II of III  
(Transcript)

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Date: 11/03/2023

Jie Tan  
400 Tradecenter Dr, STE 5900 (RM5800)  
Woburn, MA, 01801  
BBO #666462  
JT Law Services, PC  
978-335-8335  
jie.tan@jtlawservices.com

**TABLE OF CONTENTS**

Cover..... R.A.II 3

Proceeding.....R.A.II 5

Defendant Counsel.....R.A.II 6

Plaintiff Counsel.....R.A.II 13

Volume: 1  
Pages: 1-52  
Exhibits: See Index

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS. SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT

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YU-FEN LIU	*	
Plaintiff,	*	
	*	
vs.	*	Docket No. 2281CV04021
	*	
TUFTS MEDICAL CENTER, INC.,	*	
ET AL.	*	
Defendant.	*	

\*\*\*\*\*

RE: RULE 12 HEARING  
BEFORE THE HONORABLE WILLIAM F. BLOOMER

APPEARANCES:

For the Plaintiff:  
JT Law Services, P.C.  
By: Jie Tan, Esquire  
400 TradeCenter Drive, Suite 5900  
Woburn, Massachusetts 01801  
978.335.8335

For the Defendants:  
Adler, Cohen, Harvey, Wakeman & Guekguezian, LLP  
By: Alexander Terry, Esquire  
Two Oliver Street, Suite 1005  
Boston, Massachusetts 02109  
617.423.6674

Woburn, Massachusetts  
Courtroom 740  
June 14, 2023

Court Transcriber: Lisa Marie Phipps, Certified Shorthand  
Reporter, Registered Professional Reporter, Certified  
Realtime Reporter

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**LMPREPORTING@GMAIL.COM R.A.11 3**  
*(508) 641-5801*

I N D E X

WITNESS:

(None.)

EXHIBITS:

(None.)

1 P R O C E E D I N G S

2 (Court called to order.)

3 (2:30 p.m.)

4 THE COURT OFFICER: Good afternoon,  
5 ladies and gentlemen. Y.

6 Ou may be seated.

7 Court is now in session.

8 THE CLERK: Your Honor, may we go on the  
9 record on the next matter?

10 THE COURT: Yes.

11 THE CLERK: Okay, we're on the record.

12 And for the record, this is Middlesex  
13 Superior Court Civil Action No. 2022-4021, Yu-Fen  
14 Liu, plaintiff, versus Tufts Medical Center and  
15 others, defendants.

16 The matter before the Court is the  
17 defendant's motion to dismiss.

18 Presiding over this matter is the  
19 Honorable William Bloomer.

20 Counsel, would you identify yourselves  
21 for the Court and the record, please.

22 MS. TAN: Jie Tan representing plaintiff,  
23 Yu-Fen Liu.

24 THE COURT: Good afternoon.

25 MR. TERRY: Good afternoon, your Honor,

R.A.115

1 Mr. Clerk.

2 Alex Terry for the defendants.

3 THE COURT: All right. Good afternoon.

4 MR. TERRY: Good afternoon.

5 THE COURT: All right. So we're here on  
6 Paper No. 11, and that is the defendants's  
7 collectively motion to dismiss the complaint with  
8 prejudice.

9 And this is the defendants's motion, so  
10 I'll hear first from the defense.

11 MR. TERRY: Thank you, your Honor.

12 The gist of this filing from earlier this  
13 year is despite the variety of counts and legal  
14 theories in this complaint, despite the number of  
15 defendants -- there are 20 -- it is the  
16 relitigation of a med mal claim filed in 2022.

17 The original case had fewer defendants.  
18 It had Tufts Medical Center, which remains a  
19 defendant in this action, and it had one  
20 individual provider, who was a defendant in this  
21 action, and also was in the original, Leah  
22 Kaplan, who was an internal medicine resident  
23 physician at Tufts Medical Center at the time she  
24 treated the plaintiff, November 24th overnight  
25 into November 25, 2019.

1           And so that claim has -- that case was  
2 adjudicated with prejudice.

3           There is a dismissal past the point of  
4 where the plaintiff was compelled to produce an  
5 offer of proof, which she did -- did not, did not  
6 produce informally or in the context of an offer  
7 of proof filing any expert support for the claim  
8 that she was rendered improper care overnight at  
9 Tufts Medical Center in November of 2019 in a way  
10 that, at least via the plaintiff's opposition in  
11 this case, has caused her substantial and ongoing  
12 injury.

13           And so, again, this is with new counsel  
14 refiling that original action with many more  
15 defendants, with many different, at least in  
16 their phrasing, claims and theories, but the law  
17 of claim preclusion in the Commonwealth is that  
18 sort of a superficial rebranding of the same  
19 claim is not an effective end around to the  
20 doctrine of claim preclusion.

21           That doctrine is that if you have a  
22 common identity or privity of the parties to the  
23 present and prior actions, identity of the cause  
24 of action and prior final judgment on the merits,  
25 the subsequent claim is precluded.

1           So, to take those elements backwards, we  
2 have a full and final judgment of the original  
3 case, a dismissal with prejudice, which is  
4 attached as an exhibit to our motion.

5           As to the identity of the cause of  
6 action, this is all -- again, there are  
7 different-phrased claims in the second complaint,  
8 but the case arises out of the same overnight  
9 admission to Tufts Medical Center in November of  
10 2019. It is the same claim. It arises out of  
11 the same operative set of facts.

12           And, as to the identity of the parties,  
13 it is the same plaintiff who -- who has a  
14 slightly differently styled name in the caption  
15 in this case than in the original.

16           We have two identical defendants that  
17 were named in both cases; and as to the other,  
18 you know, 15 individual defendants, they're all  
19 privies of original defendants, they're all Tufts  
20 Medical Center employees or agents; and it is the  
21 alleged the way the caption is written, each  
22 individual defendant is identified explicitly by  
23 the plaintiff, by their relationship to a  
24 defendant in the original action, the  
25 relationship to Tufts Medical Center.



1 Jim Stephen, individually, and as a  
2 medicine physician at Tufts Medicine Center  
3 emergency department.

4 So we submit that the -- the three prongs  
5 of claim preclusion are satisfied, and that  
6 this type of refiling to hold in terrorem  
7 20 defendants is improper and should be  
8 precluded, and we raise, as a sort of procedural  
9 matter, I think six defendants have been served.

10 THE COURT: Is it six or five?

11 MR. TERRY: I think we said five  
12 somewhere, because there are five individual  
13 defendants.

14 Tufts would be the sixth, and accepted  
15 service on its own behalf.

16 The way it works is a counsel shows up at  
17 Tufts; folks in risk management, you know, try to  
18 contact the individual providers and get  
19 authority to accept service. They were able to  
20 do that with five individuals.

21 It's an academic facility. A lot of  
22 these trainees -- Dr. Kaplan, for example,  
23 practices in New York.

24 I was her counsel in the prior case, so I  
25 was able to accept service on her behalf; but for

1 many others, they're unreachable, frankly, by the  
2 hospital.

3 And so there's an additional argument in  
4 the motion for dismissal with prejudice for lack  
5 of service of those remaining defendants, but  
6 just --

7 THE COURT: So it's six minus -- you had  
8 seven, but you accepted service for Tufts Medical  
9 Center?

10 I'm just going by what you had written in  
11 your motion.

12 MR. TERRY: Yeah. I'm going to fact  
13 check myself, your Honor.

14 THE COURT: I think you said there was  
15 no return service with respect to seven of 12  
16 defendants.

17 MR. TERRY: Yeah. Sorry, where are you  
18 looking, your Honor?

19 THE COURT: In my notes.

20 MR. TERRY: In your notes, not in my  
21 motion. Let me see what I have on this.

22 Here it is. Sorry, your Honor.

23 I counted six. Tufts Medical Center;  
24 Dr. Kaplan; James Stephen, M.D.; Linda Cotter,  
25 RN; Peter Ostrow, M.D., and Daniel Augustadt.



1 Does 1 through 4 make 15.

2 There are 15 not served defendants, and  
3 then the sixth. There are 14 non-served  
4 defendant, and then the six served defendants are  
5 above on the motion.

6 And this --

7 THE COURT: I see, all right.

8 MR. TERRY: The list actually also  
9 appeared on page -- the bottom of page 5 of the  
10 memo of law, identifies served defendants and the  
11 nonserved.

12 THE COURT: All right. Okay.

13 MR. TERRY: And so if I could just note,  
14 your Honor, as to the service argument.

15 We -- we would certainly, in the event  
16 they were served and active defendants in the  
17 case who retained me and on whose behalf I  
18 appeared, I would raise the same claim preclusion  
19 argument as to each of those defendants.

20 And so we would argue that a denial  
21 (inaudible), an allowance of the motion as to the  
22 served defendants on claim preclusion grounds and  
23 a denial of the motion as to the unserved  
24 defendants on service would be a -- would be a  
25 futile ruling in that the same argument we would

1 then raise as to claim preclusion for the  
2 defendants, even if service was secured; the same  
3 claim preclusion argument applies to all 20 of  
4 these defendants, your Honor.

5 THE COURT: Understood.

6 All right. Let me hear from the  
7 plaintiff's counsel.

8 MS. TAN: Good afternoon, your Honor.

9 THE COURT: Good afternoon.

10 MS. TAN: This case is totally different  
11 from the complaint of 2022.

12 The plaintiff -- the defendants -- there  
13 are only two defendants that are common, but  
14 the -- and the cause of actions are totally  
15 different.

16 We have medical fraud, which arises from  
17 the two -- there are two medical records were  
18 obtained, and those two medical records are  
19 contradictory with each other and the -- but they  
20 describe the same cause -- the same events that  
21 occurred to my client.

22 But the --

23 THE COURT: So what is the -- what is the  
24 fraud?

25 MS. TAN: The fraud is that the -- they

1 are two set of doctors signing the medical  
2 records; and there are two medical record  
3 numbers, they're two different dates; and they're  
4 also two different procedures, and the drugs  
5 and -- listed in those documents.

6 And -- but they describe that my client  
7 had a back pain, entered into medical -- Tufts  
8 Medical Center emergency, walked in on a Sunday.

9 But -- but the medical records itself,  
10 the second record that she obtained on December  
11 10, 2021, that describe that she was -- the --  
12 the primary doctor overseeing this -- this -- her  
13 injury, the medical areas, was Ostrow Peter, and  
14 while the first set of doctor -- medical record,  
15 which was listed, Dr. Weinstock, and there is  
16 a -- a list of nurses that she never say -- she  
17 never see before.

18 That's why I list so many defendants,  
19 because she didn't even know there were so many  
20 nurses that was involved.

21 THE COURT: What -- I'm wondering, what  
22 is the fraud?

23 What is it --

24 MS. TAN: The fraud is the medical --

25 THE COURT: What did she rely on that

1 caused -- that resulted in harm in the records?

2 MS. TAN: Yeah, the medical records were  
3 fraudulent, made up afterwards, and she could not  
4 retain other doctors afterwards because other  
5 doctors could not rely on those medical records  
6 because she had -- she was -- in the medical  
7 records, they were like, two D -- they were like,  
8 testing of two D-dimers, which shows that you had  
9 a previous heart attack; but she was -- she never  
10 had a previous heart attack, and she never had  
11 a -- she had another test, heart test, that shows  
12 she is completely healthy.

13 She also had, afterwards, two D-dimer  
14 testing, which is, like, they -- in her medical  
15 records, she had 900 -- the number is 900; but  
16 then afterwards, she obtained another testing, it  
17 was, like, in 300, that's in a total, total very  
18 healthy range.

19 So the entire two medical records were  
20 fraudulent documents, and nobody could rely on  
21 the -- when she went to see other doctors, the  
22 doctors could not rely on those documents.

23 And there's also complete deletions --  
24 there is deletions, change of timeline, and a lot  
25 of changes.

1           If you look at the medical records,  
2           there's crossover, there's change of timeline,  
3           this, like, she was dismissed, she was discharged  
4           at 11:00 a.m., then later they admit -- the  
5           second records saying she was not dismissed; she  
6           was dismissed -- she was -- then Dr. Kaplan also  
7           admitted that -- the timeline is totally messed  
8           up, so that -- the entire testing result in the  
9           medical record is total fraudulent.

10           No -- I mean, it's contradictory to her  
11           afterwards testing.

12           THE COURT: What -- let me ask you. I  
13           don't understand.

14           You're -- you sounded as if, you know,  
15           these doctors had it in for her.

16           She walked into the emergency room on her  
17           own volition, seeking medical treatment for some  
18           pain that she was having in her right back  
19           shoulder up through her ear.

20           So I guess what I'm saying is you're --  
21           you're throwing out some, you know, highly  
22           charged words, saying that these doctors  
23           essentially intentionally, you know, committed  
24           fraud somehow in changing the records.

25           MS. TAN: I'm -- your Honor, I didn't say



1 the doctors -- I don't know who changed it, but  
2 their names are in the records.

3 I don't know whether those doctors are  
4 aware of it, but this -- this -- these medical  
5 records were produced, they were not reflecting  
6 her experience, and they were not matching with  
7 each other.

8 There were two medical records numbers,  
9 which is against the regulation of the medical  
10 industry.

11 They're supposed to -- only one patient  
12 and one medical number and -- medical record  
13 number.

14 There's also -- so during that 17 hours,  
15 there's a lot of -- there's other events.

16 It's not just malpractice, because  
17 this -- this -- doctors, they were not licensed  
18 yet, they were just students, those -- the bunch  
19 of students treated her without -- actually, if  
20 you look at the notes of Dr. Kaplan, she never  
21 mentioned she reported to the supervisor or there  
22 were anybody supervising this entire occurrence.

23 So she was -- she -- over her rejection,  
24 she was rolled over to do CT scan.

25 During that CT scan, she was repeatedly

1 injected some things into his -- her body,  
2 like --

3 THE COURT: She was given a CT scan?

4 MS. TAN: Yeah.

5 She was given --

6 THE COURT: And she was injected with  
7 something prior to the CT scan?

8 MS. TAN: Probably. I --

9 THE COURT: So it's probably, like, a  
10 type of barium solution, it's a dye --

11 MS. TAN: Yes.

12 THE COURT: - I don't know, that allows --

13 MR. TERRY: I can just speak briefly,  
14 Judge.

15 I think she was given a subdural  
16 injection of nitroglycerin --

17 THE COURT: All right.

18 MR. TERRY: -- which is medication she  
19 was on and had run out of, which caused her chest  
20 pain, which brought her to the ED, sort of --

21 MS. TAN: She was given a CT scan and  
22 during that procedure, it was six injections.

23 I don't know whether that's regular  
24 procedure, but she was allergic -- apparently  
25 allergic to that injection, and she was

1 protesting.

2 So after the first of four injections,  
3 she was protesting, but she was still given  
4 another two injections.

5 In the end, she had to roll. She fell  
6 herself to the ground to protest it, saying, I'm  
7 not going to that machine anymore. So that's --  
8 they rolled her back.

9 So, now, that totally make her felt  
10 unsafe in this hospital, because in the morning  
11 when she walked in, they infused something,  
12 treated her, and she almost had a heart attack.

13 And then -- now she retain her -- in the  
14 hospital, and then give her a CT scan, that  
15 almost like it felt like she was going to die.

16 And then -- then when they wheeled her  
17 back to the inpatient sixth floor, she wanted to  
18 check out and she didn't want stay in the  
19 hospital.

20 She felt like she was going to die in the  
21 hospital if -- if she stay there.

22 So she -- so she requested to leave and  
23 the other doctor, Dr. Rao, and the --  
24 Dr. Kaplan -- and there was no supervision  
25 doctors. Those are all students; they -- and the

1 two other nurses, they refused to let her leave.

2 And they rolled -- they called a  
3 psychiatrist student and repeated for three  
4 hours, telling her if she leave the hospital, she  
5 was going to die.

6 That was, like, into the middle night;  
7 and, by the way, they -- before she entered the  
8 hospital, before she entered the inpatient  
9 department, the inpatient department, they  
10 asked -- her son first, took away all her  
11 clothings, all her personal things, so she only  
12 have -- she only have one thing clothes of the  
13 hospital.

14 She could not leave the hospital  
15 without -- it's in November, wintertime. She  
16 doesn't even have shoes. She did not have her  
17 shoes with her.

18 So --

19 THE COURT: They gave them to her son?

20 MS. TAN: Yeah, asked her son to take it  
21 home; take them home.

22 And afterwards -- so -- so by the time  
23 when she went back to the inpatient place,  
24 they -- they -- Dr. Kaplan and Dr. Rao and the  
25 other, Dr. August [sic], the psychiatrist, they

1 drilled her, they told her that if she left this  
2 hospital, she was going to die, for three hours,  
3 and changed two interpreters and says those --  
4 why interpreter say -- then, finish the one and a  
5 half-hour, and then they say, Oh, that  
6 interpreter cannot be trusted, and we have to use  
7 another interpreter.

8 So they use the other interpreter for the  
9 same thing, another one and half-hour.

10 Then afterwards, my client had to call  
11 her friend, say, I'm going to leave -- I need to  
12 leave. I don't want to be treated.

13 And her friend came to the hospital and  
14 pick her up and -- and the Dr. August [sic] --  
15 the psychiatrist, Augustadt, she -- he finally  
16 said, Okay, you can leave, you can leave, because  
17 -- and they let her leave.

18 But -- but once they get out of the  
19 hospital, they -- her room, around the elevator,  
20 somehow the doctor changed her -- his mind.

21 He say, Oh, you can't leave, and then  
22 they call the safeguard, safety guard, chased  
23 her.

24 And she -- she and her friend say, No.  
25 They ran out to the street.

1           And the safety guard came out to the  
2 street and they're surrounding her and  
3 (indiscernible) -- and kicked her from the back  
4 and she fell onto the floor.

5           And then they picked her up and wheeled  
6 her back to the hospital, her room, and then  
7 guard the room with the guards, the -- six or  
8 eight, six to seven, eight guards, and they  
9 interrogated her, why she wanted to leave, why  
10 she didn't want to stay in the hospital, and --  
11 and then they called another interpreter.

12           This time this interpreter is from  
13 (indiscernible), they says, Oh, okay, we're going  
14 to have to wait until that interpreter come in.  
15 That's, like, they waited until 3:00 in the  
16 morning.

17           THE COURT: Does this relate to her  
18 treatment?

19           MS. TAN: No.

20           THE COURT: No?

21           MS. TAN: No, these are not related to  
22 her treatment.

23           These are -- these are related to my --  
24 my cause of actions -- assault, false  
25 imprisonment, and battery, negligence, because

1 there was -- no licensed doctors are involved,  
2 only --

3 THE COURT: Medical negligence.

4 MS. TAN: Huh?

5 THE COURT: Medical negligence?

6 MS. TAN: Yeah.

7 THE COURT: That's --

8 MS. TAN: Medical negligence or whatever  
9 the hospital is doing, and -- because they have a  
10 duty to my client to his -- to her safety.

11 And there's also bias, a civil rights  
12 violation.

13 THE COURT: So let me -- let me ask you,  
14 so I just want to understand your argument,  
15 though.

16 Let's go back to the fact that there was  
17 a suit that was previously filed and dismissed.

18 MS. TAN: That -- yeah.

19 So --

20 THE COURT: And your argument, I think I  
21 understand it, you're saying, Well, this is a  
22 different suit because you're -- you've brought  
23 in two of the same defendants, but additional  
24 defendants, and you're alleging, at least in your  
25 complaint, instead of medical malpractice, you

1 have assault and battery and some other claims;  
2 is that right?

3 MS. TAN: Right.

4 THE COURT: And what about the  
5 individuals who were not served process?

6 MS. TAN: We did file -- because we don't  
7 have their contact information, so we filed -- we  
8 asked -- we served the subpoena to defendant  
9 Tufts Medical Center, and they did not respond  
10 until -- they filed a motion to quash, but that's  
11 what -- like, our return date is March 26th, and  
12 they filed a motion to quash March 24th.

13 So the court says it's moot because  
14 one --

15 THE COURT: I thought that the return  
16 service had to be perfected sometime in February.

17 Is that -- am I wrong? I might be wrong.

18 MS. TAN: The -- the last day for  
19 service --

20 THE COURT: I thought the deadline was  
21 February 21st.

22 MS. TAN: Right.

23 THE COURT: February 21st, not March.

24 MS. TAN: Right.

25 No, we served -- we served the subpoena



1 February 21st. We served the same day, the last  
2 day.

3 THE COURT: The last day of the --

4 MS. TAN: February.

5 THE COURT: You had 90 days.

6 When was the complaint filed?

7 MR. TERRY: She's speaking about service  
8 of the subpoena on Tufts Medical Center, asking  
9 them to identify last-known addresses, contact  
10 information for the individual (inaudible) --

11 THE COURT: Oh, no, I'm not talking about  
12 that. I'm talking about when the -- return of  
13 service with respect to the summons and complaint  
14 that apparently wasn't served on a number of the  
15 defendants.

16 MS. TAN: They -- all of the -- all of  
17 the complaints on the assignments were served to  
18 Tufts through Tufts, so all of them.

19 THE COURT: If they're not -- if they're  
20 not -- if some of them aren't employed there --

21 MS. TAN: Yeah, but, so that's why when  
22 we get the return, the sheriff told us -- so  
23 sheriff first called us saying, Tufts is deciding  
24 whether they're -- whether they're going to  
25 accept the summons or not for the defendants.

1           And then after -- after the -- the  
2           deadline, sheriff told us, Oh, Tufts decided not  
3           to serve -- not to accept for those defendants.

4           So that's why we immediately served a  
5           subpoena to Tufts and told them provide all the  
6           information, contact information.

7           THE COURT:   What happened with that  
8           subpoena?

9           MR. TERRY:   We filed, I think which is  
10          technically on for today, a motion to quash and  
11          stay discovery pending the outcome of this  
12          hearing.

13          So if -- if Tufts is in the case, or if  
14          it's not, and it's duly issued a subpoena, I  
15          suppose we would have a duty to respond to it.

16          Our thinking was this whole case is going  
17          to be -- is subject to a Rule 12 motion that's  
18          pending, and I think we may have had a hearing  
19          date at the time the motion to quash was filed,  
20          so --

21          THE COURT:   All right.

22          MR. TERRY:   -- let's take it up at the  
23          hearing.

24          Judge, can I speak just to one issue?

25          THE COURT:   Sure.

1 MR. TERRY: So I'm happy to talk as much  
2 as the Court is interested in the care and  
3 treatment.

4 Plaintiff's description of her position  
5 was a lot about care and treatment, and our  
6 position is that that's been litigated; but I'm  
7 reminded, because his name was mentioned, to  
8 speak about Dr. Peter Ostrow, just briefly.

9 It was mentioned that there must be a  
10 fraud in the medical records because he appears  
11 somewhere as an attending physician where  
12 Jonathan Weinstock appears also as an attending  
13 physician.

14 Dr. Ostrow is a pulmonologist, an allergy  
15 medicine specialist. He's been practicing for  
16 34 years without a claim or lawsuit; he's  
17 retiring at the end of June, until he was sued in  
18 this case.

19 And he was sued in this case, your Honor,  
20 because at the time the plaintiff requested her  
21 records in 2021, she had an appointment, an  
22 allergy and pulmonology appointment, on the books  
23 with Dr. Ostrow.

24 So when your records get printed out, at  
25 a certain point when you have an appointment

1 upcoming, the attending physician of record in  
2 the hospital's chart changes.

3 So Dr. Ostrow is a patient [sic] for whom  
4 at the time the plaintiff obtained her records  
5 had an appointment scheduled; did not see her in  
6 November of 2019. Then that appointment got  
7 canceled.

8 So he didn't see her in November of  
9 2019, has not met her, doesn't know who she is,  
10 has never had a physician treatment --  
11 physician-patient relationship with her, and yet  
12 at the end of his nearly four-decade career in  
13 medicine, certain patients who walk in off the  
14 streets, seeking care, like the plaintiff, he's  
15 being sued in this case because his name appears,  
16 allegedly fraudulently, in a chart for a visit  
17 that was canceled and never happened and has  
18 nothing to do with, again, the care and treatment,  
19 which is the root of all the claims, however they  
20 be titled in this case.

21 THE COURT: What happened --

22 MS. TAN: Your Honor --

23 THE COURT: -- generally with the --  
24 this -- if you can tell me, the security --  
25 security guards?

1 MR. TERRY: So the whole -- the -- the  
2 threats about, **You're going to die if you leave,**  
3 she was advised to be admitted to the cardiology  
4 service, and she walked in at 10:30 p.m.

5 So there are certain things that aren't  
6 going to be done on that service overnight.

7 So, Stay here, let's watch you, you'll be  
8 safe, and tomorrow, when the full service comes  
9 on board, we'll do XYZ to make sure you're safe  
10 from a cardio perspective to be discharged.

11 And so, in the meantime, while waiting  
12 for that is when she becomes distraught and  
13 interested in leaving.

14 So if you're going to leave and your  
15 providers think you're in -- a risk to yourself  
16 or others by leaving, you need to communicate  
17 that you understand those risks, that you're  
18 taking on those risks.

19 That is why psych got involved, because  
20 they had concerns that -- competency concerns  
21 that she wasn't understanding the risk to herself  
22 by leaving.

23 **So it's a factual dispute, and it's**  
24 **evident in the records that she was not**  
25 **psychologically cleared.**

1 She didn't demonstrate competency to the  
2 satisfaction of the psych service at Tufts that  
3 she understood the risks she was taking by  
4 leaving, and was told that, and attempted to flee  
5 the hospital against medical advice.

6 And I think that's when she was  
7 restrained by security.

8 She ended up being re-evaluated and  
9 cleared psychologically to be discharged. And  
10 that's what happened in the early morning hours  
11 of November 25th.

12 THE COURT: All right.

13 MS. TAN: Your Honor, may I -- may I add  
14 one more --

15 THE COURT: Briefly. Okay.

16 MS. TAN: Yeah. So the -- the defendant  
17 counsel says the case was -- the first complaint  
18 was adjudicated.

19 It was never adjudicated. It was -- it  
20 was dismissed because the judge -- because the  
21 plaintiff failed to pay the \$6,000 bond and -- in  
22 time.

23 But that complaint was so poorly drafted,  
24 the judge just felt that based on the complaint,  
25 it does not appear that additional time would aid

1 to -- the plaintiff in support her claim for  
2 negligence, so that's -- the case was dismissed  
3 without prejudice.

4 The case was dismissed because the  
5 complaint was not sufficient to -- against  
6 the --

7 THE COURT: But it was also dismissed  
8 because she failed to pay -- post the bond,  
9 right?

10 MS. TAN: Yes.

11 There was no tribunal -- there was no  
12 tribunal decision on the merit. There was never  
13 a tribunal decision on the merit.

14 That's why the Court post the bond to  
15 her.

16 And so defendant counsel was not being  
17 honest on this, but the case -- the -- the  
18 previous judge was clear about you heard this --  
19 in his decision, that because both sides asked  
20 for more time and he felt that additional time  
21 would not help her because of the poor quality of  
22 the complaint submitted last year, 2022.

23 It was basically just two sentence of the  
24 facts.

25 Like, there was never this fact -- the

1 facts that we -- occurred later in the cause, the  
2 medical records were contradictory with each  
3 other; the doctors were not -- the listed doctors  
4 never showed up.

5 She never saw those doctors. There were  
6 only several student doctors.

7 And -- and the student doctor treated her  
8 horribly. She now -- she could not even move.

9 She walked into the hospital; now she  
10 could not walk without a cane.

11 She -- and she searched for -- all over  
12 the country for doctors, doctors who would not  
13 accept her because, first, her medical records  
14 are messed up; secondly, nobody would want treat  
15 her because -- they also give her injection on  
16 her -- on her stomach that is now causing her  
17 pain.

18 THE COURT: So all of this, though, is  
19 related to her treatment.

20 MS. TAN: I don't know.

21 There's, like -- there's, first, in the  
22 morning there's infusion to her that almost  
23 caused her a heart attack, and then there is  
24 a -- one injection on her stomach before she went  
25 to -- before they sent her to the CT scan.



1           And then they went -- sent her to the  
2 CT scan, give her six additional injections.

3           And then when she -- rolled her up, she  
4 was drilled five or six hours of psychiatrist's  
5 counseling.

6           And they basically just telling her  
7 repeatedly the same thing.

8           Would you -- would you -- I mean,  
9 nobody -- everybody would feel like -- go mad, I  
10 would go mad, under those kind of circumstances.

11           And then afterwards, when she run from  
12 the hospital, six or eight safety guards dragged  
13 her back and first lay -- dragged her on the  
14 floor, which could -- which have possibly injured  
15 her back, and then pulled her on the wheelchair  
16 and -- and dragged -- dragged back inside the  
17 hospital and guarded her inside that room,  
18 interrogated her and -- until she -- until she  
19 agree that she will not charge -- she will not  
20 file complaint against them, and they signed  
21 agreement.

22           THE COURT: Okay. What I'm going to do  
23 is I'm going to take this under advisement.

24           I want to read the submissions.

25           I also want to look at the -- the

1 previous -- the previous action that had been  
2 dismissed and take a look at that complaint, but  
3 I'm going to need a little time to make a  
4 decision. Okay?

5 MS. TAN: Thank you, Judge.

6 THE COURT: Thank you very much.

7 THE CLERK: Are we off the record, your  
8 Honor?

9 THE COURT: Yes.

10 THE CLERK: We're off the record.

11 (At 3:08 p.m. proceedings concluded.)

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R.A.II 36

§	3	
<b>\$6,000</b> [1] - 28:21	<b>300</b> [1] - 13:17 <b>34</b> [1] - 25:16 <b>347</b> [1] - 34:19 <b>3:00</b> [1] - 20:15 <b>3:08</b> [1] - 32:11	21:9, 21:11, 21:17, 21:21, 22:10, 22:12, 23:14, 24:4, 24:10, 24:14, 24:15, 24:17, 24:18, 25:5, 25:9, 25:14, 25:16, 25:25, 26:3, 26:10, 26:16, 27:10, 27:15, 27:23, 29:13, 30:10, 30:23, 30:24, 32:2, 32:3
/		
<b>/s</b> [1] - 34:14		
0	4	
<b>01721</b> [1] - 34:20 <b>01801</b> [1] - 1:15 <b>02109</b> [1] - 1:19	<b>4</b> [1] - 10:1 <b>400</b> [1] - 1:15	
1	5	<b>a.m</b> [1] - 14:4 <b>able</b> [2] - 7:19, 7:25 <b>about</b> [8] - 22:4, 23:7, 23:11, 23:12, 25:5, 25:8, 27:2, 29:18 <b>above</b> [1] - 10:5 <b>academic</b> [1] - 7:21 <b>accept</b> [5] - 7:19, 7:25, 23:25, 24:3, 30:13 <b>accepted</b> [2] - 7:14, 8:8 <b>ACCURATE</b> [1] - 34:4 <b>action</b> [7] - 4:19, 4:21, 5:14, 5:24, 6:6, 6:24, 32:1 <b>ACTION</b> [2] - 34:10, 34:11 <b>Action</b> [1] - 3:13 <b>actions</b> [3] - 5:23, 11:14, 20:24 <b>active</b> [1] - 10:16 <b>actually</b> [2] - 10:8, 15:19 <b>add</b> [1] - 28:13 <b>additional</b> [5] - 8:3, 21:23, 28:25, 29:20, 31:2 <b>ADDRESS</b> [2] - 34:20, 34:23 <b>addresses</b> [1] - 23:9 <b>adjudicated</b> [3] - 5:2, 28:18, 28:19 <b>Adler</b> [1] - 1:17 <b>ADMINISTRATIVE</b> [1] - 34:7 <b>admission</b> [1] - 6:9 <b>admit</b> [1] - 14:4 <b>admitted</b> [2] - 14:7, 27:3 <b>advice</b> [1] - 28:5 <b>advised</b> [1] - 27:3
<b>1</b> [4] - 1:1, 10:1, 33:12 <b>1-29</b> [1] - 1:1 <b>10</b> [1] - 12:11 <b>1005</b> [1] - 1:18 <b>10:30</b> [1] - 27:4 <b>11</b> [1] - 4:6 <b>11:00</b> [1] - 14:4 <b>12</b> [3] - 1:11, 8:15, 24:17 <b>14</b> [3] - 1:21, 10:3, 34:5 <b>15</b> [3] - 6:18, 10:1, 10:2 <b>17</b> [1] - 15:14	<b>5</b> [1] - 10:9 <b>508</b> [1] - 34:21 <b>5900</b> [1] - 1:15	
	6	
	<b>6/14/2023</b> [1] - 33:12 <b>617.423.6674</b> [1] - 1:19 <b>641-5801</b> [1] - 34:21	
	7	
	<b>740</b> [1] - 1:21	
	8	
2	<b>8/22/2023</b> [1] - 33:10	
<b>20</b> [3] - 4:15, 7:7, 11:3 <b>2019</b> [5] - 4:25, 5:9, 6:10, 26:6, 26:9 <b>2021</b> [2] - 12:11, 25:21 <b>2022</b> [3] - 4:16, 11:11, 29:22 <b>2022-4021</b> [1] - 3:13 <b>2023</b> [3] - 1:21, 34:5, 34:17 <b>21st</b> [3] - 22:21, 22:23, 23:1 <b>22</b> [1] - 34:17 <b>2281CV04021</b> [2] - 1:7, 33:11 <b>24th</b> [2] - 4:24, 22:12 <b>25</b> [1] - 4:25 <b>25th</b> [1] - 28:11 <b>26th</b> [1] - 22:11 <b>2:30</b> [1] - 3:3	9	
	<b>90</b> [1] - 23:5 <b>900</b> [2] - 13:15 <b>978.335.8335</b> [1] - 1:16	
	A	
	<b>A</b> [2] - 34:1, 34:3 <b>a</b> [73] - 4:16, 4:18, 4:20, 5:3, 5:9, 5:18, 5:21, 6:2, 6:3, 6:13, 6:23, 7:1, 7:8, 7:16, 7:21, 9:12, 9:22, 9:24, 10:20, 10:23, 10:24, 12:7, 12:8, 12:16, 13:9, 13:10, 13:11, 13:17, 13:24, 15:15, 16:3, 16:9, 16:10, 16:15, 16:21, 17:12, 17:14, 18:2, 19:4,	
		<b>R.A.II 37</b>

<p><b>advisement</b> [1] - 31:23</p> <p><b>after</b> [3] - 17:2, 24:1</p> <p><b>afternoon</b> [7] - 3:4, 3:24, 3:25, 4:3, 4:4, 11:8, 11:9</p> <p><b>afterwards</b> [8] - 13:3, 13:4, 13:13, 13:16, 14:11, 18:22, 19:10, 31:11</p> <p><b>again</b> [3] - 5:13, 6:6, 26:18</p> <p><b>against</b> [4] - 15:9, 28:5, 29:5, 31:20</p> <p><b>agents</b> [1] - 6:20</p> <p><b>agree</b> [1] - 31:19</p> <p><b>agreement</b> [1] - 31:21</p> <p><b>aid</b> [1] - 28:25</p> <p><b>AL</b> [2] - 1:9, 34:5</p> <p><b>Alex</b> [1] - 4:2</p> <p><b>Alexander</b> [1] - 1:18</p> <p><b>all</b> [27] - 4:3, 4:5, 6:6, 6:18, 6:19, 9:4, 9:9, 9:21, 9:22, 10:7, 10:12, 11:3, 11:6, 16:17, 17:25, 18:10, 18:11, 23:16, 23:18, 24:5, 24:21, 26:19, 28:12, 30:11, 30:18, 33:16</p> <p><b>alleged</b> [1] - 6:21</p> <p><b>allegedly</b> [1] - 26:16</p> <p><b>alleging</b> [1] - 21:24</p> <p><b>allergic</b> [2] - 16:24, 16:25</p> <p><b>allergy</b> [2] - 25:14, 25:22</p> <p><b>allowance</b> [1] - 10:21</p> <p><b>allows</b> [1] - 16:12</p> <p><b>almost</b> [3] - 17:12, 17:15, 30:22</p> <p><b>also</b> [12] - 4:21, 10:8, 12:4, 13:13, 13:23, 14:6, 15:14, 21:11, 25:12, 29:7, 30:15, 31:25</p> <p><b>am</b> [1] - 22:17</p> <p><b>AM</b> [2] - 34:9, 34:10</p> <p><b>an</b> [15] - 4:22, 5:4, 5:6, 5:19, 6:4, 7:21, 8:3, 10:21, 25:11, 25:12, 25:14, 25:21, 25:25, 26:5</p> <p><b>AN</b> [1] - 34:3</p>	<p><b>and</b> [161] - 3:5, 3:12, 3:14, 3:21, 4:6, 4:9, 4:13, 4:19, 4:21, 5:1, 5:11, 5:13, 5:16, 5:23, 5:24, 6:2, 6:12, 6:17, 6:20, 7:1, 7:5, 7:7, 7:8, 7:14, 7:18, 8:3, 8:25, 9:1, 9:8, 9:18, 9:25, 10:2, 10:4, 10:6, 10:10, 10:13, 10:16, 10:17, 10:20, 10:22, 11:14, 11:18, 11:19, 12:2, 12:3, 12:4, 12:5, 12:6, 12:13, 12:15, 13:3, 13:10, 13:20, 13:23, 13:24, 15:6, 15:12, 16:6, 16:19, 16:21, 16:25, 17:12, 17:13, 17:14, 17:16, 17:18, 17:22, 17:23, 17:24, 17:25, 18:2, 18:3, 18:7, 18:22, 18:24, 19:3, 19:4, 19:5, 19:6, 19:9, 19:13, 19:14, 19:17, 19:21, 19:24, 20:1, 20:2, 20:3, 20:4, 20:5, 20:6, 20:8, 20:10, 20:11, 20:25, 21:9, 21:11, 21:17, 21:20, 21:24, 22:1, 22:4, 22:9, 22:11, 23:13, 24:1, 24:5, 24:10, 24:14, 24:18, 25:2, 25:5, 25:19, 25:22, 26:11, 26:17, 26:18, 27:4, 27:8, 27:11, 27:12, 27:14, 27:23, 28:4, 28:6, 28:8, 28:9, 28:21, 29:16, 29:20, 30:7, 30:11, 30:23, 31:1, 31:3, 31:6, 31:11, 31:13, 31:15, 31:16, 31:17, 31:18, 31:20, 32:2, 33:7, 33:8</p> <p><b>AND</b> [2] - 34:4, 34:10</p>	<p><b>another</b> [6] - 13:11, 13:16, 17:4, 19:7, 19:9, 20:11</p> <p><b>any</b> [1] - 5:7</p> <p><b>ANY</b> [1] - 34:10</p> <p><b>anybody</b> [1] - 15:22</p> <p><b>anymore</b> [1] - 17:7</p> <p><b>apparently</b> [2] - 16:24, 23:14</p> <p><b>appear</b> [1] - 28:25</p> <p><b>APPEARANCES</b> [1] - 1:12</p> <p><b>appeared</b> [2] - 10:9, 10:18</p> <p><b>appears</b> [3] - 25:10, 25:12, 26:15</p> <p><b>applies</b> [1] - 11:3</p> <p><b>apply</b> [1] - 33:16</p> <p><b>appointment</b> [5] - 25:21, 25:22, 25:25, 26:5, 26:6</p> <p><b>APPROVED</b> [2] - 34:3, 34:14</p> <p><b>are</b> [27] - 4:15, 6:6, 7:5, 7:12, 8:17, 9:3, 9:5, 10:2, 10:3, 10:4, 11:13, 11:14, 11:17, 11:18, 12:1, 12:2, 15:2, 15:3, 17:25, 20:21, 20:23, 21:1, 27:5, 30:14, 32:7</p> <p><b>areas</b> [1] - 12:13</p> <p><b>aren't</b> [2] - 23:20, 27:5</p> <p><b>argue</b> [1] - 10:20</p> <p><b>argument</b> [7] - 8:3, 10:14, 10:19, 10:25, 11:3, 21:14, 21:20</p> <p><b>arises</b> [3] - 6:8, 6:10, 11:16</p> <p><b>around</b> [2] - 5:19, 19:19</p> <p><b>as</b> [16] - 6:4, 6:5, 6:12, 6:17, 7:1, 7:8, 10:14, 10:19, 10:21, 10:23, 11:1, 14:14, 25:1, 25:2, 25:11, 25:12</p> <p><b>Ashland</b> [1] - 34:20</p> <p><b>ask</b> [2] - 14:12, 21:13</p> <p><b>asked</b> [4] - 18:10, 18:20, 22:8, 29:19</p> <p><b>asking</b> [1] - 23:8</p> <p><b>assault</b> [2] - 20:24,</p> <p style="text-align: center;"><b>R.A.II 38</b></p>
---	--	---

<p>22:1  <b>ASSESSMENT</b> [1] - 33:4  <b>assessment</b> [1] - 33:7  <b>assignments</b> [1] - 23:17  <b>at</b> [25] - 4:23, 5:8, 5:10, 5:15, 7:2, 7:16, 9:13, 14:1, 14:4, 15:20, 21:24, 24:19, 24:22, 25:17, 25:20, 25:24, 26:4, 26:12, 27:4, 28:2, 31:25, 32:2, 33:7, 33:18  <b>At</b> [1] - 32:11  <b>attached</b> [1] - 6:4  <b>attack</b> [4] - 13:9, 13:10, 17:12, 30:23  <b>attempted</b> [1] - 28:4  <b>attending</b> [3] - 25:11, 25:12, 26:1  <b>audio</b> [2] - 33:18, 33:18  <b>AUDIO</b> [3] - 33:4, 34:4, 34:15  <b>August</b> [3] - 18:25, 19:14, 34:17  <b>Auguststadt</b> [2] - 8:25, 19:15  <b>authority</b> [1] - 7:19  <b>aware</b> [1] - 15:4  <b>away</b> [2] - 18:10, 33:19</p>	<p>26:20, 27:3, 27:6, 27:7, 27:10, 28:9  <b>because</b> [25] - 7:12, 12:19, 13:4, 13:6, 15:16, 17:10, 19:16, 20:25, 21:9, 21:22, 22:6, 22:13, 25:7, 25:10, 25:20, 26:15, 27:19, 28:20, 29:4, 29:8, 29:19, 29:21, 30:13, 30:15  <b>becomes</b> [1] - 27:12  <b>been</b> [8] - 7:9, 9:1, 9:2, 9:7, 9:14, 25:6, 25:15, 32:1  <b>before</b> [6] - 3:16, 12:17, 18:7, 18:8, 30:24, 30:25  <b>BEFORE</b> [1] - 1:11  <b>behalf</b> [3] - 7:15, 7:25, 10:17  <b>being</b> [3] - 26:15, 28:8, 29:16  <b>bias</b> [1] - 21:11  <b>BLOOMER</b> [1] - 1:11  <b>Bloomer</b> [1] - 3:19  <b>board</b> [1] - 27:9  <b>body</b> [1] - 16:1  <b>bond</b> [3] - 28:21, 29:8, 29:14  <b>books</b> [1] - 25:22  <b>Boston</b> [1] - 1:19  <b>both</b> [2] - 6:17, 29:19  <b>bottom</b> [1] - 10:9  <b>briefly</b> [3] - 16:13, 25:8, 28:15  <b>brought</b> [2] - 16:20, 21:22  <b>bunch</b> [1] - 15:18  <b>BUSINESS</b> [2] - 34:20, 34:22  <b>but</b> [27] - 5:16, 6:8, 7:25, 8:5, 8:8, 11:13, 11:19, 11:22, 12:6, 12:9, 13:9, 13:15, 15:1, 15:4, 16:24, 17:3, 19:18, 21:23, 22:10, 23:21, 25:6, 28:23, 29:7, 29:17, 32:2  <b>BY</b> [2] - 34:9, 34:15  <b>By</b> [2] - 1:14, 1:18  <b>by</b> [10] - 6:22, 6:23,</p>	<p>8:1, 8:10, 18:7, 18:22, 27:16, 27:22, 28:3, 28:7</p>
<p><b>B</b></p>	<p>26:20, 27:3, 27:6, 27:7, 27:10, 28:9  <b>because</b> [25] - 7:12, 12:19, 13:4, 13:6, 15:16, 17:10, 19:16, 20:25, 21:9, 21:22, 22:6, 22:13, 25:7, 25:10, 25:20, 26:15, 27:19, 28:20, 29:4, 29:8, 29:19, 29:21, 30:13, 30:15  <b>becomes</b> [1] - 27:12  <b>been</b> [8] - 7:9, 9:1, 9:2, 9:7, 9:14, 25:6, 25:15, 32:1  <b>before</b> [6] - 3:16, 12:17, 18:7, 18:8, 30:24, 30:25  <b>BEFORE</b> [1] - 1:11  <b>behalf</b> [3] - 7:15, 7:25, 10:17  <b>being</b> [3] - 26:15, 28:8, 29:16  <b>bias</b> [1] - 21:11  <b>BLOOMER</b> [1] - 1:11  <b>Bloomer</b> [1] - 3:19  <b>board</b> [1] - 27:9  <b>body</b> [1] - 16:1  <b>bond</b> [3] - 28:21, 29:8, 29:14  <b>books</b> [1] - 25:22  <b>Boston</b> [1] - 1:19  <b>both</b> [2] - 6:17, 29:19  <b>bottom</b> [1] - 10:9  <b>briefly</b> [3] - 16:13, 25:8, 28:15  <b>brought</b> [2] - 16:20, 21:22  <b>bunch</b> [1] - 15:18  <b>BUSINESS</b> [2] - 34:20, 34:22  <b>but</b> [27] - 5:16, 6:8, 7:25, 8:5, 8:8, 11:13, 11:19, 11:22, 12:6, 12:9, 13:9, 13:15, 15:1, 15:4, 16:24, 17:3, 19:18, 21:23, 22:10, 23:21, 25:6, 28:23, 29:7, 29:17, 32:2  <b>BY</b> [2] - 34:9, 34:15  <b>By</b> [2] - 1:14, 1:18  <b>by</b> [10] - 6:22, 6:23,</p>	<p><b>C</b></p>
<p><b>back</b> [12] - 12:7, 14:18, 17:8, 17:17, 18:23, 20:3, 20:6, 21:16, 31:13, 31:15, 31:16, 33:7  <b>background</b> [1] - 33:17  <b>backwards</b> [1] - 6:1  <b>barium</b> [1] - 16:10  <b>based</b> [1] - 28:24  <b>basically</b> [2] - 29:23, 31:6  <b>battery</b> [2] - 20:25, 22:1  <b>be</b> [18] - 3:6, 7:7, 7:14, 9:18, 10:24, 19:6, 19:12, 22:16, 22:17, 24:17, 25:9,</p>	<p><b>C</b> [3] - 3:1, 34:1  <b>call</b> [2] - 19:10, 19:22  <b>called</b> [4] - 3:2, 18:2, 20:11, 23:23  <b>came</b> [2] - 19:13, 20:1  <b>can</b> [5] - 16:13, 19:16, 24:24, 26:24  <b>can't</b> [1] - 19:21  <b>canceled</b> [2] - 26:7, 26:17  <b>cane</b> [1] - 30:10  <b>cannot</b> [1] - 19:6  <b>caption</b> [2] - 6:14, 6:21  <b>cardio</b> [1] - 27:10  <b>cardiology</b> [1] - 27:3  <b>care</b> [5] - 5:8, 25:2, 25:5, 26:14, 26:18  <b>career</b> [1] - 26:12  <b>CASE</b> [1] - 33:11  <b>case</b> [19] - 4:17, 5:1, 5:11, 6:3, 6:8, 6:15, 7:24, 10:17, 11:10, 24:13, 24:16, 25:18, 25:19, 26:15, 26:20, 28:17, 29:2, 29:4, 29:17  <b>cases</b> [1] - 6:17  <b>cause</b> [6] - 5:23, 6:5, 11:14, 11:20, 20:24, 30:1  <b>caused</b> [4] - 5:11, 13:1, 16:19, 30:23  <b>causing</b> [1] - 30:16  <b>CD</b> [2] - 33:8, 33:15  <b>Center</b> [13] - 3:14, 4:18, 4:23, 5:9, 6:9, 6:20, 6:25, 7:2, 8:9, 8:23, 12:8, 22:9, 23:8  <b>CENTER</b> [3] - 1:8, 33:11, 34:5  <b>certain</b> [3] - 25:25, 26:13, 27:5  <b>certainly</b> [1] - 10:15  <b>certificate</b> [1] - 33:8  <b>Certified</b> [2] - 1:22, 1:23</p>	
<p><b>R.A.II 39</b></p>		

<p><b>CERTIFY</b> [3] - 34:3, 34:6, 34:9  <b>change</b> [2] - 13:24, 14:2  <b>changed</b> [3] - 15:1, 19:3, 19:20  <b>changes</b> [2] - 13:25, 26:2  <b>changing</b> [1] - 14:24  <b>charge</b> [1] - 31:19  <b>charged</b> [1] - 14:22  <b>chart</b> [2] - 26:2, 26:16  <b>chased</b> [1] - 19:22  <b>check</b> [2] - 8:13, 17:18  <b>chest</b> [1] - 16:19  <b>circle</b> [2] - 33:15, 33:16  <b>circumstances</b> [1] - 31:10  <b>civil</b> [1] - 21:11  <b>Civil</b> [1] - 3:13  <b>claim</b> [15] - 4:16, 5:1, 5:7, 5:17, 5:19, 5:20, 5:25, 6:10, 7:5, 10:18, 10:22, 11:1, 11:3, 25:16, 29:1  <b>claims</b> [4] - 5:16, 6:7, 22:1, 26:19  <b>clear</b> [1] - 29:18  <b>cleared</b> [2] - 27:25, 28:9  <b>CLERK</b> [4] - 3:8, 3:11, 32:7, 32:10  <b>Clerk</b> [1] - 4:1  <b>client</b> [4] - 11:21, 12:6, 19:10, 21:10  <b>clothes</b> [1] - 18:12  <b>clothings</b> [1] - 18:11  <b>Cohen</b> [1] - 1:17  <b>collectively</b> [1] - 4:7  <b>come</b> [1] - 20:14  <b>comes</b> [1] - 27:8  <b>COMMENTS</b> [1] - 33:22  <b>committed</b> [1] - 14:23  <b>common</b> [2] - 5:22, 11:13  <b>COMMONWEALTH</b> [1] - 1:3  <b>Commonwealth</b> [2] - 5:17, 33:3  <b>communicate</b> [1] -</p>	<p>27:16  <b>compelled</b> [1] - 5:4  <b>competency</b> [2] - 27:20, 28:1  <b>complaint</b> [14] - 4:7, 4:14, 6:7, 11:11, 21:25, 23:6, 23:13, 28:17, 28:23, 28:24, 29:5, 29:22, 31:20, 32:2  <b>complaints</b> [1] - 23:17  <b>Complete</b> [1] - 33:7  <b>complete</b> [1] - 13:23  <b>completely</b> [1] - 13:12  <b>COMPLIANCE</b> [1] - 34:7  <b>COMPUTER</b> [1] - 34:15  <b>concerns</b> [2] - 27:20  <b>concluded</b> [1] - 32:11  <b>confused</b> [1] - 9:22  <b>contact</b> [4] - 7:18, 22:7, 23:9, 24:6  <b>context</b> [1] - 5:6  <b>continue</b> [1] - 9:25  <b>contradictory</b> [3] - 11:19, 14:10, 30:2  <b>copy</b> [1] - 33:8  <b>Cotter</b> [1] - 8:24  <b>could</b> [9] - 10:13, 13:3, 13:5, 13:20, 13:22, 18:14, 30:8, 30:10, 31:14  <b>counsel</b> [7] - 3:20, 5:13, 7:16, 7:24, 11:7, 28:17, 29:16  <b>COUNSEL</b> [1] - 34:9  <b>counseling</b> [1] - 31:5  <b>counted</b> [1] - 8:23  <b>country</b> [1] - 30:12  <b>counts</b> [2] - 4:13, 9:13  <b>Court</b> [8] - 1:22, 3:2, 3:13, 3:16, 3:21, 25:2, 29:14, 34:19  <b>COURT</b> [60] - 1:4, 1:4, 3:4, 3:10, 3:24, 4:3, 4:5, 7:10, 8:7, 8:14, 8:19, 9:4, 9:9, 9:11, 9:20, 10:7, 10:12, 11:5, 11:9, 11:23, 12:21, 12:25, 14:12, 16:3, 16:6, 16:9, 16:12,</p>	<p>16:17, 18:19, 20:17, 20:20, 21:3, 21:5, 21:7, 21:13, 21:20, 22:4, 22:15, 22:20, 22:23, 23:3, 23:5, 23:11, 23:19, 24:7, 24:21, 24:25, 26:21, 26:23, 28:12, 28:15, 29:7, 30:18, 31:22, 32:6, 32:9, 33:3, 34:3, 34:7, 34:14  <b>court</b> [3] - 3:7, 22:13, 33:7  <b>Courtroom</b> [1] - 1:21  <b>crossover</b> [1] - 14:2  <b>CT</b> [8] - 15:24, 15:25, 16:3, 16:7, 16:21, 17:14, 30:25, 31:2</p> <hr/> <p style="text-align: center;"><b>D</b></p> <hr/> <p><b>D</b> [5] - 2:1, 3:1, 13:7, 13:8, 13:13  <b>D-dimer</b> [1] - 13:13  <b>D-dimers</b> [1] - 13:8  <b>Daniel</b> [1] - 8:25  <b>date</b> [2] - 22:11, 24:19  <b>DATE</b> [3] - 33:10, 33:12, 34:17  <b>dates</b> [1] - 12:3  <b>day</b> [4] - 22:18, 23:1, 23:2, 23:3  <b>days</b> [1] - 23:5  <b>deadline</b> [2] - 22:20, 24:2  <b>decade</b> [1] - 26:12  <b>December</b> [1] - 12:10  <b>decided</b> [1] - 24:2  <b>deciding</b> [1] - 23:23  <b>decision</b> [4] - 29:12, 29:13, 29:19, 32:4  <b>defendant</b> [8] - 4:19, 4:20, 6:22, 6:24, 10:4, 22:8, 28:16, 29:16  <b>Defendant</b> [1] - 1:9  <b>defendant's</b> [1] - 3:17  <b>Defendants</b> [1] - 1:17  <b>defendants</b> [33] - 3:15, 4:2, 4:15, 4:17, 5:15, 6:16, 6:18, 6:19, 7:7, 7:9, 7:13, 8:5, 8:16, 9:2, 9:14, 9:23, 10:2,</p> <p style="text-align: center;"><b>R.A.II 40</b></p>
--	---	--



<p>10:4, 10:10, 10:16, 10:19, 10:22, 10:24, 11:2, 11:4, 11:12, 11:13, 12:18, 21:23, 21:24, 23:15, 23:25, 24:3 <b>defendants's</b> [2] - 4:6, 4:9 <b>defense</b> [1] - 4:10 <b>deletions</b> [2] - 13:23, 13:24 <b>demonstrate</b> [1] - 28:1 <b>denial</b> [2] - 10:20, 10:23 <b>department</b> [3] - 7:3, 18:9 <b>DEPARTMENT</b> [1] - 1:4 <b>describe</b> [3] - 11:20, 12:6, 12:11 <b>description</b> [1] - 25:4 <b>despite</b> [2] - 4:13, 4:14 <b>did</b> [8] - 5:5, 12:25, 18:16, 22:6, 22:9, 26:5 <b>didn't</b> [6] - 12:19, 14:25, 17:18, 20:10, 26:8, 28:1 <b>die</b> [5] - 17:15, 17:20, 18:5, 19:2, 27:2 <b>different</b> [7] - 5:15, 6:7, 11:10, 11:15, 12:3, 12:4, 21:22 <b>different-phrased</b> [1] - 6:7 <b>differently</b> [1] - 6:14 <b>dimer</b> [1] - 13:13 <b>dimers</b> [1] - 13:8 <b>DIRECTIVE</b> [1] - 34:7 <b>discharged</b> [3] - 14:3, 27:10, 28:9 <b>discovery</b> [1] - 24:11 <b>dismiss</b> [2] - 3:17, 4:7 <b>dismissal</b> [3] - 5:3, 6:3, 8:4 <b>dismissed</b> [9] - 14:3, 14:5, 14:6, 21:17, 28:20, 29:2, 29:4, 29:7, 32:2 <b>dispute</b> [1] - 27:23 <b>distraught</b> [1] - 27:12 <b>do</b> [6] - 7:20, 9:4,</p>	<p>15:24, 26:18, 27:9, 31:22 <b>DO</b> [1] - 34:3 <b>Docket</b> [1] - 1:7 <b>DOCKET</b> [1] - 33:11 <b>doctor</b> [5] - 12:12, 12:14, 17:23, 19:20, 30:7 <b>doctors</b> [18] - 12:1, 13:4, 13:5, 13:21, 13:22, 14:15, 14:22, 15:1, 15:3, 15:17, 17:25, 21:1, 30:3, 30:5, 30:6, 30:12 <b>doctrine</b> [2] - 5:20, 5:21 <b>documents</b> [3] - 12:5, 13:20, 13:22 <b>Doe</b> [1] - 9:15 <b>does</b> [2] - 20:17, 28:25 <b>Does</b> [3] - 9:3, 9:17, 10:1 <b>doesn't</b> [2] - 18:16, 26:9 <b>doing</b> [1] - 21:9 <b>don't</b> [8] - 14:13, 15:1, 15:3, 16:12, 16:23, 19:12, 22:6, 30:20 <b>done</b> [1] - 27:6 <b>dr</b> [1] - 25:14 <b>Dr</b> [14] - 7:22, 8:24, 12:15, 14:6, 15:20, 17:23, 17:24, 18:24, 18:25, 19:14, 25:8, 25:23, 26:3 <b>drafted</b> [1] - 28:23 <b>dragged</b> [4] - 31:12, 31:13, 31:16 <b>drilled</b> [2] - 19:1, 31:4 <b>Drive</b> [1] - 1:15 <b>drugs</b> [1] - 12:4 <b>duly</b> [1] - 24:14 <b>during</b> [3] - 15:14, 15:25, 16:22 <b>duty</b> [2] - 21:10, 24:15 <b>dye</b> [1] - 16:10</p>	<p>33:7 <b>ear</b> [1] - 14:19 <b>earlier</b> [1] - 4:12 <b>early</b> [1] - 28:10 <b>ED</b> [1] - 16:20 <b>effective</b> [1] - 5:19 <b>eight</b> [4] - 9:20, 20:8, 31:12 <b>elements</b> [1] - 6:1 <b>elevator</b> [1] - 19:19 <b>eleven</b> [1] - 9:25 <b>Eliot</b> [1] - 34:19 <b>EMAIL</b> [1] - 34:23 <b>emergency</b> [3] - 7:3, 12:8, 14:16 <b>EMPLOYED</b> [1] - 34:9 <b>employed</b> [1] - 23:20 <b>employees</b> [1] - 6:20 <b>end</b> [4] - 5:19, 17:5, 25:17, 26:12 <b>ended</b> [1] - 28:8 <b>entered</b> [3] - 12:7, 18:7, 18:8 <b>entire</b> [3] - 13:19, 14:8, 15:22 <b>Esquire</b> [2] - 1:14, 1:18 <b>essentially</b> [1] - 14:23 <b>ET</b> [2] - 1:9, 34:5 <b>evaluated</b> [1] - 28:8 <b>even</b> [4] - 11:2, 12:19, 18:16, 30:8 <b>event</b> [1] - 10:15 <b>events</b> [2] - 11:20, 15:15 <b>every</b> [1] - 33:7 <b>everybody</b> [1] - 31:9 <b>evident</b> [1] - 27:24 <b>example</b> [1] - 7:22 <b>EXCELLENT</b> [1] - 33:15 <b>exhibit</b> [1] - 6:4 <b>EXHIBITS</b> [1] - 2:5 <b>Exhibits</b> [1] - 1:2 <b>experience</b> [1] - 15:6 <b>expert</b> [1] - 5:7 <b>explicitly</b> [1] - 6:22</p>
	E	F
	<p><b>E</b> [5] - 2:1, 3:1, 34:1 <b>each</b> [6] - 6:21, 10:19, 11:19, 15:7, 30:2,</p>	<p><b>F</b> [2] - 1:11, 34:1 <b>facility</b> [1] - 7:21 <b>fact</b> [3] - 8:12, 21:16, 29:25</p> <p style="text-align: center;"><b>R.A.II 41</b></p>

<p><b>facts</b> [3] - 6:11, 29:24, 30:1  <b>factual</b> [1] - 27:23  <b>failed</b> [2] - 28:21, 29:8  <b>FAIR</b> [1] - 33:15  <b>false</b> [1] - 20:24  <b>February</b> [5] - 22:16, 22:21, 22:23, 23:1, 23:4  <b>feel</b> [1] - 31:9  <b>fell</b> [2] - 17:5, 20:4  <b>felt</b> [5] - 17:9, 17:15, 17:20, 28:24, 29:20  <b>Fen</b> [2] - 3:13, 3:23  <b>FEN</b> [2] - 1:6, 34:5  <b>fewer</b> [1] - 4:17  <b>file</b> [2] - 22:6, 31:20  <b>filed</b> [8] - 4:16, 21:17, 22:7, 22:10, 22:12, 23:6, 24:9, 24:19  <b>filing</b> [2] - 4:12, 5:7  <b>final</b> [2] - 5:24, 6:2  <b>finally</b> [1] - 19:15  <b>FINANCIALLY</b> [1] - 34:10  <b>finish</b> [1] - 19:4  <b>first</b> [9] - 4:10, 12:14, 17:2, 18:10, 23:23, 28:17, 30:13, 30:21, 31:13  <b>five</b> [7] - 7:10, 7:11, 7:12, 7:20, 9:12, 9:17, 31:4  <b>flee</b> [1] - 28:4  <b>floor</b> [3] - 17:17, 20:4, 31:14  <b>folks</b> [1] - 7:17  <b>FOR</b> [1] - 34:9  <b>For</b> [3] - 1:13, 1:17, 33:7  <b>for</b> [29] - 3:12, 3:21, 4:2, 5:7, 7:22, 7:25, 8:4, 8:8, 11:1, 14:15, 14:17, 18:3, 19:2, 19:8, 22:18, 23:10, 23:25, 24:3, 24:10, 25:15, 26:3, 26:16, 27:12, 29:1, 29:20, 30:11, 30:12, 33:7  <b>FOREGOING</b> [2] - 34:3, 34:7  <b>FORM</b> [1] - 33:4  <b>form</b> [1] - 33:7</p>	<p><b>FORMAT</b> [1] - 34:8  <b>four</b> [4] - 9:12, 9:17, 17:2, 26:12  <b>four-decade</b> [1] - 26:12  <b>frankly</b> [1] - 8:1  <b>fraud</b> [7] - 11:16, 11:24, 11:25, 12:22, 12:24, 14:24, 25:10  <b>fraudulent</b> [3] - 13:3, 13:20, 14:9  <b>fraudulently</b> [1] - 26:16  <b>friend</b> [3] - 19:11, 19:13, 19:24  <b>from</b> [9] - 4:10, 4:12, 11:6, 11:11, 11:16, 20:3, 20:12, 27:10, 31:11  <b>FROM</b> [2] - 34:4, 34:15  <b>FTR</b> [1] - 34:15  <b>full</b> [2] - 6:2, 27:8  <b>FURTHER</b> [3] - 34:6, 34:9, 34:10  <b>futile</b> [1] - 10:25</p>	<p><b>ground</b> [1] - 17:6  <b>grounds</b> [1] - 10:22  <b>guard</b> [3] - 19:22, 20:1, 20:7  <b>guarded</b> [1] - 31:17  <b>guards</b> [4] - 20:7, 20:8, 26:25, 31:12  <b>Guekguezian</b> [1] - 1:17  <b>guess</b> [1] - 14:20</p>
	<p><b>G</b></p>	<p><b>H</b></p>
	<p><b>G</b> [1] - 3:1  <b>gave</b> [1] - 18:19  <b>generally</b> [1] - 26:23  <b>gentlemen</b> [1] - 3:5  <b>get</b> [4] - 7:18, 19:18, 23:22, 25:24  <b>gist</b> [1] - 4:12  <b>give</b> [3] - 17:14, 30:15, 31:2  <b>given</b> [5] - 16:3, 16:5, 16:15, 16:21, 17:3  <b>go</b> [4] - 3:8, 21:16, 31:9, 31:10  <b>going</b> [17] - 8:10, 8:12, 17:7, 17:15, 17:20, 18:5, 19:2, 19:11, 20:13, 23:24, 24:16, 27:2, 27:6, 27:14, 31:22, 31:23, 32:3  <b>GOOD</b> [1] - 33:15  <b>good</b> [7] - 3:4, 3:24, 3:25, 4:3, 4:4, 11:8, 11:9  <b>got</b> [2] - 26:6, 27:19</p>	<p><b>had</b> [26] - 4:17, 4:18, 4:19, 8:7, 8:10, 12:7, 13:6, 13:8, 13:10, 13:11, 13:13, 13:15, 14:15, 16:19, 17:5, 17:12, 19:10, 22:16, 23:5, 24:18, 25:21, 26:5, 26:10, 27:20, 32:1  <b>half</b> [2] - 19:5, 19:9  <b>half-hour</b> [2] - 19:5, 19:9  <b>Halin</b> [1] - 9:20  <b>happened</b> [4] - 24:7, 26:17, 26:21, 28:10  <b>happy</b> [1] - 25:1  <b>harm</b> [1] - 13:1  <b>Harvey</b> [1] - 1:17  <b>has</b> [8] - 5:1, 5:11, 6:13, 9:7, 9:8, 26:9, 26:10, 26:17  <b>have</b> [24] - 5:21, 6:2, 6:16, 7:9, 8:21, 9:1, 9:2, 9:4, 9:11, 9:14, 11:16, 18:12, 18:16, 19:6, 20:14, 21:9, 22:1, 22:7, 24:15, 24:18, 25:25, 31:14  <b>having</b> [1] - 14:18  <b>he</b> [7] - 19:15, 19:21, 25:10, 25:17, 25:19, 26:8, 29:20  <b>he's</b> [3] - 25:15, 25:16, 26:14  <b>healthy</b> [2] - 13:12, 13:18  <b>hear</b> [2] - 4:10, 11:6  <b>heard</b> [1] - 29:18  <b>HEARING</b> [2] - 1:11, 34:10</p>
		<p><b>R.A.II 42</b></p>

<p><b>hearing</b> [3] - 24:12, 24:18, 24:23  <b>heart</b> [5] - 13:9, 13:10, 13:11, 17:12, 30:23  <b>HELD</b> [1] - 34:5  <b>help</b> [1] - 29:21  <b>her</b> [83] - 5:11, 7:24, 7:25, 12:12, 13:14, 14:10, 14:15, 14:16, 14:18, 14:19, 15:6, 15:19, 15:23, 16:1, 16:19, 16:20, 17:8, 17:9, 17:12, 17:13, 17:14, 17:16, 18:1, 18:4, 18:10, 18:11, 18:16, 18:17, 18:19, 18:20, 19:1, 19:11, 19:13, 19:14, 19:17, 19:19, 19:20, 19:23, 19:24, 20:2, 20:3, 20:5, 20:6, 20:9, 20:17, 20:22, 21:10, 25:4, 25:20, 26:4, 26:5, 26:8, 26:9, 26:11, 29:1, 29:15, 29:21, 30:7, 30:13, 30:15, 30:16, 30:19, 30:22, 30:23, 30:24, 30:25, 31:1, 31:2, 31:3, 31:6, 31:13, 31:15, 31:17, 31:18  <b>here</b> [3] - 4:5, 8:22, 27:7  <b>HEREBY</b> [1] - 34:3  <b>herself</b> [2] - 17:6, 27:21  <b>highly</b> [1] - 14:21  <b>his</b> [7] - 16:1, 19:20, 21:10, 25:7, 26:12, 26:15, 29:19  <b>hold</b> [2] - 7:6, 9:9  <b>home</b> [2] - 18:21  <b>honest</b> [1] - 29:17  <b>Honor</b> [14] - 3:8, 3:25, 4:11, 8:13, 8:18, 8:22, 10:14, 11:4, 11:8, 14:25, 25:19, 26:22, 28:13, 32:8  <b>HONORABLE</b> [1] - 1:11  <b>Honorable</b> [1] - 3:19</p>	<p><b>horribly</b> [1] - 30:8  <b>hospital</b> [19] - 8:2, 17:10, 17:14, 17:19, 17:21, 18:4, 18:8, 18:13, 18:14, 19:2, 19:13, 19:19, 20:6, 20:10, 21:9, 28:5, 30:9, 31:12, 31:17  <b>hospital's</b> [1] - 26:2  <b>hour</b> [2] - 19:5, 19:9  <b>hours</b> [5] - 15:14, 18:4, 19:2, 28:10, 31:4  <b>however</b> [1] - 26:19  <b>huh</b> [1] - 21:4  <b>hum</b> [1] - 9:19</p> <hr/> <p style="text-align: center;"><b>I</b></p> <hr/> <p><b>I</b> [56] - 2:1, 3:1, 7:9, 7:11, 7:24, 8:14, 8:21, 8:23, 9:7, 9:11, 9:22, 10:7, 10:13, 10:17, 10:18, 12:18, 14:10, 14:12, 14:20, 14:25, 15:1, 15:3, 16:8, 16:12, 16:13, 16:15, 16:23, 19:11, 19:12, 21:14, 21:20, 22:15, 22:17, 22:20, 24:9, 24:14, 24:18, 24:24, 28:6, 28:13, 30:20, 31:8, 31:9, 31:24, 31:25, 34:1, 34:3, 34:6, 34:9, 34:9, 34:10  <b>I'll</b> [1] - 4:10  <b>I'm</b> [14] - 8:10, 8:12, 12:21, 14:20, 14:25, 17:6, 19:11, 23:11, 23:12, 25:1, 25:6, 31:22, 31:23, 32:3  <b>identical</b> [1] - 6:16  <b>identified</b> [1] - 6:22  <b>identifies</b> [1] - 10:10  <b>identify</b> [2] - 3:20, 23:9  <b>identity</b> [4] - 5:22, 5:23, 6:5, 6:12  <b>IDs</b> [1] - 33:22</p>	<p><b>if</b> [21] - 5:21, 9:12, 9:25, 10:13, 11:2, 14:1, 14:14, 15:19, 17:21, 18:4, 19:1, 23:19, 23:20, 24:13, 26:24, 27:2, 27:14  <b>immediately</b> [1] - 24:4  <b>imprisonment</b> [1] - 20:25  <b>improper</b> [2] - 5:8, 7:7  <b>IN</b> [4] - 34:4, 34:7, 34:10, 34:11  <b>in</b> [84] - 3:7, 4:14, 4:16, 4:19, 4:20, 4:21, 5:6, 5:9, 5:10, 5:15, 5:17, 6:7, 6:9, 6:14, 6:15, 6:17, 6:24, 7:6, 7:17, 7:23, 7:24, 8:3, 8:10, 8:19, 8:20, 9:6, 10:15, 10:16, 10:25, 12:5, 12:8, 13:1, 13:6, 13:14, 13:17, 14:8, 14:15, 14:18, 14:24, 15:2, 17:5, 17:10, 17:11, 17:13, 17:18, 17:20, 18:15, 20:10, 20:14, 20:15, 21:23, 21:24, 22:16, 24:13, 25:2, 25:10, 25:17, 25:19, 25:21, 26:1, 26:5, 26:8, 26:12, 26:13, 26:15, 26:16, 26:20, 27:4, 27:11, 27:13, 27:15, 27:24, 28:10, 28:21, 29:1, 29:19, 30:1, 30:21  <b>inaudible</b> [2] - 10:21, 23:10  <b>INC</b> [2] - 1:8, 34:5  <b>include</b> [2] - 33:7, 33:16  <b>including</b> [1] - 9:15  <b>Index</b> [1] - 1:2  <b>index</b> [1] - 33:8  <b>indiscernible</b> [2] - 20:3, 20:13  <b>individual</b> [6] - 4:20, 6:18, 6:22, 7:12,</p> <p style="text-align: right;"><b>R.A.II 43</b></p>
---	---	---

<p>7:18, 23:10  <b>individually</b> [1] - 7:1  <b>individuals</b> [2] - 7:20, 22:5  <b>industry</b> [1] - 15:10  <b>informally</b> [1] - 5:6  <b>information</b> [4] - 22:7, 23:10, 24:6  <b>infused</b> [1] - 17:11  <b>infusion</b> [1] - 30:22  <b>injected</b> [2] - 16:1, 16:6  <b>injection</b> [4] - 16:16, 16:25, 30:15, 30:24  <b>injections</b> [4] - 16:22, 17:2, 17:4, 31:2  <b>injured</b> [1] - 31:14  <b>injury</b> [2] - 5:12, 12:13  <b>inpatient</b> [4] - 17:17, 18:8, 18:9, 18:23  <b>inside</b> [2] - 31:16, 31:17  <b>instead</b> [1] - 21:25  <b>intentionally</b> [1] - 14:23  <b>interested</b> [2] - 25:2, 27:13  <b>INTERESTED</b> [1] - 34:11  <b>internal</b> [1] - 4:22  <b>interpreter</b> [7] - 19:4, 19:6, 19:7, 19:8, 20:11, 20:12, 20:14  <b>interpreters</b> [1] - 19:3  <b>interrogated</b> [2] - 20:9, 31:18  <b>into</b> [6] - 4:25, 12:7, 14:16, 16:1, 18:6, 30:9  <b>involved</b> [3] - 12:20, 21:1, 27:19  <b>is</b> [65] - 3:7, 3:12, 3:16, 3:18, 4:6, 4:9, 4:13, 4:15, 5:3, 5:13, 5:17, 5:19, 5:21, 5:25, 6:3, 6:6, 6:10, 6:13, 6:20, 6:21, 6:22, 7:7, 7:10, 7:16, 8:22, 11:10, 11:23, 11:25, 12:15, 12:22, 12:23, 12:24, 13:12, 13:14, 13:15, 13:24, 14:7, 14:9,</p>	<p>14:20, 15:9, 16:18, 20:12, 21:9, 21:21, 22:2, 22:11, 22:17, 23:23, 24:9, 24:13, 24:16, 24:17, 25:2, 25:6, 25:14, 26:3, 26:9, 26:19, 27:12, 27:19, 30:16, 30:18, 30:23, 31:23  <b>IS</b> [2] - 34:3, 34:7  <b>issue</b> [1] - 24:24  <b>issued</b> [1] - 24:14  <b>ISSUES</b> [1] - 33:16  <b>it</b> [31] - 4:15, 4:18, 4:19, 6:10, 6:13, 6:20, 7:10, 7:16, 8:22, 9:7, 12:23, 13:16, 14:15, 15:1, 15:4, 16:22, 17:6, 17:15, 18:20, 21:21, 24:15, 24:22, 25:9, 28:19, 28:25, 29:7, 29:23, 33:7  <b>it's</b> [15] - 7:21, 8:7, 9:6, 9:12, 14:10, 15:16, 16:9, 16:10, 18:15, 22:13, 24:14, 27:23  <b>its</b> [1] - 7:15  <b>itself</b> [1] - 12:9</p>	<p>28:24, 29:23, 31:6</p>
	<b>J</b>	<b>K</b>
	<p><b>James</b> [1] - 8:24  <b>Jane</b> [2] - 9:15, 9:17  <b>Jennifer</b> [1] - 9:15  <b>Jie</b> [2] - 1:14, 3:22  <b>Jim</b> [1] - 7:1  <b>John</b> [1] - 9:25  <b>Jonathan</b> [2] - 9:17, 25:12  <b>JT</b> [1] - 1:14  <b>Judge</b> [2] - 16:14, 32:5  <b>judge</b> [4] - 24:24, 28:20, 28:24, 29:18  <b>judgment</b> [2] - 5:24, 6:2  <b>June</b> [2] - 1:21, 25:17  <b>JUNE</b> [1] - 34:5  <b>just</b> [13] - 8:6, 8:10, 9:6, 10:13, 15:16, 15:18, 16:13, 21:14, 24:24, 25:8,</p>	<p><b>Kaplan</b> [7] - 4:22, 7:22, 8:24, 14:6, 15:20, 17:24, 18:24  <b>kicked</b> [1] - 20:3  <b>kind</b> [1] - 31:10  <b>know</b> [12] - 6:18, 7:17, 12:19, 14:14, 14:21, 14:23, 15:1, 15:3, 16:12, 16:23, 26:9, 30:20  <b>known</b> [1] - 23:9</p>
		<b>L</b>
		<p><b>lack</b> [1] - 8:4  <b>ladies</b> [1] - 3:5  <b>last</b> [5] - 22:18, 23:1, 23:3, 23:9, 29:22  <b>last-known</b> [1] - 23:9  <b>later</b> [2] - 14:4, 30:1  <b>Law</b> [1] - 1:14  <b>law</b> [2] - 5:16, 10:10  <b>lawsuit</b> [1] - 25:16  <b>lay</b> [1] - 31:13  <b>Leah</b> [1] - 4:21  <b>least</b> [3] - 5:10, 5:15, 21:24  <b>leave</b> [13] - 17:22, 18:1, 18:4, 18:14, 19:11, 19:12, 19:16, 19:17, 19:21, 20:9, 27:2, 27:14  <b>leaving</b> [4] - 27:13, 27:16, 27:22, 28:4  <b>left</b> [1] - 19:1  <b>legal</b> [1] - 4:13  <b>let</b> [7] - 8:21, 11:6, 14:12, 18:1, 19:17, 21:13  <b>let's</b> [3] - 21:16, 24:22, 27:7  <b>licensed</b> [2] - 15:17, 21:1  <b>like</b> [17] - 13:7, 13:14, 13:17, 14:3, 16:2, 16:9, 17:15, 17:20, 18:6, 20:15, 22:11, 26:14, 29:25, 30:21, 31:9  <b>Linda</b> [1] - 8:24</p>
		<b>R.A.II 44</b>

<p><b>LISA</b> [3] - 34:3, 34:6, 34:9  <b>Lisa</b> [2] - 1:22, 33:10  <b>list</b> [3] - 10:8, 12:16, 12:18  <b>listed</b> [4] - 9:22, 12:5, 12:15, 30:3  <b>listing</b> [1] - 9:21  <b>lists</b> [1] - 9:7  <b>litigated</b> [1] - 25:6  <b>little</b> [3] - 9:12, 9:22, 32:3  <b>LIU</b> [3] - 1:6, 33:11, 34:5  <b>Liu</b> [2] - 3:14, 3:23  <b>LLP</b> [1] - 1:17  <b>LMP</b> [1] - 34:19  <b>Impreporting@gmail.com</b> [1] - 34:23  <b>log</b> [1] - 33:22  <b>look</b> [5] - 9:12, 14:1, 15:20, 31:25, 32:2  <b>looking</b> [1] - 8:18  <b>lot</b> [4] - 7:21, 13:24, 15:15, 25:5  <b>low</b> [2] - 33:18, 33:18</p>	<p><b>matter</b> [4] - 3:9, 3:16, 3:18, 7:9  <b>MATTER</b> [1] - 34:4  <b>may</b> [5] - 3:6, 3:8, 24:18, 28:13  <b>ME</b> [1] - 34:4  <b>me</b> [7] - 8:21, 10:17, 11:6, 14:12, 21:13, 26:24  <b>mean</b> [2] - 14:10, 31:8  <b>meantime</b> [1] - 27:11  <b>med</b> [1] - 4:16  <b>medical</b> [31] - 11:16, 11:17, 11:18, 12:1, 12:2, 12:7, 12:9, 12:13, 12:14, 12:24, 13:2, 13:5, 13:6, 13:14, 13:19, 14:1, 14:9, 14:17, 15:4, 15:8, 15:9, 15:12, 21:3, 21:5, 21:8, 21:25, 25:10, 28:5, 30:2, 30:13  <b>MEDICAL</b> [3] - 1:8, 33:11, 34:5  <b>Medical</b> [12] - 3:14, 4:18, 4:23, 5:9, 6:9, 6:20, 6:25, 8:8, 8:23, 12:8, 22:9, 23:8  <b>medication</b> [1] - 16:18  <b>Medicine</b> [1] - 7:2  <b>medicine</b> [4] - 4:22, 7:2, 25:15, 26:13  <b>memo</b> [2] - 9:5, 10:10  <b>mentioned</b> [3] - 15:21, 25:7, 25:9  <b>merit</b> [2] - 29:12, 29:13  <b>merits</b> [1] - 5:24  <b>messed</b> [2] - 14:7, 30:14  <b>met</b> [1] - 26:9  <b>Michael</b> [1] - 9:16  <b>microphone</b> [1] - 33:19  <b>middle</b> [1] - 18:6  <b>Middlesex</b> [1] - 3:12  <b>MIDDLESEX</b> [1] - 1:4  <b>might</b> [1] - 22:17  <b>mind</b> [1] - 19:20  <b>minus</b> [1] - 8:7  <b>moot</b> [1] - 22:13</p>	<p><b>more</b> [3] - 5:14, 28:14, 29:20  <b>morning</b> [4] - 17:10, 20:16, 28:10, 30:22  <b>motion</b> [17] - 3:17, 4:7, 4:9, 6:4, 8:4, 8:11, 8:21, 9:7, 9:13, 10:5, 10:21, 10:23, 22:10, 22:12, 24:10, 24:17, 24:19  <b>move</b> [1] - 30:8  <b>MR</b> [19] - 3:25, 4:4, 4:11, 7:11, 8:12, 8:17, 8:20, 9:6, 9:19, 9:24, 10:8, 10:13, 16:13, 16:18, 23:7, 24:9, 24:22, 25:1, 27:1  <b>Mr</b> [1] - 4:1  <b>MS</b> [32] - 3:22, 11:8, 11:10, 11:25, 12:24, 13:2, 14:25, 16:4, 16:8, 16:11, 16:21, 18:20, 20:19, 20:21, 21:4, 21:6, 21:8, 21:18, 22:3, 22:6, 22:18, 22:22, 22:24, 23:4, 23:16, 23:21, 26:22, 28:13, 28:16, 29:10, 30:20, 32:5  <b>much</b> [2] - 25:1, 32:6  <b>must</b> [1] - 25:9  <b>my</b> [8] - 8:19, 8:20, 11:21, 12:6, 19:10, 20:23, 20:24, 21:10  <b>myself</b> [1] - 8:13</p>
<b>M</b>		
<p><b>M.D</b> [2] - 8:24, 8:25  <b>machine</b> [1] - 17:7  <b>mad</b> [2] - 31:9, 31:10  <b>made</b> [1] - 13:3  <b>make</b> [4] - 10:1, 17:9, 27:9, 32:3  <b>mal</b> [1] - 4:16  <b>malpractice</b> [2] - 15:16, 21:25  <b>MANAGEMENT</b> [1] - 33:3  <b>management</b> [1] - 7:17  <b>many</b> [5] - 5:14, 5:15, 8:1, 12:18, 12:19  <b>March</b> [3] - 22:11, 22:12, 22:23  <b>Marie</b> [1] - 1:22  <b>MARIE</b> [3] - 34:3, 34:6, 34:9  <b>MASSACHUSETTS</b> [1] - 1:3  <b>Massachusetts</b> [5] - 1:15, 1:19, 1:20, 33:3, 34:20  <b>matching</b> [1] - 15:6</p>	<p><b>medication</b> [1] - 16:18  <b>Medicine</b> [1] - 7:2  <b>medicine</b> [4] - 4:22, 7:2, 25:15, 26:13  <b>memo</b> [2] - 9:5, 10:10  <b>mentioned</b> [3] - 15:21, 25:7, 25:9  <b>merit</b> [2] - 29:12, 29:13  <b>merits</b> [1] - 5:24  <b>messed</b> [2] - 14:7, 30:14  <b>met</b> [1] - 26:9  <b>Michael</b> [1] - 9:16  <b>microphone</b> [1] - 33:19  <b>middle</b> [1] - 18:6  <b>Middlesex</b> [1] - 3:12  <b>MIDDLESEX</b> [1] - 1:4  <b>might</b> [1] - 22:17  <b>mind</b> [1] - 19:20  <b>minus</b> [1] - 8:7  <b>moot</b> [1] - 22:13</p>	<p style="text-align: center;"><b>N</b></p> <p><b>N</b> [2] - 2:1, 3:1  <b>name</b> [3] - 6:14, 25:7, 26:15  <b>NAME</b> [3] - 33:10, 33:11, 34:14  <b>named</b> [1] - 6:17  <b>names</b> [1] - 15:2  <b>nearly</b> [1] - 26:12  <b>need</b> [3] - 19:11, 27:16, 32:3  <b>negligence</b> [5] - 20:25, 21:3, 21:5, 21:8, 29:2</p> <p style="text-align: center;"><b>R.A.II 45</b></p>

<p>Neil [1] - 9:20  <b>NEITHER</b> [1] - 34:9  <b>never</b> [12] - 12:16,  12:17, 13:9, 13:10,  15:20, 26:10,  26:17, 28:19,  29:12, 29:25, 30:4,  30:5  <b>new</b> [1] - 5:13  <b>New</b> [1] - 7:23  <b>next</b> [1] - 3:9  <b>night</b> [1] - 18:6  <b>nine</b> [1] - 9:25  <b>nitroglycerin</b> [1] -  16:16  <b>No</b> [5] - 1:7, 3:13, 4:6,  19:24, 33:22  <b>no</b> [11] - 8:15, 14:10,  17:24, 20:19,  20:20, 20:21, 21:1,  22:25, 23:11, 29:11  <b>nobody</b> [3] - 13:20,  30:14, 31:9  <b>noise</b> [1] - 33:17  <b>non</b> [1] - 10:3  <b>non-served</b> [1] - 10:3  <b>None</b> [2] - 2:3, 2:6  <b>non-served</b> [1] - 10:11  <b>NOR</b> [2] - 34:9, 34:10  <b>not</b> [43] - 5:5, 5:19,  8:20, 9:2, 9:8, 9:14,  10:2, 13:3, 13:5,  13:22, 14:5, 15:5,  15:6, 15:16, 15:17,  17:7, 18:14, 18:16,  20:21, 22:5, 22:9,  22:23, 23:11,  23:19, 23:20,  23:25, 24:2, 24:3,  24:14, 26:5, 26:9,  27:24, 28:25, 29:5,  29:16, 29:21, 30:3,  30:8, 30:10, 30:12,  31:19  <b>NOT</b> [1] - 34:10  <b>note</b> [1] - 10:13  <b>notes</b> [4] - 8:19, 8:20,  15:20, 33:22  <b>nothing</b> [1] - 26:18  <b>November</b> [8] - 4:24,  4:25, 5:9, 6:9,  18:15, 26:6, 26:8,  28:11  <b>now</b> [6] - 3:7, 17:9,  17:13, 30:8, 30:9,</p>	<p>30:16  <b>number</b> [5] - 4:14,  13:15, 15:12,  15:13, 23:14  <b>NUMBER</b> [1] - 33:11  <b>numbers</b> [2] - 12:3,  15:8  <b>nurses</b> [3] - 12:16,  12:20, 18:1</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p><b>O</b> [1] - 3:1  <b>obtained</b> [4] - 11:18,  12:10, 13:16, 26:4  <b>occurred</b> [2] - 11:21,  30:1  <b>occurrence</b> [1] -  15:22  <b>OF</b> [10] - 1:3, 1:4,  33:3, 33:12, 34:4,  34:7, 34:10, 34:11,  34:14  <b>of</b> [94] - 4:12, 4:13,  4:14, 4:16, 5:3, 5:5,  5:6, 5:7, 5:9, 5:17,  5:18, 5:20, 5:22,  5:23, 5:24, 6:2, 6:5,  6:8, 6:9, 6:10, 6:11,  6:12, 6:19, 7:5, 7:6,  7:8, 7:21, 8:5, 8:15,  9:2, 9:21, 9:22,  10:9, 10:10, 10:19,  10:21, 10:23, 11:3,  11:11, 11:14, 12:1,  12:14, 12:16, 13:8,  13:24, 13:25, 14:2,  15:4, 15:9, 15:15,  15:19, 15:20,  16:10, 16:16,  16:19, 16:20, 17:2,  18:12, 19:18,  20:24, 21:23,  21:25, 23:3, 23:8,  23:12, 23:14,  23:16, 23:18,  23:20, 24:11, 25:4,  25:17, 26:1, 26:6,  26:8, 26:12, 26:19,  28:2, 28:11, 29:21,  29:23, 30:18, 31:4,  31:10, 33:3, 33:7,  33:19  <b>off</b> [3] - 26:13, 32:7,  32:10</p>	<p><b>offer</b> [2] - 5:5, 5:6  <b>OFFICE</b> [2] - 33:3,  34:7  <b>OFFICER</b> [1] - 3:4  <b>oh</b> [1] - 23:11  <b>Oh</b> [4] - 19:5, 19:21,  20:13, 24:2  <b>okay</b> [5] - 10:12,  20:13, 28:15,  31:22, 32:4  <b>Okay</b> [2] - 3:11, 19:16  <b>Oliver</b> [1] - 1:18  <b>ON</b> [2] - 34:5, 34:7  <b>on</b> [41] - 3:8, 3:9,  3:11, 4:5, 5:24,  7:15, 7:25, 8:21,  9:5, 9:9, 9:13, 10:5,  10:9, 10:17, 10:22,  10:24, 12:8, 12:10,  12:25, 13:5, 13:20,  13:22, 14:16,  16:19, 23:8, 23:14,  23:17, 24:10,  25:22, 27:6, 27:9,  27:18, 28:24,  29:12, 29:13,  29:17, 30:15,  30:16, 30:24,  31:13, 31:15  <b>once</b> [1] - 19:18  <b>one</b> [13] - 4:19, 9:11,  9:15, 15:11, 15:12,  18:12, 19:4, 19:9,  22:14, 24:24,  28:14, 30:24, 33:15  <b>ongoing</b> [1] - 5:11  <b>only</b> [6] - 11:13,  15:11, 18:11,  18:12, 21:2, 30:6  <b>onto</b> [1] - 20:4  <b>operative</b> [1] - 6:11  <b>opposition</b> [1] - 5:10  <b>or</b> [15] - 5:6, 5:22,  6:20, 7:10, 9:5,  15:21, 20:7, 21:8,  23:25, 24:13,  25:16, 27:16, 31:4,  31:12, 33:22  <b>order</b> [1] - 3:2  <b>original</b> [8] - 4:17,  4:21, 5:14, 6:2,  6:15, 6:19, 6:24,  33:7  <b>Ostrow</b> [6] - 8:25,  12:13, 25:8, 25:14,</p> <p style="text-align: right;"><b>R.A.II 46</b></p>
---	--	---

<p>25:23, 26:3  <b>other</b> [14] - 6:17,  11:19, 13:4, 13:21,  15:7, 15:15, 17:23,  18:1, 18:25, 19:8,  22:1, 30:3, 33:20  <b>others</b> [3] - 3:15, 8:1,  27:16  <b>OTHERWISE</b> [1] -  34:11  <b>ou</b> [1] - 3:6  <b>our</b> [4] - 6:4, 22:11,  24:16, 25:5  <b>out</b> [9] - 6:8, 6:10,  14:21, 16:19,  17:18, 19:18,  19:25, 20:1, 25:24  <b>OUTCOME</b> [1] - 34:11  <b>outcome</b> [1] - 24:11  <b>over</b> [4] - 3:18, 15:23,  15:24, 30:11  <b>overnight</b> [4] - 4:24,  5:8, 6:8, 27:6  <b>overseeing</b> [1] -  12:12  <b>own</b> [2] - 7:15, 14:17</p>	<p>12:13, 25:8  <b>PHIPPS</b> [3] - 34:3,  34:6, 34:9  <b>Phipps</b> [2] - 1:22,  33:10  <b>phrased</b> [1] - 6:7  <b>phrasing</b> [1] - 5:16  <b>physician</b> [7] - 4:23,  7:2, 25:11, 25:13,  26:1, 26:10, 26:11  <b>physician-patient</b> [1]  - 26:11  <b>pick</b> [1] - 19:14  <b>picked</b> [1] - 20:5  <b>place</b> [1] - 18:23  <b>plaintiff</b> [13] - 1:6,  3:14, 3:22, 4:24,  5:4, 6:13, 6:23,  11:12, 25:20, 26:4,  26:14, 28:21, 29:1  <b>Plaintiff</b> [1] - 1:13  <b>plaintiffs</b> [3] - 5:10,  11:7, 25:4  <b>please</b> [1] - 3:21  <b>point</b> [2] - 5:3, 25:25  <b>poor</b> [1] - 29:21  <b>POOR</b> [1] - 33:15  <b>poorly</b> [1] - 28:23  <b>position</b> [2] - 25:4,  25:6  <b>possibly</b> [1] - 31:14  <b>post</b> [2] - 29:8, 29:14  <b>practices</b> [1] - 7:23  <b>practicing</b> [1] - 25:15  <b>precluded</b> [2] - 5:25,  7:8  <b>preclusion</b> [7] - 5:17,  5:20, 7:5, 10:18,  10:22, 11:1, 11:3  <b>prejudice</b> [5] - 4:8,  5:2, 6:3, 8:4, 29:3  <b>present</b> [1] - 5:23  <b>presiding</b> [1] - 3:18  <b>previous</b> [5] - 13:9,  13:10, 29:18, 32:1  <b>previously</b> [1] - 21:17  <b>primary</b> [1] - 12:12  <b>printed</b> [1] - 25:24  <b>prior</b> [4] - 5:23, 5:24,  7:24, 16:7  <b>privies</b> [1] - 6:19  <b>privy</b> [1] - 5:22  <b>probably</b> [2] - 16:8,  16:9</p>	<p><b>procedural</b> [1] - 7:8  <b>procedure</b> [2] - 16:22,  16:24  <b>procedures</b> [1] - 12:4  <b>proceedings</b> [1] -  32:11  <b>PROCEEDINGS</b> [2] -  34:4, 34:15  <b>process</b> [1] - 22:5  <b>produce</b> [2] - 5:4, 5:6  <b>produced</b> [2] - 15:5,  33:7  <b>PRODUCED</b> [1] -  34:15  <b>Professional</b> [1] -  1:23  <b>prongs</b> [1] - 7:4  <b>proof</b> [2] - 5:5, 5:7  <b>protest</b> [1] - 17:6  <b>protesting</b> [2] - 17:1,  17:3  <b>provide</b> [1] - 24:5  <b>provided</b> [1] - 33:22  <b>PROVIDED</b> [1] - 34:4  <b>provider</b> [1] - 4:20  <b>providers</b> [2] - 7:18,  27:15  <b>psych</b> [2] - 27:19,  28:2  <b>psychiatrist</b> [3] -  18:3, 18:25, 19:15  <b>psychiatrist's</b> [1] -  31:4  <b>psychologically</b> [2] -  27:25, 28:9  <b>pulled</b> [1] - 31:15  <b>pulmonologist</b> [1] -  25:14  <b>pulmonology</b> [1] -  25:22</p>
<b>P</b>		
<p><b>P</b> [1] - 3:1  <b>P.C</b> [1] - 1:14  <b>p.m</b> [3] - 3:3, 27:4,  32:11  <b>page</b> [3] - 10:9, 33:8  <b>Pages</b> [1] - 1:1  <b>pain</b> [4] - 12:7, 14:18,  16:20, 30:17  <b>Paper</b> [1] - 4:6  <b>parties</b> [2] - 5:22, 6:12  <b>PARTIES</b> [1] - 34:10  <b>past</b> [1] - 5:3  <b>patient</b> [3] - 15:11,  26:3, 26:11  <b>patients</b> [1] - 26:13  <b>Patrice</b> [1] - 9:15  <b>pause</b> [1] - 9:10  <b>pay</b> [2] - 28:21, 29:8  <b>PDF</b> [1] - 33:8  <b>pending</b> [2] - 24:11,  24:18  <b>perfected</b> [1] - 22:16  <b>personal</b> [1] - 18:11  <b>perspective</b> [1] -  27:10  <b>Peter</b> [3] - 8:25,</p>		
<b>Q</b>		
<p><b>QUALITY</b> [1] - 33:15  <b>quality</b> [1] - 29:21  <b>quash</b> [4] - 22:10,  22:12, 24:10, 24:19</p>		
<b>R</b>		
<p><b>R</b> [2] - 3:1, 34:1  <b>raise</b> [3] - 7:8, 10:18,  11:1  <b>ran</b> [1] - 19:25  <b>range</b> [1] - 13:18</p> <p style="text-align: right;"><b>R.A.II 47</b></p>		

<p><b>Rao</b> [2] - 17:23, 18:24  <b>RE</b> [1] - 1:11  <b>re</b> [1] - 28:8  <b>re-evaluated</b> [1] - 28:8  <b>read</b> [1] - 31:24  <b>Realtime</b> [1] - 1:23  <b>rebranding</b> [1] - 5:18  <b>record</b> [12] - 3:9, 3:11, 3:12, 3:21, 12:2, 12:10, 12:14, 14:9, 15:12, 26:1, 32:7, 32:10  <b>RECORDED</b> [1] - 34:15  <b>RECORDING</b> [3] - 33:12, 34:4, 34:15  <b>records</b> [23] - 11:17, 11:18, 12:2, 12:9, 13:1, 13:2, 13:5, 13:7, 13:15, 13:19, 14:1, 14:5, 14:24, 15:2, 15:5, 15:8, 25:10, 25:21, 25:24, 26:4, 27:24, 30:2, 30:13  <b>refiling</b> [2] - 5:14, 7:6  <b>reflecting</b> [1] - 15:5  <b>refused</b> [1] - 18:1  <b>Registered</b> [1] - 1:23  <b>regular</b> [1] - 16:23  <b>regulation</b> [1] - 15:9  <b>rejection</b> [1] - 15:23  <b>relate</b> [1] - 20:17  <b>RELATED</b> [1] - 34:9  <b>related</b> [3] - 20:21, 20:23, 30:19  <b>relationship</b> [3] - 6:23, 6:25, 26:11  <b>relitigation</b> [1] - 4:16  <b>rely</b> [4] - 12:25, 13:5, 13:20, 13:22  <b>remaining</b> [2] - 8:5, 9:2  <b>remains</b> [1] - 4:18  <b>reminded</b> [1] - 25:7  <b>rendered</b> [1] - 5:8  <b>repeated</b> [1] - 18:3  <b>repeatedly</b> [2] - 15:25, 31:7  <b>reported</b> [1] - 15:21  <b>Reporter</b> [3] - 1:23, 1:23  <b>Reporting</b> [1] - 34:19</p>	<p><b>representing</b> [1] - 3:22  <b>requested</b> [2] - 17:22, 25:20  <b>resident</b> [1] - 4:22  <b>respect</b> [2] - 8:15, 23:13  <b>respond</b> [2] - 22:9, 24:15  <b>restrained</b> [1] - 28:7  <b>result</b> [1] - 14:8  <b>resulted</b> [1] - 13:1  <b>retain</b> [2] - 13:4, 17:13  <b>retained</b> [1] - 10:17  <b>retiring</b> [1] - 25:17  <b>return</b> [5] - 8:15, 22:11, 22:15, 23:12, 23:22  <b>right</b> [16] - 4:3, 4:5, 9:4, 9:9, 10:7, 10:12, 11:6, 14:18, 16:17, 22:2, 22:3, 22:22, 22:24, 24:21, 28:12, 29:9  <b>rights</b> [1] - 21:11  <b>risk</b> [3] - 7:17, 27:15, 27:21  <b>risks</b> [3] - 27:17, 27:18, 28:3  <b>RN</b> [1] - 8:25  <b>roll</b> [1] - 17:5  <b>rolled</b> [4] - 15:24, 17:8, 18:2, 31:3  <b>room</b> [5] - 14:16, 19:19, 20:6, 20:7, 31:17  <b>root</b> [1] - 26:19  <b>Rule</b> [1] - 24:17  <b>RULE</b> [1] - 1:11  <b>ruling</b> [1] - 10:25  <b>run</b> [2] - 16:19, 31:11</p>	<p>23:1, 31:7  <b>Sara</b> [1] - 9:16  <b>satisfaction</b> [1] - 28:2  <b>satisfied</b> [1] - 7:5  <b>saw</b> [1] - 30:5  <b>say</b> [8] - 9:13, 12:16, 14:25, 19:4, 19:5, 19:11, 19:21, 19:24  <b>saying</b> [6] - 14:5, 14:20, 14:22, 17:6, 21:21, 23:23  <b>says</b> [4] - 19:3, 20:13, 22:13, 28:17  <b>scan</b> [8] - 15:24, 15:25, 16:3, 16:7, 16:21, 17:14, 30:25, 31:2  <b>scheduled</b> [1] - 26:5  <b>searched</b> [1] - 30:11  <b>seated</b> [1] - 3:6  <b>second</b> [3] - 6:7, 12:10, 14:5  <b>secondly</b> [1] - 30:14  <b>secured</b> [1] - 11:2  <b>security</b> [3] - 26:24, 26:25, 28:7  <b>See</b> [1] - 1:2  <b>see</b> [6] - 8:21, 10:7, 12:17, 13:21, 26:5, 26:8  <b>seeking</b> [2] - 14:17, 26:14  <b>sent</b> [2] - 30:25, 31:1  <b>sentence</b> [1] - 29:23  <b>separate</b> [1] - 9:13  <b>serve</b> [1] - 24:3  <b>served</b> [18] - 7:9, 9:1, 9:7, 9:14, 10:2, 10:3, 10:4, 10:10, 10:16, 10:22, 22:5, 22:8, 22:25, 23:1, 23:14, 23:17, 24:4  <b>service</b> [17] - 7:15, 7:19, 7:25, 8:5, 8:8, 8:15, 10:14, 10:24, 11:2, 22:16, 22:19, 23:7, 23:13, 27:4, 27:6, 27:8, 28:2  <b>Services</b> [2] - 1:14, 33:3  <b>session</b> [1] - 3:7  <b>set</b> [3] - 6:11, 12:1, 12:14  <b>seven</b> [4] - 8:8, 8:15, 9:18, 20:8</p>
<p><b>S</b></p>		
	<p><b>S</b> [1] - 3:1  <b>safe</b> [2] - 27:8, 27:9  <b>safeguard</b> [1] - 19:22  <b>safety</b> [4] - 19:22, 20:1, 21:10, 31:12  <b>said</b> [3] - 7:11, 8:14, 19:16  <b>same</b> [14] - 5:18, 6:8, 6:10, 6:11, 6:13, 10:18, 10:25, 11:2, 11:20, 19:9, 21:23,</p>	<p><b>R.A.II 48</b></p>



<p><b>several</b> [1] - 30:6  <b>she</b> [103] - 4:23, 5:5, 5:8, 12:10, 12:11, 12:16, 12:19, 12:25, 13:3, 13:6, 13:9, 13:10, 13:11, 13:12, 13:13, 13:15, 13:16, 13:21, 14:3, 14:5, 14:6, 14:16, 14:18, 15:20, 15:21, 15:23, 15:24, 15:25, 16:3, 16:5, 16:6, 16:15, 16:18, 16:21, 16:24, 16:25, 17:3, 17:5, 17:11, 17:12, 17:13, 17:15, 17:17, 17:18, 17:20, 17:21, 17:22, 18:4, 18:7, 18:8, 18:11, 18:12, 18:14, 18:15, 18:16, 18:23, 19:1, 19:2, 19:15, 19:24, 20:4, 20:9, 20:10, 25:21, 26:9, 27:3, 27:4, 27:12, 27:21, 27:24, 28:1, 28:3, 28:6, 28:8, 29:8, 30:5, 30:8, 30:9, 30:11, 30:24, 31:3, 31:11, 31:18, 31:19  <b>she's</b> [1] - 23:7  <b>sheriff</b> [3] - 23:22, 23:23, 24:2  <b>shoes</b> [2] - 18:16, 18:17  <b>Shorthand</b> [1] - 1:22  <b>should</b> [1] - 7:7  <b>shoulder</b> [1] - 14:19  <b>showed</b> [1] - 30:4  <b>shows</b> [3] - 7:16, 13:8, 13:11  <b>sic</b> [3] - 18:25, 19:14, 26:3  <b>sidebar</b> [1] - 33:18  <b>sides</b> [1] - 29:19  <b>signed</b> [1] - 31:20  <b>signing</b> [1] - 12:1  <b>simultaneous</b> [1] - 33:19  <b>six</b> [14] - 7:9, 7:10, 8:7, 8:23, 9:1, 9:12, 9:18, 10:4, 16:22,</p>	<p>20:7, 20:8, 31:2, 31:4, 31:12  <b>sixth</b> [3] - 7:14, 10:3, 17:17  <b>slightly</b> [1] - 6:14  <b>so</b> [58] - 4:5, 4:9, 5:1, 5:13, 6:1, 7:4, 7:24, 8:3, 8:7, 9:21, 9:25, 10:13, 10:20, 11:23, 12:18, 12:19, 13:19, 14:8, 14:20, 15:14, 15:23, 16:9, 17:2, 17:7, 17:9, 17:22, 18:11, 18:18, 18:22, 19:8, 21:13, 21:14, 21:19, 22:7, 22:13, 23:18, 23:21, 23:22, 24:4, 24:13, 24:20, 25:1, 25:24, 26:3, 26:8, 27:1, 27:5, 27:7, 27:11, 27:14, 27:23, 28:16, 28:23, 29:2, 29:16, 30:18  <b>solution</b> [1] - 16:10  <b>some</b> [6] - 9:2, 14:17, 14:21, 16:1, 22:1, 23:20  <b>somehow</b> [2] - 14:24, 19:20  <b>something</b> [2] - 16:7, 17:11  <b>sometime</b> [1] - 22:16  <b>somewhere</b> [2] - 7:12, 25:11  <b>son</b> [3] - 18:10, 18:19, 18:20  <b>sorry</b> [2] - 8:17, 8:22  <b>sort</b> [3] - 5:18, 7:8, 16:20  <b>sounded</b> [1] - 14:14  <b>speak</b> [3] - 16:13, 24:24, 25:8  <b>speaker</b> [1] - 33:22  <b>speaking</b> [2] - 23:7, 33:19  <b>specialist</b> [1] - 25:15  <b>speech</b> [1] - 33:19  <b>spellings</b> [1] - 33:22  <b>SS</b> [1] - 1:4  <b>stamp</b> [3] - 33:16, 33:17, 33:20  <b>Stay</b> [1] - 27:7</p>	<p><b>stay</b> [4] - 17:18, 17:21, 20:10, 24:11  <b>STENOGRAPHICALL</b>  <b>Y</b> [1] - 34:15  <b>Stephen</b> [2] - 7:1, 8:24  <b>Stewart</b> [1] - 9:16  <b>still</b> [1] - 17:3  <b>stomach</b> [2] - 30:16, 30:24  <b>Street</b> [2] - 1:18, 34:19  <b>street</b> [2] - 19:25, 20:2  <b>streets</b> [1] - 26:14  <b>student</b> [3] - 18:3, 30:6, 30:7  <b>students</b> [3] - 15:18, 15:19, 17:25  <b>styled</b> [1] - 6:14  <b>subdural</b> [1] - 16:15  <b>subgroup</b> [1] - 9:24  <b>subject</b> [1] - 24:17  <b>submissions</b> [1] - 31:24  <b>submit</b> [1] - 7:4  <b>submitted</b> [1] - 29:22  <b>subpoena</b> [6] - 22:8, 22:25, 23:8, 24:5, 24:8, 24:14  <b>subsequent</b> [1] - 5:25  <b>substantial</b> [1] - 5:11  <b>sued</b> [3] - 25:17, 25:19, 26:15  <b>sufficient</b> [1] - 29:5  <b>suit</b> [2] - 21:17, 21:22  <b>Suite</b> [2] - 1:15, 1:18  <b>summons</b> [2] - 23:13, 23:25  <b>Sunday</b> [1] - 12:8  <b>superficial</b> [1] - 5:18  <b>SUPERIOR</b> [1] - 1:4  <b>Superior</b> [1] - 3:13  <b>supervising</b> [1] - 15:22  <b>supervision</b> [1] - 17:24  <b>supervisor</b> [1] - 15:21  <b>support</b> [2] - 5:7, 29:1  <b>suppose</b> [1] - 24:15  <b>supposed</b> [1] - 15:11  <b>sure</b> [2] - 24:25, 27:9  <b>surrounding</b> [1] - 20:2</p> <p style="text-align: right;"><b>R.A.II 49</b></p>
---	---	---

<p style="text-align: center;">T</p>		
<p><b>T</b> [2] - 34:1  <b>take</b> [6] - 6:1, 18:20, 18:21, 24:22, 31:23, 32:2  <b>TAKEN</b> [1] - 34:10  <b>taking</b> [2] - 27:18, 28:3  <b>talk</b> [1] - 25:1  <b>talking</b> [2] - 23:11, 23:12  <b>TAN</b> [32] - 3:22, 11:8, 11:10, 11:25, 12:24, 13:2, 14:25, 16:4, 16:8, 16:11, 16:21, 18:20, 20:19, 20:21, 21:4, 21:6, 21:8, 21:18, 22:3, 22:6, 22:18, 22:22, 22:24, 23:4, 23:16, 23:21, 26:22, 28:13, 28:16, 29:10, 30:20, 32:5  <b>Tan</b> [2] - 1:14, 3:22  <b>TAPE</b> [1] - 33:15  <b>technically</b> [1] - 24:10  <b>TELEPHONE</b> [1] - 34:22  <b>tell</b> [1] - 26:24  <b>telling</b> [2] - 18:4, 31:6  <b>ten</b> [1] - 9:25  <b>terrorem</b> [1] - 7:6  <b>Terry</b> [2] - 1:18, 4:2  <b>TERRY</b> [19] - 3:25, 4:4, 4:11, 7:11, 8:12, 8:17, 8:20, 9:6, 9:19, 9:24, 10:8, 10:13, 16:13, 16:18, 23:7, 24:9, 24:22, 25:1, 27:1  <b>test</b> [2] - 13:11  <b>testing</b> [5] - 13:8, 13:14, 13:16, 14:8, 14:11  <b>than</b> [1] - 6:15  <b>thank</b> [3] - 4:11, 32:5, 32:6  <b>THAT</b> [4] - 34:3, 34:6, 34:9, 34:10  <b>that</b> [83] - 4:6, 5:1, 5:8, 5:10, 5:14, 5:17, 5:21, 6:16, 7:4, 7:5, 7:20, 9:4,</p>	<p>9:18, 10:20, 10:25, 11:13, 11:20, 11:25, 12:6, 12:10, 12:11, 12:16, 12:20, 12:25, 13:1, 13:8, 13:11, 14:7, 14:8, 14:18, 14:22, 15:14, 15:25, 16:12, 16:22, 16:25, 17:7, 17:9, 17:14, 18:6, 19:1, 19:5, 20:14, 21:16, 21:17, 21:18, 22:2, 22:15, 22:17, 23:12, 23:14, 24:7, 25:6, 25:9, 26:6, 26:17, 27:5, 27:6, 27:12, 27:17, 27:19, 27:20, 27:21, 27:24, 28:2, 28:4, 28:23, 28:24, 28:25, 29:19, 29:20, 30:1, 30:16, 30:22, 31:17, 31:19, 32:1, 32:2, 33:16  <b>that's</b> [19] - 9:1, 9:21, 9:24, 12:18, 13:17, 16:23, 17:7, 20:15, 21:7, 22:10, 23:21, 24:4, 24:17, 25:6, 28:6, 28:10, 29:2, 29:14  <b>THE</b> [72] - 1:4, 1:11, 3:4, 3:8, 3:10, 3:11, 3:24, 4:3, 4:5, 7:10, 8:7, 8:14, 8:19, 9:4, 9:9, 9:11, 9:20, 10:7, 10:12, 11:5, 11:9, 11:23, 12:21, 12:25, 14:12, 16:3, 16:6, 16:9, 16:12, 16:17, 18:19, 20:17, 20:20, 21:3, 21:5, 21:7, 21:13, 21:20, 22:4, 22:15, 22:20, 22:23, 23:3, 23:5, 23:11, 23:19, 24:7, 24:21, 24:25, 26:21, 26:23, 28:12, 28:15, 29:7, 30:18, 31:22, 32:6, 32:7, 32:9, 32:10, 34:3, 34:4, 34:4, 34:7, 34:7, 34:10,</p>	<p>34:11, 34:14  <b>The</b> [1] - 33:3  <b>the</b> [299] - 1:13, 1:17, 3:8, 3:9, 3:11, 3:12, 3:16, 3:18, 3:21, 4:2, 4:6, 4:7, 4:9, 4:10, 4:12, 4:13, 4:14, 4:15, 4:17, 4:21, 4:23, 4:24, 5:3, 5:4, 5:6, 5:7, 5:10, 5:16, 5:17, 5:18, 5:19, 5:22, 5:23, 5:24, 5:25, 6:2, 6:5, 6:7, 6:8, 6:10, 6:11, 6:12, 6:13, 6:14, 6:15, 6:17, 6:20, 6:21, 6:23, 6:24, 7:4, 7:14, 7:16, 7:18, 7:24, 8:1, 8:4, 9:1, 9:6, 9:13, 9:23, 10:3, 10:4, 10:5, 10:8, 10:9, 10:10, 10:14, 10:15, 10:16, 10:18, 10:21, 10:23, 10:25, 11:1, 11:2, 11:6, 11:11, 11:12, 11:14, 11:17, 11:19, 11:20, 11:22, 11:23, 11:25, 12:1, 12:4, 12:9, 12:10, 12:11, 12:12, 12:13, 12:14, 12:22, 12:24, 13:1, 13:2, 13:6, 13:15, 13:19, 13:21, 14:1, 14:4, 14:7, 14:8, 14:16, 14:24, 15:1, 15:2, 15:9, 15:18, 15:20, 15:21, 16:7, 16:20, 17:2, 17:5, 17:6, 17:10, 17:13, 17:17, 17:18, 17:20, 17:23, 17:25, 18:4, 18:6, 18:7, 18:8, 18:9, 18:12, 18:14, 18:22, 18:23, 18:24, 18:25, 19:4, 19:8, 19:13, 19:14, 19:15, 19:18, 19:19, 19:20, 19:22, 19:25, 20:1,</p> <p style="text-align: right;">R.A.II 50</p>

<p>20:3, 20:4, 20:6, 20:7, 20:10, 20:15, 21:9, 21:16, 21:23, 22:4, 22:8, 22:13, 22:15, 22:18, 22:20, 22:25, 23:1, 23:3, 23:6, 23:8, 23:10, 23:12, 23:13, 23:14, 23:16, 23:17, 23:22, 23:25, 24:1, 24:5, 24:11, 24:13, 24:19, 24:22, 25:2, 25:10, 25:17, 25:20, 25:22, 26:1, 26:2, 26:4, 26:12, 26:13, 26:14, 26:18, 26:19, 26:23, 26:24, 27:1, 27:3, 27:8, 27:11, 27:21, 27:24, 28:1, 28:2, 28:3, 28:5, 28:10, 28:16, 28:17, 28:20, 28:21, 28:24, 29:1, 29:2, 29:4, 29:6, 29:8, 29:12, 29:13, 29:14, 29:17, 29:21, 29:22, 29:23, 29:25, 30:1, 30:3, 30:7, 30:9, 30:12, 30:21, 30:25, 31:1, 31:7, 31:12, 31:13, 31:15, 31:16, 31:24, 31:25, 32:1, 32:7, 32:10, 33:7, 33:8</p> <p><b>their</b> [4] - 5:16, 6:23, 15:2, 22:7</p> <p><b>them</b> [8] - 9:21, 18:19, 18:21, 23:9, 23:18, 23:20, 24:5, 31:20</p> <p><b>then</b> [24] - 10:3, 10:4, 11:1, 13:16, 14:4, 14:6, 17:13, 17:14, 17:16, 19:4, 19:5, 19:10, 19:21, 20:5, 20:6, 20:11, 24:1, 26:6, 30:23, 31:1, 31:3, 31:11, 31:15</p> <p><b>theories</b> [2] - 4:14, 5:16</p> <p><b>there</b> [28] - 4:15, 5:3, 6:6, 7:12, 8:14,</p>	<p>10:2, 10:3, 11:12, 11:17, 12:2, 12:15, 12:19, 13:24, 15:8, 15:21, 17:21, 17:24, 21:1, 21:16, 23:20, 25:9, 27:5, 29:11, 29:12, 29:25, 30:5, 30:23</p> <p><b>there's</b> [11] - 8:3, 13:23, 14:2, 15:14, 15:15, 21:11, 30:21, 30:22</p> <p><b>these</b> [8] - 7:22, 11:4, 14:15, 14:22, 15:4, 20:21, 20:23</p> <p><b>they</b> [51] - 7:19, 10:16, 11:19, 11:25, 12:6, 13:7, 13:14, 14:4, 15:5, 15:6, 15:17, 15:18, 17:8, 17:11, 17:16, 17:25, 18:1, 18:2, 18:7, 18:9, 18:19, 18:24, 18:25, 19:1, 19:5, 19:8, 19:17, 19:18, 19:19, 19:22, 19:25, 20:5, 20:8, 20:11, 20:13, 20:15, 21:9, 22:9, 22:10, 22:12, 23:16, 26:19, 27:20, 30:15, 30:25, 31:1, 31:6, 31:20</p> <p><b>they're</b> [11] - 6:18, 6:19, 8:1, 12:3, 15:11, 20:2, 23:19, 23:24</p> <p><b>thing</b> [3] - 18:12, 19:9, 31:7</p> <p><b>things</b> [3] - 16:1, 18:11, 27:5</p> <p><b>think</b> [10] - 7:9, 7:11, 8:14, 9:7, 16:15, 21:20, 24:9, 24:18, 27:15, 28:6</p> <p><b>thinking</b> [1] - 24:16</p> <p><b>THIS</b> [1] - 34:10</p> <p><b>this</b> [43] - 3:12, 3:18, 4:9, 4:12, 4:14, 4:19, 4:20, 5:11, 5:13, 6:6, 6:15, 7:6, 8:21, 10:6, 11:10, 12:12, 14:3, 15:4, 15:17, 15:22,</p>	<p>17:10, 19:1, 20:12, 20:17, 21:21, 24:11, 24:16, 25:18, 25:19, 26:15, 26:20, 26:24, 29:17, 29:18, 29:25, 30:18, 31:23, 33:7</p> <p><b>those</b> [17] - 6:1, 8:5, 9:3, 10:19, 11:18, 12:5, 13:5, 13:22, 15:3, 15:18, 17:25, 19:3, 24:3, 27:17, 27:18, 30:5, 31:10</p> <p><b>though</b> [2] - 21:15, 30:18</p> <p><b>thought</b> [2] - 22:15, 22:20</p> <p><b>threats</b> [1] - 27:2</p> <p><b>three</b> [5] - 7:4, 9:11, 9:16, 18:3, 19:2</p> <p><b>through</b> [3] - 10:1, 14:19, 23:18</p> <p><b>throwing</b> [1] - 14:21</p> <p><b>time</b> [14] - 4:23, 18:22, 20:12, 24:19, 25:20, 26:4, 28:22, 28:25, 29:20, 32:3, 33:16, 33:17, 33:20</p> <p><b>timeline</b> [3] - 13:24, 14:2, 14:7</p> <p><b>titled</b> [1] - 26:20</p> <p><b>TO</b> [3] - 34:4, 34:9, 34:10</p> <p><b>to</b> [124] - 3:2, 3:17, 4:7, 5:4, 5:19, 5:22, 6:1, 6:4, 6:5, 6:9, 6:12, 6:17, 6:23, 6:25, 7:6, 7:17, 7:19, 7:25, 8:12, 8:15, 9:25, 10:14, 10:19, 10:21, 10:23, 11:1, 11:3, 11:21, 13:21, 14:10, 15:11, 15:21, 15:24, 16:7, 16:20, 16:25, 17:5, 17:6, 17:7, 17:15, 17:17, 17:20, 17:22, 18:1, 18:5, 18:19, 18:20, 18:23, 19:2, 19:6, 19:10, 19:11, 19:12, 19:13,</p> <p style="text-align: right;"><b>R.A.II 51</b></p>
--	--	---

<p>19:25, 20:1, 20:6, 20:8, 20:9, 20:10, 20:14, 20:17, 20:21, 20:23, 21:10, 21:14, 21:16, 22:8, 22:10, 22:12, 22:16, 23:9, 23:13, 23:17, 23:24, 24:3, 24:5, 24:10, 24:15, 24:17, 24:19, 24:24, 25:1, 25:7, 26:18, 27:2, 27:3, 27:6, 27:9, 27:10, 27:14, 27:15, 27:16, 27:21, 28:1, 28:4, 28:9, 28:21, 29:1, 29:5, 29:8, 29:14, 30:19, 30:22, 30:25, 31:1, 31:22, 31:23, 31:24, 31:25, 32:3</p> <p><b>today</b> [1] - 24:10 <b>TODAY'S</b> [1] - 33:10 <b>told</b> [5] - 19:1, 23:22, 24:2, 24:5, 28:4 <b>tomorrow</b> [1] - 27:8 <b>took</b> [1] - 18:10 <b>total</b> [3] - 13:17, 14:9 <b>totally</b> [4] - 11:10, 11:14, 14:7, 17:9 <b>Tradecenter</b> [1] - 1:15 <b>trainees</b> [1] - 7:22 <b>Transcriber</b> [1] - 1:22 <b>TRANSCRIBER</b> [3] - 33:10, 34:3, 34:14 <b>transcribers</b> [1] - 33:7 <b>transcript</b> [3] - 33:7, 33:8, 33:8 <b>TRANSCRIPT</b> [4] - 33:12, 34:4, 34:7, 34:15 <b>Transcription</b> [1] - 33:3 <b>treat</b> [1] - 30:14 <b>treated</b> [5] - 4:24, 15:19, 17:12, 19:12, 30:7 <b>treatment</b> [8] - 14:17, 20:18, 20:22, 25:3, 25:5, 26:10, 26:18, 30:19 <b>TRIAL</b> [2] - 1:4, 34:7 <b>tribunal</b> [3] - 29:11,</p>	<p>29:12, 29:13 <b>TRUE</b> [1] - 34:4 <b>trusted</b> [1] - 19:6 <b>try</b> [1] - 7:17 <b>TUFTS</b> [3] - 1:8, 33:11, 34:5 <b>Tufts</b> [22] - 3:14, 4:18, 4:23, 5:9, 6:9, 6:19, 6:25, 7:2, 7:14, 7:17, 8:8, 8:23, 12:7, 22:9, 23:8, 23:18, 23:23, 24:2, 24:5, 24:13, 28:2 <b>two</b> [22] - 6:16, 9:11, 9:16, 9:17, 11:13, 11:17, 11:18, 12:1, 12:2, 12:3, 12:4, 13:7, 13:8, 13:13, 13:19, 15:8, 17:4, 18:1, 19:3, 21:23, 29:23 <b>Two</b> [1] - 1:18 <b>type</b> [2] - 7:6, 16:10 <b>TYPE</b> [1] - 33:15</p>	<p style="text-align: center;">V</p> <p><b>V</b> [2] - 33:11, 34:5 <b>variety</b> [1] - 4:13 <b>versus</b> [1] - 3:14 <b>very</b> [2] - 13:17, 32:6 <b>via</b> [1] - 5:10 <b>violation</b> [1] - 21:12 <b>visit</b> [1] - 26:16 <b>volition</b> [1] - 14:17 <b>volume</b> [1] - 33:7 <b>Volume</b> [1] - 1:1 <b>VOLUME</b> [1] - 33:12 <b>vs</b> [1] - 1:7</p>
	<p>U</p>	<p style="text-align: center;">W</p> <p><b>wait</b> [1] - 20:14 <b>waited</b> [1] - 20:15 <b>waiting</b> [1] - 27:11 <b>Wakeman</b> [1] - 1:17 <b>walk</b> [2] - 26:13, 30:10 <b>walked</b> [5] - 12:8, 14:16, 17:11, 27:4, 30:9 <b>want</b> [7] - 17:18, 19:12, 20:10, 21:14, 30:14, 31:24, 31:25 <b>wanted</b> [2] - 17:17, 20:9 <b>was</b> [80] - 4:20, 4:21, 4:22, 5:1, 5:4, 5:8, 7:24, 7:25, 8:14, 9:22, 11:2, 12:11, 12:13, 12:15, 12:20, 13:6, 13:9, 13:17, 14:3, 14:5, 14:6, 14:18, 15:23, 15:24, 15:25, 16:3, 16:5, 16:6, 16:15, 16:19, 16:21, 16:22, 16:24, 16:25, 17:3, 17:15, 17:20, 17:24, 18:5, 18:6, 19:2, 21:1, 21:16, 21:17, 22:20, 23:6, 24:16, 24:19, 25:5, 25:7, 25:9, 25:17, 25:19, 26:17, 27:3, 27:24, 28:3, 28:4, 28:6, 28:17, 28:18, 28:19, 28:20,</p> <p style="text-align: right;">R.A.II 52</p>

<p>28:23, 29:2, 29:4, 29:5, 29:7, 29:11, 29:12, 29:16, 29:18, 29:23, 29:25, 31:4 <b>WAS</b> [1] - 34:10 <b>wasn't</b> [2] - 23:14, 27:21 <b>watch</b> [1] - 27:7 <b>way</b> [4] - 5:9, 6:21, 7:16, 18:7 <b>we</b> [27] - 3:8, 6:1, 6:16, 7:4, 7:8, 7:11, 10:15, 10:20, 10:25, 11:16, 19:6, 22:6, 22:7, 22:8, 22:25, 23:1, 23:22, 24:4, 24:9, 24:15, 24:18, 30:1, 32:7 <b>we'll</b> [1] - 27:9 <b>we're</b> [4] - 3:11, 4:5, 20:13, 32:10 <b>Weinstock</b> [3] - 9:17, 12:15, 25:12 <b>Well</b> [1] - 21:21 <b>well</b> [1] - 9:11 <b>went</b> [4] - 13:21, 18:23, 30:24, 31:1 <b>were</b> [21] - 6:17, 7:19, 10:16, 11:17, 12:19, 13:2, 13:7, 13:19, 15:5, 15:6, 15:8, 15:17, 15:18, 15:22, 22:5, 23:17, 30:2, 30:3, 30:5 <b>what</b> [16] - 8:10, 8:21, 11:23, 12:21, 12:23, 12:25, 14:12, 14:20, 22:4, 22:11, 24:7, 26:21, 28:10, 31:22 <b>whatever</b> [1] - 21:8 <b>wheelchair</b> [1] - 31:15 <b>wheeled</b> [2] - 17:16, 20:5 <b>when</b> [14] - 13:21, 17:11, 17:16, 18:23, 23:6, 23:12, 23:21, 25:24, 25:25, 27:8, 27:12, 28:6, 31:3, 31:11 <b>where</b> [4] - 5:4, 8:17, 9:22, 25:11 <b>whether</b> [4] - 15:3, 16:23, 23:24</p>	<p><b>WHICH</b> [1] - 34:10 <b>which</b> [15] - 4:18, 5:5, 6:3, 11:16, 12:15, 13:8, 13:14, 15:9, 16:18, 16:19, 16:20, 24:9, 26:19, 31:14 <b>while</b> [2] - 12:14, 27:11 <b>who</b> [12] - 4:20, 4:22, 6:13, 9:7, 9:8, 10:17, 15:1, 22:5, 26:9, 26:13, 30:12 <b>whole</b> [2] - 24:16, 27:1 <b>whom</b> [1] - 26:3 <b>whose</b> [1] - 10:17 <b>why</b> [8] - 12:18, 19:4, 20:9, 23:21, 24:4, 27:19, 29:14 <b>will</b> [2] - 31:19 <b>William</b> [1] - 3:19 <b>WILLIAM</b> [1] - 1:11 <b>wintertime</b> [1] - 18:15 <b>Wiser</b> [1] - 9:16 <b>WITH</b> [1] - 34:7 <b>with</b> [22] - 4:7, 5:2, 5:13, 5:14, 5:15, 6:3, 7:20, 8:4, 8:15, 11:19, 15:6, 16:6, 18:17, 20:7, 23:13, 24:7, 25:23, 26:11, 26:18, 26:23, 30:2, 33:8 <b>without</b> [5] - 15:19, 18:15, 25:16, 29:3, 30:10 <b>WITNESS</b> [1] - 2:2 <b>Woburn</b> [2] - 1:15, 1:20 <b>wondering</b> [1] - 12:21 <b>word</b> [1] - 33:8 <b>words</b> [1] - 14:22 <b>works</b> [1] - 7:16 <b>would</b> [19] - 3:20, 7:14, 9:14, 9:18, 10:15, 10:18, 10:20, 10:24, 10:25, 24:15, 28:25, 29:21, 30:12, 30:14, 31:8, 31:9, 31:10 <b>written</b> [2] - 6:21, 8:10 <b>wrong</b> [2] - 22:17</p>	<p style="text-align: center;">X</p> <hr/> <p><b>X</b> [1] - 2:1 <b>XYZ</b> [1] - 27:9</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p><b>y</b> [1] - 3:5 <b>yeah</b> [9] - 8:12, 8:17, 13:2, 16:4, 18:20, 21:6, 21:18, 23:21, 28:16 <b>year</b> [2] - 4:13, 29:22 <b>years</b> [1] - 25:16 <b>yes</b> [4] - 3:10, 16:11, 29:10, 32:9 <b>yet</b> [3] - 9:14, 15:18, 26:11 <b>York</b> [1] - 7:23 <b>you</b> [40] - 3:20, 4:11, 5:21, 6:18, 7:17, 8:7, 8:8, 8:10, 8:14, 8:17, 9:4, 9:5, 9:12, 9:13, 9:22, 13:8, 14:1, 14:12, 14:14, 14:21, 14:23, 15:20, 19:16, 19:21, 21:13, 21:25, 23:5, 25:25, 26:24, 27:2, 27:7, 27:16, 27:17, 29:18, 31:8, 32:5, 32:6 <b>you'll</b> [1] - 27:7 <b>you're</b> [11] - 9:21, 14:14, 14:20, 14:21, 21:21, 21:22, 21:24, 27:9, 27:14, 27:15, 27:17 <b>You're</b> [1] - 27:2 <b>you've</b> [1] - 21:22 <b>your</b> [22] - 3:8, 3:25, 4:11, 8:11, 8:13, 8:18, 8:20, 8:22, 9:5, 9:13, 10:14, 11:4, 11:8, 14:25, 21:14, 21:20, 21:24, 25:19, 25:24, 27:14, 28:13, 32:7 <b>Your</b> [1] - 26:22 <b>yourself</b> [1] - 27:15 <b>yourselves</b> [1] - 3:20 <b>YU</b> [2] - 1:6, 34:5 <b>Yu</b> [2] - 3:13, 3:23</p> <p style="text-align: center;">R.A.II 53</p>
---	---	--

**YU-FEN** [2] - 1:6, 34:5  
**Yu-Fen** [2] - 3:13,  
3:23

*Z*

**Zelman** [1] - 9:16



Jie Tan (JTLAW Office) <jie.tan@jtlawservices.com>

**RE: YU-FEN LIU V. TUFTS MEDICAL CENTER, INC. ET AL**

**Daniel P Flaherty** <daniel.flaherty@jud.state.ma.us>

Mon, Aug 28, 2023 at 1:15 PM

To: Lisa Phipps <Impreporting@gmail.com>, "Jie Tan (JTLAW Office)" <jie.tan@jtlawservices.com>, "Alexander E. Terry" <aterry@adlercohen.com>, Michael A Sullivan <michael.sullivan@jud.state.ma.us>, Middlesex Clerks Office <middlesex.clerksoffice@jud.state.ma.us>

Received, thank you.

Daniel P. Flaherty

First Assistant Clerk

Middlesex County

(781) 939-2802

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**Sent:** Monday, August 28, 2023 12:29 PM

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JT Law Office Mail - RE: YU-FEN LIU V. TUFTS MEDICAL CENTER, INC. ET AL



Jie Tan (JTLAW Office) &lt;jie.tan@jtlawservices.com&gt;

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**RE: YU-FEN LIU V. TUFTS MEDICAL CENTER, INC. ET AL**

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**Alexander E. Terry** <aterry@adlercohen.com>

Mon, Aug 28, 2023 at 12:38 PM

To: Lisa Phipps <Impreporting@gmail.com>, "Jie Tan (JTLAW Office)" <jie.tan@jtlawservices.com>, "michael.sullivan@jud.state.ma.us" <michael.sullivan@jud.state.ma.us>, "Middlesex.clerksoffice@jud.state.ma.us" <Middlesex.clerksoffice@jud.state.ma.us>

Received thanks.

Adler | **Cohen** | Harvey | **Wakeman** | Guekguezian LLP  
Massachusetts | Rhode Island | New Hampshire

**Alexander E. Terry**  
Attorney

2 Oliver Street  
Boston, Massachusetts 02109  
tel 617 423 6674

[aterry@adlercohen.com](mailto:aterry@adlercohen.com)      [www.adlercohen.com](http://www.adlercohen.com)

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