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STATE OF ILLINOIS        )  
                                  ) SS  
COUNTY OF DU PAGE        )

IN THE CIRCUIT COURT OF DU PAGE COUNTY  
FOR THE EIGHTEENTH JUDICIAL CIRCUIT OF ILLINOIS

GRETCHEN WILKINSON, et al.,    )  
  )  
                  Plaintiffs,        )  
  )  
                  -vs-                 )  
  )  
INSTITUTE IN BASIC LIFE         )  
PRINCIPLES, INC., and         )  
WILLIAM W. GOTHARD, JR.,        )  
  )  
                  Defendant.        )

No. 15 L 980

REPORT OF PROCEEDINGS had at the  
hearing of the above-entitled cause, before the  
Honorable KENNETH L. POPEJOY, recorded on the DuPage  
County Computer Based Digital Recording System, DuPage  
County, Illinois, transcribed by Kristin M. Barnes,  
Certified Shorthand Reporter, commencing on the 3rd day  
of May, 2016.

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PRESENT:

GIBBS LAW FIRM, PA, by  
MR. DAVID GIBBS,

and

LAW OFFICES OF JONATHAN REMIJAS, by  
MR. JONATHAN REMIJAS,  
appeared on behalf of the Plaintiffs;

GAFFNEY & GAFFNEY, PC, by  
MR. GLENN R. GAFFNEY  
appeared on behalf of the Defendant  
William W. Gothard, Jr.;

THE COLLINS LAW FIRM, PC, by  
MR. SHAWN M. COLLINS and MR. ROBERT L. DAWIDIUK,  
appeared on behalf of the Defendant  
Institute in Basic Life Principles, Inc.

1 THE COURT: Okay. Wilkinson versus Institute in  
2 Basic Life Principles.

3 Each of you state your names for the record,  
4 please, each counsel.

5 MR. GIBBS: Attorney David Gibbs on behalf of the  
6 18 plaintiffs, your Honor.

7 MR. REMIJAS: Co-counsel for the plaintiffs,  
8 Jonathan Remijas.

9 THE COURT: Okay.

10 MR. GAFFNEY: Glenn Gaffney, your Honor, for  
11 William Gothard.

12 MR. COLLINS: Good morning, your Honor.  
13 Shawn Collins for Defendant Institute.

14 MR. DAWIDIUK: And Robert Dawidiuk, also for the  
15 Institute.

16 THE COURT: Okay. So we have Defendant  
17 Gothard's -- you can have a chair.

18 We have Defendant Gothard's and the  
19 Institute's motion to disqualify. They have been fully  
20 briefed with affidavits attached and the like.

21 Is there anything that, Defendant Gothard,  
22 you feel that you need to state in addition to the  
23 pleadings that you haven't already adequately stated  
24 therein?

1 MR. GAFFNEY: Your Honor, I think the record is  
2 pretty full and complete. I don't want to restate  
3 anything that I've already stated in writing. I'm sure  
4 the Court has read through all of the information that  
5 was provided. I don't know if the Court wishes to  
6 entertain any further or additional argument in  
7 conjunction therewith.

8 THE COURT: Unless you feel that it's not summed  
9 up adequately in your pleadings.

10 MR. GAFFNEY: All right. And that's something  
11 that -- that I haven't already said once, in other  
12 words. I get the point, and it's a point well taken,  
13 knowing full well that this Court prepares extensively  
14 for these types of arguments.

15 I will point out a couple of items. One is  
16 it does appear that Ms. Field was at the Boston Market  
17 dinner on May 19th. Apparently, my client and  
18 Mr. Blair believed otherwise initially, but after  
19 seeing her affidavit they would now acknowledge that  
20 she's --

21 THE COURT: And Ms. Field is an associate of the  
22 Gibbs firm; correct?

23 MR. GAFFNEY: I don't know that she actually --  
24 Mr. Gibbs can answer that. I don't know that she

1 actually works for the Gibbs Law Firm, but she works in  
2 conjunction with Mr. Gibbs. That's our understanding.

3 THE COURT: Okay. What's her status?

4 MR. GIBBS: She is an attorney that we work with  
5 in the area, your Honor. She is not an associate with  
6 Gibbs Law Firm per se, but she would be another  
7 attorney.

8 THE COURT: All right. And then Mr. Blair --

9 UNIDENTIFIED SPEAKER: Of counsel.

10 MR. GIBBS: Of counsel.

11 THE COURT: -- who was there at that meeting also,  
12 was not an attorney; correct?

13 MR. GAFFNEY: That's correct, your Honor.

14 THE COURT: Okay. All right. Anything else?

15 MR. GAFFNEY: Yes. There's one other item that  
16 Mr. Gibbs pointed out to me Monday morning. There was  
17 an Exhibit 19, which is an email communication of  
18 November 25th --

19 THE COURT: Exhibit 19 to what? Exhibit to what?

20 MR. GAFFNEY: I'm sorry. You're right.  
21 Exhibit --

22 THE COURT: Every now and then.

23 MR. GAFFNEY: Yeah. Exhibit 19 to the Gothard  
24 affidavit.

1 THE COURT: Okay.

2 MR. GAFFNEY: This relates, if you recall, to the  
3 communications between Mr. Gibbs and Mr. Gothard  
4 pertaining to an affidavit that was subsequently used  
5 and attached to the pleadings in this litigation.

6 THE COURT: Yes.

7 MR. GAFFNEY: And in Mr. Gothard's affidavit, he  
8 references the fact that it arrived in the evening of  
9 the 25th, the evening before Thanksgiving. I think  
10 we've said 9:07 p.m.

11 As it turns out, the Exhibit 19 that was  
12 attached to the Gothard affidavit is based on Greenwich  
13 Time. I just learned that. Because it says after the  
14 time stamp of 21 point 07 colon 27, which -- under  
15 Military Time, which would be 9:07 p.m., then it says  
16 plus zero, zero, zero, zero. I've learned that the  
17 plus zero, zero, zero, zero means that it's Greenwich  
18 Time, not Central Daylight Time, and Mr. Gibbs has  
19 since shown me a version of -- his version of that same  
20 email communication stating that it was actually  
21 3:07 p.m.

22 So it was the afternoon of the 25th, not the  
23 evening, as we thought, and so I wanted to clarify,  
24 your Honor, that even though I believe Mr. Gothard's

1 affidavit references 9:27 p.m., it actually was  
2 3:27 p.m., and then the follow-up communication was  
3 roughly an hour and a half or though -- or so  
4 thereafter. So I just wanted to set the timeline for  
5 you.

6 THE COURT: Okay, great. Thank you.

7 MR. GAFFNEY: From a factual standpoint, there's  
8 certainly nothing more, and we don't anticipate there  
9 being the need for anything more than all this because  
10 the information here is extensive.

11 And that being said, I don't want to repeat  
12 any additional arguments that have already been set  
13 forth in writing other than to suggest that basically  
14 the rules themselves clearly provide that the burden of  
15 clear and concise -- clear communication is the burden  
16 of the lawyer and the lawyer needs to make perfectly  
17 clear under Rules 4.2 and 4.3, even if he believed that  
18 he was not represented by Kevin Moore, exactly what his  
19 role was. And there was, in our view, not only that,  
20 but a number of other violations of the rules of  
21 professional responsibility which would require that  
22 this motion be granted.

23 The idea that after all the extensive  
24 communications and what Mr. Gibbs personally learned in

1 his meetings and communications -- we indicated 40 --  
2 much of this, this is uncontested, your Honor. I'd say  
3 90 percent of what Mr. Gothard asserts is uncontested.

4 And so based upon that --

5 MR. GIBBS: Your Honor, if I might object --

6 THE COURT: No. We're just doing argument now,  
7 so --

8 MR. GIBBS: Okay.

9 THE COURT: -- have a chair. You're going to get  
10 to talk too.

11 Go ahead.

12 MR. GAFFNEY: So I would suggest, your Honor, that  
13 with the 80 to 90 percent of it, I would say,  
14 uncontested, that that standing alone indicates that  
15 there was a relationship established between  
16 Mr. Gothard and Mr. Gibbs, which, under the rules, you  
17 know, would be substantially related to this  
18 litigation, that he learned an extensive amount of  
19 information not only about -- from Mr. Gothard about  
20 himself, about witnesses, about the Institute, about  
21 assets of the Institute, such that allowing Mr. Gibbs  
22 to represent these plaintiffs in this litigation, I  
23 believe, would be a miscarriage of justice.

24 Thank you.

1 THE COURT: Thank you.

2 Counsel for the Institute, whichever one of  
3 you wants to speak.

4 MR. COLLINS: Shawn Collins. Thank you, your  
5 Honor.

6 I want to make the same clarification that  
7 Mr. Gaffney just did about the time of day on  
8 November 25, 2015, that Gothard and Gibbs communicated.

9 Now, I received the same letter this past  
10 Sunday night from Mr. Gibbs that Mr. Gaffney did about  
11 what happened and when on that day. I want to note for  
12 the -- I don't know what time the two men actually  
13 spoke or communicated, if it was that evening or that  
14 afternoon. To me, the difference doesn't matter at all  
15 to the bottom line that should pertain here.

16 Nothing that Mr. Gibbs said to us in a letter  
17 on Sunday night was sworn. None of it is evidence. It  
18 comes to us six weeks after Mr. Gibbs' time to submit  
19 an affidavit and respond to these motions had passed.

20 But I did want to make that clarification.  
21 And even if it turns out that their communications were  
22 in the afternoon of November 25, 2015, instead of the  
23 evening, to me, it doesn't matter to the bottom line  
24 that should pertain here.

1           Just very briefly, Judge, the problem is  
2           evident from Mr. Gibbs' own brief where he admits he  
3           was, in the vernacular, working both sides of the  
4           street.

5           On page 14, for example, he says -- and I'm  
6           quoting now. He's talking --

7           THE COURT: Page 14 of?

8           MR. COLLINS: I'm sorry. Of Mr. Gibbs' response.  
9           It's called --

10          THE COURT: Mr. Gibbs' response or his affidavit?

11          MR. COLLINS: I apologize. It's the response. I  
12          apologize for lack of clarity. The name of the  
13          document, for the record, Judge, is Plaintiffs'  
14          Combined Response to Defendant's Motion to Disqualify.

15          THE COURT: Okay.

16          MR. COLLINS: All right. And I will note -- there  
17          is Mr. Gibbs' affidavit that comes after this, but I'll  
18          note that the brief is signed by Mr. Gibbs.

19                 And I'm down near the bottom, Judge, about  
20          probably five lines up from the top. And Mr. Gibbs in  
21          his brief is addressing the arguments that he  
22          represented Mr. Gothard, made arguments for  
23          Mr. Gothard, provided Mr. Gothard legal advice about  
24          how to get reinstated at the Institute, and now he's

1 characterizing those legal arguments. And he says --  
2 he talks about -- and I'm quoting now from the brief --  
3 the legal arguments that were being advanced in an  
4 attempt to have Gothard reinstated in order that he  
5 would fund settlement with the plaintiffs.

6 It goes on, but that's the language, to me,  
7 that says we're working both sides of the street here.  
8 You're making legal arguments to help Mr. Gothard get  
9 back into control of the Institute so that he can get  
10 his hands on the Institute's treasury and pay you and  
11 your clients.

12 THE COURT: Well, and the rest of that sentence  
13 does say -- where it says, Settlement with the  
14 plaintiffs -- and then Mr. Gibbs goes on to state --  
15 have nothing to do with the facts of the present case.

16 So how do those things have something to do  
17 with the facts of the present case since that's the  
18 remaining part of the sentence that you didn't read?

19 MR. COLLINS: Well, sure. Absolutely. For a  
20 couple very important reasons.

21 First of all, as Mr. Gibbs admits in that  
22 sentence, he's talking about settlement of the  
23 plaintiffs' claims. So he's going to get Mr. Gothard  
24 reinstated for the purpose of settling the plaintiffs'

1 claims; all right? So the very purpose he's going to  
2 help Mr. Gothard is the very plaintiffs' claims which  
3 are before your Honor. There's one.

4 Two. The reason why Mr. Gothard wanted to  
5 get reinstated was because he had to leave the  
6 organization, and he had to leave the organization  
7 because of the very kinds of plaintiffs' claims that  
8 are before your Honor. That's two.

9 Three. As you can see, if you were to look,  
10 for example, your Honor, at Mr. Gothard's amended  
11 affidavit -- it's called -- it's a thick document.  
12 It's entitled the Amended Affidavit of  
13 William W Gothard, Jr., Filed in Support of Motion to  
14 Disqualify David Gibbs, III, and The Gibbs Law Firm.

15 And I want to refer, your Honor, when you  
16 have it, Judge, to --

17 THE COURT: Did you say amended affidavit or --

18 UNIDENTIFIED SPEAKER: The one filed on --

19 MR. COLLINS: Yes. I do, Judge. It was filed --  
20 the file date is February 17, 2016.

21 THE COURT: Oh, I have it. I'm sorry. I was  
22 looking at the wrong document.

23 MR. COLLINS: No, I apologize.

24 THE COURT: Go ahead.

1 MR. COLLINS: All right. Now, my exhibit isn't  
2 tabbed, but Exhibit 9 is what I want to ask your Honor  
3 to look at.

4 THE COURT: Yes. That's from -- it started out  
5 with -- from Jared Stancil to Bill at Bill Gothard.

6 MR. COLLINS: All right. That's the one.

7 THE COURT: And then there's a train that goes in  
8 front of it.

9 MR. COLLINS: That's the one.

10 THE COURT: Yes.

11 MR. COLLINS: Now -- so, for context, we're on  
12 your Honor's question about what does that have to do  
13 with this essentially; right? Okay.

14 THE COURT: Correct.

15 MR. COLLINS: Well, this is an email from  
16 Mr. Gibbs and it's entitled, in Mr. Gibbs' own words,  
17 Potential Legal Action, with a couple exclamation  
18 points.

19 And Mr. Gibbs, in this email, which is  
20 directed to Mr. Gothard, walks down nine points that he  
21 makes about what he's suggesting Mister -- what he's  
22 advising Mr. Gothard to do to get reinstated, the kind  
23 of legal --

24 THE COURT: That's what I was unsure about. This

1 is an email. Jared Stancil on Saturday, May 16th, at  
2 7:54 a.m. sends something to Bill Gothard which has  
3 attached a May 15, 2015, at 6:42 p.m. email from  
4 Mr. Gibbs to Jared Stancil.

5 MR. COLLINS: Right.

6 THE COURT: All right. So give me the Gibbs to  
7 Stancil to Gothard relationship, for the record.

8 MR. GAFFNEY: I think I can answer that.

9 THE COURT: Okay. Well, whoever wants to. I  
10 mean, he's --

11 MR. GAFFNEY: Sure. Either one of us can. Why  
12 don't you go ahead --

13 MR. GIBBS: And, your Honor, I might just want to  
14 object on the record --

15 THE COURT: Sir, you are going to be able to say  
16 anything and everything you want along the way. I'm  
17 going to let people argue. It's a motion hearing.  
18 We're having arguments. I'm not going to be ruling  
19 on -- I know what I'm going to consider and not  
20 consider, what's --

21 MR. GIBBS: Just hearing them testify when they  
22 have no firsthand knowledge is concerning.

23 MR. GAFFNEY: I will reference the Gothard  
24 affidavit by paragraph.

1 THE COURT: First of all, they're not testifying.  
2 They're referencing an affidavit which is Mr. Gothard's  
3 testimony and they're arguing -- I'm presuming they're  
4 arguing what they feel that affidavit is presenting,  
5 stating, and showing for my consideration.

6 I know it's not their statements; it's  
7 Mr. Gothard's statements. But these things were  
8 attached there. They are the attorneys. One  
9 represents Dr. Gothard; another one not, but I'm going  
10 to let them argue what they think each implies, means,  
11 what they take from it as argument form, just like an  
12 opening or a closing statement would be at trial when  
13 there isn't the testimony of the parties but the  
14 argument of counsel.

15 You may continue on.

16 MR. GAFFNEY: Your Honor, the affidavit -- what's  
17 called the Amended Affidavit of William Gothard Filed  
18 in Support of the Motion to Disqualify, first, I would  
19 point to page 5 of the document wherein Mr. Gothard --

20 THE COURT: Now, wait. I'm on Exhibit 9.

21 MR. GAFFNEY: Yes, I know. But the affidavit is  
22 explaining, first of all, his relationship with the  
23 Stancils and, second of all, how this Exhibit 9 came  
24 into his possession.

1 THE COURT: Got it. Okay, go ahead. All right.

2 MR. GAFFNEY: I mean, if you want to cut to the  
3 chase, it really is paragraph 21 on page 9, but the  
4 reason why I started on page 5, paragraph 12 is because  
5 there Mr. Gothard explains that the first reason he  
6 trusted Mr. Gibbs was that he was the attorney for  
7 John Stancil, PhD, and that I, Gothard, invited  
8 Dr. Stancil to become a member of the Institute's  
9 board.

10 It goes on to describe some of the  
11 relationship that he had with John Stancil.

12 THE COURT: Okay. I see.

13 MR. GAFFNEY: -- and then -- and also his first  
14 getting to meet Mr. Gibbs through John Stancil. So  
15 that's paragraph 12.

16 So then cutting to the chase regarding your  
17 question, my communications with David Gibbs, III,  
18 begin on page 9, paragraph 21. He states that -- let's  
19 see. Actually, I think that's a misstatement. He  
20 actually received an email from Jared Stancil, who  
21 works -- is really John Stancil's nephew, and it says  
22 here, Went through his nephew, administrative associate  
23 Jared Stancil. Jared Stancil, in turn, forwarded my  
24 May 15 email to Gibbs approximately a half an hour

1 later.

2 THE COURT: Right. That's why I wanted to know  
3 who Jared Stancil was.

4 MR. GAFFNEY: Jared Stancil is the nephew of  
5 John Stancil and effectively is the emailer [sic] for  
6 John Stancil because John Stancil doesn't email. I  
7 think that's described here, if I'm not mistaken.

8 THE COURT: Okay. All right.

9 MR. COLLINS: Well, your Honor, at this time  
10 John Stancil was a member of the board of the  
11 Institute. And as your Honor can see from Mr. Gibbs'  
12 email to Jared Stancil on May 15, 2015, the very first  
13 sentence says, Please forward these bullet points to  
14 Dr. Gothard.

15 THE COURT: Okay. All right.

16 MR. COLLINS: And so the reason, your Honor --

17 THE COURT: So continue on with your argument.

18 MR. COLLINS: Yes. And thank you.

19 So, again, the -- so the context is what does  
20 that have to do with the case in front of -- the case  
21 in this court.

22 All right. So one of the other reasons is  
23 that if you look at Mr. Gibbs' legal advice to  
24 Dr. Gothard and legal strategy and the way to create

1 leverage over the members of the Institute, who he's  
2 upset with for not offering money to his clients to  
3 settle, you look at, for example -- just a couple of  
4 examples.

5 If you look at item 6 of Mr. Gibbs' legal  
6 advice on potential legal action to Dr. Gothard, item 6  
7 is a complaint about the -- allegedly the failure of  
8 the members of the board to observe their fiduciary  
9 obligations. The last sentence of item 6 is what I  
10 want to direct the Court's attention to. It says, For  
11 example, selling properties and moving to Texas. All  
12 right. That very allegation is in the lawsuit in front  
13 of your Honor.

14 Item 8 in Exhibit 9 to the amended affidavit  
15 of Gothard -- and this is, again, Gibbs --

16 THE COURT: Let me go back to paragraph 6 for just  
17 a minute.

18 MR. COLLINS: Yes.

19 THE COURT: I was confused about one thing in the  
20 second line.

21 MR. COLLINS: All right.

22 THE COURT: It says the CLA report when CLA never  
23 spoke to any of the alleged victims and Dr. Gibbs, Jr.,  
24 is traveling around preaching.

1 MR. GAFFNEY: That's his father.

2 THE COURT: Got it.

3 MR. COLLINS: Is that your question, who is --

4 THE COURT: Yes.

5 MR. COLLINS: There's -- David Gibbs, Jr., is the  
6 father of David Gibbs, III, who's here in court today.

7 THE COURT: That's what I was missing. All right.

8 MR. COLLINS: All right. So -- well, that's  
9 item 6, which that -- the allegation that the current  
10 members of the board are preparing to have the  
11 organization flee to the State of Texas, avoid the  
12 jurisdiction of Illinois and your Honor, that's in the  
13 case that's in front of you, your Honor, that  
14 allegation, and it's in there more than once.

15 MR. GAFFNEY: So is the CLA coverup.

16 MR. COLLINS: All right. Well, and the alleged  
17 CLA coverup, you've heard -- you've seen the term  
18 probably in the papers before you, Judge -- quote  
19 unquote, sham investigation, the alleged sham  
20 investigation.

21 MR. GAFFNEY: In the complaint.

22 MR. COLLINS: That's alleged in the complaint  
23 dozens and dozens of times. That's also here.

24 So this is Mr. Gibbs saying to Dr. Gothard --

1 to Mr. Gothard, one of the ways you can get leverage  
2 over these guys is to go after them about this alleged  
3 sham investigation. One of the ways you can get  
4 leverage over these guys is to allege that they're  
5 preparing to leave the jurisdiction of the state and go  
6 to Texas.

7 One of the -- if we look now at item 8 of  
8 that same Exhibit No. 9 to Dr. Gothard's amended  
9 affidavit, Mr. Gibbs is writing to -- ultimately to  
10 Gothard, he, meaning Gothard, needs to ask the Court to  
11 freeze all assets beyond normal operations and then it  
12 goes on. That insistence, that demand, that request is  
13 in the case that's before your Honor. And paragraphs  
14 119 to 122 of the second amended complaint is one of  
15 the places that you can find this.

16 I also want to say that, in the second  
17 amended complaint, part of the support that's offered  
18 to the Court for these allegations about the alleged  
19 miss behavior of my client, the Institute, is this  
20 Gothard affidavit that got hurried together without a  
21 caption on November 25th of 2015; all right?

22 So what we see here, Judge, is the lineage,  
23 the linkage directly between the legal advice from  
24 Gibbs, III, on May 15, 2015, to Gothard, all right,

1 about how to create leverage over the Institute so you  
2 can get back in there.

3 From that, through 40 conversations between  
4 the two men -- Gibbs, III, and Gothard -- which are not  
5 challenged, at least the fact that they had them are  
6 not challenged; all right? Gothard's affidavit has  
7 dates, what we talked about, plaintiffs we talked  
8 about. There is a blanket denial that there was -- by  
9 Gibbs, III, that there was any discussion of  
10 confidential information, but none of the details are  
11 denial -- are denied.

12 And then we move through those conversations  
13 to November 25th where the affidavit prepared by Gibbs,  
14 III, which is ultimately signed by Gothard, is then --  
15 it provides support for -- sworn by Mr. Gothard,  
16 obtained by Mr. Gibbs, it provides support for some of  
17 the very allegations and legal advice that Gibbs was  
18 providing back in May. And then those same allegations  
19 wind up in the second amended complaint.

20 So, now, another point I want to make about  
21 when I said working both sides of the street, let's  
22 pause about what was really going on. So we have a  
23 lawyer in David Gibbs, III, who, as he acknowledges, at  
24 the very time we're talking about, that is, that he's

1 trying to get Gothard reinstated to the Institute, he  
2 represents plaintiffs. And your Honor has gotten a  
3 flavor of what their allegations are. Their  
4 allegations are of sexual mistreatment by Dr. Gothard.

5 So at the very time that Mr. Gibbs is  
6 representing women who claim to have been sexually  
7 mistreated by Mr. Gothard while Mr. Gothard was in  
8 leadership at the Institute, David Gibbs, III, is  
9 helping Dr. Gothard get back into leadership at the  
10 Institute. That's admitted. That's not what is  
11 alleged. That is what is admitted. And also the  
12 reason for working both sides of the street is  
13 admitted, which is so when Gothard gets back in at the  
14 Institute, he can fund the settlement with my clients  
15 and me.

16 Now, what Mr. Gibbs, III, admits in his  
17 affidavit that he's submitted in response to these  
18 motions is he knows Gothard has no money. Gothard told  
19 him, I don't have any money. So Gibbs, III, knows that  
20 if he's going to get any money it's going to be from  
21 the Institute, my client, and the best way he's  
22 conceived to do this is to put this man that he's about  
23 to accuse of serious sexual misconduct, including, in  
24 one of the versions of his complaint, rape while he was

1 at the Institute, he's going to put that man back in  
2 charge of the Institute.

3 All right. Now, the next thing that I want  
4 to say, Judge, and then answer any other questions your  
5 Honor may have, is I want to focus on that affidavit of  
6 November 25, 2015. And we just look at -- step back  
7 and look at what happened here. Mr. Gibbs prepares an  
8 affidavit for a man that, at best for Mr. Gibbs, is  
9 unrepresented. I'm talking about Gothard now. And I  
10 think a very good argument can be made that Mr. Gothard  
11 is his client or his former client by virtue of the  
12 months of sustained legal advice that he's been  
13 providing him. But I don't think it matters in terms  
14 of the bottom line we have to get to, whether Gothard  
15 is Mr. Gibbs client, Mr. Gibbs' former client, or  
16 unrepresented, which Mr. Gibbs admits, admits that he's  
17 unrepresented.

18 Here's what he does. He knows -- because he  
19 has just -- in late November, Judge, the context has  
20 gone on in this case and your Honor is familiar with  
21 some of it. I filed a motion to dismiss the first  
22 complaint that Mr. Gibbs filed, and I believe it was a  
23 day before November 25th. Mr. Gibbs withdrew it and  
24 sought and obtained your leave to file a new complaint,

1 which ultimately he filed on January 6th of 2016.

2 So that's the setting. What that means is on  
3 November 25th, when he's preparing an affidavit and  
4 talking to Mr. Gothard and encouraging him to sign it  
5 and get it to me, quote unquote, tonight -- Mr. Gibbs'  
6 words -- and sending that affidavit to Mr. Gothard  
7 without a caption on it so Mr. Gothard doesn't know  
8 he's about to be named for the first time as a  
9 defendant in a case that Mr. Gibbs knows is going to be  
10 an allegation now directly, for the first time directly  
11 against Gothard for serious sexual misconduct and it's  
12 going to contain for the first time an allegation that  
13 Gothard raped someone, Mr. Gibbs knows, but doesn't  
14 tell Gothard, I'm about to sue you and use this  
15 affidavit to do it. I'm going to use it as support  
16 for -- to claim that you have admitted at least some of  
17 the wrongdoing alleged among my most serious  
18 allegations. And he doesn't tell Gothard that.

19 What is admitted or at least not denied by  
20 Mr. Gibbs -- it's stated under oath in Mr. Gothard's  
21 affidavit, not denied by Mr. Gibbs -- is Mr. Gibbs  
22 tells Gothard, I'm going to use this affidavit to get  
23 you reinstated at the Institute, and doesn't that make  
24 sense to Mr. Gothard in terms of what's been

1       transpiring for the last six months.

2               No person in his right mind in Gothard's  
3 shoes who believed that what he was signing was going  
4 to support not only a case against him and not only a  
5 case for serious sexual misconduct against him but even  
6 a case for, in one of the allegations in the soon to be  
7 filed complaint -- subsequently withdrawn, I should  
8 say -- there's a rape charge in there. There's no  
9 caption on that case. There's nothing to tell Gothard  
10 what's coming, what use is going to be made of this  
11 affidavit. You can't do that.

12              And further, as Mr. Gibbs states in his  
13 affidavit, he questioned -- Mr. Gothard is an 80-plus  
14 year old man. He questioned his mental sanity. He and  
15 his co-counsel, Ms. Field, talked about that this guy  
16 was crazy, that this guy was narcissistic, that this  
17 guy Gothard was living in his own world. That's the  
18 guy you got to sign this affidavit.

19              And then when Gothard finds out what's going  
20 on -- and this is now before January 6th, so before the  
21 complaint which directly names Gothard as a defendant  
22 is filed -- Gothard finds out and twice says to Gibbs,  
23 Don't use that affidavit. Do not. I do not give you  
24 my permission. Don't use it. And Gibbs uses it

1        anyway.

2                    And so, Judge, whether -- there's discussion  
3        in the papers before you about whether Gothard was  
4        Gibbs' lawyer -- excuse me. Gothard was Gibbs' client,  
5        his former client. He had another lawyer, this guy  
6        Kevin Moore, whether he was unrepresented. I  
7        understand the analysis works differently depending on  
8        what rule of professional conduct you're working with.

9                    I don't think the bottom line matters at all.  
10        Because the question before your Honor fundamentally is  
11        is it okay for a lawyer to be doing this, to be  
12        behaving this way? It can't possibly be. Starting  
13        with working both sides of the street, which should  
14        have been a clear signal that the behavior was out of  
15        bounds, to something I've never seen or heard of  
16        before, which is you're going to sue a guy for serious  
17        sexual misconduct and you're going to get him to sign  
18        an affidavit supporting, at least in part, those claims  
19        and this is a guy you know trusts you because you've  
20        been trying to help him do something that he wanted?  
21        There's no characterization of that that says that's  
22        okay, and that's why the Institute is asking for  
23        disqualification, your Honor.

24                    THE COURT: Thank you, Counsel. Your response, as

1 well as anything else you might want to say that isn't  
2 in your brief, but a number of these things have gone  
3 beyond, so you can respond to these independently,  
4 obviously.

5 MR. GIBBS: And, your Honor, again, we won't  
6 belabor the point, but I do want to say -- and it's in  
7 my affidavit -- we vehemently deny the vast majority of  
8 what is in the affidavits. And both of them have begun  
9 by basically saying, you know, there's statements that,  
10 in worst case, are perjury; best case, confusion, but  
11 the reality is the affidavits of both Gothard and Blair  
12 are factually unsupportable.

13 I mean, I'm hearing today, you know,  
14 John Stancil, PhD. I know personally John Stancil has  
15 no PhD. That's sort of an irrelevant thing, but it  
16 just sort of shows the absolute delusion that permeates  
17 the affidavits of both Mr. Gothard and Mr. Blair.

18 The timeline is important, your Honor. When  
19 we go back, you know, it's 2014 -- and I put this in  
20 the beginning of my affidavit. Gothard resigns from  
21 IBLP. It's all over the internet. People know these  
22 issues, there's no question. Recovering Grace has a  
23 website. Victims are going online talking about what  
24 happened to them at the hand of Gothard: Sexual abuse,

1 predatory practices, some of the more severe ones rape  
2 and molestation. So this is all out in the public.

3 I represent abused victims against  
4 patriarchal religious leaders. I'm contacted by a  
5 number of these clients from across the country. So  
6 your Honor understands, not one of my clients lives  
7 currently in the State of Illinois. Two of them are in  
8 foreign countries: Canada and New Zealand. The other  
9 16 are scattered across the US from Minnesota to  
10 Florida to California. They come together to take the  
11 very brave step to stand against who was their  
12 counselor, their teacher, their pastor, their spiritual  
13 mentor. And so, you know, 2014 all this is out and  
14 very public.

15 I am up here at another event. I'm speaking  
16 in Chicago. John Stancil, who is a member of the  
17 board -- and interestingly, John Stancil would gladly  
18 testify everybody knew who I represented the whole step  
19 of the way; and if this Court were to hold an  
20 evidentiary hearing, he would testify that most of  
21 what's being put forward by Gothard and IBLP is utter  
22 nonsense, and he was a member of the board.

23 So the reality is he says, you know, Look,  
24 Gothard wants to meet with your clients. Would you sit

1 down and at least talk with him and discuss? And he's  
2 on the IBLP board, kind of tasked with coordinating a  
3 settlement conference.

4 Your Honor, this is a unique religious  
5 subculture. There is heavy teaching in this subculture  
6 that it is a sin, that God will judge you, if you  
7 initiate litigation without first going to your  
8 accusers. You see Laden in Dr. Gothard's statements  
9 mediation, Matthew 18, discussions.

10 This concept has been drilled into my  
11 clients. My clients will not authorize litigation  
12 without meaningful attempts to sit down with all of the  
13 potential defendants -- in this case, Gothard and, in  
14 this case, IBLP -- and attempt to resolve this  
15 pre-suit. That's part of their makeup. That's what  
16 they believe should happen.

17 What occurs? Gothard is very willing to  
18 meet. As a matter of fact, he wants to meet. IBLP is  
19 divided. There's members of the board, I understand,  
20 that wanted to meet, some did not, but there are  
21 letters as early as June the 3rd that clearly show that  
22 Gothard is being targeted. In this, June 8th, there's  
23 a second demand letter --

24 THE COURT: June the 3rd of 2014?

1 MR. GIBBS: Of '15.

2 THE COURT: Okay.

3 MR. GIBBS: So there's three demand letters. Then  
4 we file the original complaint on October 20th; okay?  
5 Gothard is constantly talking about maybe bringing his  
6 own lawsuit. That's sort of the Kevin Moore factor.

7 Gothard's position -- and I'll just say it  
8 bluntly. The guys on the board did him wrong; okay?  
9 This was a plan. He was supposed to come off the board  
10 for a short time period --

11 THE COURT: I understood that.

12 MR. GIBBS: Okay. And that basically he feels  
13 fraud occurred on their part.

14 Gothard contacts me on November 25th. This  
15 is after Stancil has been sued individually, the  
16 lawsuit is going --

17 THE COURT: November 25th of 2015?

18 MR. GIBBS: And says, I want to have a voice in  
19 your lawsuit. And I said, Well, the only way you can  
20 do that is if you want to do an affidavit. He calls me  
21 the day ahead of Thanksgiving. I was like, Well, this  
22 is a little unusual, but -- You don't have a lawyer?  
23 No. I'll prepare something. You look at it. You let  
24 me know. He edited it. He sent me back -- he worked

1 on this thing.

2 The bottom line is: The affidavit -- and, by  
3 the way, they argued -- IBLP, you know, is kind of  
4 artfully avoiding the misstatements in the affidavit,  
5 you know, showed up in the middle of the night and it  
6 was just sprung on him. Quite honestly, your Honor, I  
7 was sitting in Florida, not totally thrilled to be  
8 doing this the day ahead of Thanksgiving. I probably  
9 should have taken the day off, but I was working. He  
10 wanted to do this. He went ahead on his own. I think  
11 he went to church that night. He had his sister  
12 execute it. I wasn't sure I'd ever even see the thing  
13 again. He went and mailed it; okay? That was all  
14 voluntary and he basically says it was voluntary. It  
15 was all on him in Illinois on his own. No one was --

16 THE COURT: He mailed it back to you?

17 MR. GIBBS: Yes, he mailed it to my office in  
18 Texas.

19 THE COURT: Okay.

20 MR. GIBBS: On that same day, he mailed it back.

21 And, interestingly, to this day they've never  
22 said anything in the affidavit isn't true. I mean, if  
23 Gothard is that upset about the affidavit, if he says,  
24 You know what, I didn't understand paragraph 12, I'd

1 I like to strike paragraph 12, or -- what happened is  
2 Gothard got mad through the process because the  
3 meetings were not occurring and he sent me kind of  
4 threatening letters, you know, God is going to judge  
5 you and --

6 THE COURT: All right. So you get this affidavit  
7 back to him. You prepared this affidavit?

8 MR. GIBBS: Right.

9 THE COURT: You sent it to Gothard, Gothard signs  
10 it, and sends it back?

11 MR. GIBBS: Correct.

12 THE COURT: And then you amend the complaint to  
13 add Gothard?

14 MR. GIBBS: Well, I amend the complaint, yes, to  
15 add Gothard, and also at this Court's request.

16 THE COURT: No, I -- well, the Court --

17 MR. GIBBS: We were adding victims.

18 THE COURT: Hold on. The Court never requests  
19 anybody to amend or not amend. You have leave to  
20 amend --

21 MR. GIBBS: Leave to amend under permission of the  
22 Court.

23 THE COURT: You can do so, but I'm not saying,  
24 Boy, you really need to do this or that. I don't --

1 MR. GIBBS: No, absolutely. I apologize for my  
2 choice of terms.

3 THE COURT: I don't give legal advice up here.  
4 I'm not smart enough to do that with great lawyers like  
5 all of you are, so that doesn't happen.

6 But the point is though you talked to  
7 Gothard, you prepare an affidavit based on what he kind  
8 of wants to put together or what you think he maybe  
9 wants to put together or the like, you send it to  
10 Gothard, Gothard signs it, he sends it back, and then  
11 Gothard all of a sudden becomes a defendant in a  
12 lawsuit that you're filing.

13 MR. GIBBS: Well, there's two factors. Number  
14 one, he edited the affidavit extensively.

15 THE COURT: Okay, great. Okay. I don't mean  
16 that. But, I mean --

17 MR. GIBBS: Yes.

18 THE COURT: For whatever reason, an affidavit that  
19 was initiated by you gets signed by Gothard that he may  
20 make amendments to or whatever and he sends it back to  
21 you?

22 MR. GIBBS: Right.

23 THE COURT: And then subsequent to that, you make  
24 a decision that in regard to this lawsuit with the

1 Institute in Basic Life Principles that Mr. Gothard  
2 should be added?

3 MR. GIBBS: That's correct.

4 THE COURT: Okay. All right. Go ahead then.

5 MR. GIBBS: And, your Honor, remember, the  
6 original case was filed on October 20th and we had done  
7 extensive media discussions and conversations. Gothard  
8 fully knew our position; okay? There was no -- it  
9 wasn't like he was surprised. And the bottom line is:  
10 He knew that he was most likely going to be named.  
11 Whether the other board members would remain in due  
12 to --

13 THE COURT: So this individual who knows he's  
14 going to be named to a lawsuit is going to sign an  
15 affidavit prepared by an attorney who he knows is going  
16 to name him to the lawsuit and is going to give  
17 statements under oath back to that attorney which might  
18 or could and maybe, in fact, were used to support  
19 various allegations of the amended complaint; is that  
20 what you're saying?

21 MR. GIBBS: Yes, your Honor.

22 THE COURT: Okay. I just wanted to be sure. Keep  
23 going then.

24 MR. GIBBS: He believed -- and you have to

1 understand. His sole focus was on getting back IBLP  
2 and then also he was hoping to see all this resolved.  
3 He was hoping --

4 THE COURT: Right. So his sole focus for this  
5 affidavit, in his mind, you're saying, as best as you  
6 can state from your discussions with him --

7 MR. GIBBS: Is a Christmas mediation.

8 THE COURT: -- was he's trying to do this to get  
9 himself back into the Institute in Basic Life, even  
10 though he may be aware that by signing an affidavit  
11 like this he could be subjecting himself to defend a  
12 lawsuit; is that what you're saying?

13 MR. GIBBS: I'm not quite following your flow.  
14 But what I will say, just to make it clear, I don't  
15 know what's in his mind entirely, okay, in fairness.  
16 But the reality is he knew --

17 THE COURT: Well, you have prepared an affidavit  
18 for him to sign which, when you read the initial  
19 affidavit that was prepared and sent down to him, you  
20 certainly do have some knowledge of what's in his mind  
21 and what he wants to say or not say. Now, he's going  
22 to take issue with certain things, obviously. He may  
23 change it or the like, but you certainly have some idea  
24 of what the basis for the affidavit is though; right?

1 MR. GIBBS: Well, and the basis we had was off the  
2 media he had given. So we understood what he was  
3 saying publicly and so that knowledge gave us the basis  
4 to kind of have a general idea of what was being said.  
5 And the affidavit being prepared by him was his desire  
6 to -- in his mind, he wasn't being listened to --

7 THE COURT: The affidavit that was being signed by  
8 him; it was prepared by you?

9 MR. GIBBS: That's correct.

10 THE COURT: Okay. You said prepared by him.

11 MR. GIBBS: It was prepared by me, edited by him  
12 multiple times, and then he executed it.

13 THE COURT: Okay, good. All right.

14 MR. GIBBS: And the concepts in his affidavit that  
15 he, quote, received this by surprise, are not true.  
16 The concept that it showed up late at night is not  
17 true.

18 THE COURT: In his affidavit to the motion to  
19 disqualify?

20 MR. GIBBS: Correct.

21 THE COURT: So we make sure which affidavit we're  
22 talking about.

23 MR. GIBBS: Correct. Well, there have been a  
24 number of affidavits.

1 THE COURT: Okay.

2 MR. GIBBS: He had his original affidavit where he  
3 said, for example, Christine Field wasn't at the meal.  
4 Then he had his second affidavit where he's like, Well,  
5 I don't remember her being at the meal and he changed  
6 some things. Then there's another affidavit where he  
7 said, Well, this thing showed up in the middle of the  
8 night and was a surprise to me. And he's -- his story  
9 continues to change.

10 THE COURT: And these are all affidavits that are  
11 used to support their motion to disqualify and for  
12 sanctions; it's not dealing with the affidavit that was  
13 done in November that you prepared, sent to him, that  
14 he modified, and sent back?

15 MR. GIBBS: Yeah. Interestingly --

16 THE COURT: Okay. I just --

17 MR. GIBBS: -- the affidavit that I prepared and  
18 he signed and executed to this point I've never heard  
19 one word of it that Gothard would say is untrue, as a  
20 matter of fact, I think if this Court --

21 THE COURT: You already said that, so --

22 MR. GIBBS: -- were to call him forward.

23 Your Honor, as we proceed forward with this  
24 situation, I do think it's important that we look at

1 the law. Both IBLP and Mr. Gothard wish to ignore  
2 Schwartz versus Cortelloni.

3 THE COURT: That's what I'm most familiar with is  
4 the law. The facts are what you guys are telling me  
5 about. The law I've got a pretty good idea of. I have  
6 heard many motions to disqualify; I have granted  
7 motions to disqualify and have been affirmed by the  
8 Appellate Court on things; I've denied motions, so I'm  
9 well familiar with the law in regard to same. It's the  
10 facts that you guys needed to give me to help me with  
11 that, so --

12 MR. GIBBS: Well --

13 THE COURT: And I've read all the cases that both  
14 sides have cited and I understand the ups and downs of  
15 those cases that are involved. Go ahead though.

16 MR. GIBBS: And, your Honor, I would point out  
17 that the Illinois Supreme Court has basically said  
18 attorney disqualification is a drastic measure and --

19 THE COURT: Got it.

20 MR. GIBBS: -- the burden is on them to meet it.

21 We do, in my mind, have significant  
22 constitutional issues when you look at, you know,  
23 18 plaintiffs have selected their attorney. Gothard  
24 has a history. We've provided that in the briefs --

1 THE COURT: Well, there are two other people that  
2 are attorneys for those 18 people also; right?

3 MR. GIBBS: Well, your Honor, yes. There's --

4 THE COURT: And I know you're the point person and  
5 I know they came in to you and you're the guy that had  
6 the reputation for it or whatever. I don't mean that  
7 in any disparaging way; in a very positive way. But --

8 MR. GIBBS: No. And it is very fair for you to  
9 say that and I don't disagree, but when you're asking a  
10 solo practitioner in Chicago who's not personally met  
11 any of the clients to undertake what could be a 2 to  
12 \$400,000 case in cost with the prospect of no recovery,  
13 you're putting a significant burden on the  
14 constitutional rights of these people to have their day  
15 in court and to have their right to select the attorney  
16 of their choice to advocate for them.

17 THE COURT: Well, I don't think I'm eliminating  
18 anybody's constitutional right to have their day in  
19 court. They're able to do whatever they want to do in  
20 regard to their day in court.

21 And, again, with all due respect to you, sir,  
22 in any and every aspect one way or the other, there's  
23 other people besides you that could do a very, very  
24 competent job in prosecuting this case should --

1 MR. GIBBS: I do not disagree.

2 THE COURT: -- since those people seem to do --  
3 they want to continue on with that. So I don't think  
4 I'm -- if, hypothetically, I were to grant the motion  
5 to disqualify, I don't think I'm getting into  
6 constitutional issues with whether these people will  
7 ever have their day in court or not. They'll have  
8 their day in court.

9 I've had -- quite honestly, I've had a couple  
10 of cases about alleged sexual interaction with  
11 religious entities and this, that, and the other. It's  
12 kind of bizarre in little white bread DuPage County  
13 I've had a bunch of these, but I've had a bunch of  
14 these. So there's other attorneys that are around, and  
15 I don't think the constitutional argument of whether  
16 they have their due in court or not raises anything.

17 I'm not barring them from doing anything if I  
18 were to grant the motion to disqualify. They can have  
19 other legal counsel. There's two that have some  
20 involvement. They can have time to get other legal  
21 counsel. Any number of things could take place. They  
22 could decide to bring this in federal court even too  
23 given the diversity of the citizenship that exists and  
24 the like, although I'm a little rusty on jurisdiction

1 for federal court, but we'll leave it at that.

2 But I just take issue with the constitutional  
3 aspect of your arguments. Your other arguments, I do  
4 understand the prejudice to them in regard to who  
5 they've chosen, the expertise of who they've chosen,  
6 the limitations, again, with all due respect, to the  
7 other two individuals, of whether they may be able to  
8 pick this up and run with it versus somebody else doing  
9 it. Certainly any time that were needed to be afforded  
10 to these plaintiffs, if I were to grant the motion to  
11 disqualify, would be afforded to them to make a  
12 determination of where they wanted to go. So I just  
13 wanted that for the record.

14 You can continue the rest of your argument.

15 MR. GIBBS: And, your Honor -- and, again, most of  
16 this has been briefed, but I do want to make it  
17 abundantly clear that both the affidavit of Gothard and  
18 Blair have no incorrect statements that have a basis  
19 for these motions.

20 Number two. I was never Gothard's attorney.  
21 I was never IBLP's attorney. I was the victims of this  
22 abuse's [verbatim] attorney throughout the whole  
23 process. Every conversation was focused on settlement  
24 meetings, resolution, working towards resolution,

1 working towards getting compensation.

2 The public policy of the courts, which your  
3 Honor well knows, is to facilitate dialogue in  
4 resolving matters and work towards resolution. Adding  
5 to that, we have this unique religious subculture where  
6 that is a very esteemed ideal.

7 My background. I'm admitted in nine states,  
8 District of Columbia. I've litigated cases nationally.  
9 I certainly understand, your Honor -- and I want the  
10 record to reflect clearly -- legal ethics, boundaries,  
11 appropriate conduct.

12 I understand you do not speak to represented  
13 parties. I understand that you do not, to quote  
14 Mr. Collins, work both sides of the fence; okay? In  
15 this measure, aggressively representing my clients to  
16 achieve something that would get them a settlement  
17 sooner as opposed to later, all of the conversations  
18 focused on resolution.

19 When they mentioned these, quote, you know,  
20 40 or 50 phone calls, okay, Gothard would oftentimes  
21 call and say, Do we have a meeting on? Do your clients  
22 have any -- are you guys coming to the meeting? I was  
23 like, Well, is IBLP coming? I don't know. I'll go  
24 check. And that would be the end of it.

1 THE COURT: But do you think part of the  
2 resolution or part of the pathway to resolution was in  
3 some manner trying to get Gothard back onto the board  
4 and dealing with the issues between Gothard and the  
5 board so that that issue would be done and set and  
6 then, given Gothard being back on the board, then  
7 having a resolution that could result in some  
8 satisfaction to your clients?

9 MR. GIBBS: Absolutely. Because that's what  
10 Gothard and Stancil both thought.

11 THE COURT: Okay. All right.

12 MR. GIBBS: I mean, the thought was that if they  
13 could sit down and have sufficient control of this  
14 nonprofit board -- and I do want to mention again lots  
15 of information that they quote -- you know, them moving  
16 to Texas, okay, that is filtered out through the  
17 internet and gossip channels. Their finances, they're  
18 a nonprofit. I mean, you go online, you can pull up  
19 their tax returns, you can see the money.

20 So, I mean, a lot of what they're, quote,  
21 arguing, we knew about, were from readily available  
22 public sources. They have not pointed to, that I've  
23 seen, anything that Gothard or Stancil, for that  
24 matter, quote, disclosed outside of settlement or

1 opportunity to meet that in any way gave us an  
2 advantage.

3 I could certainly see if Gothard had sat down  
4 with me and said, Look, I'm going to tell you something  
5 privileged. You know, I raped girls. Okay. Well,  
6 that would be a big problem. I would not be able to --

7 THE COURT: And you don't think the affidavit from  
8 November 19th gave any information contained therein  
9 that would assist in any manner in regard to the  
10 litigation on behalf of your clients, the alleged  
11 victims?

12 MR. GIBBS: I believe that it was an early  
13 statement that he would still stand by today under  
14 deposition and he wanted to provide it early to, again,  
15 try to facilitate settlement. Yes, it's unusual, but,  
16 may I just say, this organization is unusual. On the  
17 one hand, IBLP wants to discount Gothard as an  
18 80-year-old person that's maybe a little confused. I  
19 mean, he founded the whole thing, ran the whole thing,  
20 built the whole thing up to over a hundred million in  
21 assets. I mean -- so I think you certainly have to  
22 look at the sophistication.

23 The cases they cite -- you know, the people  
24 coming for their divorce, you know, they go into one

1 attorney and another attorney, that might be their only  
2 legal experience in their life. Gothard had a  
3 full-time attorney on staff; he ran this large  
4 organization; he met with world leaders. I mean, you  
5 can read in his affidavits -- I mean, he's very  
6 extensive in his vitae, his resume. I mean, this is a  
7 pretty smart guy that handpicked all these guys and he  
8 believes that he can get a meeting and a settlement for  
9 my clients. And so, you know, if anybody is playing  
10 both sides, it's probably Gothard.

11 THE COURT: And you don't anticipate in your  
12 discussions with IBLP or with people that run the board  
13 of IBLP or in your discussions with Gothard, neither of  
14 which is your position that you provided any legal  
15 advice to, were an attorney to, or anything, you don't  
16 believe that in what we now have as this pending  
17 litigation involving Gothard and the Institute and the  
18 like that you would not in any manner be called as a  
19 witness to testify in regard to any interactions that  
20 might have existed as a basis for -- underlying basis  
21 that led up to where this lawsuit is?

22 MR. GIBBS: I do not.

23 THE COURT: Okay.

24 MR. GIBBS: And I don't see any reason that would

1 occur.

2 THE COURT: Okay. All right.

3 Anything further you have to say then, sir?

4 MR. GIBBS: If I might just add because they  
5 focused on that email to Jared again --

6 THE COURT: Which was Exhibit 9 of the Gothard --  
7 amended Gothard affidavit?

8 MR. GIBBS: Yes. And the phrase there that I  
9 might be called as a witness was they were going to  
10 allow me potentially to come before the board and  
11 testify on behalf of the victims, so it was really in a  
12 settlement context. Mr. Gibbs would come in and  
13 instead of having -- at that point, we didn't know how  
14 many. We thought maybe five or ten. That instead of  
15 bringing them to Chicago and into the building where  
16 some of them were molested, that instead of doing that,  
17 I would be a witness. I would come before the board  
18 and speak on their behalf. So I want to make sure that  
19 there's some clarity to that. I don't see any reason  
20 why my testimony would be required in this case  
21 whatsoever.

22 And, you know, your Honor, there's --  
23 obviously, when you have three parties -- you have a  
24 former employee, you have the organization, and then

1 you have the plaintiffs, in our case, the abuse  
2 victims -- there's always a little interplay between  
3 them at different levels as they work through the case.

4 But I will testify or represent to this Court  
5 I know the ethical rules; I believe in the ethical  
6 rules; I have no intention to violate the ethical  
7 rules; I believe firmly I have not; and would  
8 respectfully request that this court deny these motions  
9 and allow this case to move forward in an orderly,  
10 scheduled process.

11 THE COURT: Okay. Any brief final comment you  
12 have, Mr. Gaffney?

13 MR. GAFFNEY: Judge, I just would refer -- you  
14 know, the -- he indicates that there was no  
15 information -- confidential information that was  
16 conveyed during the course of all these communications;  
17 and, you know, going through the Gothard affidavit -- I  
18 mean, I don't know that I need do this, but I could  
19 quote you --

20 THE COURT: I read the Gothard affidavit. I  
21 understand what your position is in regard to it. I  
22 understand what their position is and there's  
23 conflicting testimony in regard to what was or wasn't  
24 disclosed. I understand that.

1 MR. GAFFNEY: Well, he says generally there was no  
2 confidential information disclosed, but we've quoted  
3 chapter and, you know, dates, times, and  
4 conversations --

5 THE COURT: You've given specifics. I understand.

6 MR. GAFFNEY: -- and there's really no refuting  
7 to -- you know, June 15th he was talking to Gothard  
8 about, you know, how the board was responding to the  
9 last letter. July 6th --

10 THE COURT: I've got it. I read the affidavit,  
11 sir.

12 MR. GAFFNEY: All right. They're talking about  
13 Wilkinson, Wilkinson's mother, Rachel Lees, one of the  
14 Jane Doe's.

15 THE COURT: Got it.

16 Counsel, anything final you have to say,  
17 briefly?

18 MR. COLLINS: Of course Mr. Gibbs would be a  
19 witness in this case against his own clients. Here's  
20 why: How could you possibly believe that Mr. Gothard  
21 had done to your clients what you said he did while at  
22 the Institute if you're working to put him back into  
23 exactly the same position? That's where this is going.

24 If you have any questions for me, I'm happy

1 to answer them, but I wanted to say that because, of  
2 course, he's made himself a witness against his own  
3 clients.

4 THE COURT: Thank you.

5 I appreciate the fine job that all three of  
6 you did in going through some of the finer points of  
7 this and assisting me in this. I also want to  
8 acknowledge and thank you very much for giving me the  
9 extra day that you did. I understand I caused some  
10 travel concerns, and I apologize to that individual for  
11 that.

12 I had thought I was able to get through  
13 everything, and then I wasn't able. There were some  
14 other aspects this weekend. I needed yesterday for me  
15 to be able to read everything and to understand what I  
16 was doing. And the attorneys that do appear in front  
17 of me who are in here know that, at a bare minimum, I  
18 do read everything. They may not always agree with my  
19 opinion, but they know I've read everything they've put  
20 forth and I've utilized that in my decisionmaking.

21 There's a number of things that have been  
22 raised in this argument today that I want to review in  
23 detail and go through before I make a final ruling in  
24 regard to this. I do understand the seriousness of it.

1 I understand the Supreme Court's comments in regard to  
2 disqualifying counsel, and I understand the burden  
3 that's required for that, which is on the movants,  
4 which we know from the case law and the like that's  
5 stated therein.

6 So I am going to take the matter under  
7 advisement. I know that frustrates a lot of people in  
8 the room and I apologize for that, but what I always  
9 choose to do is to be very careful in my rulings, to  
10 find a proper basis in my rulings, and to be confident  
11 for the basis of my rulings, and I want to rethink some  
12 of the things that I have considered given the  
13 arguments of counsel today in regard to same.

14 I will have a written opinion out no later  
15 than May 11th, a week from tomorrow.

16 MR. GIBBS: And, your Honor, may I just say one  
17 thing? Because he made one final comment that I hate  
18 to leave hanging without a final.

19 They were planning to dissolve the  
20 organization; okay? So Gothard getting back in was to  
21 liquidate it, and so I think that makes a whole  
22 different concept and my clients getting paid in the  
23 dissolution and then him going forward with this new  
24 organization.

1           So I want -- I think Mr. Collins' statement  
2           that I'd for sure be a witness is absolute nonsense in  
3           a dissolution.

4           THE COURT: Okay. And, Mr. Collins, since you  
5           represent one of the moving parties, you do get the  
6           last word because the burden is on you.

7           MR. COLLINS: I'm done. And I appreciate your  
8           Honor's thoughtfulness this morning. Thank you.

9           THE COURT: Thank you very much.

10           I will have a written opinion out by  
11           May 11th. I would like us to come in for a status  
12           sometime after May 23rd. You guys can choose that, the  
13           locals versus the individual that has to fly in, so we  
14           can get a date that works for everybody. I'm good any  
15           date from May 23rd through June 10th as far as doing  
16           this on a Monday through Thursday. Of course, the 30th  
17           is Memorial Day on Monday, so don't pick that date, but  
18           any date that works for all of you for status. You  
19           will have had ample time then to have reviewed my  
20           opinion, to chew on it, figure out what you want to do  
21           in response to it, and then decide where we're going  
22           from there.

23           So I need an order that says I've taken the  
24           matter under advisement, that a written opinion shall

1 be issued to all parties by the end of the day  
2 May 11th, and then status on one of those future dates  
3 as referenced.

4 And I thank you all very, very much. I  
5 apologize for not being able to give you an opinion  
6 today, but I do understand the seriousness of this and  
7 I do understand the import of this and I want to be  
8 sure that I'm a hundred percent comfortable with what  
9 my ruling is going to be and I need that additional  
10 time to do so. I thank you all for that consideration.

11 (Which were all the proceedings had at  
12 the hearing of the above-entitled  
13 cause, this date.)

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STATE OF ILLINOIS        )  
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COUNTY OF DU PAGE        )

I, Kristin M. Barnes, hereby certify that I was assigned to transcribe the computer based digital recording of proceedings had of the above-entitled cause, Administrative Order No. 99-12, and Local Rule 1.01(d). I further certify that the foregoing, consisting of Pages 1 to 53, inclusive, is a true and accurate transcript completed to the best of my ability based upon the quality of the audio recording.

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Kristin M. Barnes  
Certified Shorthand Reporter  
Eighteenth Judicial Circuit of Illinois  
DuPage County