

**IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA**

CASE NO: 07-0824

FEBRUARY 22, 2007

EXAMINATION OF LARRY BIRKHEAD BY MS. OPRI:

MS OPRI: Your Honor, this is not fair to me that I have five minutes.

THE COURT: I'll give you a little bit more time.

MS. OPRI: Can we do it after the lunch break.

THE COURT: No, keep going.

Q Finally, Larry, I get to ask you a few questions. Are you the biological father of Dannielynn?

A Yes.

(Objection by Ms. Barth followed by a discussion between the lawyers and The Court)

MR. MILSTEIN: I have an objection with regard to any issues dealing with the DNA testing of Dannielynn outside of the Bahamas.

THE COURT: Your objection is sustained.

(Continued discussion between the lawyers and The Court. Ms. Opri challenges the standing of Mr. Stern in the courtroom)

MR. MILSTEIN: I'd like to except for the record you've already ruled on the standing of Mr. Stern previously and any issues regarding that, so we don't need to muddy the water again today.

THE COURT: (Directed towards Ms. Opri) Don't test me anymore. Don't test me. I've been tested by the best so don't test me.

MS. OPRI: I'm not, Your Honor.

THE COURT: So don't test me.

MS. OPRI: I'm not.

THE COURT: I can fight a ten round fight so don't test me.

MS. OPRI: They introduced an exhibit where you had an agreement not to communicate with the media, correct?

A Yes.

Q And you've already testified in detail about the basis by which you were forced to sign it. Did Howard K. Stern have anything to do with getting you to sign this agreement?

A He stood over top of me until I signed it and if I didn't sign it, they told me that I had to get out of the house.

THE COURT: It's been asked and answered, hasn't it?

MS. BARTH: Yes, Your Honor.

THE COURT: Give me fresh material.

MS. OPRI: I am.

THE COURT: I haven't missed a word here, you know that.

MS. OPRI: Your Honor, you've allowed me.

THE COURT: I'll allow you. I like it when you ask it that way.

MS. OPRI: I'm really a very nice person, Your Honor. Under different circumstances, we'd have a glass of wine together.

THE COURT: We would have had tea. You're all right. You have a standing objection. Have a seat.

MS. BARTH: I just wanted to tell the Court and I apologize but this Houston Police Officer that I kept over –

THE COURT: He's going to have to wait. What am I going to do?

MS. BARTH: I want everyone to know that he's leaving because he has to at this point.

THE COURT: He is?

MS. BARTH: He has to leave at one. He already has his plane.

THE COURT: We're going to get him in for a minute.

MS. BARTH: We only need two minutes.

THE COURT: She needs another minute with her client.

MS. OPRI: Did you have independent legal counsel when you entered into this agreement?

A No, ma'am, and it was – can I expand on that?

Q I'd say yes.

THE COURT: No.

MS. OPRI: The judge says, no.

THE COURT: Keep moving.

Q In the course and scope of your employment, you own photographs that you take, correct?

A Yes, I do.

Q So Howard K. Stern and Anna have no determination or legal control over what you do with your own photographs, correct?

A Yes, and that's the conflict in the contract.

MS. BARTH: This is Direct. She's leading.

THE COURT: I'm going to give her son leeway. I'm going to give her a few minutes.

MS. OPRI: In terms of communication with the media, sir, you believe you're the father of Daniellynn?

A Yes, and that's why this is my story, not just hers.

THE COURT: Thank you. That was the purpose. Moving on.

MS. OPRI: Your Honor, I do want to say to The Court I had probably forty minutes of questions. Thank you to Judge Seidlin, Your Honor, I now have thirty seconds.

THE COURT: I covered the waterfront.

MS. OPRI: You covered the waterfront. They put that to song.

THE COURT: What song is this?

MS. OPRI: I cover the waterfront. I have an agent for music, too.

THE COURT: Who sings that?

MS. OPRI: Who knows. That's from the 1950's. I want to really get serious now.

THE COURT: We are serious. We're serious.

MS. OPRI: This is a somber and sombering event. The bottom line is you do have a standing order for paternity, meaning you have agreed to submit your DNS, correct?

A Correct.

THE COURTS: All right. We're done.

MS. OPRI: I'm done with that. Now I want to get into the relationship. Was Anna Nicole Smith the love of your life?

A Do I have to answer that?

THE COURT: This has all been asked and answered already.

MS. OPRI: If you don't want to answer that, I respect that.

A I don't want to answer that.

THE COURT: Now you can begin standing when it becomes applicable. Just stand.

MS. BARTH: Just stay up?

THE COURT: Yes, because we're about to take the hook.

MS. OPRI: Your Honor.

THE COURT: Yes, what else. Ask a question.

MS. OPRI: You're not being fair to me.

THE COURT: You're asking questions that have been asked and answered.

MS. OPRI: Was Ann, did she communicate with you that she was leaving the Bahamas and coming home to California eventually?

MS. BARTH: Objection; asked and answered.

THE COURT: Asked and answered.

MS. OPRI: What did she tell you?

THE COURT: Sustained.

MR. BIRKHEAD: Do I answer that?

THE COURT: No.

MS. OPRI: That was not covered, Your Honor.

THE COURT: Asked and answered, sustained. You're going to get your time, you know that, but not in this juncture.

MS. OPRI: It's all right.

THE COURT: You know you're going to get your time.

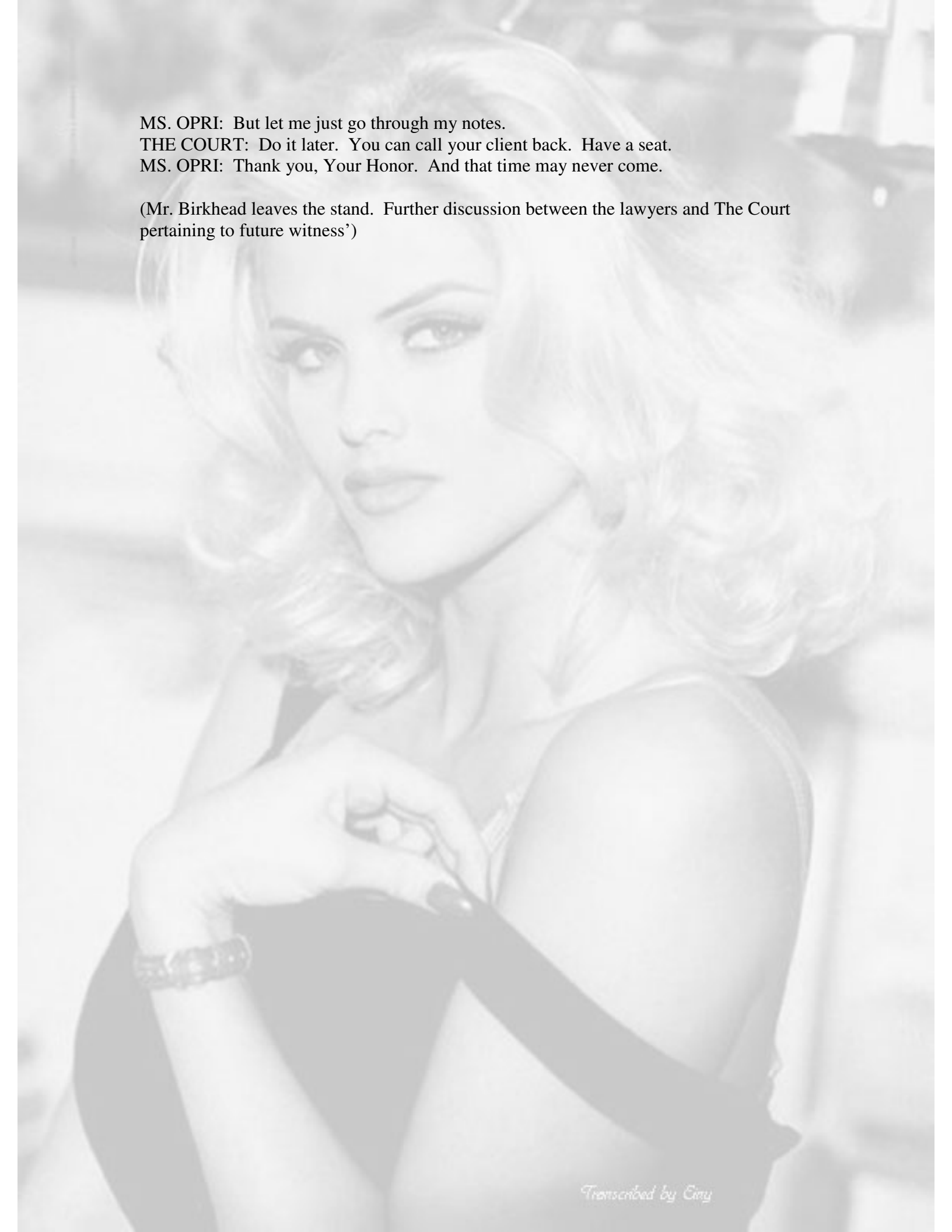
MS. OPRI: You did cover all of the questions. I just want to do some wrap-up.

THE COURT: No wrap-up. I got to move. Wrap up another day another day, another place. We're done. Bring in that officer.

MS. BARTH: Thank you.

MS. OPRI: Your Honor.

THE COURT: You haven't given me one question that's admissible.



MS. OPRI: But let me just go through my notes.

THE COURT: Do it later. You can call your client back. Have a seat.

MS. OPRI: Thank you, Your Honor. And that time may never come.

(Mr. Birkhead leaves the stand. Further discussion between the lawyers and The Court pertaining to future witness')