

RE-EXAMINATION OF MR. HOWARD K. STERN. FEBRUARY 21ST

QUESTIONS BY MR. MILSTEIN OF HOWARD K. STERN:

Q Mr. Stern, you heard the questions I had asked Ms. Arthur with regard to finances and remuneration.

A Yes, I did.

Q I am going to ask you a series of similar questions to you, if we can save time, since you heard them without me having to enumerate each item?

A Okay.

Q Since the death of Anna Nicole Smith's son, Daniel, have you received directly any financial remuneration from any media press or public relations?

A No, I have not.

Q Have you received, since the death of Daniel, have you received any third party benefits, that includes all the other items that I indicated or any other item I have not indicated from any third – from any news media, public relations or press, regarding the death of Daniel – not regarding the death of Daniel, but after Anna Nicole's death?

A When I was at the Hard Rock in Florida, Anna and I had built up a strong relationship with the Entertainment Tonight. And the people had been – at the time and come to our house with or without cameras, and they have been very good friends to us and after Daniel passed away.

After Anna passed, I flew from Florida to the Bahamas with them and that's the only –

Q Any type of remuneration?

THE COURT: When you say flew back, did they charter a plane?

STERN: Again, we were really good friends and they came to see me at the Hard Rock.

THE COURT: Don't embellish. Give me the answer please.

Q Did you fly back on a chartered plane?

A It was a chartered plane.

Q Did they pay for that charter?

A I believe so.

Q You did not pay for it?

A I did not.

Q Did you, at that time, give any interview to any of the members of the Entertainment Tonight Press Corp, media people?

A Yes. I talked about how –

THE COURT: We don't want to know what you talked about. We are talking money right now.

Q At any time, did you permit them to video you since the death of Anna Nicole Smith in the form of an interview, words, your trip from the Hard Rock Café or in any other manner?

A That one time.

Q So they videoed you with regard to the trip from Florida to the Bahamas?

A And then also at the house. When we got back there, they documented the break-in to the house. Again, these – I am friends with these people.

THE COURT: Well, you don't have to – it's not an editorial, just answer. I will decide.

Q Did you discuss with them, meaning the Entertainment Tonight people, any remuneration for the use of those tapes, as you just described that occurred?

A No.

Q Did you give them permission to use that tape or tapes in the future?

A I did.

Q Did they agree to give you any type of remuneration in the form of payment directly to you or to any third party?

A No.

Q Did they agree to give any money for the benefit of Dannielynn?

A Well, that is something that we did talk about. If there was a funeral and if it were televised, that it's something that I believe all proceeds should go to Dannielynn and they should be managed independently by a trustee independent of here and that is something that I mentioned to you in our conversation last week.

Q Did you, at any point discuss with Entertainment Tonight, any further financial remuneration for your benefit as a result of either Daniel or Anna Nicole Smith for interviews, memorabilia, personality, or any other items?

A No

Q You are not under contract with anyone at this time?

A No.

Q Your trip to Florida now, has any third party from the media, press or however you want to define that, paid for your stay?

A No

Q Travel, lodging, food?

A Nothing.

MR. MILSTEIN: Your Honor, I believe you ruled, and I did not ask Ms. Arthur, we could ask if any of the media is paying for any of the attorneys.

MS. BARTH: I have no objection.

MR. STERN: They are not paying for any of my attorneys.

THE COURT: You guys agree when you think the answer is going to go right and you don't agree when it's not going to go right. I would like you to volunteer some other information.

MR. MILSTEIN: Mr. Stern –

THE COURT: Wait. I am thinking of the attorney. Do you want to go into who is paying for the attorneys? Texas, do you want to go into who is paying for the attorneys?

MR. O'QUINN: Doesn't bother me, Your Honor.

THE COURT: So then we know what the answer is then.

MR. MILSTEIN: It's an inference.

THE COURT: Yes. We were not born yesterday.

MR. MILSTEIN: No, it's 60 years.

THE COURT: I am 56.

MS. BARTH: I believe it was Mr. Tunstall that objected to that previously.

MR. TUNSTALL: Ms. Barth, I object. Your Honor, what kind of statement was that?

THE COURT: It doesn't matter. I am not going to go into that subject. It's a slippery slope. They already agreed. It's a slippery slope. We know what the answer is going to be. But the answer is, there was remuneration. How much?

MR. MILSTEIN: With regard to Mr. Stern, I believe his answer was, there was a charter flight from Florida to the Bahamas?

STERN: That's correct.

MR. MILSTEIN: And you said there was no other remuneration?

STERN: That's correct.

THE COURT: There was no exchange of money?

STERN: No, no. These are people that we have had a relationship with.

THE COURT: You don't have to go into that?

QUESTIONS BY MR. MILSTEIN OF HOWARD K. STERN:

Q Now, similar question as to the viewing.

A Okay.

Q Did you communicate with any news media yesterday or today, with regard to the viewing of Anna Nicole Smith?

A Absolutely not.

Q Did you tell anyone where you were going to today at break or recess from this Court?

A I said I was going to lunch.

Q Did you have any media accompany you to the viewing?

A No.

Q Did you explain to anyone since last night when this topic was first discussed, that you were going to a viewing for Anna Nicole Smith today?

A No

Q Did you discuss – who went with you to the viewing?

A In the car, Ron Rale and there was security, but I did not say why.

Q Who was driving?

A One of the security guards.

Q Did you tell him where to go, the security guard?

A I was not the one that gave the directions. I think someone handed him the address.

Q Did you discuss, the four of you in the car, did you discuss why you were going to the Medical Examiner's Office?

A No.

Q Did you discuss it with anyone in the vehicle?

A No.

Q Have you indicated to any third party, particularly any form of the media or press, that you would be willing to engage in a contract for any information with regards to the viewing or any rights with regard to any information regarding the death of Anna Nicole Smith?

A No, Your Honor.

QUESTIONS BY MR. O'QUINN OF HOWARD K. STERN:

Q Sir, you're a licensed as a lawyer in the State of California?

A Yes.

Q However, are you licensed as a lawyer in the country of the Bahamas?

A No.

Q Have you ever been licensed by that country as a lawyer?

A No.

Q Have you ever had a law office in this country?

A No.

Q Have you ever practice law in that country?

A No.

Q Have you ever owned any home in that country?

A No, I have stayed with Anna at her house there.

Q You have lived in Anna's house?

A That's correct.

Q Do you still live in Anna's house?

A Yes, with our baby.

THE COURT: What is your source of income?

MR. O'QUINN: Great subject.

Q What is your source of income?

A Right now, I am borrowing money from my parents to be here to fight for Anna.

THE COURT: Do me a favor.

STERN: That's the truth.

THE COURT: When was the last time you earned you own income?

STERN: I had a law practice.

MR. O'QUINN: What year?

STERN: Until 2002.

MR. O'QUINN: 2002.

QUESTIONS BY THE COURT OF HOWARD K. STERN:

Q If I looked at your income tax returns, what was your income?

A I don't know, Your Honor. It's somewhere in the range of \$60,000 or \$70,000.

Q What happened in 2003?

A That's when the Anna Nicole Show started and I split up with my law partner.

Q Rale?

A No, it was a law partner after Rale.

Q In 2003, did you have any income reported on your tax return?

A Yes. Well, there was – from the Anna Nicole Show, there was income.

Q How much?

A It was pretty small. It was like \$12,500.

Q Were you paid as a consultant?

A I was actually on that show. It was a reality show.

MR. O'QUINN: What show?

THE COURT: It was the Anna Nicole Show.

MR. O'QUINN: What year?

STERN: I think it was 2002 or 2003.

Q And what other income did you have that year?

A I was with Anna – I was Anna. My income was with her.

Q You had no separate and independent income?

A No. All she did –

Q No. Just stay with my questions. What happened in 2004? What was your income?

A Same thing, it was through Anna.

Q Was that show still on the air?

A I think that was in 2004.

Q So you made another 12,000?

A If that.

Q 12,000 or less?

A Yes.

Q Where were you living in 2004, California?

A Yes. I have an apartment in California that Anna paid the rent on, and I stayed at her house most nights.

Q How about in 2005, what was your income?

A Same thing. All the way to today.

Q The show was off the air?

A No.

Q It kept going?

A I think it was off the air in 2005.

Q So your income may be \$12,000 or less in 2005?

A Yes.

Q And 2006?

A Same thing.

Q There was no income at that point, because there is no show?

A Right.

Q Who paid the rent?

A I told you, Anna paid my rent.

Q Where was your home?

A Everything I did for her legally, I did not charge her.

Q Let me ask the questions. In 2006, where were you living?

A I lived at Anna's house. Well, in 2006, well, I was with Anna in the Bahamas, here, and I had an apartment in L.A.

Q How much rent did you pay?

A It's \$950 a month.

Q Who paid that?

A I said Anna did.

Q When you went to a restaurant, who paid the check?

A Anna paid for most things.

Q When you bought a pair of shoes, who paid for that?

A I did not buy too many pairs of shoes, but she did.

Q Did she give you a credit card?

A No.

Q She would give you cash?

A Yes.

Q Were your parents sending you any money during those days?

A No.

Q Are your parents retired?

A Yes.

Q And they would send you money?

A If I need money, they would send me money.

Q When is the last time they sent you money?

A Well, for this.

Q Anything.

A That is what I am saying. The last time was the first time in years. Other than a birthday present, it was to bring Anna back to the Bahamas to be with her son.

Q They sent you a check?

A Yes.

Q How much was it?

A It was – well, do I have to say what I am paying people here?

Q No. I want to know the total amount.

A First of all, it was not a check, it was wired.

Q They wired money?

A Yes. And I would prefer not to disclose, but it's a substantial amount, because we were planning to fight, a substantial fight her.

MR. O'QUINN: Well, we need to know the amount. What is the amount?

THE COURT: I don't need to know that, but I am going to allow you to proceed on where you want to go.

QUESTIONS BY MR. O'QUINN OF HOWARD K. STERN:

Q Your father is retired?

A He is.

Q What was his work, sir?

A He worked for Hugh's Aircraft and Parts and then he was a part-time college professor.

Q What college?

A Valley College, it's junior college.

Q Does he receive money from the junior college?

A Right now?

Q Yes.

A I don't know.

Q But he has given you money. Was he receiving money from the junior college?

A In my life?

Q No. In these recent times that the Judge asked you about.

A Right now?

Q Yes.

A I just received money recently and I don't think he is getting paid by the junior college.

Q Hughes Company?

A Hughes Aircraft. He ran a division of Hughes Aircraft.

Q So he received retirement?

A I don't know how his pension works, but I know they are okay.

Q Does he receive – do you know whether or not he received as much money as you told the Judge that you have received from your father?

A He receives more than that?

Q Are you sure?

A They have decent holdings. I don't think it's important that I give my parent's net worth.

Q I did not ask you that.

QUESTIONS BY THE COURT OF HOWARD K. STERN:

Q Have you ever been married?

A I just answered that.

Q The ceremony we described earlier?

A Yes.

Q You have never married another woman?

A No.

Q Do you have any children other than this Dannielynn that we are talking about?

A No, just Dannielynn.

Q What do you plan to do when this litigation ends?

MS. BARTH: Objection, Your Honor, relevance. We are talking about the disposition of Anna Nicole's body. It seems like we are going somewhat far a field and I did bring him in here. We put him up yesterday. Now we are talking about his parents,

STERN: I am fine. I am not incompetent. I can answer your questions.

THE COURT: You know, when your lawyer objects, as a good witness, you let us argue. I wanted to get the intent. Milstein is bringing up pecuniary interest. I gave you wide latitude with his client.

MS. BARTH: But I did not go into her back accounts.

THE COURT: Well, I went into it.

MS. BARTH: And I did not –

THE COURT: I was taking your thunder. I think we have covered that though, but I am going to allow you to pursue, not anymore with the parents.

MS. BARTH: He would waive all compensation. And he has represented to the Court that any monies from anything would be put into a Trust with an independent trustee for Dannielynn.

MR. STERN: I'm saying that on the record.

THE COURT: Let's not grandstand. If I cannot personally supervise it and it's bouncing around the country and the Bahamas, it's a lot of hot air. Until I can sit on it and Milstein can sit on it and you are not allowing me to do that anyway. So it's great to say it, and each one you have said those kinds of things, but what other questions do you have?

QUESTIONS BY MR. O'QUINN OF HOWARD K. STERN:

Q Okay. Let me see if I have got this straight. For the entire year of 2006, you had no job that paid you any income?

A I was with Anna.

Q Is it true you had no job that paid you any income?

A That's true.

Q But did you receive in that career, the \$12,000 that you previously mentioned to the Judge?

MS. BARTH: Objection. Asked and answered?

MR. STERN: No.

Q The \$12,000 –

A The 12,000 was from the year before for entertainment.

Q I did not hear your answer. One more time.

A The \$12,5000, it was around there, it was from E Entertainment when the Anna Nicole Show was on. It was not on in 2006.

Q So is it your sworn testimony that you received any money for E Entertainment in 2006?

A Yes.

Q Did you receive money from anyone, other than your parents in 2006, to help support yourself or pay your bills, other than Anna Nicole?

A No.

Q True?

A True. Other than my parent or Anna Nicole, I did not receive it from my parents until now.

Q So in 2006, all the money you had to support yourself, you received from Anna Nicole?

A Yes.

Q Not from any other business, any other person, any other source?

A She was my whole life, that is true, correct.

Q Okay. Now, have you told us by this point, everything that you have ever been offered, anything you have ever been paid, and everything you have ever received regarding any type of publicity –

MS. BARTH: Time period, Your Honor, please.

STERN: Yes.

THE COURT: Time period. Start – In the past three years.

MR. O'QUINN: That's an excellent way to put the question, Your Honor.

Q In the past three years?

A I don't know if I had offers in the past three years. If I did, I turned them down. Are you talking from the media?

Q Anyone connected with them. It might be an agent that contacted you.

A Well, I got an e-mail a while ago actually after Anna died, somebody saying they wanted to talk to me about licensing photos of Anna, and also they said he was friends with a book agent. And I e-mailed him back that there is no way, I could not consider it, I would not. I can tell you that.

Q Have you been offered any sum of money by any business of any other business during the past three years, regarding any other type of publicity?

A No, he was an agent. It was not a firm offer, but that is what I got in terms of, I have not read my e-mails.

(The judge asks about administrative fees)

QUESTIONS BY MR. MILSTEIN OF HOWARD K. STERN:

Q Mr. Stern, if the Will of Anna Nicole Smith, which is actually in the name of Vickie Lynn Marshall, is admitted to probate and you are appointed under the Will as executor, will you be entitled to executor fees?

A I would. And I am going to say it right now – Hold on.

QUESTIONS BY THE COURT OF HOWARD K. STERN:

Q Don't tell me to hold on. I said that's it. You keep giving me these gratuitous statements. I can't force him. He makes a statement. How can I force him to say we are going to put it here or there?

A Your Honor, I am saying in front of the world that I am waiving any fee.

Q That's fine. And I don't know what you are going to do tomorrow in the Bahamas.

A I am going to have my attorneys prepare a document –

Q You were kind enough to come here, but I am not buying the Brooklyn Bridge.

A Your Honor, that's the truth.

Q The truth will be what the Court determines it to be on Friday morning. But be that as it may, I don't want to argue with you, because you have been here two days and you may be here a third. Wait, wait, I want to – I want you to continue that line of questioning and just have him answer the question.

QUESTIONS BY MR. MILSTEIN OF HOWARD K. STERN:

Q Under the last Will and Testament of Vickie Lynn Marshall, you were named as the Guardian on behalf of her son, Daniel; is that correct?

A That's correct.

Q If the Court upholds the Will and if the Court indicates that, you would then be the Guardian for Dannielynn. Would you then be entitled to a fee and the Guardian of her property?

A I don't know if I would be. I would waive that.

Q You were anticipating my question. Under the Last Will and Testament of Vickie Lynn Marshall, you are also named as trustee on behalf of Daniel; is that correct?

A I believe so.

Q Would you then be entitled to a trustee's fee under that Will?

A Some answer, I don't know. But if I would be entitled to it, I would waive it and I am saying it here, right now in front of the world.

Q Mr. Stern, are you still, at the time of the death of Anna Nicole Smith, were you representing her with regard to any of the litigation involving the estate of her late husband, J. Howard Marshall?

A Yes

Q Were you under a direct retainer with Anna Nicole Smith with regard to that estate litigation?

A Yes, it was a contingency fee arrangement.

THE COURT: Is that litigation still pending?

STERN: Yes, it is.

THE COURT: What is the potential return on that?

STERN: Well, right now we have a judgment in the 9th Circuit that is worth approximately 100 million-dollars, but it's on appeal.

THE COURT: What is your piece of that? What is your share of that amount?

MR. MILSTEIN: Your Honor –

THE COURT: Am I going into –

MR. MILSTEIN: It's attorney/client privilege.

THE COURT: Strike that question.

MR. MILSTEIN: There is no one here speaking on behalf of Ms. Smith. I am asking the question.

THE COURT: Well, we have 100 million dollars and he has a contingency, so is it 33 or 40 –

STERN: No, no. I think it is about five percent.

THE COURT: Do we know that to be a fact?

MS. BARTH: I have no knowledge. He would have knowledge.

THE COURT: Five?

MR. RALE: I believe it's six percent.

THE COURT: So it's a little Florida lottery of 6 million.

MR. MILSTEIN: I have no further question.

(Request by Ms. Brown to question the witness. Judge tells Mr. O'Quinn to go ahead and finish)

QUESTIONS BY MR. O'QUINN OF HOWARD K. STERN:

Q Since Anna's body is no longer alive, how is Anna Nicole going to support you?

A She is not going to. I am going to go back to work. I am not an incompetent person.

Q Where are you going to go back to work?

A Sir, I went to a good college. I went to a good law school. I have skills. Now in terms of what I am going to do, honestly, right now, I am trying to deal with the death of Anna Nicole and I have not thought about it.

Q How are you paying the bills?

A I told you, my parents sent me money.

THE COURT: I see, okay.

Q You said that when her son died, Daniel, Anna Nicole became a different person?

A Uh-huh.

Q And what did you do to help Anna Nicole as a different person?

A I tried to be there for her in every way.

Q Did you handle any of the financial issues?

A She had her own bank accounts. I have – I was never a signatory to any of her accounts. Every asset was put in her name.

Q Yes or no, are you swearing under oath, sir, that you had nothing to do with handling the financial matters of Anna Nicole after she became an entirely a different person because of the death of her son?

A I helped her with things, but everything was put in her name. I was very, very certain. It was my demand to do that. Even with the Anna Nicole Show, I made sure she was the only person who was a member of the union. Sir, you can try to mock me, but in my entire time with Anna, I have always emphasized that everything had to be in her name and only her name.

Q Sir, did you ever have authority to sign checks for her?

A She did. She would let me sign some checks.

Q So you signed checks in her account?

A Upon her direction, but not since we have been in the Bahamas.

Q My question, sir, to you, however, did you ever have authority with some documents in the bank to sign on her account?

A No, not with the bank.

Q But you did sign checks on her bank account from time to time; did you not?

A When she would tell me to, yes.

Q Did you know that there were a number of medications that she was on? Did you help her in that regard?

A What do you want – did I help her?

Q If she was on medication?

QUESTIONS BY THE COURT OF HOWARD K. STERN:

Q I want to get into that.

A Sir, she had doctors.

Q Was she on drugs during the period of time, in the almost 11 years?

A Your Honor, I mean, I would prefer not to talk about Anna and her medical history and try to muddy her, which I know Ms. Arthur's counsel is trying to do. She always had a doctor.

Q Wait, wait. Are you objecting to that line of questioning about her drug condition, her mental condition?

MR. RALE: Yes, to the extent that Howard Stern is not an expert as to her medical condition.

THE COURT: What drugs was she on in the last ten years. Do you have it?

MR. MILSTEIN: Your Honor, on behalf of the child, I would like that this not become public record, because it is something that the child would have to deal with in her life.

THE COURT: Then I am going to have you ask the question.

STERN; You Honor, if you are going to ask me if she was on some prescription medication –

MR. O'QUINN: I'll tell what I am to go to a different subject.

THE COURT: No, I want to see where I can go with this. I want to see where I can go. Milstein, take me.

MR. MILSTEIN: Your Honor, I apologize. I feel I am put in an odd position. Let me explain why I have objected to the inquiry of Mr. O'Quinn as to any of the drugs or medication that Anna Nicole Smith may have taken, whether they be prescribed or otherwise, because I believe that may be demeaning of the memory of Anna Nicole Smith, which will then cast something on her that her daughter will see or know in the future. For me then to ask questions, I would like to have a line of objections to any questions, unless it can be shown that these issues are paramount to the intent of Ms. Smith, which has been presented by –

THE COURT: Here is the dilemma I am in. You are bringing forth a document, a purported Will. He would say if he was doing probate, what mental capacity did she have?

MS. BARTH: I would say that argument is only for a later day, because today –

THE COURT: Wait a second. You want me to look at this document to say what the intent is?

MS BARTH: No.

THE COURT: That in that document, it says he should make that decision.

MS. BARTH: No, Your Honor. I have never asked that Mr. Stern make the decision as to where Anna lays. I am saying that only as he sits here as the nominated personal representative, whether it's Mr. Stern or Mr. Rale, I don't care who does it. As long as it is done where Anna wanted it. And I believe under Cohen that's decedent's last expression of where she wants to lay. That is what we are talking about today.

THE COURT: Well, when he is testifying and –

MS. BARTH: You know, you can disregard all of his testimony and I will put on ten other witness' that knew her.

THE COURT: You are not satisfied with his testimony?

MS. BARTH: I am happy. But if there is some specter and my client – I will tell you I have several people that you might be put up here.

THE COURT: I have got one honest man, if there is an honest man among us. This is your client, you are bringing forth the concept of this case that you were going to two-prong the test.

MS. BARTH: Absolutely, Judge.

THE COURT: I have a purported Will that says this fellow, Mr. Stern, is the Administrator Ad Litem. And then you are saying second prong on my test is where she should be buried. She spoke to him many times and this is what she wants. Well, if I am going to believe him, I have to believe him. You are challenging his credibility.

MR. O'QUINN: Exactly.

MS. BARTH: They are challenging his credibility.

THE COURT: Well, of course.

MS. BARTH: I am saying as an offer of proof.

THE COURT: You want to try his case for him?

MS. BARTH: No, I want to say, is that all we need to prove my case, and I am the moving party is, if I can show by a preponderance of the evidence that his is what Anna wanted, that the decedent controls. We are making it about – we are trying to respect – we are disparaging here.

THE COURT: You have the video. What condition was she in?

MS. BARTH: I can bring in some other people.

MS OPRI: This goes to impeachment.

THE COURT: Easy.

MS. OPRI: Her state of mind.

THE COURT: We are going to follow the path that the Court wants for the next day and a half. It's a path that we chose and I believe I am making a ruling. I believe that her capacity is at issue. It's absolutely at issue.

MS. HASS: Thank you.

THE COURT: You want to limit my scope when it's not going exactly the way it should be going. But you are not writing this book. It's evolving. It's coming out, absolutely. Her capacity is at issue and you would have normally challenged Texas when the video was shown before. The video was shown. You were going to say what was her capacity when the video was filmed. Was she sober or under the influence of alcohol or drugs. Were he normal faculties impaired?

MR. RALE: May I be heard on that?

THE COURT: Rale, you are doing fine.

MS. HASS: That means no.

MR. RALE: Does that mean no?

THE COURT: That means no. Then on the other hand, we are supposed to heal a family, this family. I am supposed to heal it and I am supposed to keep this family together, which was my goal. When you say, what does Dannielynn have, she is the child that we have to pick up the pieces for. I got to get Mr. Stern, Larry and Grandma to somehow, at one point in time, come to the same table and help this child prosper. But my mission today is one of burial. I need to know intent and I need to know the statute.

MR. MILSTEIN: Your Honor, respectfully, the position of Dannielynn is, she is the one to make the decision. Because under Florida law and the common law, she is the next of kin under 732 and, therefore, that would make the intent with regard to any substances used by her mother, would be immaterial.

THE COURT: I think you all skipped that. You are missing it and he is going to argue it again.

(Argument continues between the attorneys and The Court concerning the relevance of Anna Nicole's state of mind)

THE COURT: It's my time to pontificate. I am going to make a decision and it is short. If she had any drug use, I am going to allow it. I need to have it. I need to know it. I need to know it.

MR. RALE: Judge –

MS. BROWN: Judge, you can ask the questions yourself.

MR. O'QUINN: Why can't I ask? I am the only lawyer that is not allowed to ask my own questions?

THE COURT: You know, when I used to teach tennis, you used to wear white shorts, and a white top. It always looked good, you look good.

MR. O'QUINN: Thank you.

MR. MILSTEIN: I want a standing objection, so I won't have to waste time.

QUESTIONS BY THE COURT OF HOWARD K. STERN:

Q Give me a minute. Let me ask a few questions. You can ask a few and I will ask a few. Let me start off with a few.

Was Anna Nicole Smith taking drugs for the past three years?

A Anna Nicole was on prescription medication at different times. When you say drugs, I don't want to say she was using anything illegal.

Q Was she abusing these drugs? Was she taking too many of them?

A I am not a doctor. I am not a doctor. What I would say is this, is that –

Q These drugs were prescriptions?

A Yes.

Q What were they, if they were prescriptions, it's public record. It is going to be out there. What drugs were they? Do you have a list of them?

MR. O'QUINN: Yes.

THE COURT: I would have to put on –

MS. BARTH: Can he represent where he got the drugs that she was allegedly taking?

THE COURT: I am not going to read them, because I cannot pronounce them.

MR. O'QUINN: Narcotics.

MS. BARTH: No foundation. I mean, is this a list they took off the Internet, I am not sure.

THE COURT: I have a better way to ask. What prescription drugs did she partake in?

MR. STERN: You are talking about after Daniel died?

THE COURT: I am talking in the last three years, when was it?

MR. O'QUINN: What year?

THE COURT: 2001

MR. O'QUINN: Your Honor.

MR. STERN: Anybody who cares about Anna Nicole, would not go through this inquiry.

THE COURT: Well, you guys, he makes these running statements. You got to advise him not to, because he is going to fall into a bear trap. I can call his bluff.

MR. RALE: Your Honor, may I make one suggestion?

THE COURT: Yes.

MR. RALE: Thank you. My objection, if we are talking a ten year period –

THE COURT: We are going to go to the year before the Will was signed.

MR. RALE: If we can have specific incident where there was intent, like there was test, for example, when Virgie took the stand. When she said my daughter wants to be buried next to Marilyn Monroe and inquire about her intent at that time.

THE COURT: You guys always want to narrow it.

QUESTIONS BY THE COURT OF HOWARD K. STERN:

Q During the year 2000 and up to today's date, what medications did she place in her body?

A Your Honor, I could not be sure of every medication that she placed in her body.

Q Tell me a few.

A I know at one time she was on a medication called Topamax.

Q What is that?

A I am not a doctor, Your Honor.

Q What else?

MR. O'QUINN: Say that name again.

A Topamax.

Q What else?

A Your Honor, is this really necessary?

Q Well, you know, you came knocking on my door. There is a tape out there and when you look on that tape – it means, I find it to be necessary.

A I mean – you heard why, you heard the legal argument. It's not right to do this to somebody after they died.

THE COURT: I think you need to instruct your witness to respond to the Court's question, because I don't want to get into an argument with him. You can quietly come up and talk to him, because you have been so cooperative.

MR. ROSS: During this lull –

THE COURT: No, no. I am resting my mind for a second.

MS. OPRI: Let the record reflect that he is leaving the witness stand.

THE COURT: No, no leaving.

MS. BARTH: We are trying to get away from the microphone.

THE COURT: He is instructed to answer the question. Please proceed. That you, Ms. Barth.

QUESTIONS BY THE COURT OF HOWARD K. STERN:

Q All right. Were there times that she went into drug rehab centers?

A She went into Betty Ford.

Q Year and place?

A I am not sure of the exact year. It was before I was around.

Q Was it prior to 1996?

A It was prior to that.

Q Did she go into rehab centers after 1996?

A Not into a rehab center, no.

Q Did she need to go to a rehab center?

A I guess that would be open to interpretation.

Q Well, what was your interpretation?

A Anna Nicole took prescription medication at time for depression. She did –

Q Did she have more than one doctor prescribing these drugs?

A Not that I am aware of.

Q These drugs all came from one doctor?

A Well, at different times, she had different doctors. Are you saying –

Q I am asking, did she have prescription drugs at the same time from different doctors, were they get multiple drugs from doctors. Did Dr. “A” not know Dr. “B” was prescribing drugs?

A She had more than one doctor. I believe the doctors knew about each other.

THE COURT: I am going to briefly allow you to get into this. You may begin now.

MR. O’QUINN: Thank you.

QUESTIONS BY MR. O’QUINN OF HOWARD K. STERN:

Q Where the drugs kept inside the home?

A Which home?

Q The one that Anna Nicole owned that you lived in with her.

A You got to give me a timeframe.

THE COURT: You want to go more recently?

MR. STERN: Yes.

THE COURT: Fine. The Bahamas.

MR. STERN: She kept her medication in two drawers in the bathroom.

QUESTIONS BY THE COURT OF HOWARD K. STERN:

Q Could you have stopped her from taking these prescription drugs, could you have stopped it?

A Your Honor, after her son passed away –

Q Prior?

A I talked to her about it. I talked to her about it and she did cut down a lot on the medication that she took. Can anybody stop someone else entirely – we are jumping the gun here because.

Q I am not jumping the gun. I got a gun to my head and got to decide by Friday at noon.

A Anna, when she made her decisions, she was pretty clear on her decisions and I don’t think medication influenced her decision. It was not like Anna was medicated all the time or she could not talk. She formed an intent and she had made it clear to many people.

Q That video that we saw the other day, is that her normal state of addressing someone?

A What you saw on the video, yes, that is how Anna Nicole talks. That is how she talked since I have known her. I mean, there are times when she is more impaired than that.

Q More impaired? Was she impaired? You said more impaired. More impaired, was she under the influence then?

A No, I don't think so.

Q Well, you said she was more impaired than that?

A I am saying that her –

Q She was impaired a little bit?

A No, no. What I said was when she formed her thoughts, she knew what she wanted.

Q I can have the court reporter read this back, but I don't want to spend a half an hour –

A By more impaired, I did not mean she was more impaired. When you asked me that statement, you asked me was that her normal frame of mind and what I was trying to get across, with medication she was impaired, but in terms of where she wanted to be laid to rest.

Q No, no, no. Don't give me conclusions.

A There is no question.

Q I appreciate that. I don't want conclusion. It's going to be fortunately, the Court's ultimate conclusion.

THE COURT: You may proceed.

MR. O'QUINN: Thank you, Your Honor.

QUESTIONS BY MR. O'QUINN OF HOWARD K. STERN:

Q The drugs, where you lived at the house, were kept in two drawers in the bathroom, correct?

A For the most part, yes.

Q Where else were they kept? You said for the most part, they must have been kept some other place too.

A In terms of medication she took after Daniel passed, they were either in two drawers in the bathroom or it would have been on the cabinet in the bathroom.

THE COURT: Did Danny try to stop her from taking drugs?

MR. STERN: Yes.

THE COURT: Did he talk to her about it?

MR. STERN: Yes.

QUESTIONS BY THE COURT OF HOWARD K. STERN:

Q Did he have any success for any day?

A It's not like she was impaired –

Q Answer that question. Did Danny have any success when he spoke to her about drugs?

A She would go back and forth, depending on what was going on in her life. When she was more stressed out, she would take more medication.

Q Did she ever get psychiatric care or psychological care?

A Yes.

Q How recent was that?

A She had a psychologist.

Q What year?

A Actually, she had a psychiatrist after Daniel's passing.

Q How about prior?

A I believe she had a psychologist.

Q What state?

A Through the – I'm not really sure. I might have been. California, it was not somebody that I knew very well.

Q And that was since your arrival with her in 1996?

A No, he knew her before.

Q And she continue to see him as a patient?

A Off and on, but I believe that ended.

Q What year?

A And I want to say around 2000.

Q Phrase to me or give your impression of her mental status.

A I think that Anna had a very clear head at times. I think at other times, her head was not as clear.

Q Why was it not as clear?

A Well, a lot of time it would be just because she could not deal with the pressure that she was put under.

Q And when her head was not clear, was it – was drugs contributing to that fog?

A Sometimes, sometimes not. Sometimes not, but –

Q Was it –

A I mean, Anna –

Q Was it difficult for you to pull her out of that maze?

A After Daniel passed?

Q Prior to Danny's death, prior to Danny's death. Daniel's death.

A The Court litigation put a lot of pressure on her.

THE COURT: Just to clear the air, parents do not want to predecease their child. You can proceed.

MR. O'QUINN: Thank you.

QUESTIONS BY MR. O'QUINN OF HOWARD K. STERN:

Q Is it a fact that one of the drugs she took was methadone?

A She took methadone, but not during, in my presence, not over the last five months.

Q She took it prior to the last five months?

A She did.

Q And are you aware that methadone is a narcotic?

A Sir, I know it's a prescription medicine, it may or may not be a narcotic.

Q Who was the doctor that you say prescribed the drugs?

A It was a doctor named Dr. Capoor.

Q Was he in the Bahamas?

A No, it's all over the media, C-A-P-O-O-R.

Q How about a Dr. Christian?

A Christian.

Q Yes did you ever know a doctor or a man named Dr. Christian that had to do with these drugs?

A I don't know a Dr. Christian.

Q Okay. Did she take Hydromorphone or Morphine? Did she also take a narc for hydromorphone or Dilaudid?

A Dilaudid. There were times when she took Dilaudid. I am not familiar with the other one, but it's possible. I have a feeling what is going on – forget it. Go on.

MR. RALE: In California, we have something called Evidence Code 352.

THE COURT: Where else do you want to go here?

MR. O'QUINN: I am stopping.

THE COURT: Where else do you want to go with him?

MR. O'QUINN: On the matter of drugs, other drugs?

MR. STERN: She did not take all of these drugs at the same time.

THE COURT: No, no. Anything else. Any other questions you want to ask him?

MR. O'QUINN: Yes.

THE COURT: You may not see him for a while. He may not be on the stand, because I want to let him know if he comes tomorrow, he will not be on the witness stand.

MR. RALE: Thank you.

MS. BROWN: I have limited questions.

THE COURT: You had a lot of time a lot of us have been usurping the stand and was on your side. What area do you want to go into, what area?

MR. O'QUINN: How many life insurance policies were on the life of Anna Nicole?

MR. STERN: I don't think there were any.

MR. O'QUINN: None?

MR. STERN: No.

THE COURT: You would know the answer if we had depositions. Let the record reflect, don't blame your lawyer for some of these questions, where he would have had a depositions. So he never asked the questions before and you don't get the answer you don't want.

MR. O'QUINN: You normally know what the witness is going to say.

QUESTIONS BY MR. O'QUINN OF HOWARD K. STERN:

Q Did Anna Nicole die on April the 8th of this year?

A No.

Q February the 8th. What day did she die on?

A February 8th.

Q Was that a Thursday?

A Yes.

Q Thursday, February 8th, 2007. Did you all leave the Bahamas to come to Florida before that death, on Monday of that same week?

A Yes.

Q Monday morning, wasn't it?

A No, I don't think it was Monday morning. I think it was later.

Q Sometime on Monday?

A Uh-huh.

Q And she was in Florida for three days and died, correct?

A Yes, sir.

Q And you were with her at that time; were you not?

A No, sir, I was not with her when she died.

Q Were you staying in the same hotel room or not?

A Yes.

Q Were you all eating meals together or not?

A Sometimes.

Q Were you doing things together or not?

A She did not leave the hotel room, sir.

Q I did not hear your answer.

A I said, she did not leave the hotel room, sir.

Q So from the time you got here on Monday, she did not leave the hotel room on Monday, Tuesday, Wednesday, up until she died in the hotel room on Thursday, is that your testimony?

A That's correct.

Q Now, this man right here, is it true, has been your law partner?

A Yes.

Q He is your friend?

A Yes.

Q His name is the second name, the back up name to be the executor under the Will?

A I see where you are going to go with this.

THE COURT: Don't wear the lawyer hat.

MR. STERN: Okay.

Q He is named as the second to be the executor after you, is that not true, in this purported Will?

A Yes.

Q His name is Ron Rale?

A Uh-huh.

Q Correct?

A Yes.

Q His middle initial is "A"; is that not correct?

A I don't know his middle initial.

MS. BARTH: If I may say, this is from a fax header from Mr. Rale to me.

THE COURT: I am missing it.

MR. RALE: Let it go. We'll wait for it.

MS. BARTH: It is so preposterous.

Q Are you telling the truth that he faxed you the Will?

A He didn't fax it to me.

Q Who did he fax it to?

A After Anna passed and there was a question as to who would be able to carry out her wish as to her burial, I called up Ron and Ron went to the lawyer that drafted the Will, he got it from him and I think that he faxed it to Krista Barth. And, I also because this came up on TMZ yesterday that they, at the top of the page is an incorrect date and you can ask Your Honor about that.

Q You can say it's incorrect, but it is, what it is, an 818 area code and being Mr. Rale's fax machine?

A No, I don't know Mr. Rale's fax machine.

Q Is it not true that the machine left the fax number and the date was February the Third of 2007; is that true. February 3rd of –

MR. RALE: No foundation, Your Honor.

MR. O'QUINN: It's on the documentation. You put the document in evidence.

MR. STERN: Your Honor, this is such a red herring.

MR. RALE: This is such ---

THE COURT: Objection is overruled.

Q February 3rd of 2007, approximately five days before Anna died, you called this gentleman, your friend, and said, fax a copy of the Will; is that not true?

A No, that is not true. That is absolutely not true. That is absolutely not true. I told you that I didn't talk to Ron about getting the Will until after Anna had passed. Sir, you are trying to make something –

Q What was the reason for this in your hotel room that died, why was this Will searched for, why?

A I appreciated your theatrics, but I did not call Ron until afterward.

Q But the fact is you didn't answer my question. Was there any reason to be asking for the Will five days before this lady died?

MS. BARTH: Asked and answered. He didn't ask for the Will. That is a fact.

MS. OPRI: Speaking objection.

THE COURT: Yes. Your objection is overruled. Just answer it now and you are done with that question.

MR. STERN: To my knowledge, nobody asked to have any Will faxed on that date.

MR. O'QUINN: That is not my question. Was there any reason for you or your lawyer friend, Rale, to be looking for the Will, five days before this lady died?

MR. STERN: No. And we weren't.

MR. O'QUINN: But the fax shows different, sir. It shows it was faxed on the 3rd day of February, it does.

MR. STERN: Again, I appreciate the theatrics.

THE COURT: Let's move on.

MS. BARTH: I am attempting to contact my office to get the fax log, but I don't want to be breaking any rules.

THE COURT: Just have a seat. Just have a seat. This Court is instructing you to have a seat.

MR. RALE: Thank you, Your Honor.

MR. O'QUINN: Sir, do you want us to believe that even if the Will was faxed on the 3rd day of February, you want us to believe –

MR. STERN: It was not faxed –

MR. O'QUINN: You did not know this happening?

THE COURT: You are going to be done in a few minutes.

MR. STERN: To my knowledge, and I am pretty sure, actually I am positive, that there is no Will that was faxed on the 3rd. I am positive of it. You can submit the Will if you want, but I am positive.

THE COURT: What else? What other area? It is getting late.

QUESTIONS BY MR. O'QUINN OF HOWARD K. STERN:

Q Is there a fax machine at the house that you live in?

A In the Bahamas?

Q Yes.

A Yes, there is.

Q Did you go back to that house in the Bahamas – were you at the house in the Bahamas the night before you left on Monday to go to Florida?

A Yes.

Q You said you left to go to Florida on Monday before the eighth. Were you in the house that night?

A Yes.

Q Okay. Were you in the house the week before you all went to Florida?

A Yes.

Q Did you all take any other trips before the week in Florida?

A No.

Q I want to show you checks on the bank account of Vickie Lynn Marshall, who is the same person as Anna Nicole Smith, true or not?

A Yes.

Q Is that top check an example of where you signed her name for her on her bank account?

A And this is dated November 29th, 2006.

Q Got it. Who is that made payable to?

A This is a maid. This is one of the maids in the house.

Q What is her name, please?

A (unintelligible) Alexis

THE COURT: Are you going to publish it to the Court?

MR. O'QUINN: Sure.

(Document is entered into evidence by the Clerk)

MS. BARTH: Can we see a copy?

MR. STERN: Your Honor, I have a question, because documents were stolen from the house and I am curious, this is from a checkbook that was taken from our house, Your Honor.

THE COURT: We are all getting tired and punchy. You can ask some more.

MR. O'QUINN: Okay.

MS. BARTH: I did not get a chance to see what he was actually –

MR. STERN: It was a check made out to an individual in the Bahamas.

MS. BARTH: Can I see it? May I approach?

Q Does this document bear your signature?

A Yes, it does. This is the one that I believe my attorney moved into evidence. This is from Lakeveiw Memorial Gardens.

Q Okay. According to this document, who is the individual who bought this burial plot?

A As I explained in my direct –

Q I am asking you –

A Anna instructed me to go and do it and she was the one that wrote the letter to the bank to pay for it.

THE COURT: How much is that for?

MR. O'QUINN: The total amount he wants to know \$3,600, I believe, right?

MR. STERN: No, I think it's \$7,200. There are two of these and it was \$7,200 for both.

MS BARTH: That's for both.

THE COURT: This is the plot in the Bahamas?

MR. STERN: Two double plots.

THE COURT: Have you picked out one for yourself?

MR. STERN: I was going to be in the other one. Anna was clear on that.

THE COURT: Did you think it was unusual for a woman this young to be looking at plots?

MS. BARTH: Her son –

MR. STERN: Most people, I think, don't really think about their own mortality, but when Daniel died, she was forced to think about it. She was doing it in the context of where are we going to be.

THE COURT: Do you have anything else?

QUESTIONS BY MR. O'QUINN OF HOWARD K. STERN:

Q Regarding you last answer, sir, Daniel died of drugs?

A There is still an inquest, but that is what the toxicologist said. It was a drug interaction.

Q And Anna was having problems fighting drugs herself?

A I would not define it that way, but she did take medication.

Q What did you do, sir, to help her get off the drugs?

(Discussion between the lawyers and The Court)

MR. O'QUINN: Okay. Now, just as my client was asked for very carefully, have you ever had any deal or contract regarding publicity involving the death of Daniel?

MR. STERN: Have I, no.

MR. O'QUINN: Did Anna?

MR. STERN: No. Anna had a contract with Getty Images, where she would like license a picture to Getty Images, but it was all in Vickie Marshall's names. Any proceeds went to Vickie Marshall.

MR. O'QUINN: Did you have a contract or name of deal with any company or person regarding publicity regarding the death of Anna.

MR. STERN: Do I, no.

(Discussion between the lawyers and The Court)

QUESTIONS BY MR. O'QUINN OF HOWARD K. STERN:

Q Did you ever pick up prescription pills for Anna or order them, did you?

MS. BARTH: Objection. What does this have to do –

MR. O'QUINN: -- in the last three years?

THE COURT: Objection, overruled.

MR. STERN: Yes.

THE COURT: We are done, Texas. We appreciate all of those questions. We appreciate it. You are done.

MS. OPRI: Come back tomorrow?

THE COURT: No, we are going to keep going. You can now begin to ask questions.

MS. OPRI: Thank you.

MR. O'QUINN: Your Honor, I object to any cross examination being terminated.

THE COURT: Fine.

QUESTIONS BY MS. OPRI OF HOWARD K. STERN:

Q Good afternoon, Mr. Stern. You know who I am. Did Anna keep a computer?

A She had two computers that were stolen from the house.

Q The answer is yes or no?

A Yes, she had a computer.

Q Did she maintain a password for her computer?

A Yes.

Q Did you know the password?

A Yes.

Q Did she maintain a checking account where you were a signatory, where you were a signatory?

A No.

Q Did she have a corporation where you were?

MS. BARTH: Objection. How does this go to Anna Nicole Smith as to burial?

MR. STERN: I believe I was an agent for service of process.

THE COURT: The issue of money, we got money and we have heart. She is chasing the issue about the money. It's relevant. Your objection is overrule.

MS. OPRI: Thank you.

THE COURT: You're welcome.

MR. STERN: I believe I was an agent for service of process for her corporation, but I don't think I was an officer.

QUESTIONS BY MS. OPRI OF HOWARD K. STERN:

Q You don't know if you signed checks for the corporations or not?

A She would instruct me to sign checks. Her main check was through the corporation.

Q So the answer is, yes, you signed the checks for the corporation?

A Yes, I signed her name upon her instruction.

Q So you signed Anna Nicole's name to checks?

A It was not Anna Nicole, it was Vickie Marshall.

Q While we are on the subject, what was her alias or other names she used?

(objection by Ms. Barth, overruled)

A She only had a few. Anna Nicole Smith, Vickie Marshall, Vickie Hogan, Vickie Smith. Then doctors, some doctors prescribed things to her in different names, even though they knew it was for her. One of those names was Michelle Chase, another name was Susan Wong. These were at different time though. At hotels, she went by Mrs. Flintstone. I mean, she went by a lot of different things in different context. She went by Norma Jean.

Q Did you often pick up prescriptions for her at various pharmacies under these names?

A I believe that is asked and answered.

MR. RALE: What are you going to invoke a privilege. Right to privacy of the decedent.

MS. BARTH: Asked and answered.

MR. O'QUINN: We want the truth.

THE COURT: I told you –

MR. O'QUINN: It's the trump card.

THE COURT: One at a time. Texas, you got your line in. Have a seat.

MR. STERN: In Los Angeles, Anna did not drive.

QUESTIONS BY MS. OPRI OF HOWARD K. STERN:

Q So the answer is, yes, sir?

A I picked up prescriptions for her, yes, other people did.

Q Did you have a debit card tied to Anna Nicole's checking account?

A Do I?

MR. RALE: Objection.

MR. STERN: I think she got one, but it was never activated.

MS. OPRI: Speaking objections.

THE COURT: Only one voice to be heard in this courtroom.

MR. RALE: I know we have not had discovery, but the basis of foundation, it's like a fruit and poisonous tree. I don't know where she is coming up with this information.

THE COURT: I am going to give her some leeway. She has been quiet for a bunch of day.

MR. STERN: I think she had one made in my name and we never activated it and that was years ago.

QUESTIONS BY MS. OPRI OF HOWARD K. STERN:

Q Did you ever charge anything using her credit cards?

A Sure, with her permission.

Q Are you aware of a forgery investigation that has just been opened for forged checks where cash has been going to Santa Monica, California?

A No, I am absolutely not.

Q Were you an officer of Anna's?

THE COURT: New question.

Q Were you interactive –

A I ran Anna's Nicole's website.

Q Were you an officer of that?

A I don't know. I don't know. I never received any funds from it.

Q Did you open it?

A No.

THE COURT: How is this going to help?

MS. OPRI: Are you the biological father?

(Objection by Ms. Barth. Argument between lawyers and The Court. Discussion of mistaken date on the Fax and the schedule for court the next day. The judge ends Mr. Sterns testimony for the day. Mr. Birkhead is called to the stand.)