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

CASE NO.: CACE22001852
DIVISION: 04

KAMEKA MANAGEMENT SOLUTIONS, INC., et al.,

Plaintiff(s)/Petitioners(s),

-vs-

16260 SADDLE CLUB ROAD, LLC, et al.,

Defendant(s)/Respondent(s).

_____/

Proceedings had and taken place before the Honorable William W. Haury, Jr., one of the Judges of said Court, at 201 Southeast 6th Street, Fort Lauderdale, Florida, 33301, on Monday, the 21st day of August 2023, commencing at the hour of 10:30 a.m., and being a Hearing.

APPEARANCES:

On Behalf of the Plaintiffs/Petitioners:

COHEN LAW

2332 Galiano Street, Floor 2

Coral Gables, Florida 33134-5402

[redacted]

BY: DANIELLE COHEN, ESQUIRE

BY: KEITH GAUDIOSO, ESQUIRE

On Behalf of the Defendants/Respondents:

THE ROSENBLATT LAW FIRM

7695 Southwest 104th Street, Floor 2

Miami, Florida 33156-3159

[redacted]

BY: ROBERT A. ROSENBLATT, ESQUIRE

Also Present:

Ryan Burke, DEFENDANT

Karim Kameka, PLAINTIFFS' REPRESENTATIVE

Shirley Lowe, WITNESS/CEO OF L&L PROCESS

Clerk of Court

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(Thereupon, the following proceedings were had:)

THE COURT: Now, folks, good morning.

MS. COHEN: Good morning.

MR. ROSENBLATT: Good morning, Your Honor.

THE COURT: Do we have everybody?

MS. COHEN: We do, Your Honor.

MR. ROSENBLATT: We do, Your Honor.

THE COURT: Okay. You're Mr. Gaudioso?

MR. GAUDIOSO: Yes.

THE COURT: All right. Good morning. And who do you have with you?

MR. GAUDIOSO: Danielle Cohen, Cohen Law, and our Plaintiffs' representative is Karim Kameka here with me today.

THE COURT: Now, folks, good morning. And, Mr. Rosenblatt, good morning again.

MR. ROSENBLATT: Good morning, Your Honor. To my left is my client, Ryan Burke.

THE COURT: Mr. Burke, good morning.

MR. BURKE: Good morning, Your Honor.

THE COURT: Mr. Rosenblatt, I believe this is your motion.

MR. ROSENBLATT: Yes, sir. I call Mr. Burke, the witness.

THE COURT: Very well.

MR. ROSENBLATT: Where would you like to do it?

THE COURT: Well, wherever you would like him assigned.

MR. ROSENBLATT: You want to go up there to the podium?

MR. BURKE: That's fine.

MR. ROSENBLATT: Is the podium okay, Your Honor?

THE COURT: Yep, podium's fine.

THE CLERK: Would you like me to swear him in?

THE COURT: I do.

THE CLERK: Mr. Burke, would you raise your right hand?

RYAN BURKE,

having been first duly sworn and responding, "I do," was examined and testified as follows:

THE CLERK: Please state your name for the record.

THE WITNESS: Ryan Burke.

THE CLERK: Spell your last name, please.

THE WITNESS: B-U-R-K-E.

THE CLERK: Thank you.

MR. ROSENBLATT: May I proceed, Your Honor?

THE COURT: You may.

MR. GAUDIOSO: Your Honor, if I may. I'd be

more comfortable if Mr. Burke sat in the witness chair, so I could --

THE COURT: So you're not looking at his back. That's fine.

MR. GAUDIOSO: Thank you, Your Honor.

THE COURT: Now, Mr. Burke, would you like to come forward?

THE WITNESS: Sure, not a problem.

THE COURT: Thank you.

DIRECT EXAMINATION

BY MR. ROSENBLATT:

Q. Mr. Burke, will you tell the Court, please, your name and your address?

A. Ryan Burke. The address is [redacted]

Q. Okay. And how long have you lived at that address, sir?

A. Approximately 13 years, since 2010.

Q. Are you married?

A. I am.

[redacted]f?

A. My wife and four children.

Q. Okay. And could you tell His Honor your occupation?

A. I'm in the entertainment space, concert

promotor, talent manager, record executive. I do a little bit of everything in the concert space, booking agent.

Q. And in those capacities, did you have an opportunity to travel to Las Vegas, Nevada, on April 1st to attend a Grammy Awards?

A. That is correct.

Q. Now, I have in front me Plaintiffs' Exhibits 1 through 8, which were previously filed with the Court.

Can you take a look at Exhibit 1, please?

A. I'm looking at it.

Q. Will you tell His Honor what that represents?

A. It's a Grammy ceremony. It's an event that took place for the Grammys.

Q. And did you take that photograph?

A. That was actually an invite.

Q. Oh, that's an invite. Okay. And Exhibit 2 -- let me ask you this. When did you leave Fort Lauderdale to travel to Las Vegas?

A. It was on April 1st.

Q. Of what year?

A. 2022.

Q. Okay. And how did you travel?

A. By plane.

Q. What airline?

A. I don't know. I don't recall.

Q. Okay. We'll get to that in a minute. Look -- I'll show you what's -- as Exhibit 2. Can you tell the Court what that represents?

A. Exhibit 2?

Q. Yes, sir.

A. It's the hotel that I stayed at in Vegas.

Q. It's right after Exhibit 1.

A. Yeah, I'm looking. That's the ARIA Resort & Casino.

Q. And did you stay there?

A. I did.

Q. When did you check in?

A. April 1st.

Q. And does Exhibit 2 represent a hotel booking receipt for April 1st at that resort?

A. It does.

Q. And what time did you check in?

A. I don't recall the time.

Q. Okay. It has a date on there?

A. It --

Q. The top left?

A. Yes.

Q. What is that date?

A. April 1, 2022.

Q. At what time?

A. 6:00 o'clock, 6:06 p.m.

Q. Okay. Did you subsequently attend the Grammy Awards?

A. I went to all the events.

Q. Okay. Will you look at Exhibit 3, please?

A. I'm looking at it.

Q. How long did you stay at the -- the first time you stayed at the ARIA Resort? You checked in April 1st?

A. That's correct.

Q. Do you recall when you checked out?

A. I -- I -- I don't -- I don't recall. I don't recall.

Q. Did you subsequently check back into the ARIA Resort --

A. Yes.

Q. -- Resort & Casino?

A. Yes.

Q. Would you look at Exhibit 3, please?

A. I'm looking.

Q. Do you recall what day you checked back in?

A. April 9th.

Q. Okay.

A. 2022.

Q. Looking at Exhibit 4, is that a receipt from

April 1st through April 3rd for that resort?

A. Yes, it is.

Q. And the amount was $1,222.00?

A. That's correct.

Q. Okay. So you checked in April 1st, and you checked out April 4th?

A. That is correct.

Q. Okay. During -- between April 4th and April -- April 9th, did you stay with any friends or relatives?

A. I did.

Q. Okay. Did you check back in to that hotel on April the 9th?

A. I did.

Q. Okay. Would you look at Exhibit 5, please?

A. Okay.

Q. Is that an American Airlines record locator?

A. Yes, it is.

Q. Okay. And does that show that there was a departure from Miami to Las Vegas on American Airlines Flight 462?

A. Yes, it does.

Q. And does that indicate that $817.20 was charged to your account for that purchase?

A. Yes, it does.

Q. Would you look at Exhibit 6? Does Exhibit 6 show the return from Las Vegas to Miami?

A. It does.

Q. And what date did you return?

A. April 14, 2022.

Q. Okay. On April 11th, when you were purportedly served, were you in Las Vegas?

A. I was.

Q. Did you ever get served by a process server in this case?

A. I did not.

Q. And does Exhibit 6 also show the amount of money that you paid for American Airlines for that travel?

A. It does.

Q. How much?

A. $817.20.

Q. Okay. Would you look at Exhibit 7, please? Is that part of your credit card?

A. Yes.

Q. Or debit card. I'm sorry. And does that show that a debit card purchase on American Airlines flight, round trip, you made April 1st, returning April 14th of $817.20?

A. That's correct.

Q. And that has a date of April 1st on it as far as the booking date; is that correct?

A. That is correct.

Q. Will you look at Exhibit 8, please? Do you have it in front of you?

A. I do.

Q. Okay. And is Exhibit 8 the receipt?

A. It is.

Q. Okay. And does that show you stayed at the ARIA Hotel from April 9th through April 13th?

A. Yes, it does.

Q. Does it show that you stayed there on April 11th?

A. It does.

Q. And you paid $159.00 for that room on that day?

A. That's correct.

Q. And does that show that the $1,049.00 was charged to your Mastercard?

A. Yes.

Q. Okay. You're familiar with the penalty of perjury; is that correct?

A. Yes.

Q. Is everything you told His Honor the truth today?

A. Yes.

Q. You were in Las Vegas from April 1st to April 14th?

A. That's correct.

Q. And were you ever served with process in this case?

A. I'm sorry?

Q. Were you ever served the -- the process server ever give you the Complaint and Summons --

A. No.

Q. -- in this case?

MR. ROSENBLATT: No further questions, Your Honor.

THE COURT: Thank you.

MR. GAUDIOSO: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. GAUDIOSO:

Q. So, Mr. Burke, you said -- you testified that you're in the entertainment business, you're an account manager, you're a booking agent, marketing consultant, producer, correct?

A. That's correct.

Q. All right. So this trip wasn't a vacation for you; it was a business trip?

A. It was a business trip.

MR. GAUDIOSO: Your Honor, may I approach the witness?

THE COURT: You may.

Q. Now, Mr. Burke, I've handed you what has been marked for identification purposes as Plaintiffs' Exhibit 6.

Were you able -- have you had an opportunity to review this document prior to today's hearing?

A. I don't recall.

Q. Plaintiffs' Exhibit 6 is a Notice to Produce Evidence at this evidentiary hearing.

If you turn to Page 3, which starts out with Schedule A, have you brought any documents with you today responsive to the Notice to Produce?

A. I have -- I have documents in -- in -- that were put in a drop-box folder.

Q. So is it your testimony that you've produced documents to our firm today relative to this hearing?

A. I'm sorry? Can you repeat?

Q. I'm confused by your answer. Did you bring any documents with you today responsive to the request set forth in Schedule A of this Notice to Produce?

MR. ROSENBLATT: Your Honor, please. These are the documents that we've produced previously, but they're the only ones that we have.

THE COURT: So there are no additional documents --

MR. ROSENBLATT: That's correct.

THE COURT: -- with regard to the request for today?

MR. ROSENBLATT: That's correct, Your Honor.

BY MR. GAUDIOSO:

Q. So the Grammys were held on Sunday, April 3rd, and you checked out of the ARIA Hotel the following day, Monday, April 4th, correct?

A. That's correct.

Q. Now, according to your testimony, you checked back into the ARIA Hotel on April 9th of 2022, correct?

A. That is correct.

Q. Where did you stay the evening of April 13th?

A. I'm sorry?

Q. Where did you stay on the evening of April 13th?

A. I was at the ARIA Hotel.

Q. According to your exhibit, No. 8, which you testified to as the receipt for the ARIA Hotel, that shows the booking was from April 9th to April 13th.

Yet you testified that you flew back on April 14th. Where did you stay on the 13th?

A. At the ARIA Hotel.

Q. I'm sorry?

A. At the ARIA Hotel.

Q. You don't have any receipts to -- any receipts or booking statements or anything that reflects that you stayed an extra night at the ARIA Hotel?

A. I've -- I've produced what I have.

Q. Is there any reason why you didn't produce that Response, either to the original Request for Production that was served earlier this year or Response earlier this year, or the Notice to Produce here today that was served by me?

MR. ROSENBLATT: Your Honor, I object to the term "extra night." The document shows he checked in, checked out the 13th, which you leave -- you leave the next day, the 14th. So there's no extra night there that shows that he was there after the 13th.

Q. Do you have Exhibit 8 in front of you, that being Defendants' Exhibit 8?

A. I have Exhibit 8, yes.

Q. Exhibit 8 states or shows that your checkout was scheduled for 11:00 a.m. on April 13th, correct?

A. That's correct.

Q. So if you checked out at 11:00 a.m. on April 13th, and your flight did not leave until the

following day, where did you stay that evening?

A. I stayed at the ARIA Hotel.

Q. But you don't -- you don't have any documents that will substantiate that, correct?

A. No.

Q. You don't have any evidence of your actual checkout from the ARIA Hotel, either on the 13th of April or the 14th of April 2022, correct?

A. What type of evidence are you referring to?

Q. Do you have a final bill showing all your charges, your incidentals, everything else that a hotel will issue you when you, in fact, check out from a hotel?

A. I check out from hotels all the time, and when I leave a hotel, I -- I -- I leave. I don't go to a desk or checkout necessarily.

Q. So the answer's no, you don't have those files?

A. That's correct.

Q. Do you have -- strike that.

In the package of documents that have been produced during the course of this case so far, you've offered no evidence of your transportation, either on April 14th from the hotel to the Las Vegas Airport, correct?

A. I'm sorry?

Q. You have no receipts for your transportation from the hotel to the airport on April 14, 2022, do you?

A. I don't have -- I've -- I've provided what's here. Whatever's not here, I don't have.

Q. But you didn't walk to the airport; you took transportation --

A. That's -- that's -- okay.

Q. -- correct? Okay.

A. But I also was staying with a lot of friends and family as well. I don't necessarily have to take an Uber to the airport.

Q. Well, how did you get to the airport?

A. I just told you. It was a year ago. I don't recall.

Q. You weren't able to produce any boarding passes to reflect that you actually boarded a flight on April 14, 2022?

A. My boarding passes are electronic. They're digital. They go to my Apple Wallet. When they expire, I delete them.

Q. You haven't produced any evidence of your transportation home from Miami International Airport to Sunrise on April 14th, correct?

A. Produced evidence from Miami --

Q. Your transportation from Miami International

Airport --

[redacted]

the airport.

Q. Did she pick you up on that particular day?

A. I don't recall. I also have friends and family that would pick me up if I called. I don't recall.

Q. Which one of your friends picked you up on that day?

A. I didn't say a friend picked me up. I had -- I have friends and family that I call on all the time to pick me up when I travel. I don't recall. I travel a lot.

Q. Did you park your vehicle at Miami International for two weeks?

A. I'm sorry?

Q. Did you park your vehicle at Miami International for two weeks?

A. No.

Q. So you were in Las Vegas for two weeks on a business trip. You have not produced any evidence of meals, drinks, entertainment, or local transportation while you were in Las Vegas. You're unable to do that, correct?

A. I do not have any documents except for what is

here because, again, I don't -- I have friends and family in Vegas that I was with as well. Okay? So if I was going somewhere, I would drive with them.

If we were buying food, sometimes it was on them. Sometimes it may have been on me. But at the end of the day, I don't have a document for everything that I -- I don't -- I don't have receipts with me, presently, or I don't -- whatever I've provided to you, that's what I have.

Q. One of the documents that you've produced, I think is -- has been marked today as Exhibit 7 -- is an account statement or part of an account statement, a one page -- less than one page of an account statement, that you've introduced today to reflect that you bought airline tickets.

A. That's correct.

Q. Where is the remainder of the statement where it reflects whether or not you -- you were at venues buying food and drinks and entertainment, cabs and Ubers, and everything else?

A. I have -- I have multiple accounts there, and, again, I just don't have it with me.

Q. Is there any reason why you haven't produced any of your credit card statements or debit card statements, which clearly have been available to you, to

substantiate that you were in Las Vegas? Is that because you were not in Las Vegas?

A. No, I was in Vegas. I also use cash as well, so not everything is on a bank statement.

Q. You don't have any pictures reflecting your presence in Las Vegas from April 9th to April 14th, do you?

A. I don't have any pictures. I'm not a fan of pictures.

MR. GAUDIOSO: Your Honor, if I may approach the witness?

MR. ROSENBLATT: May I ask what Counsel's providing the witness with, Your Honor?

THE COURT: Yes, please.

MR. ROSENBLATT: Thank you.

BY MR. GAUDIOSO:

Q. Mr. Burke, I've handed you what we've marked for identification purposes as Plaintiffs' Exhibit No. 2.

If you turn to the second page of that exhibit, is that your signature which appears on the return receipt card?

A. I don't see a signature.

Q. Are you on the same page, Mr. Burke?

A. I am.

Q. Do you see where your name is printed, "Ryan Burke"?

A. Yes, I see what's printed. That's not a signature, but, yes, I do see where it's printed, "Ryan Burke."

Q. So the scribble that appears above your signature is not -- I'm sorry -- appears above your name is not your signature?

A. That is not my signature.

Q. Did you, in fact, receive a letter or a package from Attorney Raymond Carrero at or around 4/21 of 2022?

A. Personally? I don't recall.

Q. Does anybody in your house sign your name in the same manner as signed on this one -- return receipt card?

A. I don't know who signed this.

MR. GAUDIOSO: May I, Your Honor?

THE COURT: You may.

Q. Mr. Burke, I'm showing you what we've marked as -- for identification purposes Plaintiffs' Exhibit 3. It's a letter addressed to you from Mr. Carrero, sent by certified mail, with a receipt number -- or tracking number matching those on Exhibit 2.

Have you ever -- do you recall receiving this

letter from Mr. Carrero?

A. I don't recall.

Q. The letter is dated April 18, 2022. It specifically references this lawsuit.

Do you recall receiving, along with this letter, the enclosure that's referenced, a settlement agreement -- do you recall receiving a settlement agreement --

MR. ROSENBLATT: Your Honor -- excuse me. I'd like to object. It's outside the scope of this hearing regarding process service.

MR. GAUDIOSO: Your Honor --

THE COURT: I was actually going to ask you if you were traveling under some other theory other than 48.031.

MR. GAUDIOSO: Your Honor, no further questions for this witness then.

THE COURT: Okay. Very well. Thank you.

MR. ROSENBLATT: No redirect, Your Honor. Thank you.

THE COURT: Okay. Thank you, Mr. Burke.

THE WITNESS: Thank you, Your Honor. Should I take these?

THE COURT: You can just leave them right there for now. Thank you.

THE WITNESS: Thank you.

(The witness was excused.)

THE COURT: Mr. Rosenblatt, any other witnesses?

MR. ROSENBLATT: No, sir.

THE COURT: Mr. Gaudioso, any witnesses?

MR. GAUDIOSO: We call -- we call Ms. Shirley Lowe.

THE CLERK: Please raise your right hand.

SHIRLEY LOWE,

having been first duly sworn and responding, "I agree," was examined and testified as follows:

THE CLERK: Please state your name for the record.

THE WITNESS: Shirley Lowe.

THE CLERK: L-O-W?

THE WITNESS: L-O-W-E.

THE CLERK: Thank you. Have a seat.

DIRECT EXAMINATION

BY MR. GAUDIOSO:

Q. Ms. Lowe, what is your trade or profession?

A. I am a process server.

Q. Do you hold any licenses to work as a process server?

A. Yes, I do.

Q. Okay. What licenses are those?

A. Broward SPS License and Miami-Dade CPS License.
Q. How long have you been a process server?
A. Since 2018.
Q. Generally, in those circumstances where your clients find it difficult to serve someone, are there any techniques that you employ to assist you in effecting service?
A. I -- techniques, as in when I approach someone?
Q. Would you approach somebody differently if you know that they're being difficult to serve?
A. I approach everyone where I try to get their identification confirmed right away.
Q. Does that mean prior to your identifying yourself as a process server?
A. Correct.
Q. Were you given the assignment to serve Ryan Burke at three entities for which he is listed as the corporate representative, 16260 Saddlebroke -- Saddle Club Road, LLC; VEW Live, LLC, at 2045 Southwest 127th Avenue, LLC?
A. Yes.
MR. GAUDIOSO: Your Honor, if I may?
THE COURT: You may.
Q. Ms. Lowe, I hand you what we've marked for

identification purposes as Plaintiffs' Composite Exhibit 1.

Do you recognize the documents making up the exhibit?

A. I do.

Q. Okay. What are they?

A. They're a return of service for the day that I served Ryan Burke with four summonses.

Q. What date and time did you receive the process for service on Mr. Burke?

A. According to this, it was the 23rd of February of 2022.

Q. And did you -- your returns of service, each of them specifically reflect the date and time that you were provided -- that you received the process for service?

A. Yes.

Q. What date and time did you serve Mr. Burke?

A. On April 11th at 8:00 a.m.

Q. And do all the returns, likewise, reflect the date and time that you served Mr. Burke --

A. Yes.

Q. -- and his entities?

A. Correct.

Q. What was the manner of service in this case?

A. Personal.

Q. Do all of the returns that you prepared and filed and swore under oath -- do all of them reflect that Mr. Burke was served personally, either as individual capacity or as -- as registered agent of the corporations?

A. That's correct.

Q. And, finally, do each of the returns reflect the name of the person that was served?

A. That's correct.

MR. GAUDIOSO: Your Honor, I'd like to move into evidence at this time, Plaintiffs' Composite Exhibit 1, and ask that the Court take notice that under Florida Law, service is presumed valid when it meets the statutory requirements that Ms. Lowe has testified to.

THE COURT: Well, it's certainly presumed valid on its face. And I do see four returns of service, and do you see -- one of those four is a no service for VEW Live --

MR. GAUDIOSO: Yeah.

THE COURT: -- so are we adding a --

MR. GAUDIOSO: Yes, Your Honor. We just -- we just discovered this as we were preparing for the hearing that the one that -- that the VEW Live

return that's on file with the Court is not the correct return.

Ms. Lowe had actually e-mailed it to me. That's why we don't have it ready to present, but we can --

THE COURT: So we're going to --

MR. GAUDIOSO: -- we can correct the filing later today --

THE COURT: Okay.

MR. GAUDIOSO: -- on that.

THE COURT: Very well.

MR. ROSENBLATT: No objection, Your Honor.

THE COURT: Very good.

(Thereupon, Plaintiffs' Exhibit No. 1 was admitted into evidence.)

BY MR. GAUDIOSO:

Q. Okay. So let's talk about the actual service on April 11, 2022.

Where were you, and what were you doing prior to serving Mr. Burke?

A. I was parked right in front of his home in back of another vehicle. I was observing the home, making sure that I could see visibly the door. When somebody exits the home, I was ready to get out of my car and confront that person.

Q. When you say, "the home," are you referring to the property with the address of [redacted]

A. That's it. Uh-huh (affirmative).

Q. What happened next?

A. I observed someone walking from the side of the home, entering the walkway to the front door.

Q. And what did you do?

A. I got out of my car, and I said, "Hi, Ryan."

Q. And did Mr. Burke respond to you?

A. He did. He turned around, and he said, "Yes."

Q. At that point, did you approach Mr. Burke?

A. Yes, we approached each other. He came towards me. I came towards him.

Q. Okay. Did you then identify yourself and your purpose?

A. Absolutely. I identified myself, showed him the four documents, showed them like this, and actually named all of the corporations, named him. And he was very attentive to what I was saying.

Q. What, if any, was Mr. Burke's response?

A. His response was, "Can you give this to my attorney?" Or mail -- he said, "Mail or give this to my attorney."

Q. And did you respond to that statement?

A. I said, "Unfortunately, I cannot give this to your attorney, but I" -- "I need to give these to you, but since you won't take them, I can leave them at the door." He answered, "That's fine."

Q. Okay. Did you see Mr. Burke enter his home?

A. Yes, he did.

Q. While he was entering his home, did Mr. Burke see you leaving the summonses at his doorstep?

A. He saw me endorsing them, and he went inside, and I left them at the door.

Q. After leaving the summonses at his door -- in front of his door, what did you then do?

A. I got in my car, and I took a lot of notes.

Q. Are those the notes that are reflected in the returns of service?

A. Absolutely.

Q. At any time during your interaction, did the gentleman you were speaking with ever deny that he was Ryan Burke?

A. Nope.

Q. Did he give you any sense that he was confused as to why you were --

A. Not at all.

Q. -- talking to him about these companies and these summonses?

A. No confusion at all and no denial of who he was at all.

Q. Do you see the gentleman that you served in the courtroom today?

A. I do.

Q. Can you point him out to us?

A. Excuse me?

Q. Can you point him out to us?

A. He's sitting right here, next to his attorney.

MR. GAUDIOSO: Let the record reflect that the witness has pointed to Mr. Burke, sitting at the Defendants' table with Mr. Rosenblatt.

Q. Is there any doubt in your mind that the gentleman you served on April 11, 2022, was Ryan Burke?

A. No doubt.

MR. GAUDIOSO: No further questions, Your Honor, and we have no further witnesses.

CROSS-EXAMINATION

BY MR. ROSENBLATT:

Q. Good morning, ma'am.

A. Hi.

Q. We haven't met before, have we?

A. No.

Q. Okay. I'm Bob Rosenblatt.

A. Oh, maybe on the Zoom. No?

Q. No.
A. Okay. No.
Q. I don't think so. And let me just talk about where you talked about -- the last part of your testimony.
A. Um-hum (affirmative).
Q. You said you took notes, detailed notes, and you incorporated those notes into your return of service?
A. Yes.
Q. Okay. One thing that stuck out with me was you said in your testimony that you saw the man that you served enter the house.
A. That's correct.
Q. That's not in your return of service, is it?
A. It's not.
Q. And that was an important part of your testimony today, correct?
A. I don't -- I can't tell you how important it is.
Q. Okay. But if you took detailed notes --
A. Yeah.
Q. -- certainly the man that you served entering the house would be imperative that you put that in your notes, correct?

A. It doesn't need -- need to be in my notes in order to say that I served him.

Q. Right. But you put detailed -- you took detailed notes. A lot of the items you have in here --

A. Huh?

Q. -- would have to be in your return, right?

A. I don't understand your question.

Q. Okay. In other words -- for instance, you say that "The server quickly exited your vehicle. You call out the name, Ryan."

That didn't necessarily have to be in your additional information.

A. It does.

Q. Okay. What about the fact that you took detailed notes, and you said to His Honor today that you saw the man enter the house? Correct?

A. I saw him enter the house after I had -- after I had spoken to him. I mean, I don't know how relevant to service that is though.

Q. Okay. Well, we'll let the Judge decide that. But you took detailed notes in your vehicle?

A. Correct.

Q. And you incorporated those notes into your additional information pertaining to the service?

A. What has to do with the service, correct.

Q. Right. But nowhere in your additional information did you state that you saw the man that you served enter the house; is that correct?

A. I don't know how relevant that is to service.

Q. I'm asking you the question. Did you put that in your --

A. It's not in the -- it's not --

Q. Did you put it in there?

A. It's not on the affidavit. It's clearly not on the affidavit.

Q. Right.

A. Correct.

Q. And today is the first time you've ever said that; isn't that right?

A. To a judge. To you, yes.

Q. Okay.

A. But --

Q. Did the lawyers tell you to say that?

A. It was a question he asked.

MR. GAUDIOSO: Objection, Your Honor.

MR. ROSENBLATT: Pardon me?

THE WITNESS: It was a question he asked.

MR. GAUDIOSO: Argumentative, Your Honor.

THE COURT: Sustained.

BY MR. ROSENBLATT:

Q. Okay. So you took detailed notes, and you put what was important in your detail. But in those notes that you incorporated in your return, you never said that you saw the man that you served enter the house, correct?

A. It's not --

MR. GAUDIOSO: Objection, Your Honor.

A. -- it's not on my affidavit.

MR. GAUDIOSO: Asked and answered several times, Your Honor.

THE WITNESS: I -- I --

THE COURT: Overruled.

THE WITNESS: It's not on the affidavit, but it is in my testimony.

BY MR. ROSENBLATT:

Q. Okay. But it's not in your affidavit?

A. Right. It's not in the affidavit, but it is in my testimony.

Q. And -- okay. Is there any reason why it's not in your affidavit if it's the truth?

A. It's not relevant to the service.

Q. Okay. How many of these -- how many -- how many times have you served process since 2018?

A. I can't tell you off the top of my head how many times.

Q. What did you do before you became a processor?
A. I owned my process serving company. So I am the CEO.
Q. Oh. So this is your company?
A. Correct.
Q. L&L? Okay.
A. Yes.
Q. It was formed in 2018?
A. Nope.
Q. When was that formed?
A. 2014.
Q. '14. Okay. So you arrived at the location about 7:00 o'clock in the morning; is that correct?
A. That's right.
Q. And you had your eyes on the front door?
A. I did.
Q. And did you ever see anybody exit the front door?
A. No.
Q. So the individual that you served came from the side?
A. He came from the sidewalk, correct.
Q. Not from the front?
A. (No audible response.)
Q. Do you know how many other people were in the

house that day?

A. I didn't see anybody else or hear anybody else.

Q. Did you see -- do you know how many people were inside the house?

A. I have zero knowledge of that.

Q. Okay. And when you called out the name, this was -- the only person in your area was the person that you served?

A. He was the only one on the sidewalk.

Q. So you could have called out "Joe" or "Harry" or "Richard," and this person would have turned around anyway?

A. That's right -- no, I'm sorry. He -- if it wasn't Ryan, I would have expected him to say, "Who are you looking for?"

Q. Well, what you expected him to say is different than what occurred.

You called out a name of a person?

A. Right.

Q. It was the only person in the area?

A. (No audible response.)

Q. It's early in the morning?

A. Yes.

Q. And you -- you wanted to make sure that you --

that he heard you. So you call out a name, and this person turned around?

A. That's --

Q. And from that you assume this person has the same name?

A. I guess -- the assumption came when I approached him, and I was -- was speaking to Ryan Burke about his cases, and he did not deny who he was. That's where the assumption came.

Q. When you were there, did you have your cell phone?

A. I have my cell phone out, yes.

Q. And does your cell phone have an ability to take a photograph?

A. It does, but it didn't take any photos.

Q. Did you try to take any photographs of the man that you --

A. I tried.

Q. Okay. And what happened to those photographs?

A. I don't have -- they didn't take any pictures. My -- my phone didn't take any pictures.

Usually I take pictures before I exit the vehicle, and apparently as I was fumbling, trying to get out, I didn't take any pictures. I thought I did.

Q. Okay. And that's something you do normally;

you try to take a picture of the person that's served?

A. I -- I -- I do try to take pictures in order to solidify service.

Q. Let me finish my question, okay, so the Court Reporter can get everything down.

A. I'm sorry.

Q. Okay.

A. I apologize.

Q. So you tried -- you didn't take any pictures of the man you served; is that correct?

A. I didn't get any, no.

Q. And how long were you in the presence of this man from the time you called out the name until you went in your car, and you took your detailed notes, but you didn't put it in those notes that you saw him go back into the house?

How long were you in that man's presence?

A. I believe it was approximately three minutes or so.

Q. Okay.

A. We were talking, and it was a very cordial conversation.

Q. Right. So it was about three minutes during the presence of this individual?

A. Yes, I would -- give or take.

Q. Okay. Now, did this man that you served --
A. Um-hum (affirmative).
Q. -- you recall what kind of -- what kind of shirt he was wearing?
A. I want to say it was a tee shirt.
Q. You want to say. Do you recall what it was? We're here under oath testifying. Do you recall what kind of shirt he was wearing?
A. No.
Q. Do you recall the color?
A. No.
Q. Do you recall the color -- the kind of pants he was wearing?
A. I want to say they were dark pants but --
Q. You don't want to say. What were they?
A. They were dark pants.
Q. Long or short pants?
A. Long.
Q. Did he have any shoes on?
A. Yes, he had shoes, definitely.
Q. Have you ever had any experience where -- in your normal course of going into activities, living activities, you see somebody that you thought you knew, and you were mistaken?
MR. GAUDIOSO: Objection. Calls for

speculation, Your Honor.

THE COURT: Overruled.

A. That I was mistaken for somebody that I thought I knew?

Q. Well, you saw somebody. You thought it was somebody that you knew, and it wasn't.

I mean, it happens every day to people.

A. I can't really tell you that's happened to me before.

Q. Well, you can't rule it out, can you?

A. Usually, I am able to affirm -- you know, confirm someone's identity, yes.

Q. Has that ever happened to you in the course of your -- your life experiences where you see somebody in a crowd --

A. Well --

Q. -- you thought you knew who they were --

A. You're -- you're asking --

Q. Let me finish the question.

A. Okay.

Q. -- and you thought you knew who they were, and it turned out that they were not the person?

A. Well, I'll start by saying I don't know Ryan Burke personally, nor have I seen a photo of him previously. And so I couldn't --

Q. That's not my question. That's not my question.
A. Uh-huh (affirmative).
Q. My question is simply, have you ever been in a position where you've seen somebody in a crowd, concert, football game, baseball, whatever, concert, and you thought you saw somebody you knew, and it wasn't that person?
A. No.
Q. Never happened to you?
A. No.
Q. Now, you were in the courtroom when Mr. Burke testified; is that correct?
A. I was here, yes, when he testified.
Q. All right. Okay. So he was the only person on the stand giving his name?
A. That's right.
Q. Right.
A. But --
Q. Did you ask the man for identification?
A. I did not.
Q. Isn't that what a process server should do, ask --
A. It's not in the statute.
Q. It's not in the statute, but is that a good technique for a process server?

A. If I don't believe them, it is.
Q. Okay. And then it confirms identity, doesn't it?
A. IDs always confirm identity.
Q. Did you ask this man for identification?
A. I didn't need to. He affirmed who he was.
Q. That's not my question, ma'am. My question is, did you ask him for identification?
A. I did not.
Q. I'm not arguing with you. I'm just asking you this question. So please don't argue with me.
A. I did not.
Q. Okay. And, again, when you had -- when you approached this man, did you have your camera with you?
A. I don't -- camera?
Q. Your cell phone.
A. I had it, yes.
Q. Right.
A. I always have it in my pocket.
Q. Okay. And as you approached him, did you take a picture of him?
MR. GAUDIOSO: Objection, Your Honor. Asked and answered.
A. I -- I -- I already told you that I do that in my car, and I didn't -- wasn't -- when I got back into

my car to look to see if I took pictures, there were none.

Q. Was that in your affidavit?

A. It's irrelevant.

Q. No, that's not -- you have the Judge. The Judge has a black robe, and he's sitting right here. Don't say, "It's irrelevant." It's pretty important.

A. It's irrelevant to service. I did not put it into my affidavit.

Q. That's for your lawyers to argue and the Judge to rule on.

A. I'm answering your question, sir.

Q. Okay. So as you approached him, you had your cell phone with you, but you didn't take any pictures of him as you approached him; is that correct?

A. It was in my pocket.

Q. You didn't take any pictures of him as you approached him?

A. No, because it was in my pocket.

Q. Did you try to remove your cell phone from your pocket to take pictures of a man --

A. I did not because I really wanted to speak with him.

Q. Excuse me. Again, you're cutting me off.

A. I apologize.

Q. Okay. Well, apologize to the Court Reporter,

not to me.

A. I apologize to the Court.

Q. Court Reporter.

A. I'm sorry. I apologize to the Court Reporter.

Q. So as you approached him, you had the cell phone in your pocket?

A. Yes, that's correct.

Q. And yet you didn't take any pictures of the man that you served?

A. I couldn't.

Q. Did you take any pictures -- do you have a video of -- on your phone as well?

A. No, I wasn't able to take any video or anything.

Q. But you had a video --

A. I don't have a video camera on my -- in my car.

Q. I'm not asking about your car; I'm talking about your cell phone.

A. It was in my pocket.

Q. Does your cell phone have a video feature?

A. It does.

Q. Okay. Did you try to put it in the video feature so you could take a picture of this man going into the house?

A. I tried to take a photo in my vehicle. I was unable to.

Q. No, that's not -- the answer is yes or no, or you don't recall.

A. I -- I believe I answered it several times no, and so I'm just trying to explain.

Q. I didn't ask you this before. I'm asking if you put the video feature on your --

MR. GAUDIOSO: Objection. This is arguing with the witness at this point about the photographs.

A. The video feature in my phone, it was not working, so I could not take any photos.

Q. Okay. So the photograph area -- the photograph where the pictures wasn't working, and the video wasn't working?

A. Right, and I was stumbling out of my car to -- I wanted to speak to Ryan.

Q. I see. So the reason you didn't take any pictures was because you were stumbling, or because the phone wasn't working?

A. I'll demonstrate kind of like what was happening.

Q. No, I'm not asking you to do that. I'm asking you what was the reason you didn't take any pictures.

Now, you just added another element that you were stumbling while you were --

A. Oh, I mean, as I tried to get out of my car very quicky, and maybe I misused the word, "stumbling."

Q. So that was a mistake?

A. What was a mistake?

Q. Where you misused the word, "stumbling"?

A. You interpret it differently than I would interpret it. I don't call it a mistake; I was quickly getting out of my car.

Q. But you used the word, "stumbling." Now, you're taking that back; is that right?

A. My interpretation of stumbling is I was trying to get out of my car and moving -- I had papers in my arm. I was trying to get his attention. I was making sure I didn't lock my keys inside my car, you know, the type of thing that happened to me before. I really don't want to do that.

Q. You said your cell phone wasn't working; the photograph feature wasn't working; is that correct?

A. That is correct. It couldn't take any photos.

Q. Okay. And did you ever have that repaired?

A. It wasn't a matter of like whether my camera wasn't working as -- literally my thumbs not clicking.

Q. So the phone was working, but now it's your

thumbs that didn't take the picture?

A. I wasn't able to execute a photo using my hands and my phone, if that answers your question.

Q. So your phone was working?

A. It was working.

Q. So your testimony that it wasn't working was not totally accurate?

A. Okay.

Q. Isn't that right?

A. Let me explain.

Q. No, no. Answer my question, please.

A. My phone was working.

Q. Excuse me.

A. I wasn't able to take the photo.

Q. There's no question. There's no question pending.

We can get through this if you let me finish my question because I'm trying --

A. I'm letting you finish your question.

Q. Okay. So your prior testimony the phone wasn't working wasn't totally accurate, was it?

A. The phone wasn't working. It is just a very broad way of describing I couldn't get a photo executed the way a photo is taken on a phone of -- you know, a cell phone, with an app.

Q. So the phone wasn't working?
A. Yes, the phone --
Q. You were the one that wasn't working?
A. I wasn't working because it was happening so quickly. I wanted to take a quick picture. It wasn't working. I couldn't -- I couldn't take a photo. I had to get out of my car quickly before he got into the house. It was one of those --
Q. No.
A. -- very quick moments.
Q. Okay. So your testimony before then, the phone wasn't working, wasn't totally accurate, was it?
A. Okay. So I --
Q. Yes, or no? The phone wasn't working?
A. The phone was working.
Q. And you testified to His Honor that it wasn't working; is that right?
A. I don't know what you're trying to get at, but --
Q. I'm just asking the question.
A. -- the app wasn't clicking with my finger.
Q. Okay.
A. That's what I meant.
Q. And you realized that when you got out of your car that the phone had -- the photographs were not

taken; isn't that right?

A. That was after -- way after the fact.

Q. Isn't it true, ma'am, that the person that you talked to never identified himself as Ryan Burke?

A. He did identify himself as Ryan Burke, yes.

Q. And where is that in your -- in your return of service?

A. When he said the word, "yes."

Q. Well, you said, "Ryan," and then he turned around -- the man that you saw turned around and said, "Yes"?

A. Correct. He -- I asked the -- I asked -- I said, "Hi, Ryan." And he turned around and said, "Yes."

Q. But --

A. And then I approached him. I was like, "Hi, Ryan. I have documents for you. Ryan, these are documents for you. Ryan, this is what I'm going to explain to you about these documents. Ryan, Ryan, Ryan." He did not deny he was Ryan.

Q. Did you ever ask him if he was Ryan Burke?

A. I did.

Q. Burke?

A. Yes.

Q. Where is that in your affidavit?

A. Where it says, "yes."

Q. That says, "to Ryan." Where --
A. Correct.
Q. Where is the name, "Ryan Burke" -- show it? When you -- when you say --
A. I called his name.
Q. You called the name, "Ryan."
A. Right.
Q. You didn't call "Ryan Burke," did you?
A. I called "Ryan."
Q. Did you call "Ryan Burke"? Yes, or no?
A. No. I called "Ryan."
Q. So you never -- you never called the name, "Ryan Burke" and asked him to identify himself as Ryan Burke; is that right?
A. He identified himself as Ryan; and, therefore, he is Ryan Burke.
Q. Okay. In your opinion. Is Ryan a common name?
A. I can't answer that question.
Q. Okay. Known other people named Ryan?
A. I don't know them personally, no.
Q. Friends named Ryan?
A. Excuse me?
Q. Do you have any friends named Ryan?
A. I don't have any name -- any friends named

Ryan, no.

Q. Ever heard of the name Ryan before this one -- before this case?

A. Maybe.

Q. Maybe? Okay. But in your return of service, you never indicated that the man identified himself as Ryan Burke; isn't that correct?

A. He also did not deny himself.

Q. Yes, or no? Yes, or no? Did he ever -- did he ever identify himself as Ryan Burke, and did you --

A. He did.

Q. Did you put that in your additional information as "Ryan Burke"?

A. He identified himself as Ryan Burke when he answered, "Yes."

Q. No. That's not my question. My question is, did you ever call the name, "Ryan Burke" to him?

A. I called "Ryan."

Q. Right. And in your affidavit or your return of service --

A. Uh-huh (affirmative).

Q. -- you never utilized the name, "Ryan Burke;" you called "Ryan" to this person who's alone in an area, no one else around --

A. Right --

Q. -- and --
A. -- no one else -- no one else answered "Ryan" -- yes to "Ryan."
Q. You could have called --
A. But he did.
Q. You could have called -- you could have called "Joe."
A. He probably would not have answered me or turned around.
Q. If the person would have had a name yelled at him individually early in the morning, would turn around and see who -- who are you, what's going on.
A. He would -- he did -- he would have, but he didn't. He said, "Yes."
Q. But did you ever confront the man and ask him --
A. I did. I confronted -- we walked towards each other.
Q. You keep cutting me off.
A. I'm -- I apologize for cutting you off.
Q. Okay. My question is, did you ever ask this man if his name was "Ryan Burke"? Yes, or no? Yes, or no?
A. When I showed him --
Q. Yes or no, ma'am.

A. When I showed him the documents, I explained that these documents were for "Ryan Burke."

MR. ROSENBLATT: Your Honor, ask her to be responsive.

THE COURT: Ms. Lowe -- Ms. Lowe, if you can answer the question yes or no.

THE WITNESS: I did.

BY MR. ROSENBLATT:

Q. Did you ask him if his name was Ryan Burke?

A. I did. When I showed him the documents, I showed him personally, "Ryan Burke, this document is for you." "Ryan Burke."

He said, "Yes." So he -- it -- it -- I did ask him that question.

Q. Is that in your affidavit that you asked him if his name was Ryan Burke?

A. It is in my affidavit. "Server identifies herself. Explained the documents to him." So, yes, it is in my affidavit.

Q. To him. Where is the name, "Burke"?

A. It's not -- it's not explicit in my affidavit --

Q. Oh, okay.

A. -- but I explained the documents. And when I explain -- I can tell you the process of what I do when

I explain documents.

Q. My question is, is the name, "Burke" here, anywhere in your affidavit that the man said his name was "Ryan Burke"? Yes, or no?

A. I'll tell -- I'll say, "Yes." I'll say, "Yes."

Q. All right.

A. Because when I explain the documents to the people that I serve --

Q. My question --

A. -- I am saying their last name.

Q. My question, ma'am --

A. Yes.

Q. -- is in your affidavit --

A. It is in my affidavit.

Q. -- did you ever say -- when you said his name, you called out the name, "Ryan," he turned around, and you said you have documents for it.

Did you ever call out the name, "Ryan Burke"?

A. It's in my affidavit.

Q. Yes, or no? Did you call him "Ryan" or "Ryan Burke"?

A. Yes, it's in my affidavit.

Q. Did you yell out -- when you said -- when you yell out --

A. I said the word, "Ryan Burke."

Q. Excuse me. Please don't cut me off. Can I finish the question?

A. Absolutely.

Q. When you saw this individual, you call out the name, "Ryan." Not "Ryan Burke." Isn't that correct? Yes, or no? Yes or -- yes, or no?

A. When -- yes, when I -- when I called him. But when I explain the documents, I did say, "Burke."

I need that -- I need that in my testimony.

Q. Okay. And when you approached him --

A. Yes.

Q. -- did you ask him for identification?

A. I don't need to for service --

Q. I didn't ask you what you needed.

A. -- the process.

Q. I asked you, did you ask him for identification.

A. I did not.

Q. Did you take a photograph of him?

A. No.

Q. Did you ask him if he was Ryan Burke?

A. I did.

Q. And where is that in your affidavit?

A. It's there. "Explained documents."

Q. Show us -- tell the Judge, if you would --
A. Uh-huh (affirmative).
Q. -- where you use the name -- where it says in your affidavit that you asked him if his name was Ryan Burke.
A. Where it says, "Explained documents to him," that includes that.
Q. Oh, but you didn't put in --
A. It includes it.
Q. But you didn't put the name, "Ryan Burke" in there? Put him -- you put the name --
A. For purposes of the affidavit --
Q. Excuse me.
A. -- it is not part of the statute where I have to write comments in the affidavit where it says I have to write someone's last name.
Q. Okay.
A. So my explanation of the documents covers it.
Q. Okay. But my question to you, ma'am, is not what's in the statute. My question is, did you ever ask him if his name was Ryan Burke?
A. Yes.
Q. Okay. Where is that in your affidavit, that you use the name, "Burke"?
A. "Explained" in the documents. That is in my

affidavit, sir.

Q. Where's the name, "Burke" in your -- the additional information?

A. It's encompassing --

Q. No, no. I'm not asking you that. I'm asking you, show us where in your additional information gained in this service where the name, "Burke" appears. Does it appear anywhere? Yes, or no?

A. It does.

Q. Yes, or no?

A. It does appear.

Q. Where?

A. Where it says, "Endorsed" down by me to "Ryan Burke at the address of."

Q. It says, "Server endorsed each of the summons and left four summons on the door." Where does it say that?

Where is the name, "Ryan Burke"?

A. On the second -- "The individual personally served delivery and true copy of the summons and complaint with hours endorsed thereon by Ryan Burke at the address of" -- his last name's there.

Q. But that's not a part of the actual service?

A. Absolutely it is.

Q. That was -- that was there before you served

the person, wasn't it?

A. How is that before?

Q. My question is, in the additional information, did you put the name, "Ryan Burke" there at all? Yes, or no?

A. What matters is --

Q. No --

A. -- the Ryan Burke --

MR. ROSENBLATT: Your Honor, could you ask the witness to be responsive, please?

THE COURT: Madam, so if you could answer the question, please do so. If you need some time to explain, I'm sure we'll give you an opportunity afterwards. Okay?

THE WITNESS: Thank you.

THE COURT: Thank you.

BY MR. ROSENBLATT:

Q. Did you put the name, "Ryan Burke" at any point in the additional information? Does the name, "Burke" show up there? Yes, or no? Yes -- yes, or no?

A. Not in the additional information.

Q. Thank you. Thank you.

MR. ROSENBLATT: May I, Your Honor?

THE COURT: Yes, you may.

BY MR. ROSENBLATT:

Q. Now, have you seen this individual at any time between the date of service which was in April of 2022 and today?

A. No.

Q. And you said you didn't hand him the individual summons, so you left them on the front door?

A. He refused to take them --

Q. That's not my question, ma'am. My question to you is, did you hand him the individual --

A. I tried to hand it to him.

Q. Did you hand it --

A. I -- I tried to hand it to him.

Q. Okay. But he didn't take it; is that correct?

A. That's correct. The service of process doesn't need to be taken in hand.

Q. I didn't ask you that.

A. I clarified.

Q. And you left them on the front door?

A. I had to.

Q. You said earlier that you received the summons on February 23rd; is that correct? And you had --

A. According to this, yes.

Q. Right. So you had to refresh your recollection as to when you received it?

A. I don't understand your question.

Q. Well, you said, "According to the summons," and you received it on the 23rd of February. So you had to refresh your recollection; is that correct?

A. I receive papers every day from clients, so do you want me to memorize all the time that I --

Q. No, I'm just asking you the question, ma'am, because you had to refresh your memory as to that.

A. I had to refresh my memory.

Q. Okay. Fair enough. So you sat here during Mr. Burke's testimony today under oath; is that correct?

A. That is correct. I was sitting over there.

Q. And you saw -- have you seen -- has the -- the attorneys ever showed you the exhibits that Mr. Burke identified?

A. No, I have not seen them.

Q. But they haven't shown you any of those documents?

A. I -- I don't think it was relevant to --

Q. Well, and you're -- I don't see a black robe on you, so I don't know why you're making these objections.

A. I'm not making an objection. I -- I don't -- I didn't see the documents.

MR. ROSENBLATT: Okay. No further questions, Your Honor.

MR. GAUDIOSO: Your Honor, may I have a brief redirect?

THE COURT: Yes, you may.

REDIRECT EXAMINATION

BY MR. GAUDIOSO:

Q. I promise, no questions about your phone. Does Florida Law require process servers to take a photograph of the person they serve?

A. No.

Q. But does it require --

MR. ROSENBLATT: Your Honor, objection as to asking this witness what Florida Law requires. She's not a lawyer, although she seems to be almost a judge.

THE WITNESS: In order to me to have a license, I have to know the statutes.

MR. GAUDIOSO: Yes, Your Honor. This has been my argument before. She's a licensed processor, where she has to take a test. She has to understand the statutes. She has to --

MR. ROSENBLATT: That doesn't make her an expert in the law, Your Honor.

THE COURT: No, Mr. Rosenblatt, I agree with you. Nonetheless, I will permit the question.

MR. ROSENBLATT: Okay.

BY MR. GAUDIOSO:

Q. Ms. Lowe, is it your understanding -- well, do you have an understanding whether or not Florida Law requires process servers to videotape the individual being served?

A. It does not require.

Q. Are you required as a licensed process server to obtain a physical identification from the individual --

A. No.

Q. -- that's being served?

A. No.

Q. In this particular case, did Mr. Burke identify himself to you?

A. Yes.

Q. Now, when you showed him the summonses -- correct, you did that? Yes?

A. I did.

Q. On the summons, center, in the middle of it, what does it say?

A. His name, "Ryan Burke."

Q. At that time, did Mr. Burke say, "Oh, that's not me. I don't know who that is"?

A. He did not.

Q. But you showed him the summons with the

companies. Did it also have his name --

A. It did.

Q. -- "Care of Ryan Burke"?

A. Correct.

Q. And did he ever -- at any time when you were talking to him, and he was looking at these summonses that you were explaining to him, did he ever at any time tell you, "That's not my company. I don't know what company that is. I'm not Ryan Burke"?

A. He did not.

Q. After you showed him the summonses, the legal documents that you were serving him with, what was Mr. Burke's response again?

A. He asked me if I can give these to his attorney or mail them to his attorney.

Q. So the gentleman you served didn't say, "I'm not Ryan Burke. Why don't you send those to Mr. Burke's attorney." He said, "Send them to my attorney"?

MR. ROSENBLATT: Objection.

A. He said, "my attorney."

Q. And all that's laid out in your affidavit; is that correct?

A. I'm sorry?

Q. All that -- that interaction is laid out here in your affidavit?

A. Yes, that's in the affidavit.

MR. GAUDIOSO: I have no further questions, Your Honor.

THE COURT: Thank you, ma'am.

THE WITNESS: Thank you.

(The witness was excused.)

MR. GAUDIOSO: Your Honor, the Plaintiff has no further witnesses.

THE COURT: Any pre-closing remarks?

MR. ROSENBLATT: Yes, Your Honor. If you need argument I'm happy to provide it.

DEFENDANT'S CLOSING ARGUMENT

MR. ROSENBLATT: Your Honor, what we have here is the process server who -- that owns her own company. You saw her testimony. I don't think I need to comment that much on it, but she's vouching for her own -- her own company.

She's extremely argumentative. She has a point to make. She wants to believe she served the right person. I believe she means well, but subjectively you've got to look at that. The nature of her testimony shows she has an interest in this case.

What we have here before the Court are not subjective evidence. We have Mr. Burke's sworn

testimony under oath, under penalty of perjury, he was not served. Will that carry the day if we didn't have the documents? No, probably wouldn't. But what we have here is documents showing that he left Las Vegas on April 1st. He returned on April 14th. He was in Las Vegas during those two weeks, especially on April 11th, when the reported service occurred.

We have the American Airlines departure. We have the American Airlines return. We have it paid for on his credit card. As I told Counsel before, if he has any questions about it, he could subpoena the entire credit card. He hasn't done that.

He hasn't shown you that any of these documents are not true or accurate. So the Court has to weigh the subjective testimony of a person with eyewitness testimony, who saw an individual for three -- three minutes under stressful circumstances. You saw how she testified about her camera not being working. It didn't work.

She wasn't candid with the Court. So when you weigh her subjective testimony against the objective evidence that we have, it's clear that Mr. Burke was not presently -- was not properly served in this case. He wasn't served at all.

And I think Your Honor flagged another issue here on the January 30th hearing, as part of our exhibits -- I think it's Exhibit 8, I believe. And Counsel showed you the return of service, and Your Honor said that it came back. Arguably that will flaw the last sentence of 1.500(b), which require a hearing -- notice of the hearing, which would undo the default.

Counsel introduced that card as evidence, and if that's accurate, then the Defendant was entitled to notice under 1.500(b), as Your Honor said, on Pages 12 to 14 of the transcript. And all these were -- all of the defaults were clerk defaults, with no notice to the Defendant at all.

So we ask the Court to weigh the subjective evidence against our objective evidence, and the fact that 1.500(b) was a clerk's default, and he was entitled to actual notice.

Thank you, Your Honor.

THE COURT: Mr. Gaudioso?

PLAINTIFF'S CLOSING ARGUMENT

MR. GAUDIOSO: Your Honor, Mr. Burke has provided no evidence to this Court that he was, in fact, in Las Vegas during the time period in question. What Mr. Burke has presented today is

that he booked a flight and paid for a flight and that he booked a hotel room and paid for the hotel room.

No evidence that he stayed in the hotel room. No evidence that he flew or, if he did fly, what dates he flew on, because these are all booking confirmations and booking receipts because they're not boarding passes, which we asked for. These are not receipts, which we asked for. Mr. Burke HAS presented none of that.

As you're well aware, I'm sure, Your Honor, anybody can go online and book a hotel room. Mr. Burke testified that he had friends and family and people staying in Vegas. For all we know, he booked a room for them. There's no evidence that Mr. Burke was there. There's no evidence that he bought a thing when he was in Vegas. He's on a business trip.

No tax receipts. No Uber receipts. No food receipts. No lodging and no -- no receipts at all. No photographs that he was in Vegas. So while he's in entertainment, there's not a single photograph of him at any of these parties that he said he went to. Nothing.

Now, under Florida Law, if a party refuses to accept the summonses or approach and retreats to

his home, the process server is allowed, and it is proper for the process server, to leave the summonses on the doorstep after identifying who she is and what her purpose is to the individual.

The case I'm going to cite for that is Haney, H-A-N-E-Y, vs. Olin, O-L-I-N, Corp., 245 So.2d 671. That's a 4th DCA case. This one was dated 1971.

More importantly, as the Court recognized earlier, the affidavit is correct and is valid on its face. At that point in time, the burden shifts to Mr. Burke to establish through clear and convincing evidence that service was not proper.

Clear and convincing evidence in this context requires that the witnesses to a fact be credible, that facts they testified to must be distinctly remembered, and the details must be narrated exactly and in order. The testimony must be clear, direct, and weighty, and the witnesses must be lacking in confusion as to the facts at issue.

That's Matthews vs. U.S. Bank, 197 So.3d 1140, also a 4th DCA case decided in 2016. Matthews cites several other 4th DCA cases. One is Slomowitz vs. Walker, 429 So.2d 797, 799, and it's a 4th DCA case, 1983.

So in this case, Your Honor, Mr. Burke vaguely

says, "Well, it could have been friends and family. Maybe I got a ride home from my wife. I don't know how I got home. Maybe I stayed here; maybe I stayed there." But no concrete, solid proof that he was ever in Las Vegas.

Ms. Lowe, on the other hand, sat here in front of Your Honor, testified to a very detailed interaction that she had with Mr. Burke in an action that's inexplicable. If it was Joe Silowitz (phonetic) who she was talking to, he wouldn't have said, "Oh, send it to my attorney. Mail a copy to me. I don't" -- any normal interaction would have resulted in him saying, "I don't know who this person is. I'm staying at a friend's house." That didn't happen.

Okay. He identified himself as Ryan Burke. First, it's Ryan, and then when he reviewed all the paperwork, it clearly stated on the face of it that it's Ryan Burke, and he said, "Send it to my attorney." He's identified himself as Ryan Burke. So, Your Honor, I argue that service is proper in this case. The Motion to Quash should be denied.

Thank you, Your Honor.

THE COURT: Okay. Thank you. Certainly, folks, there is a conflict in the evidence.

Nonetheless, I will grant the Motion to Quash so Mr. Gaudioso can establish that the evidence proffered today is fraudulent. I will be happy to consider either direct or indirect criminal contempt in the future.

MR. GAUDIOSO: Your Honor, if I may, I'd like to ask if Counsel would accept service, so we can get this case moving along.

MR. ROSENBLATT: Judge, on March 21st, our Exhibit 9, his prior Counsel sent me an e-mail saying, "We agree to vacate service. Let's go to mediation."

The next day, this man fired his lawyer, hired these -- hired new Counsel. They took -- they didn't -- they completely rebuffed our intent to accept service at the time and go to mediation, and now they want us to go back there. The answer's no, respectfully.

MR. GAUDIOSO: Your Honor, for the record, they wanted -- part of the deal was they wanted the judge to vacate it, which we weren't going to agree to so --

MR. ROSENBLATT: Yeah, the motion gets quashed, the judgment -- the default get vacated, the judgment get vacated. We agreed to do -- they

agreed to -- prior Counsel agreed to do that, and he got fired for doing that. We tried to go to mediation. He got fired, and they hire these fine lawyers, which is his right to do. He can do that.

So that's why we're here today. We could have had this done last April.

Thank you, Your Honor.

THE COURT: Folks, have a good afternoon.

MS. COHEN: Thank you, Your Honor. Thank you for your time.

THE COURT: Thank you.

MR. ROSENBLATT: We'll set up the order, Your Honor.

THE COURT: Thank you.

MR. GAUDIOSO: Please send a copy to me personally.

(Thereupon, the hearing was concluded at 11:48 a.m.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA

COUNTY OF BROWARD

I, Jenilee Salyers, CER, certify that I was authorized to and did report the hearing of Kameka Management Solutions, Inc., et al., vs. 16260 Saddle Club Road, LLC, et al.; and that the transcript is a true and correct record of my notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 24th day of August 2023.



Jenilee Salyers, CER

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