

IN THE CIVIL DISTRICT COURT
OF THE SIXTEENTH JUDICIAL DISTRICT
IN AND FOR THE PARISH OF ST. MARY
STATE OF LOUISIANA

* * * * *

JONATHAN SCULLY, ET AL

VERSUS

DOCKET NO: 138571

ROSS LARIS, ET AL

* * * * *

The above-captioned case came up for a hearing at the Iberia Parish Courthouse, New Iberia, Louisiana, before the Honorable Suzanne deMahy, District Judge, of the above-styled court, on Tuesday, July 16, 2024, pursuant to notice.

APPEARANCES:

FOR THE PLAINTIFF: JONATHAN SCULLY, ET AL:

MR. DAVID M. FLOTTE
MR. CHRISTOHER RIVIERE
MR. CAMILLE A. MORVANT, II
SALLEY, HITE, MERCER & RESOR, LLC
365 Canal Street, Suite 1710
New Orleans, 70130

FOR THE DEFENDANT, ROSS LARIS, ET AL:

MR. MARK L. BARBRE
MR. WENDELL CLARK
LONG LAW FIRM
1800 Farm Drive, Building 6
Baton Rouge, Louisiana 70806

REPORTED BY: CHARLOTTE A. HOFFMAN

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OFFICIAL COURT REPORTER
ST. MARTINVILLE, LOUISIANA
337-654-8542

1 OPEN COURT

2 HONORABLE SUZANNE DEMAHY, DISTRICT JUDGE, PRESIDING

3 TUESDAY, JULY 16, 2024

4 HEARING

5 * * * * *

6 THE COURT: This is in Docket Number
7 138571. Can we make appearances for the
8 record?

9 MR. BARBRE: Good morning, Your Honor.
10 May it please the Court. Mark Barbre and
11 Wendell Clark, Long Law Firm, on behalf of
12 Mr. Scully and --

13 THE COURT: And, this is Mr. Scully?

14 MR. BARBRE: This is Mr. Scully. Yes,
15 Your Honor.

16 MR. FLOTTE: Your Honor, David Flotte,
17 appearing on behalf -- specially appearing on
18 behalf of Defendants, Ross Laris and
19 Millennium Supply Boats, LLC, along with
20 Chris Riviere and Camille Morvant.

21 THE COURT: And, this is Mr. Laris?

22 MR. FLOTTE: Yes.

23 THE COURT: Thank you.

24 MR. FLOTTE: Thank you.

25 THE COURT: There was a temporary
26 restraining order, injunctive relief and
27 declaratory relief filed by the petitioner,
28 Mr. Scully, and set for the -- the temporary
29 restraining order was granted and set for
30 today for hearing. And, thereafter, the
31 Defendant filed multiple exceptions, so we
32 set those exceptions for today, also. The

1 Defendant's exceptions, I'll hear them in
2 whatever order you think is the most
3 prevalent, I guess you would say, first. And
4 then, they can make some argument about that,
5 and then we could move on there, unless y'all
6 have a better method of how we should do
7 this.

8 MR. FLOTTE: That would be great, Your
9 Honor.

10 MR. BARBRE: Judge, the only thing from a
11 housekeeping perspective --

12 THE COURT: Okay.

13 MR. BARBRE: -- that I would suggest to
14 the Court so Your Honor can make a decision
15 on how you want to handle this. We intend to
16 offer, probably most of what we would offer
17 in our case in chief on the preliminary
18 injunction in opposition to the exceptions.
19 So, we've got a bulk of testimony and
20 exhibits that we intend to offer, in
21 opposition to the initial exceptions that
22 have been filed by the Defense. I don't want
23 to not necessarily duplicate my presentation
24 of evidence to the Court, and I understand
25 that Counsel is making a special appearance.
26 Their position is they shouldn't be before
27 the Court, so I understand that to be the
28 position of the Defendants. My suggestion,
29 if I may, Judge, would be, we'll go ahead and
30 offer her the evidence in defense of the
31 exceptions with an understanding that if we
32 survive the exceptions, that we don't have to

1 re-present the same evidence on our
2 preliminary injunction, where we have the
3 burden of proof. We'll have some additional
4 evidence to offer. The standards are
5 obviously a little bit different, but I'm
6 trying to avoid duplicating probably two-plus
7 hours of testimony, Your Honor.

8 THE COURT: So, the first question would
9 be with regards to the exceptions, in my
10 review of what everybody filed, I think the
11 parties can agree that there are certain
12 exhibits that are needed, with regards to the
13 exceptions, because there is some contracts.
14 And I think, based on my review of what y'all
15 have already filed, that the Petitioner would
16 agree that there are at least the contracts,
17 operating agreements, those things that both
18 the parties agree are pertinent, whether it's
19 to the exceptions or to y'all's case, that
20 are needed --

21 MR. BARBRE: Absolutely, Your Honor.

22 THE COURT: -- no matter what, with
23 regards to that. Do y'all want to have a
24 joint --

25 MR. FLOTTE: Your Honor, may I make a
26 suggestion?

27 THE COURT: Yes.

28 MR. FLOTTE: On the overall -- when you
29 say judicial autonomy, there are exceptions,
30 some of which would allow testimony. And,
31 there are other exceptions which do not allow
32 for testimony. I'm gonna sort of group the

1 exceptions into what makes sense to me,
2 subject to the Court's review, as to what we
3 have. We have a subject matter jurisdiction,
4 based on arbitration, and related, exception
5 to prematurity, which Mr. Riviere will argue.
6 I'll argue the rest, and we'll decide on a
7 preliminary injunction, if we get there. It
8 makes sense to us, to keep from wasting, you
9 know, hours of the Court's time to look at
10 the -- pick up the dispositive exceptions
11 first, including the exhibits, the twelve
12 exhibits marked and put in the record, one
13 through twelve, that we submitted in
14 connection with that exception, along with
15 the Plaintiff's petition and everything that
16 he's attached to the petition. I think
17 that's the appropriate procedure for venue.
18 Venue is tied to the other non-jurisdictional
19 exceptions; accumulation of actions, proper
20 party interest, summary proceedings,
21 etcetera, etcetera. So, what my suggestion
22 is to try to achieve judicial autonomy, let's
23 take up the venue and non-jurisdictional
24 exceptions first.

25 THE COURT: So, the venue and subject
26 matter jurisdiction.

27 MR. FLOTTE: Yes.

28 THE COURT: The arbitration issue and
29 whether the venue --

30 MR. FLOTTE: Not the arbitration issue.
31 We suggest we take up venue and the other
32 exceptions, except for prematurity that's

1 based on arbitration, and subject matter
2 jurisdiction that's based on arbitration.

3 THE COURT: So, I think the first step
4 would be venue because then, depending on
5 what the ruling is on venue, y'all might be
6 going somewhere else and arguing in front of
7 a whole other judge, the other exceptions.

8 MR. FLOTTE: Correct. And, we'd have to
9 do all the testimony over again.

10 THE COURT: Over again.

11 MR. FLOTTE: And, just the judicial time
12 and inconsistency, that makes sense,

13 THE COURT: So, the venue first and
14 obviously, in the argument of venue, y'all
15 might have some issue y'all want to bring up.

16 MR. BARBRE: Your Honor, if I may. And,
17 thank you, Mr. Flotte. Mr. Flotte suggested,
18 I think, that the venue and jurisdiction
19 exceptions do not allow for testimony. We
20 disagree with that. There certainly can be a
21 presentation of evidence. In fact, Mr.
22 Flotte wants to offer these exhibits. So,
23 Judge, I don't have a problem with you taking
24 up venue, but, we do intend to offer and
25 present all the evidence, and I've already
26 suggested that we're going to, on those two
27 exceptions.

28 THE COURT: Okay.

29 MR. BARBRE: So, I don't know that there
30 is a way to say, we're going to address these
31 exceptions with some curtailed presentation
32 of evidence.

1 THE COURT: I don't think there will be a
2 curtailed presentation of evidence, but --

3 MR. FLOTTE: Judge, may I say something?

4 THE COURT: -- if I don't get past point
5 one, I would hate to waste everybody's time.
6 Now, I'm going to say it's duplicative of
7 evidence. I understand what you're saying.
8 There is gonna be evidence for each
9 exception; that the parties might disagree on
10 how it's presented, but, I'm here all day.
11 But, to save everybody's time and also money,
12 I don't want y'all to like, us spending three
13 hours arguing all the exceptions and then I
14 tell you, well, based on this and this, y'all
15 go see someone else or go see an arbitrator.

16 MR. RIVIERE: Judge, I have one other
17 point, if I may?

18 THE COURT: Yes, sir.

19 MR. RIVIERE: This is Chris Riviere. I
20 represent Mr. Laris and Millennium. If there
21 is going to be the taking of testimony in
22 connection with any of these things, because
23 of the arbitration exceptions that we have
24 filed, I want it to be clear that if we
25 cross-examine a witness, or do things like
26 that, it is for a limited purpose and it acts
27 in no way as a waiver of our arguments on
28 arbitration. There has been some lines in
29 the jurisprudence that if you consent to say,
30 an extension of a temporary restraining order
31 or temporary injunction, that you've waived
32 your right to arbitration by taking forth the

1 process of litigation, and I want to make
2 sure that it's clear on the record that we
3 are not waiving any of those arguments.

4 THE COURT: Okay.

5 MR. BARBRE: And, Your Honor, the same
6 waiver, different sub-jurisprudence, but as
7 jurisprudence, saying that if you similarly
8 proceed with venue, you waive it.

9 THE COURT: Waive arbitration?

10 MR. RIVIERE: No. Waive venue. The
11 objection, is if we cross-examine witnesses,
12 except in our special appearance. That's why
13 every piece of paper we file has me specially
14 appearing because at the next, you know -- we
15 don't want to have anything waived. We want
16 to reserve our rights.

17 THE COURT: Okay.

18 MR. RIVIERE: And, that's why I think
19 you're supposed to take exceptions first.

20 THE COURT: Okay. So, the first
21 exception we'll start with is venue.

22 MR. RIVIERE: Yes, ma'am. Should I stay
23 here or go to the podium?

24 THE COURT: This is a good room for
25 sound. If my court reporter can't hear you,
26 she'll ask you to speak up.

27 MR. RIVIERE: I'm loud.

28 THE COURT: I'm okay if y'all stay where
29 you are. If you feel like you need to come
30 to the podium, you can, but, I'm fine if
31 y'all stay where you are.

32 MR. FLOTTE: Judge, if I may disclose to

1 the Court, I'm scheduled for a hip
2 replacement next month, so if I stand --

3 THE COURT: You can move about freely.

4 MR. FLOTTE: -- or sit freely, Your Honor?

5 THE COURT: Yes.

6 MR. FLOTTE: Thank you, Judge.

7 THE COURT: If he's standing or sitting,
8 it's not in any disrespect to the Court or
9 other party.

10 MR. FLOTTE: Thank you, Your Honor.

11 MR. RIVIERE: Your Honor, we ask that the
12 Court maintain our exception of venue and
13 belated exceptions, but, I'll lead with
14 venue. This case arises out of the documents
15 that are attached to the Plaintiff's
16 petition, and the allegations in his
17 petition. It starts in September 6th of 2021,
18 when there is what was Defendant's Exhibit 2,
19 in connection with the venue, we've already
20 filed it in the record, but we would offer,
21 file, and introduce into record Defendant's
22 Exhibits 1-16 that were attached to the
23 exceptions.

24 THE COURT: Any objection?

25 MR. BARBRE: Yes, Your Honor. We
26 received, I believe, Exhibits 1-12. I don't
27 have a 1-16.

28 MR. RIVIERE: Excuse me. I'm corrected.

29 THE COURT: That's what I was asking. I
30 don't remember a 16.

31 MR. BARBRE: Your Honor, we would object
32 to the last Exhibit 12.

1 THE COURT: Okay.

2 MR. BARBRE: Which is a -- I'm not even
3 sure what you'd call it, but it's a
4 declaration of sorts by an individual.
5 That's not proper evidence before the Court
6 today.

7 THE COURT: So, Defense 1-11.

8 MR. FLOTTE: Yes, 1-11. That would be
9 satisfactory and I think Counsel is right;
10 that the last one pertains to other issues.
11 So, 1-11, we would offer at this time.

12 THE COURT: So, Defense Exhibit 1-11,
13 there is no objection.

14 MR. BARBRE: And, Judge, just to be
15 clear, that's the September 2021 contract.

16 MR. FLOTTE: Correct.

17 MR. BARBRE: And then there is ten
18 operating agreements for the various Pelican
19 Companies. Again, I'll try very hard to keep
20 the exhibits straight, as we give our
21 presentation.

22 THE COURT: So, Defense Exhibit 1 was the
23 September 2021 contract. And then, 2 through
24 11, were all the operating agreements.

25 MR. BARBRE: For the Pelican Companies.

26 THE COURT: Involving the Pelican
27 Companies.

28 MR. BARBRE: Yes, Your Honor.

29 THE COURT: Okay.

30 MR. FLOTTE: And, for the purpose of oral
31 argument, let me share with Counsel and the
32 Court, a highlighted copy of Exhibit 1 and

1 Exhibit 4, both of which were attached to the
2 Plaintiff's petition. Defendant's Exhibit 1
3 was actually Plaintiff's Exhibit 2, and the
4 Defendant's Exhibit 4 is also Plaintiff's
5 Exhibit 4, if I may.

6 THE COURT: Do you have any issue with
7 him just highlighting, for reference
8 purposes?

9 MR. BARBRE: Judge, I'm not sure for what
10 purposes he's offering the markups.

11 MR. FLOTTE: Just so everybody can see
12 what --

13 THE COURT: I think what he's referring
14 to, not for --

15 MR. FLOTTE: Correct. For tracking
16 purposes, Judge.

17 THE COURT: For making it easier for us.

18 MR. BARBRE: Only that, yes, that would
19 be fine.

20 MR. FLOTTE: Correct.

21 THE COURT: Thank you.

22 MR. FLOTTE: So, we start with, first,
23 the September 6th, 2021 agreement, the portion
24 that pertains to our exception of venue.
25 Specifically, it states that the parties
26 agree that any legal action taken between the
27 parties arising out of, or relating in any
28 way to this contract, or their business
29 relationship, shall be filed and litigated in
30 the Seventeenth Judicial District Court for
31 the parish of Lafourche, Louisiana. Now,
32 this was -- the agreement is broader and

1 encompasses the relationship between the
2 parties, regardless of the allegation that
3 the underlying agreement was void. This was
4 in turn followed by operating agreements, not
5 in 2021, but, in September of 2023, and that
6 we have attached a sample, which is the same
7 sample, Exhibit 4, which specifically says in
8 each operating agreement as to choice of law,
9 if any dispute arising out of or related to
10 the agreement implies judicial resolution,
11 the parties agree that any such matter shall
12 be litigated only in a court of competent
13 jurisdiction in Terrebone Parish, Louisiana.
14 The parties hereby irrevocably submit to the
15 exclusive jurisdiction of such courts. So,
16 there has been no further changes, and both
17 of those documents have been signed by the
18 Plaintiff, signed by the Defendants, and
19 filed as attachments to the Plaintiff's
20 petition. Because the Plaintiff does not
21 deny their signature, and the very
22 allegations of his own complaint attacking
23 those, this means that it is essentially a
24 forum selection clause. Forum selection
25 clauses have specifically been approved in
26 Shelter Mutual Insurance versus Rimkus
27 Consulting Group cited in our brief 148 So.
28 3d, July of 2014, of the Louisiana Supreme
29 Court where the court said our ruling holding
30 selection clauses prima facie valid and
31 generally enforceable, serves these important
32 principles of free enterprise and commerce.

1 I suggest to the Court that venue is
2 improper. The question though, is related as
3 when venue is improper, what is the Court
4 supposed to do? Louisiana's Code of Civil
5 Procedure, Article 121 seems to give the
6 Court discretion. It states that when an
7 action is brought in a court of improper
8 venue, the court may dismiss the action or,
9 in the interest of justice, transfer it to a
10 court of proper venue. In this instance,
11 there is a clarifying code of procedure
12 article that deals with cumulation of actions
13 and we also filed an exception of improper
14 cumulation of actions.

15 MR. BARBRE: Excuse me, Your Honor, are
16 we arguing the improper cumulation or venue?

17 MR. FLOTTE: I am arguing both because
18 the code says one is related to the other,
19 insofar as what you are supposed to do when
20 you maintain exception of venue. In other
21 words, Article 464 of the Louisiana Code of
22 Civil Procedure says if cumulation of actions
23 is improper, the Court has no discretion to
24 transfer and supposed to dismiss. That's
25 why.

26 THE COURT: Not for the purposes of
27 making a ruling on the cumulation, but just
28 to make argument --

29 MR. BARBRE: Counsel is arguing that
30 there is a correlation, so it wants to know
31 if we're still within the boundaries of
32 venue.

1 THE COURT: Still within the confines of
2 venue. Yes, sir.

3 MR. BARBRE: Okay. Thank you, Judge.

4 MR. FLOTTE: So, I can defer what to do
5 and let Counsel respond, if that would be
6 preferable, as to the venue itself. And so,
7 that way, Counsel can talk about it, but, I
8 will note that even though there was a
9 lengthy brief that talked about a lot of
10 issues, there has been no specific objection
11 or discussion in any opposition to show why
12 this Louisiana Supreme Court case should not
13 be followed, and why the forum selection
14 clause should not be enforced because it has
15 been declared to be prima facie valid and in
16 favor of public policy. That's all I have on
17 venue, except for what we do once the
18 finding.

19 MR. BARBRE: Thank you, Your Honor. I
20 don't know if Your Honor would like some
21 brief argument or we can get right to the
22 testimony.

23 THE COURT: Whatever you would like to do
24 first.

25 MR. BARBRE: I'd like to call Jonathan
26 Scully to the stand.

27 MR. FLOTTE: Your Honor, I would object
28 to Mr. Scully testifying, simply because --
29 or ask that it be limited to venue.

30 THE COURT: Okay. His testimony will be
31 limited to venue.

32 MR. FLOTTE: Okay.

1 THE COURT: The clerk is going to swear
2 you in, sir, and then you will have a seat on
3 the witness stand. You don't have to worry
4 about the microphone.

5 JONATHAN SCULLY,
6 after having been duly sworn, was examined and did
7 testify as follows:

8 THE COURT: Have a seat on the witness
9 stand. And, sir, the microphone doesn't
10 amplify. I don't know if you're accustomed
11 to being in court. I just tell everybody
12 when they're talking to speak with their
13 outside voice. You want the people all the
14 way in the back of the courtroom to hear you.
15 If we can't hear you, my court reporter may
16 ask you to speak up. Also, we can't record
17 uh-huh or unh-unh, or nodding, so you always
18 have to always try to use your words, yes or
19 no.

20 A Yes, ma'am.

21 THE COURT: So, we might ask you to
22 repeat if you do that.

23 A Yes, ma'am.

24 DIRECT EXAMINATION BY MR. BARBRE:

25 Q Mr. Scully, could you please state your name and
26 business address for the record?

27 MR. SCULLY:

28 A Jonathan Scully. Business address would be 101
29 Tournament Boulevard, Berwick, Louisiana, 70342.

30 Q Just by way of brief background and introduction to
31 the Court, can you briefly recap your work history?

32 A I started in 2016 cutting grass, doing landscaping,

1 cutting trees. I got a residential contracting
2 license, started doing some -- a home improvement
3 license and started doing some construction. From
4 there, moved forward. Started owning some rental
5 equipment that we would use for construction and
6 started to begin a small rental business, and
7 trying to rent out some of our different things,
8 but, had multiple different businesses there. I
9 got a 2018 business Role Model Of The Year award
10 for our parish. I have been heavily involved in
11 Washington, D.C. with the government insight and
12 reform on disaster recovery and done many projects.
13 I would say in total, close to Fifteen to Twenty
14 Million Dollars in sales before hand.

15 Q Did you form the Pelican Companies that are the
16 Plaintiffs in this lawsuit?

17 A I did. Yes, sir.

18 Q And, you signed a verification-ordered petition.
19 So, you read it and understood that to be true and
20 accurate, to the best of your knowledge,
21 particularly for the dates of formation of the
22 Pelican Companies?

23 A Of course. Yes, sir.

24 Q What was your goal in forming these Pelican
25 Companies?

26 MR. FLOTTE: Objection. Relevance.

27 THE COURT: How is that relevant to
28 venue?

29 MR. BARBRE: Your Honor, you've read the
30 briefs. The argument before the Court that
31 the Plaintiffs assert is that these contracts
32 are not valid at all, or otherwise not

1 admissible. Part of the issue for the Court
2 is the formation of these contracts and
3 motivations of Mr. Scully, and entering into,
4 particularly, this September 2021 agreement
5 and had the operating agreements later on in
6 2023. So, his intent of what he wanted to do
7 with the companies, the goal for the
8 companies, relative to the formation of a
9 business relationship with Mr. Laris is
10 certainly relevant to venue.

11 MR. FLOTTE: Your Honor, if I may reply.
12 The broad agreement that bears his signature
13 that he attached and confirmed bears his
14 signature says the parties agree that any
15 legal action taken between the parties,
16 arising out of or any way related to the
17 contract and/or business relationship, shall
18 be filed. The agreement is broad enough to
19 cover a claim that it's invalid. The reality
20 is, is while you've seen the allegations of
21 the Plaintiff, we can't give you all of the
22 facts when we're specially appearing. But,
23 Mr. Laris has invested Millions that's going
24 to need to be paid back, if the contract's
25 invalid. No, we don't think it's invalid at
26 all, but the point is, it's not as simple as
27 saying, you know -- the threshold for
28 relevance is to show it does not -- this
29 claim does not arise out of the business
30 relationship, and that is directly
31 inconsistent with the allegations.

32 MR. BARBRE: Brief response, Judge.

1 THE COURT: Yes, sir.

2 MR. BARBRE: We have briefed the law to
3 you, and I am certain that Your Honor has
4 read it, and the question of the formation of
5 these contracts is absolutely pivotal to our
6 arguments on adhesion and fraud and we can
7 certainly offer evidence to show that this is
8 not the agreement; that these should not be
9 enforced. Again, what was the agreement and
10 what was Mr. Scully's intention, which is at
11 the heart of the question that I posed today,
12 certainly is relevant.

13 THE COURT: With regards to what his
14 intent was, I find that that's not relevant
15 to the issue of venue as the written
16 contracts that he went into with Mr. Laris
17 and/or the companies owned by Mr. Laris. The
18 different contracts that were entered into is
19 what the Court would use, the four corners of
20 that contract, because it does address those
21 issues. Now, there may be some testimony, or
22 he may have something to say about that's not
23 what the contract was or they had other
24 agreements, but, with regards to that
25 contract itself, I don't think it's relevant
26 as to what his intent was before he signed
27 the contract, because once he signed the
28 contract, it became a contract. There may be
29 some other agreements that they had, but what
30 I'm just saying is his intent into forming
31 that specific contract is not relevant
32 because he signed the contract and the intent

1 is within the contract. But, on that same
2 line, he can't testify about other things,
3 just to his intent prior to signing the
4 contract, or his purpose in signing the
5 contract.

6 MR. BARBRE:

7 Q Mr. Scully, before you met Mr. Laris,

8 THE COURT: I apologize. The objection
9 is sustained. Thank you. I'm sorry.

10 Q Before you met Mr. Laris, can you describe the
11 operations of the Pelican Companies?

12 A We did multiple things. We had a construction
13 company that did construction work. We had
14 carpenters. We maintained about 160 Taco Bells for
15 B&G foods. So, we were very busy, as we have some
16 workers here today that helped us do that. So, we
17 did that and stayed very busy doing that. We did
18 lawn care at the time, still. We did pressure
19 washing. We worked for the St. Mary Parish School
20 Board; the hospitals. We were doing a lot of
21 maintenance. Doing a lot of different things. We
22 were really the go-to for everybody in our parish.
23 If you didn't know who to call and wanted somebody
24 to take pride, wanted somebody you could trust to
25 go do a good job, they called us. Everybody in our
26 town and community, and around here, I think
27 believes to call us, being a go-to for any
28 maintenance, any odd jobs, anything that you didn't
29 know, or if you wanted to find somebody that
30 hopefully we could recommend and get you someone
31 trustworthy.

32 Q How much equipment rental was any of the Pelican

1 entities doing before you met Mr. Laris?

2 MR. FLOTTE: Objection. Relevance to
3 venue.

4 THE COURT: He said objection to
5 relevance.

6 MR. BARBRE: Objection to relevance?

7 THE COURT: That it's irrelevant to
8 venue.

9 MR. FLOTTE: Yes, Your Honor.

10 MR. BARBRE Judge, I believe he is going
11 to testify as to where work was being done.
12 That's certainly relevant to venue. The
13 argument is we can't offer any evidence
14 outside the four corners of the document.
15 And Judge, that's not what the law says. We
16 either argue that the formation of the
17 contract is invalid under various legal
18 theories. We have argued that the contract
19 itself, and the four corners of it, is
20 invalid because the sole obligation of
21 Millennium Supply Boats in the contract is at
22 the whim of Mr. Laris, and under Civil Code,
23 it's null. They want to then argue that we
24 had this contract that has this provision,
25 and Judge, you don't need to look at anything
26 further. And then, we have the operating
27 agreement. Again, that's completely
28 dependant upon the contract, and whether or
29 not Mr. Laris actually provided any
30 consideration, did anything under the
31 contract that he "was obligated to do". So,
32 Judge, I certainly believe that we can offer

1 some testimony to address the formation of
2 the contract and that's what this line of
3 testimony is about.

4 THE COURT: So, he would testify as to
5 work, the locations of work of Pelican
6 Companies.

7 MR. BARBRE: Yes, Your Honor.

8 MR. FLOTTE: Before the contract.

9 THE COURT: Right. Before the contract.

10 MR. BARBRE: Yes, Your Honor.

11 MR. FLOTTE: Your Honor, if I may reply.
12 It is irrelevant. What you haven't heard is
13 that any information that is showing that
14 there -- the contract that he signed, any
15 attack on the clause that deals with venue.
16 You haven't heard why Shelter Mutual
17 Insurance versus Rimkus. The Louisiana
18 Supreme Court says that forum selection
19 clauses, which these two are, are enforceable
20 and serves important principles. It doesn't
21 matter what he did before. It doesn't
22 matter, you know -- but insofar as a comment
23 that was just made, the petition itself says,
24 at the time of closing, Ross Laris wrote him
25 a check for a Million Dollars. Then, in
26 another month, he wrote him a check for a
27 Million Dollars. I --

28 MR. BARBRE: Your Honor, I'm --

29 MR. FLOTTE: You brought up the issue.
30 I'm saying, let's curtail it to venue.

31 THE COURT: So, I understand Plaintiff
32 counsel's argument that some of these things

1 may be relevant in certain situations, but if
2 we don't get past the forum clause in the
3 contract -- that's what we need to get past
4 first, I guess you would say.

5 MR. BARBRE: Judge, I agree.

6 THE COURT: So, that's why he is saying
7 it's not relevant.

8 MR. BARBRE: But, to get past the forum
9 selection clause under the Shelter case, we
10 look at the First Circuit Vallejo case and
11 the other cases that say, you know, when
12 there's an allegation that this contract was
13 a result of fraud, when it's adhesiory that
14 the formation of the contract is the issue.
15 It's not whether or not there is a forum
16 selection clause. There is no question that
17 the language that Counsel relies upon is in
18 the document. I mean, there's no dispute
19 about that. But, how that came to be and the
20 circumstances around it, and ultimately,
21 whether or not there is true consent required
22 for that to be an enforceable agreement goes
23 outside the four corners, and the law says
24 we're allowed to offer evidence outside the
25 four corners.

26 MR. FLOTTE: No such case has been cited
27 on venue. The reality is that it's not the
28 agreement. The clause is broader than just
29 requiring the enforcement of contract. Any
30 agreement, any dispute arising out of their
31 business relationship is triggered by the
32 clause that this witness signed. And, as a

1 result, the issue of -- let me say it another
2 way. Assume that they are correct and the
3 Court ultimately determines that the contract
4 is void and then, have someone decide okay,
5 when do they pay the Millions of Dollars in
6 money and guarantees back to Mr. Laris? It's
7 for a different court to decide because he
8 agreed to it.

9 MR. BARBRE: Your Honor, I'm going to
10 object. Counsel, on one hand, says, we're
11 here with only a toe in the water, but then
12 wants to dive in and make arguments about
13 things that they say they can't argue about.
14 I want to object to any reference to what Mr.
15 Laris did or did not do. They haven't argued
16 that. They haven't put on any evidence. In
17 fact, they say, oh, well, we're not getting
18 there. We shouldn't. We're not allowed
19 because -- Judge, I was okay with their
20 position that we're not waiving anything, but
21 when they're making arguments on the
22 substance of the claims here, that's a clear
23 waiver. They're here. They're making these
24 arguments. They can't have a toe in the
25 water and then, at the same time say, no,
26 we're not really doing this. They want to
27 jump in both feet with their arguments.

28 MR. FLOTTE: Your Honor, I think we now
29 know why witnesses are being called. They're
30 trying to set up a waiver.

31 THE COURT: With regards to the objection
32 that any testimony of the nature that is

1 regarding the location, that any work Pelican
2 Companies did prior to getting into an
3 agreement with the Defendant is irrelevant
4 with regards to the venue. So, the objection
5 is sustained.

6 MR. BARBRE: Yes, Your Honor.

7 MR. BARBRE:

8 Q Mr. Scully, how did you meet Mr. Laris?

9 A I met Mr. Laris, I believe at his camp. His son --
10 I had met his son out at a bar one afternoon. He
11 was chasing after a girl I knew. We started
12 talking. He knew I was big into hunting and he
13 told me about a hunting camp. I believe Mr. Cam
14 Morvant is what I knew his as, and I think he was
15 there too because I remember him telling me that he
16 was the District Attorney, and he had a special
17 deer stand from Mr. Cam Morvant there at the time.
18 But, I went to Mr. Ross Laris's hunting camp and I
19 met him there from his son that was retaining my
20 insurance and doing that.

21 Q You mentioned insurance, did you have an insurance
22 relationship with Mr. Laris?

23 A Yes. At one time, I had Hub Industries, or Hub
24 International, and his son was on me. I was kind
25 of, you know, posting Pelican; always on social
26 media doing it. So, his son was like, hey, you
27 know, you should let us write your insurance. His
28 son was coming up in the insurance business. So,
29 that was how I -- when I gave his son the insurance
30 business. And then, they took me to the camp, let
31 me shoot an animal, and kind of introduced me to
32 Ross that way, and started beginning to know Ross

1 that way.

2 Q What was your impression of Mr. Laris?

3 A Mr. Laris had it all. His camp was the nicest camp
4 I had ever been to, and I found Mr. Laris was a
5 successful business man, and he was a mentor and
6 could trust him.

7 Q What were your first non-insurance business
8 dealings with Mr. Laris?

9 A We were in Minnesota and we were racing somewhere.
10 They invited me to go to a race. I'd go with them
11 to the race and cook and hang out. I'd cook for
12 Mr. Laris's family. And, he mentioned to me that
13 he had a big deal going on, and we were talking
14 about rental equipment. He asked me what I thought
15 about blowing it up. Well, I apologize. The first
16 thing was that he mentioned to me the NTAC
17 equipment that he had. He had NTAC equipment that
18 was not being rented, and he asked me if I thought
19 I could put it to work.

20 Q What is NTAC?

21 A NTAC is another equipment company that Mr. Ross
22 Laris told me he owned sixty percent of, or he was
23 a majority owner of, with a guy named Timmy. And he
24 mentioned that they were in West Texas. He was
25 paying these bank notes, losing money, and asked me
26 if I could put it to work.

27 MR. FLOTTE: Your Honor, I object to this
28 line of questioning. No question has been
29 asked about venue or his capacity.

30 MR. BARBRE: The question has been asked
31 and answered. I don't know what objection
32 there is.

1 THE COURT: The objection was to
2 relevance. His historical relationship with
3 Mr. Laris because I think the testimony that
4 was provided -- his objection was that
5 testimony is not relevant to venue.

6 MR. FLOTTE: Okay, but, he answered the
7 question.

8 THE COURT: I don't know if we can un-
9 ring the bell.

10 MR. BARBRE: Thank you, Judge.

11 THE COURT: Objection is noted, but moot
12 as the testimony has already been provided.

13 MR. BARBRE:

14 Q This conversation about the NTAC equipment, was
15 Pelican Companies renting it's own equipment at
16 that time?

17 A Yes, sir.

18 MR. FLOTTE: Objection. Relevance to
19 venue.

20 THE COURT: The objection is sustained.

21 MR. BARBRE:

22 Q Who proposed the business relationship as between
23 you and Mr. Laris?

24 A Mr. Laris.

25 MR. FLOTTE: Objection. Relevance to
26 venue.

27 THE COURT: Objection is overruled.

28 MR. BARBRE: Thank you, Your Honor.

29 A Mr. Laris.

30 Q And, what did he propose?

31 A He told me that he had a big deal happening and he
32 proposed that he would be willing to put up Fifty

1 Million Dollars, and we would be fifty-fifty
2 partners.

3 Q Fifty Million Dollars?

4 A Fifty Million Dollars.

5 Q Is that a lot of money to you?

6 A Yes. I think I called my family immediately after,
7 my employees, and said, man, we about to blow and
8 go, and still was in disbelief. I don't think
9 anybody believed me.

10 Q Do you have any idea where Mr. Laris came up with
11 that figure? Fifty Million Dollars?

12 A I have no clue. He told me recently after he was
13 selling his insurance venue, that he would be
14 willing to put up Fifty Million Dollars to get this
15 thing blowing and going, once I put his equipment
16 from NTAC to work; when the equipment came from
17 NTAC that he asked me to put it all to work
18 immediately.

19 Q Were the Pelican Companies successful in putting
20 the NTAC equipment to use?

21 A Yes, sir.

22 Q Did y'all make money on it?

23 A No, sir.

24 Q Why not?

25 A Because Mr. Laris changed the price.

26 MR. FLOTTE: Objection to venue.

27 Relevance.

28 MR. BARBRE: I'll withdraw that one,
29 Judge. We'll get to that one later, I
30 suppose.

31 THE COURT: Okay.

32 MS. BARBRE:

1 Q Mr. Scully, did you and Mr. Laris further hammer
2 out the details as to what the business
3 relationship was going to be?

4 A As time went on and he kept telling me, just kind
5 of lingering on, and I think we talked about this
6 in early February. And, closer to May --

7 THE COURT: February of what year are you
8 referring to?

9 A 2021.

10 THE COURT: Thank you.

11 A In February of 2021, Mr. Laris, was kind of telling
12 me about these deals, and these deals he had
13 happening. So, I begin to plan to get everything
14 ready for this deal to happen, kind of, not knowing
15 the details. But, around May, I knew, you know,
16 talking to my CPA and my family, they were like,
17 hey, you keep telling us you got this Fifty Million
18 Dollar deal. You're spending all this money.
19 You're doing all these different things. I asked
20 Mr. Ross Laris, hey, like I need something serious.
21 I called him for like a letter of intent, or
22 something like that. So, he said, go ahead and
23 have your attorney draw something up and send it to
24 me. He gave me his attorney's info. So, I sent an
25 email out, stating that Mr. Laris would be putting
26 up Fifty Million Dollars for a long term investment
27 in an email, and that the lawyers would negotiate
28 the rest of the deal.

29 MR. BARBRE: Your Honor, may I approach?

30 THE COURT: Yes, sir.

31 MR. FLOTTE: Your Honor, I've not seeing
32 this. If we can a look at it, Your Honor.

1 THE COURT: While he is reviewing it,
2 we're going to take a brief recess from
3 y'all's matter.

4 (COURT IN RECESS)

5 (COURT IS BACK IN SESSION)

6 THE COURT: We'll resume session in the
7 Scully versus Laris matter. Have y'all had
8 an opportunity to review the document he's
9 approaching the witness with?

10 MR. FLOTTE: Unless I missed it, Your
11 Honor, this document, which has been marked
12 as P-1 at the bottom, doesn't have anything
13 to do with venue. And, accordingly, we would
14 object to its introduction and ask -- if it's
15 with the witness, the issue before the Court
16 is venue, and it's not relevant to venue.

17 THE COURT: Is this the testimony he
18 provided with regards to the letter of intent
19 that he would have sent to Laris's attorneys?

20 MR. BARBRE: Your Honor, he just
21 testified that he provided an email summary
22 that then led to the letter of intent. This
23 is the email. It goes to the formation of the
24 contract. I don't think there is any basis
25 for Counsel to keep arguing. Unless
26 something says venue, or the witness says the
27 word venue, that somehow this is irrelevant.
28 It goes to the formation of the contract that
29 they're relying upon for the venue.

30 THE COURT: The objection is overruled.
31 You can continue your line of questioning.

32 MR. BARBRE:

1 Q Mr. Scully, I've handed you an email string that I
2 believe is four pages long and marked it at the
3 bottom as P-1. Is this a document you're familiar
4 with?

5 A Yes, sir.

6 Q I see a number of email addresses on the top of the
7 first page. Mr. Patrick Skyles. Do you know who
8 that is?

9 A Yes, sir. He's --

10 MR. FLOTTE: Objection. Outside of
11 venue. Relevance.

12 THE COURT: Objection is overruled.

13 MR. BARBRE: Thank you.

14 A He is my attorney and my friend.

15 MR. BARBRE:

16 Q And, I see Rosslarisinsurance.com. Is that the
17 Defendant, Mr. Laris?

18 A Yes, it is. Yes, sir.

19 Q And, I see yourself, Jonathan Scully, J. Scully, at
20 thepelicancompanies.com. Is that your email?

21 A Yes, sir.

22 Q I see an email for Fred Fondren at mfbfirm.com Do
23 you know who Mr. Fondren is?

24 A I believe that was the attorney for Mr. Ross that
25 he included in the email, or told me that he would
26 be introducing me to get with Patrick and draft
27 this up.

28 Q If you look on the third page of P-1, there was an
29 email that looks like it's originally from you to
30 Mr. Skyles, dated April 21st, 2021 at 1:22 p.m.?

31 A Correct.

32 MR. BARBRE: Judge, before I go further,

1 may I offer, introduce, and file into
2 evidence P-1?

3 THE COURT: Any objection?

4 MR. FLOTTE: We do object to it. And I
5 know he's going to his communications between
6 him and his lawyer, none of which deals with
7 him having a lack of capacity an inability to
8 sign or venue, or anything remotely related
9 to venue. We object.

10 MR. BARBRE: Your Honor, I'm not really
11 sure how to respond to that. Again, it goes
12 to the formation of the contracts that are at
13 issue. We are attacking the formation, and
14 it's absolutely relevant to the matters of
15 venue.

16 THE COURT: The matter of venue.
17 Objection is overruled. So, that will be P-
18 1.

19 MR. BARBRE: Your Honor, may I provide a
20 copy to the Court, so you may follow along
21 with the testimony?

22 THE COURT: That's what they're looking
23 at right now, also?

24 MR. BARBRE: Yes, Judge. Thank you.

25 THE COURT: And, this was attached to?

26 MR. BARBRE: It's not attached to
27 anything.

28 THE COURT: Okay. All right. I just
29 wanted to make sure it's not previously
30 referenced in any of the other materials.

31 MR. BARBRE: It is not. No, Your Honor.

32 MR. BARBRE:

1 Q Mr. Scully, on Page 3, we're referring to the email
2 from yourself to Counsel, and I know there's a
3 string that follows, but can you read that email to
4 Mr. Skyles on April 21st?

5 A Page 3? The one from me you're referring to?

6 Q Yes, sir. The one from you.

7 A It says, (Reading) Good afternoon. As discussed
8 before, Ross Laris and myself spoke this morning
9 and we are ready to take the steps and move forward
10 in our partnership. Ross can use this email,
11 whatever you would ask of him, to work with his
12 lawyer to get us more information and details as
13 needed to move forward. From meeting this morning,
14 we spoke about 50.1 Ross for putting up all the
15 finances moving forward and 49.9 myself being the
16 manager/partner with all Pelican assets it owns
17 now, with it being a side agreement and it not
18 being on the Secretary of State's websites, leaving
19 him a silent partner. I spoke with Ross about
20 quickly dividends and yearly with both agreeing we
21 are looking for a long-term investment, but I am
22 open to whatever his lawyer and himself want to put
23 in the terms. We talked about money down to
24 myself, personally, for Pelican assets now and
25 putting it together. I'll let him look at the
26 financials from John, and what the CPA sends him
27 and his lawyer for us to make this agreement. As
28 of now, the agreement would be for up to Forty-Five
29 Million Dollars in financing or equipment, and Five
30 Million of operating cash. Payment dates and
31 details can be set by the partners and the lawyers.

32 Q Does it continue after that?

1 A (Reading) This agreement will be for all the
2 Pelican Companies; Pelican Companies of America,
3 Pelican Rentals and Services, Pelican Contractors
4 of USA, Pelican Industrial of USA, Pelican
5 Equipment Company, LLC, Pelican Marine and Oil,
6 LLC, Pelican Transportation and Logistics, Jonathan
7 Scully Companies, Pelican Real Estate, and Lake and
8 Rentals, LLC.

9 Q Was, on April 21st, 2021, this your understanding
10 that the parameters of a business relationship with
11 Mr. Laris?

12 A Ask me that question again. I apologize.

13 Q Was there anything left out? Is this your
14 understanding of the business relationship?

15 A Yeah. That was everything we had. Yes, sir.

16 THE COURT: Hold on, sir. I apologize.
17 If you here him say objection, stop talking,
18 just in case, that way he can finish saying
19 what his objection is. And, then I'll let
20 you know if you can answer the question.

21 A Yes, ma'am.

22 THE COURT: What was your objection?

23 MR. FLOTTE: My objection is relevance to
24 venue.

25 MR. BARBRE: Your Honor, I asked him if
26 this was everything. So, I think he can
27 answer that. My follow-up question is gonna
28 be was venue discussed.

29 THE COURT: The objection is overruled.
30 You can anser his question.

31 A This was everything. Yes, sir.

32 MR. BARBRE:

1 Q Did your conversation with Mr. Laris include a
2 choice of forum or venue provision?
3 A No, sir.
4 Q Did Mr. Laris ever mention that if we have a
5 dispute, we're gonna go to arbitration?
6 A No, sir.
7 Q Did he mention that if we have a dispute, that it's
8 gonna go to court in Terrebonne or Lafourche
9 Parish?
10 A No, sir.
11 Q So, on the first page of P-1, there appears to be
12 an email from Mr. Laris on May 6th, down at the
13 bottom of Page 1. Do you see that?
14 A Yes, sir.
15 Q So, there had been at least a few weeks between
16 your original email and then that response from Mr.
17 Laris. Correct?
18 A Yes, sir.
19 Q All right. Were you trying to move along the
20 discussions that you had with Mr. Laris to, kind of
21 paper the business deal?
22 A I was trying to move forward as the business deal.
23 I was waiting on him and my attorney to
24 communicate.
25 Q And then, at the top, we have an email from Mr.
26 Skyles, Monday, May 18th. Correct?
27 A Yes, sir.
28 MR. BARBRE: Judge, I'm not sure how you
29 have to handle the exhibits, but I don't have
30 any further questions for the witness on this
31 particular exhibit at the moment. Does he
32 need to hand it to somebody?

1 THE COURT: I'm gonna use my copy to file
2 in the record, if that's okay. That way if
3 they have questions for him later, he can
4 still have an exhibit in his hand.

5 MR. BARBRE: I'm trying hard to follow
6 the rules, Judge.

7 MR. BARBRE: Your Honor, may I approach?

8 THE COURT: Yes, sir.

9 MR. BARBRE:

10 Q Mr. Scully, I am gonna hand you a document that has
11 been marked for identification as P-2. Is this a
12 document that you're familiar with?

13 A Yes, sir.

14 Q What is this document?

15 A Letter of intent.

16 MR. BARBRE: Your Honor, I'd like to
17 offer, file, and introduce into evidence P-2.

18 THE COURT: Any objection?

19 MR. FLOTTE: No objection.

20 THE COURT: Let it be admitted.

21 MR. BARBRE: Your Honor, may I approach
22 to give you a copy?

23 THE COURT: Yes.

24 MR. BARBRE: Thank you. Judge, this is
25 one of the exhibits that's attached to the
26 law suit.

27 MR. BARBRE:

28 Q Mr. Scully, do you recall how you received this
29 letter of intent?

30 A I believe Mr. Ross Laris sent it to me in an email.

31 Q Okay. The letter is dated May 18th. You had
32 received it about that time?

1 A Yes, sir.

2 Q And, when you received this, did you review it?

3 A Yes, sir.

4 Q Did you agree with what was found in this letter of
5 intent?

6 A Yes, sir.

7 Q And, the letter of intent, it addresses yourself.
8 Correct?

9 A Yes, sir.

10 Q And then, it addresses the Pelican Companies.
11 Correct?

12 A Yes, sir.

13 Q And, it also addresses Millennium Supply Boats,
14 LLC?

15 A Yes, sir.

16 Q Were you familiar with Millennium prior to this
17 letter of intent?

18 A No, sir.

19 Q Did you have any understanding of what Millennium
20 was when you got this?

21 A No, sir.

22 Q There are a few Where-as paragraphs there. The
23 first one, (Reading) Millennium Supply Boats -- let
24 me withdraw that question. The second paragraph
25 refers to you as president of Pelican Companies of
26 America and then, the following Pelican entities.
27 Were you president at that time?

28 A Yes, sir.

29 Q And, in the last Where-as paragraph on the first
30 page, it addresses you and various of the above
31 Pelican Companies, in either working capital and
32 equipment.

1 A Yes, sir.

2 Q Is that a correct statement?

3 A Where is that on the document again?

4 Q It's the last line of the first page.

5 A Last line. (Reviews document) Yes, sir.

6 Q Let me pause here, Mr. Scully. What was the
7 financial condition of Pelican Companies on May
8 18th, 2021?

9 A It was good. We were a growing company. Small
10 business; growing company. I guess when you asked
11 that question, it was not that we needed it. It
12 was that we wanted it, and we were very excited.
13 We had came off a big job, had another big job
14 lined up with another big promising company, had
15 more people calling, and we were excited about
16 business.

17 Q So, it's fair to say that you're anxious to grow
18 the Pelican Companies?

19 A Absolutely.

20 Q In order to grow the companies, did you need
21 working capital and equipment?

22 A Absolutely.

23 Q On Page 2, there is several bullet points on terms.
24 First one addresses Millennium providing working
25 capital in the form of cash or line of credit, in
26 an amount not to exceed Five Million Dollars?

27 A Yes, sir.

28 Q And, the second one addresses Millennium providing
29 equipment, financing, some combination thereof,
30 provide equipment, financing, etcetera, up to
31 Forty-Five Million dollars?

32 A Yes, sir.

1 Q Did you view this Fifty and Forty-Five Million
2 Dollars separation as generally consistent with the
3 Fifty Million Dollars discussion you had with Mr.
4 Laris?

5 A Not at the time. No. Originally, it was just --
6 he had said Fifty Million Dollars, and this was the
7 first time I was introduced to the difference, and
8 he started getting into the details.

9 Q Then, Number 3 addresses ownership in a parent
10 company, owning all of the Pelican Companies. Do
11 you see that?

12 A Yes, sir.

13 Q Was forming a parent company something you and Mr.
14 Laris had previously discussed?

15 A No, sir.

16 Q Number 4, you had the primary responsibility of
17 managing the companies on a day-to-day basis.
18 Would you agree with that?

19 A Yes, sir.

20 Q Was that important to you to be in that role?

21 A Absolutely. Yes, sir. I would not have done it,
22 if not.

23 Q Mr. Scully, I'm going to ask you to read the rest
24 of this document that we haven't covered and my
25 question is: Is there a venue or forum selection
26 clause addressed in this letter of intent?

27 A I'll start from Number 5. (Reading) The parties
28 anticipate that, in the event of transaction
29 consumed, that the company would pay quarterly
30 dividends to the partners as the finance company
31 would allow. In addition to the above, Jonathan
32 Scully will provide individually, and on behalf of

1 the Pelican Companies, all financial business and
2 legal records of the company and documentation of
3 any kind to Millennium Supply Boats, LLC, Ross
4 Laris, and/or their designee for the purposes of
5 performing due diligence necessary to make
6 decisions on whether to complete these
7 transactions. The due diligence period shall be no
8 less than sixty, nor one hundred eighty days.
9 Further, in conjunction with this letter of intent,
10 it's parameters and transactions, each party will
11 execute and mutually agreed non-disclosure
12 agreement, protecting the confidentiality
13 information of all parties that is produced in
14 conjunction with the due diligence effort. Again,
15 this letter of intent is not binding. Either party
16 may withdraw from it at any time, prior to the
17 binding agreement being reached. Both parties
18 agree that there should be no consequential or
19 other damage against one or the other for
20 cancellation of this letter or intent; a cessation
21 of negotiations between the parties. By
22 initialing, signing below, the parties state their
23 understanding perimeters surrounding potential
24 future contract or partnership between them and the
25 general framework of the same. It has a line for
26 Millennium Supply Boats and Mr. Ross Laris listed
27 as President, and it has a line for all of my
28 companies with Jonathan Scully as President.

29 Q Did you read the term "venue"?

30 A I have not. No, sir.

31 Q Read the term "forum"?

32 A I have not. No, sir.

1 Q Did you sign this agreement?

2 A I did not. No, sir.

3 Q Are you aware if Mr. Laris ever signed this
4 agreement?

5 A I don't believe he did. No, sir. I was never
6 presented a copy, if he did.

7 Q Did you have further discussions with Mr. Laris
8 about any follow-up to this letter of intent?

9 A Very minimum talks for me and Mr. Laris. It was
10 just, kind of, on hold, waiting for his insurance
11 company to sell.

12 Q What do you mean by that, on hold, waiting for the
13 insurance company to sell?

14 A While we were hoping to get this thing done and I
15 had NTAC equipment, putting NTAC equipment to work,
16 Mr. Laris told me that even if this deal didn't go
17 through, that he would help me out. You know, not
18 to the amount of Fifty Million Dollars, but he
19 would still do something to help me out, and that
20 we should continue to keep making the right steps
21 and going the right way to try to build a bigger
22 rental company.

23 Q So, did you understand that Mr. Laris may not want
24 to do the deal addressed in the LOI, exactly like
25 that, if his insurance company didn't sell?

26 A Correct.

27 Q Did he give you some indication of how much money
28 he would put up if the insurance company didn't
29 sell?

30 A He did not.

31 Q What were your thoughts when this LOI was presented
32 to you?

1 MR. FLOTTE: Objection. Relevance to
2 venue.

3 THE COURT: I'm sorry?

4 MR. FLOTTE: Objection. Relevance to
5 venue.

6 THE COURT: Don't answer the question
7 yet. I need you to repeat exactly what the
8 question was because I know you started
9 asking about the LOI.

10 MR. BARBRE: I did. What was his
11 thoughts when he received this LOI. I think
12 I said that correctly.

13 MR. FLOTTE: And we've already
14 established, he's already established the LOI
15 has no reference to venue, that it's not
16 binding, that it wasn't signed by him. It
17 wasn't signed by Laris. The objection to the
18 question as to his mental process, we need to
19 get on to the contract involving --

20 MR. BARBRE: Well, that's exactly what
21 this question is getting to, Judge, is, what
22 did he do in follow-up to receiving this LOI
23 that leads to the formation of the contract.

24 THE COURT: With regards -- it may not be
25 relevant to venue, however, it is relevant to
26 his formation of the company, and how he went
27 into this initial contract in, I think it was
28 September of 2021, with Mr. Laris. So, that
29 question will be allowed. So, at this time,
30 the objection is overruled. You can answer
31 his question, sir.

32 A Can you ask it to me one more time, please, Mark?

1 THE COURT: Repeat your question.

2 MR. BARBRE:

3 Q Judge, I think I'm gonna get this right.

4 A I got it now. I remember. I can answer it now. I
5 remember it. So, I was very excited. When I got
6 the LOI, I was very excited. I called some of our
7 employees. I called my family and said this is
8 going to be a real deal. And, I started -- I
9 remember thinking to myself -- I had, I think, a
10 Million Dollars worth of assets at the time, or
11 close to it, and I remember thinking to myself,
12 being 49.9% owner of Fifty Million, half of it was
13 a lot better than being one hundred percent owner
14 of a Million. I don't think I slept that night. I
15 got a lot of work done, just non-stop, wide-open,
16 and I was excited that Mr. Laris presented this
17 opportunity to me.

18 Q Did you do anything differently with the businesses
19 after you received this LOI?

20 A Absolutely. I began getting eighteen-wheelers.
21 Actually, Mr. Ross provided me one, leasing one,
22 insuring them. We started laying limestone,
23 preparing for this equipment. My initial thoughts
24 were, we're gonna, you know, if we're try to get
25 Forty-Five Million Dollars worth of equipment and
26 all of this equipment, that we can either prepare
27 beforehand and try to be ready for it. So, when
28 mechanics became available, we started hiring
29 mechanics. We started enrolling in safety classes.
30 We started doing everything that would be needed to
31 bring on all of this equipment and be prepared for
32 when it came.

1 Q So, I think you just testified that you had about a
2 Million Dollars of equipment at the time of this
3 LOI with Pelican Companies. Correct?

4 A Correct.

5 Q Forty-Five Million more in equipment, that's quite
6 an acceleration.

7 A Correct. And, it's big equipment. We didn't have
8 any big equipment. We only had small equipment;
9 small excavators, small skid steer. So, we needed
10 to prepare, as in state laws, CDO drivers, and
11 other things like that.

12 Q What was happening with business opportunities in
13 August of 2021 for the Pelican Companies?

14 A We had many different business opportunities. We
15 were blowing and going, of course. We were getting
16 more opportunities. You know, we were getting
17 asked, now that we had the initial NTAC equipment,
18 when are we going to get more. We had more people
19 stopping. I believe Mr. Matt , one of our
20 employees, he was working with us at the time. You
21 know, when he originally came work, and being older
22 and doing that, he said, man, I came work here.
23 People kind of thought it was a little thing, but
24 now I believe, like, people are taking you serious,
25 and you have some opportunities to blow and go.

26 Q As far as August of '21, what was the primary
27 revenue generated through the Pelican Companies?

28 A At that time, I believe we were working with a
29 company called ES&H, and we were providing labor,
30 we were providing riggers, we were providing
31 supplies. We were doing many different things; to
32 provide to a disaster recovery oil spill response

1 company, and doing a lot of more of the maintenance
2 that we had been doing for years for the St. Mary
3 Parish School Board, working for the Taco Bells,
4 more of just all local companies.

5 Q Fair to say, equipment rentals was still a very
6 small part of the Pelican Companies?

7 A Absolutely. Yes, sir.

8 Q Did you have some big opportunity come available in
9 August of '21?

10 A I believe, yes, sir. We had a big job from ES&H.
11 We called from ES&H. They had an oil spill. I
12 forget exactly what day it was. And, they told us,
13 because we had really done the project before that,
14 that they would give us really all of the work, and
15 they wanted us to handle it, manage it, and be in
16 charge of it. So, they told us that we were
17 looking for twenty or thirty guys to start with
18 this, and gonna be looking for tons of equipment
19 and give y'all first shot at this contract.

20 Q Was this something that, as Pelican existed in
21 August of 2021, didn't do it with the resources it
22 had?

23 A On a lot smaller scale than they were asking us to
24 do. We would have done it, and we would have put
25 the guys we had to work. We'd have done those
26 things. Of course, we would have done it like we
27 always do, but we couldn't do it to a level they
28 were asking us to do. No, sir.

29 Q Did you have a conversation with Mr. Laris about
30 this opportunity?

31 A Yes. I sent him an email and I provided kind of,
32 the details and documents, and told him what was

1 going on. And told him, like, I want to go do
2 this; I'm gonna proceed that we're gonna do this,
3 then, I'm gonna need cash. Like, we got to get
4 this deal rolling. If not, I got to tell these
5 people we can't do this to the extent that they're
6 asking us to. And, it was an opportunity for us to
7 make money and get it started.

8 Q Do you recall when that conversation was with Mr.
9 Laris?

10 A It's on that email. Not sure exactly when it is,
11 beginning of September, late August. Somewhere
12 right there.

13 Q What was Mr. Laris's reaction to that?

14 A He said, meet me at my office this date. I'm gonna
15 have you a check for a Million Dollars, and we're
16 gonna get this ball rolling.

17 Q In that conversation, did he mention a venue
18 provision?

19 A No, sir.

20 Q Did he mention a forum selection for venue?

21 A No, sir.

22 Q Did he say if we're ever going to have a dispute,
23 we're going to arbitration?

24 A No, sir.

25 Q Did he say, if we have a dispute, we're gonna
26 litigate it in Lafourche or Terrebonne Parish?

27 A No, sir.

28 Q He told you he had a Million Dollar check for you?

29 A I believe so. Yes, sir. He said, meet me at my
30 office this day. We're gonna get this ball rolling
31 and he said, I'm gonna have you a check for a
32 MillionDollars.

1 Q And, y'all didn't have a signed agreement at that
2 time?

3 A We had no signed agreement. No, sir.

4 Q And, he didn't mention anything about signing an
5 agreement, coming to his office?

6 MR. FLOTTE: Objection. Leading.

7 A No, sir.

8 THE COURT: Objection is sustained. Re-
9 phrase your question, sir.

10 MR. BARBRE: I will re-phrase, Your
11 Honor.

12 MR. BARBRE:

13 Q Did Mr. Laris, in this conversation, mention
14 anything about signing a contract?

15 A No, sir.

16 Q Not at all?

17 A Not one time. No, sir.

18 Q He just said, come to my office and I have a
19 Million dollar check for you?

20 A Yes, sir.

21 Q When you got off that conversation with Mr. Laris,
22 what were you thinking?

23 A I do what I always do. I get excited. I started
24 calling back all these people that probably thought
25 I was crazy and letting them know that I was gonna
26 meet him at the time that he told me to be there to
27 pick up the check, that I was gonna pick up that
28 check and I was gonna go pay all of these people
29 and all of these employees. I remember the
30 employees at that time, with some of the mechanics,
31 being very upset, working in the limestone on this
32 big equipment that belonged to Mr. Laris and NTAC,

1 and I kept telling them if y'all just wait, if
2 y'all just wait, I'm gonna build y'all an overhang.
3 I'm gonna get y'all the things y'all need and
4 without telling them about all the details, you
5 know, of what we were gonna be getting. But, I
6 told my immediate family that I have a big
7 opportunity and we were getting this ball rolling.
8 I called the vendors back and told them I was
9 coming pay them for things that we had started
10 extending that all led to this, to safety companies
11 that were racking up all of these bills. I told
12 people I'm coming make it right and coming pay you.

13 Q What happened when you got to -- did you go to Mr.
14 Laris's office?

15 A I did. Yes, sir.

16 Q And, what happened then?

17 A Wasn't very long. Me and Mr. Laris never really
18 spent much time ironing out the details of this
19 thing, ever, on any of our contracts. But, to
20 answer that directly, I got there. It wasn't very
21 long. I went there. Of course, Mr. Laris had just
22 sold his insurance company. He had a lot of other
23 things going on, I believe; probably, making a lot
24 of other investments. Doing a lot of things. I'm
25 sure he was excited, as well, and doing that. But,
26 I walked in and he was, you know, called me Scully
27 Monster. He said, what's up, Scully Monster. You
28 ready to get this deal rolling. I said, yeah.
29 Let's do it. You know, and he goes, okay. And, he
30 goes, okay, here's the deal. He's says I want to
31 pay you \$120,000 a year. That's what I am going to
32 pay you to start it off. I think that's a fair

1 salary to get started off. He says, man, I know
2 you're gonna do the right thing. I wish I'd had
3 somebody to help me like this when I was your age
4 and do these kind of things. I never had to do
5 this. And, he said, and he kind of presented the
6 check to me for a Million Dollars and then he said,
7 I just need you to sign here.

8 MR. BARBRE: Your Honor, if I may
9 approach? I'm gonna present the witness with
10 the contract. D-1, right?

11 THE COURT: D1 is the twenty-page
12 contract. Yes.

13 MR. BARBRE:

14 Q Mr. Scully, is this the document that Mr. Laris
15 presented to you at this meeting?

16 A Yes, sir.

17 Q And, you said the meeting was pretty short.
18 Correct?

19 A I would say no longer than thirty minutes, total.

20 Q Did Mr. Laris provide this contract to you before
21 you saw him at his office?

22 A That was the first time I had seen the contract.

23 Q We saw from the email string earlier that you and
24 Mr. Laris, your counsel and his counsel were on
25 emails, together. Do you recall that exhibit?

26 A Correct. Yes, sir. I do.

27 Q To the best of your knowledge, did Mr. Laris and
28 his lawyer provide your lawyer a copy of this
29 before that meeting?

30 A No, sir.

31 Q Did Mr. Laris go through the provisions of this
32 document?

1 A He did not. No, sir.

2 Q Did Mr. Laris point out the venue provision of this
3 document?

4 A Of course not. No, sir.

5 Q Did Mr. Laris say anything about this document?

6 A When he gave me the document, he told me, he said -
7 - I, of course, looked at the document. I skimmed
8 through it, and I told him that I couldn't sign the
9 document because I needed to let my counsel look at
10 it, my family look at it, and he said, okay. Well,
11 I can't let you leave with a Million Dollar check
12 and I'm like, kind of in a pause and a refrain. I
13 said, I can't -- like, you know, what am I gonna
14 do? And he said, look, I just can't let you leave
15 with a Million Dollar check. We're gonna work
16 through this Scully. We're gonna work together,
17 Scully, through this. You can take it back and let
18 your counsel look at it, whatever we need to do,
19 you can do that. But, I just can't let you leave
20 with a Million -- I just need something in writing
21 that you're taking this Million Dollar check.

22 Q Did you rely upon his assurances that changes would
23 be made?

24 A Absolutely. Yes, sir.

25 Q Mr. Scully, on Page 5 of 6, there are several
26 signatures there. Is that your handwriting, signed
27 this, looks like the 6th day of September 2021. Is
28 that your handwriting?

29 A Yes, sir.

30 Q And then, at the bottom, is that your signature
31 appearing above the words, individually, and as
32 personal guarantor of Pelican Companies?

1 A It is. Yes, sir.

2 Q I'm sorry?

3 A It is. Yes, sir.

4 Q Do you recall if Mr. Laris signed above there when
5 you were at his office?

6 A Don't remember if he signed it there while I was at
7 his office and made me a copy to bring to my
8 attorney then, and to my CPA to let them look at
9 it, or if he signed it and immediately sent it to
10 me after. But, I did get presented with a copy
11 shortly, in a timely manner after. Yes, sir.

12 Q And, it appears that there is a line for a
13 signature above the listing of the Pelican
14 Companies that's a blank. Do you see that?

15 A Correct.

16 Q So, you did not sign right then?

17 A No. It was just me and Ross in there and this
18 happened very fast. It was like, sign your
19 signature, get your Million Dollar check, and we'll
20 work the details out later.

21 Q What did you do with the Million Dollars?

22 A I brought it back to the office, and deposited it.
23 At the time, beforehand, me and Mr. Ross had talked
24 about hiring a CFO. His name was Tony Fuhrer. We
25 hired Tony Fuhrer. I brought it to Tony, and we
26 started beginning doing all those things that me
27 and Mr. Ross talked about; buying the buildings,
28 getting -- I mean, we're literally doing it. And,
29 at that time, before we had not many of these
30 details worked out, like, we purchased two
31 properties. I think just two of the properties
32 alone totaled close to a Half a Million Dollars of

1 it, and trucks, different things. So, we spent it
2 all very quickly, and that's what we did with the
3 money.

4 Q Did you get an opportunity to read the terms of
5 this contract after you signed it?

6 A I did. Yes, sir.

7 Q What were your thoughts when you finally had a
8 chance to read it?

9 A When I finally read it and understood what it said,
10 between me and my family, I remember talking and,
11 you know, I just thought -- I know my initial call
12 to Ross was that, hey, why don't when you put up
13 ten percent of the money, you put up Ten Million,
14 you get ten percent of the company. You put up
15 another Ten Million, you get another ten percent of
16 the company. And, Ross blew that off and
17 disagreed. And then, when I tried to bring up
18 other things that I didn't like in this contract,
19 Ross just said, just trust me, just don't worry
20 about it. Just trust me.

21 Q And, did you trust him?

22 A I did.

23 Q And, what were you busy doing, trusting Ross?

24 MR. FLOTTE: Objection.

25 A Getting things done for Pelican.

26 THE COURT: What was the objection, sir?

27 MR. FLOTTE: We have gone past venue.

28 I'm gonna object on relevance to venue. He's
29 already authenticated the contract and the
30 signatures.

31 THE COURT: The objection is sustained.

32 MR. BARBRE:

1 Q Mr. Scully, did you have a chance to compare this
2 contract to the LOI at some point?

3 A I did, after. Yes, sir. I did.

4 MR. FLOTTE: Your Honor, I object. The
5 line of questions I object to because the
6 LOI, by it's own terms, and as the witness
7 admitted, is not a binding agreement.

8 THE COURT: If I remember correctly, no
9 one ever signed the LOI.

10 MR. FLOTTE: No one ever signed it. I
11 object to relevance.

12 MR. BARBRE: No dispute about that, Your
13 Honor.

14 MR. FLOTTE: So, venue starts September
15 6th. So, we think it's irrelevant.

16 MR. BARBRE:

17 Q Mr. Scully, I want to ask you some questions about
18 this contract and personal guarantee. You have it
19 in front of you?

20 A I do. Yes, sir.

21 Q The recitals there on Page 1, the second one,
22 similar to the LOI says Jonathan Scully is
23 President of Pelican Companies of America, LLC and
24 affiliated entities as follows. Is that all
25 correct and accurate at the time you signed this?

26 A Yes, sir.

27 Q We have a similar provision that follows about
28 Pelican Companies in need of working capital and
29 equipment. Would your testimony about the
30 provision in the LOI be the same for this
31 provision?

32 A No, sir.

1 MR. FLOTTE: Object to the form. The LOI
2 is irrelevant to venue because no agreement
3 was reached.

4 MR. BARBRE: Your Honor, we're not --

5 THE COURT: I'm understanding the line of
6 questioning because he is going through each
7 clause in the contract, so he can get to the
8 point that says, that's different than the
9 LOI. The problem is the LOI -- neither party
10 -- my understanding, based on his testimony,
11 I don't know if there is other evidence --

12 MR. BARBRE: We stipulated. Nobody
13 signed --

14 THE COURT: Neither party signed the LOI
15 or agreed to the LOI. There was a letter of
16 intent that --

17 MR. BARBRE: Judge, there is a letter of
18 intent. It's not signed. There is no
19 dispute about that. The testimony has also
20 established that the LOI follows an email
21 that involves Mr. Scully and his counsel, Mr.
22 Laris and his counsel, about -- under the
23 terms that have been discussed between Mr.
24 Laris and Mr. Scully. The LOI in time,
25 follows that. It was provided by Mr. Laris
26 to Mr. Scully. And then, we have a vacuum in
27 time with nothing else provided by Mr. Laris
28 to Mr. Scully on any terms of a deal. So,
29 the question was about the formation of this
30 contract and the contents of the contract,
31 and whether or not there is consent by Mr.
32 Scully to the terms of it relative to the

1 history and the formation. So, Judge, that's

2 --

3 THE COURT: I think, so he stops
4 objecting to relevance, you might want to
5 just move on to the portion of the contract
6 that is at dispute, maybe. That might save
7 us some --

8 MR. BARBRE: I will do my best, Judge.

9 THE COURT: I understand, and I agree,
10 he's laying the foundation to get to the
11 final question about that clause in the
12 contract. The way I'm understanding, and
13 that's why I'm not necessarily stopping him
14 because he's -- not for relevancy purposes,
15 but he's laying the foundation, is the way
16 I'm appreciating it. He's laying the
17 foundation to get to why they are disputing
18 that specific clause.

19 MR. FLOTTE: I understand. And, just so
20 the court has a point of reference in the
21 record to show why we're objecting on this
22 basis, the Louisiana Supreme Court in Coleman
23 versus Jim Walker Homes says when the parties
24 intend to reduce their negotiations to
25 writing may not bound until the contract is
26 reduced to writing and signed by them.
27 That's the underlying basis. I'm not saying
28 that on every objection, but that's where I'm
29 coming from.

30 THE COURT: Okay.

31 MR. BARBRE: I think we're okay, Judge.
32 We disagree, and we've already articulated

1 it.

2 THE COURT: Yes, sir.

3 MR. BARBRE: We'll move on.

4 THE COURT: I will allow him to proceed
5 with this line of questioning, as it's laying
6 the foundation for the clause that's in
7 question.

8 MR. BARBRE: I will try to get there more
9 quickly, Your Honor.

10 MR. BARBRE:

11 Q Mr. Scully, you testified earlier that Mr. Ross
12 said, we're gonna pay you \$120,000 a year. Is that
13 correct?

14 A Correct. Yes, sir.

15 Q And, you're the President and you're gonna keep
16 working at the companies. That was going to be
17 your salary that Mr. Ross said. Correct?

18 A Correct. Yes, sir.

19 Q And, when you were first presented with this
20 agreement in Ross' office, I take it you saw
21 provision 1 under Terms of Forty-Five Million
22 Dollars. Correct?

23 A That was about it. Yeah. I seen the Millennium
24 Supply Boats, LLC and hereby provides a loan to
25 Pelican in the form of cash or a line of credit for
26 Forty-Five Million Dollars. And, when I seen that,
27 I knew we could look at the rest of it from there
28 and hopefully --

29 MR. FLOTTE: I'm going to object --

30 THE COURT: Hold on.

31 MR. FLOTTE: I'm going to object. If
32 he's reading from the exhibit, that's not

1 what it says. It says, up to.

2 MR. BARBRE: This is testimony.

3 THE COURT: This is testimony. The
4 exhibit is in evidence. I fully reviewed the
5 exhibit, and we understand that his testimony
6 is testimony, not evidence.

7 MR. FLOTTE: Okay, sorry. I withdraw my
8 objection.

9 THE COURT: With regards to the context
10 of the exhibit. So, his objection is
11 withdrawn. Sir, you can continue your
12 statement with regards to that part.

13 A So, yes. Once again, when I read something, and I
14 don't know if I can say this or not here, but when
15 it says up to Forty-Five Million Dollars, it's like
16 my credit card. I have a limit that's up to Five
17 Thousand, and I can use it up to that amount. It
18 didn't say a minimum. So, when I seen that and I
19 read that, I understood that I could draw up to
20 Forty-Five Million Dollars for this company, as
21 needed.

22 MR. BARBRE:

23 Q Is that what you relied upon in the design of this
24 document?

25 A Absolutely.

26 Q Mr. Scully, I'm going to direct your attention to
27 the second term there; addressing a personal
28 guarantee of repayment. Had Mr. Laris ever brought
29 up a personal guarantee for you before presenting
30 this?

31 A No, sir.

32 Q Mr. Scully, I will ask you to read the entirety of

1 Term 2, please?

2 A (Reading) Jonathan Scully personally appears hereon
3 and personally guarantees the repayment of any and
4 all amounts loaned to Millennium and Pelican,
5 including any and all Pelican Companies under this
6 agreement. Repayment of any and all amounts owed
7 by Pelican as a guarantor, Jonathan Scully and this
8 agreement, and any note shall be due the first day
9 of each month, after the first disbursement of draw
10 is made. Any payment made later than the fifth day
11 of this of the month due shall incur a late fee of
12 1.5 percent per month or Five Hundred Dollars per
13 day, whichever is highest.

14 Q Mr. Laris gave you a Million Dollars on or about
15 September 6th. Correct?

16 A Yes, sir.

17 Q Could the Pelican Companies repay that amount on
18 October 1st, or October 5th?

19 A Absolutely not.

20 Q Why not?

21 A Because we spent the money, under the agreement.
22 It was a long-term investment.

23 Q Did Mr. Laris know what those funds were being put
24 to use for?

25 A Absolutely. Mr. Laris signed off on ninety percent
26 of the finances.

27 Q If you could turn to the next page. Number 4.

28 A Yes, sir.

29 Q Do you see where it says, in exchange for making
30 the above loan?

31 A Yes, sir.

32 Q Did Millennium ever provide Forty-Five Million

1 Dollars on a line of credit loan, capital
2 contribution, in any way, shape, or form?

3 A No, sir.

4 Q Do you know how much cash Mr. Laris actually put
5 up?

6 A it was 2.5 Million. I believe it was about five
7 percent of what he told me he would give.

8 Q Do you recall when he put that up?

9 A He put the first Million up, and we'd meet with him
10 after that, kind of, like every month, showing him
11 where the money went. We took Tony. We went to
12 him. He gave the first Million. We brought him.
13 We showed him what we did with the first Million.
14 He wrote us a check for the next Million. And
15 then, we brought that back with the CPA's -- with
16 that in hand, so Mr. Laris could see how all this
17 money was spent and understand where it went. We
18 went back and asked for another Half a Million and
19 I think that's when he started -- he gave us a
20 Hundred Thousand and it started, kind of, trickling
21 down from there.

22 MR. BARBRE: May I approach, Your Honor?

23 THE COURT: Yes, sir.

24 MR. BARBRE: Judge, did I offer, file,
25 and introduce P-2?

26 THE COURT: I think we did.

27 MR. FLOTTE: Yes, and we had no
28 objection.

29 THE COURT: I think I already did.

30 MR. BARBRE:

31 Q Okay. Mr. Scully, I've handed you a document
32 that's been marked for identification P-3. Is this

1 a document that you're familiar with?

2 A I am. Yes, sir.

3 Q What is this document?

4 A It was made by our accountant and given to Ross
5 Laris on the money, showing where his money went.
6 I mean, well, sorry, it was the money he
7 contributed.

8 Q To the Pelican Companies?

9 A To the Pelican Companies. Yes, sir.

10 Q Are these cash amounts?

11 A These are cash amounts. Yes, sir.

12 MR. BARBRE: Your Honor, I'd like to
13 offer, file, and introduce into evidence P-3.

14 THE COURT: Any objection?

15 MR. FLOTTE: No objection.

16 THE COURT: Let it be admitted.

17 MR. BARBRE: May I approach, Your Honor?

18 THE COURT: Yes, sir.

19 MR. BARBRE: You do not have this one.

20 (PRESENTING DOCUMENT TO THE COURT)

21 THE COURT: Thank you.

22 MR. BARBRE:

23 Q Mr. Scully, there's dates on the left, and then
24 there is a Dollar figure. Can you explain to the
25 court what the correlation is?

26 A The day was the 9/7, or you know, right when we got
27 the contract with the Million Dollars. We brought
28 back the info with the CPA and the accountant. We
29 had another meeting. He wrote another check for a
30 Million Dollars. Then, we had another meeting
31 where I said, we needed more capital. He gave
32 Ninety Thousand Dollars in March, 2022. In March

1 of 2022, we needed to buy some more equipment and
2 put more down payments. He sent Sixty Thousand
3 Dollars. On 3/25/2022, he sent a Hundred Thousand
4 Dollars. And then, it was -- we were kind of
5 making do on our own until 7/8/2022, we requested
6 more money. He gave us Fifty Thousand Dollars,
7 until August 15th, 2022 when he gave the
8 \$42,850.00, I believe, to put another down payment
9 on the equipment or cover something. I don't
10 remember exactly what that was.

11 Q Are you aware of any more cash being contributed by
12 Ross or Millennium besides the amount on this?

13 A Not before, you know, I would say mid-2023 or early
14 2023.

15 Q Were you or Pelican asking for more money?

16 A Every meeting.

17 Q Every meeting?

18 A Every meeting. Yes, sir. Every meeting. Yes.

19 Q It's fair to say several requests for a lot more
20 money in mid-2023?

21 A Yes, sir.

22 Q So, Mr. Scully, back to the contract.

23 A Yes, sir.

24 Q We talked about, in exchange for making the above
25 loan, and we took a little detour to address the
26 actual loaned amounts. It addresses 50.1% interest
27 in ownership and membership in all of the Pelican
28 Companies listed above, leaving Jonathan Scully at
29 49.9% ownership interest and membership interest in
30 Pelican. What did you understand you were getting
31 for giving up 50.1% interest in the Pelican
32 Companies?

1 MR. FLOTTE: Objection.

2 A A total of,

3 THE COURT: Hold on. He's making an
4 objection. It's okay.

5 A Yes, ma'am. I'm sorry.

6 THE COURT: Proceed with your objection.

7 MR. FLOTTE: Yeah. I object to -- he's
8 asking him to describe a meaning to what the
9 words actually say.

10 THE COURT: So, what's the objection?

11 MR. FLOTTE: Not relevant to venue.

12 MR. BARBRE: Your Honor, we're going down
13 a line of testimony that is going to show
14 fraud by Mr. Laris in entering into this and
15 having Mr. Scully enter into this agreement
16 that he never had Forty-Five Million Dollars
17 to put up, that he induced Mr. Scully to sign
18 this agreement with the promise of providing
19 a line of credit for Forty-Five Million
20 Dollars and he never, in any way, shape, or
21 form intended to lend that money, provide
22 that credit, or even had it available. Mr.
23 Scully's testimony, consistent with this
24 document is that he gave up 50.1% interest
25 only because there was going to be a loan up
26 to Forty-Five Million Dollars. So, again, it
27 goes to the formation of this contract.
28 Fraud and the inducement, it affects Mr.
29 Scully's consent for the entirety of this
30 agreement, but specifically for this
31 exception, the venue clause.

32 MR. FLOTTE: Your Honor, the arrangement

1 is set forth here and there it was, earlier,
2 as shown in the letter of intent. There is
3 money that's being paid directly into the
4 company in cash, and then, there are loans to
5 buy equipment.

6 MR. BARBRE: Your Honor, I'm gonna object
7 because this is getting outside of the things
8 that counsel said he was not going to
9 quote, "put a toe in the water".

10 MR. FLOTTE: The witness and Counsel
11 suggest that the issue is this is the
12 consideration that was given. There were
13 more than Ten Million Dollars of other loans.
14 The point here is this, the issue of fraud is
15 to be decided by another court and it -- you
16 know, the way we're going down here is they
17 are trying to bait us into a trial on the
18 merits. We are specially appearing with full
19 objection to our reservation and exceptions,
20 including venue, and the Court should not
21 reach the question of fraud because the venue
22 provision covers everything arising out of
23 the business relationships between the
24 parties, which covers every single allegation
25 and claim in their lawsuit. So, I object to
26 the line of questions.

27 MR. BARBRE: Your Honor, may I respond?

28 THE COURT: Yes, sir.

29 MR. BARBRE: Thank you. This is probably
30 the opening statement in my most recent brief
31 to the Court. What they want to do is they
32 want to hide this provision and these actions

1 of formation of this contract from any court
2 and from public view. They don't want it
3 here. They want to go to arbitration. They
4 want to say this is subject to an arbitrator
5 to decide. The arbitrator gets to decide the
6 validity of a contract. That's the
7 arguments. Counsel had cited the Shelter
8 Supreme Court case for saying Louisiana
9 generally, upholds arbitration provisions
10 forum selection clauses. There is no dispute
11 about that, but that's only part of the
12 story. There are numerous cases we've cited
13 in brief that said this is the Court that can
14 and should decide whether or not there is
15 fraud in the inducement, whether or not this
16 should apply, and we're about to get there,
17 Judge, on a prohibition of including a forum
18 selection clause and employment agreement
19 with absolutely no provision. The law also
20 suggests that this Court is appropriate to
21 determine whether or not this contract is
22 enforceable at all. We're gonna get to the
23 whim of Mr. Laris on whether -- his counsel's
24 made it very clear, Mr. Laris can extend
25 Forty-Five Million Dollars, or not. That's
26 completely at his discretion. Louisiana law
27 calls that a nullable, and it also says that
28 this Court is the one that gets to decide
29 whether or not that's a nullable. Again,
30 we've briefed the cases, and the supporting
31 law, Judge. Counsel is -- again, the
32 proposition of law that he is arguing is

1 correct, but it's only a very narrow view,
2 and it's not addressing what's really before
3 the Court here, which is adhesion and fraud,
4 and nullity, and consent. And, the cases
5 consistently say, Your Honor, is the one that
6 needs to make a determination on that.

7 THE COURT: So, there was an objection to
8 relevance when he started testifying about
9 what he considered -- what his reasons for
10 going into the contract for, which was
11 specifically a promise to have a line of
12 credit, or provide a large amount in funding.
13 That testimony is relevant as far as when he
14 went into the contract with Mr. Laris.
15 Whether it's considered for venue, I'll make
16 that determination when I hear all the
17 argument and evidence that's presented. The
18 objection is noted. You can proceed with
19 your questions. At this time, the objection
20 is overruled.

21 MR. BARBRE:

22 Q Mr. Scully, I believe that I asked you whether or
23 not you were giving up 50.1% interest, and you get
24 Forty-Five Million Dollars of available cash or
25 line of credit.

26 A Correct. Yes, sir.

27 Q Would you have given up 50.1% if Mr. Laris had
28 said, hey, I'm gonna give you Two and a Half
29 Million Dollars?

30 A No, sir.

31 Q What about Twenty-Five Million?

32 A I probably would have did it for Twenty-Five

1 Million.

2 Q Number 5.

3 A Yes, sir.

4 Q Jonathan Scully shall have the primary
5 responsibility of managing the companies on a day-
6 to-day basis as CEO?

7 A Yes, sir.

8 Q You agree with that, right?

9 A Yes, sir.

10 Q In fact, Mr. Laris said, hey, from here on out
11 we're gonna pay you \$120,000 salary. Correct?

12 A Yes, sir.

13 Q Do you know if that was more or less than you were
14 making before that conversation?

15 A Pay was definitely less.

16 Q You were taking a pay cut?

17 A Yeah.

18 Q Mr. Scully, Number 6 there. Can you read that,
19 please?

20 A (Reading) Despite any language above, neither
21 Millennium nor Ross Laris, or any designee of
22 either, shall be obligated to advance any funds or
23 authorize any draws on the line of credit to pay
24 for Pelican. Such advances, loans, and draws on a
25 line of credit shall be at the complete discretion
26 of Ross Laris.

27 Q Mr. Scully, you hadn't prepared any of this
28 contract, did you?

29 A Absolutely not.

30 Q Did Ross tell you if he prepared it?

31 A He said, I'm guessing Mr. Fondren, him and Mr.
32 Fondren prepared it.

1 Q Later on, when you had the chance to review this,
2 did you read that Section 6?
3 A I did.
4 Q Did you bring it up to Mr. Laris?
5 A I did.
6 Q What did he say?
7 A The way I look at it is if I give you Ten Million,
8 that's still better than you fucking had.
9 Q Was that a direct quote?
10 A That was a direct quote.
11 Q Mr. Scully, if you look at Section 4, default
12 begins on Page 2 and continues on to Page 3. Are
13 you with me?
14 A Yes, sir.
15 Q Okay. Number 2.
16 A Yes, sir.
17 Q Can you read that, please?
18 A Insolvency of Pelican, is that where you're at?
19 Q Yes, sir.
20 A Insolvency of Pelican, any Pelican Company or
21 Jonathan Scully company, failure of Pelican, any
22 Pelican Company or Jonathan,
23 Q Just Number 2.
24 A Okay. Insolvency of Pelican, any Pelican Company
25 or Jonathan Scully.
26 Q So, I believe you testified earlier that Pelican
27 Companies couldn't pay back on October 1st or
28 October 5th, the first payment.
29 A No, sir.
30 Q Can you read Number 4, please?
31 A Yes, sir. (Reading) Failure to make payments under
32 this agreement or any applicable note when due.

1 Q Again, couldn't pay back the first Million Dollars
2 on the first one?

3 A No, sir.

4 Q Number 7, please.

5 A Failure of Jonathan Scully to run Pelican
6 profitably and/or devote 100% of his business time
7 to Pelican.

8 Q From the time that you signed this contract until
9 you were evicted from the Pelican Companies by
10 Ross, did you dedicate 100% of your business time
11 to the Pelican Companies?

12 A More than 100% of my business time.

13 Q Mr. Scully, I want to move down to the remedies for
14 default provision.

15 A Yes, sir.

16 Q Can you read Number 1, please?

17 A If Pelican or Jonathan Scully shall be in default
18 of this agreement as defined in Number 4 above,
19 then the entire balance of all loans, advanced
20 draws, or line of credit and notes, as well as any
21 obligations of Pelican and Jonathan Scully shall
22 become immediately due. Millennium need not
23 legally place Pelican or Jonathan Scully in
24 default. If Millennium, in it's sole discretion,
25 elects to grant time for Pelican or Scully to cure
26 such default, the time for doing so and the terms,
27 such cure shall be set in the sole discretion of
28 Millennium and/or Ross Laris.

29 Q Mr. Scully, if you look at Page 6 of the contract,

30 A Yes, sir.

31 Q It says personal guarantee. Do you see that?

32 A I'm sorry. Yes, personal guarantee. Yes, sir.

1 Q And, you signed that the same time you signed the
2 main contract?

3 A I did. Yes, sir.

4 Q Did you understand that what Pelican owed to
5 Millennium or Ross you also owed, through this
6 personal guarantee?

7 A Not in the way it was explained to me.

8 Q What do you mean?

9 A I thought it just meant -- I didn't think it would
10 mean at any time, like, when you referred back to
11 this contract, and it talks about at any such time,
12 let's see, right here. If you look back at Page 3
13 of 6, Number 2 says all ownership and membership of
14 Pelican and Pelican Companies shall be immediately
15 be transferred from Jonathan Scully, Pelican,
16 Pelican Companies, to Millennium. Such transfer
17 does not release guaranteeing that Jonathan Scully
18 from his obligation as guarantor under this
19 agreement. As a personal guarantor, I thought that
20 over time, of course, I would be responsible in
21 personally guaranteeing that money. I did not
22 think, at any time, Mr. Ross could just say I want
23 my money back, take over my company, and hold I'm a
24 personal guarantor over my head for the times going
25 forth every time we meet. He would make the
26 comments, you're the personal guarantor, what are
27 you gonna do? Like, we can take this company from
28 you at any time.

29 Q I want to bring your attention back to Number 2
30 under remedies of fault. Can you read that,
31 please?

32 A Number 2, remedies of fault. All ownership and

1 membership of Pelican and Pelican Companies shall
2 be immediately transferred from Jonathan Scully and
3 Pelican and Pelican Companies to Millennium. Such
4 transfer does not release guarantor, Jonathan
5 Scully from his obligations as guarantor under this
6 agreement.

7 Q Mr. Scully, can you turn to Page 4, please?

8 A Yes, sir.

9 Q Number 4 address operating agreements.

10 A Yes, sir.

11 Q In September 2021, was there an operating agreement
12 for any of the Pelican Companies?

13 A No, sir.

14 Q At any time in 2021, did Ross present operating
15 agreements for you to sign?

16 A No, sir.

17 Q At any time in 2022, did Ross present operating
18 agreements for you to sign?

19 A No, sir.

20 Q Can you read Number 6, please? It begins at the
21 bottom of Page 4 and continues to Page 5?

22 A Yes, sir.

23 Q Thank you.

24 A This is one of my favorite things because I know
25 it's completely not true.

26 Q If you could, just read it, please.

27 A The parties agree that this document had been
28 mutually drafted by the parties and each party has
29 had the opportunity to review it with his counsel
30 and therefore, fully understands it and the parties
31 agree that this document is not anonymous legally
32 or otherwise. However, should a court and

1 arbitrator deem this document or any- wait, I'm
2 missing something. I got 4 of 6. I got 6 of 6,
3 but I don't have 5 of 6.

4 Q Mr. Scully, I think it's on the last page. I think
5 5 and 6 are out of order on what I presented to
6 you.

7 A Okay. Yeah. Actually, it is. So, I'll start
8 over. The parties agree that this document has
9 been mutually drafted by the parties and each party
10 has had the opportunity to review it with his and
11 his counsel, and therefore, fully understands it.
12 The parties agree that this document is not
13 anonymous legally and otherwise. However, should a
14 court and/or arbitrator deem this document or/and
15 any document generated as a result of this and such
16 immunity shall not be concerted either party since
17 the document was mutually drafted.

18 Q Was this document in any way, shape, or form,
19 drafted by you or your lawyer?

20 A Absolutely, one hundred percent, not. I've seen it
21 one time when the time I went sign it for Mr. Ross
22 that day, and he said, we just had to have
23 something in signing for you to get this Million
24 Dollars and later we can review it and work on it
25 together.

26 Q Were you even the opportunity to make changes to
27 this document?

28 A I was not. No, sir.

29 Q All right. Mr. Scully, you're gonna read something
30 that now addresses venue. Would you please read
31 Number 7?

32 A Number 7. This document and any/or dispute arising

1 of it and any document executed as a result of it,
2 shall be decided persistent to the laws of the
3 State of Louisiana. The parties agree that any
4 legal document or action taken between these
5 parties arising out of it or any way related to
6 this contract and/or their business relationship
7 shall be filed and litigated in the Seventeenth
8 Judicial District for Lafourche Parish, Louisiana.
9 Moreover, the prevailing parties shall be entitled
10 to collect all legal expenses including attorney's
11 fees from the losing party.

12 Q Did you read that specific provision before signing
13 this contract?

14 A No, sir. I never seen this. Like I said, I
15 skimmed through it, seen Forty-Five Million
16 Dollars, was told I just needed something for a
17 check. I signed it and thought we were gonna send
18 it to Patrick like the letter of intent and start
19 working on it.

20 THE COURT: Mr. Barbre, before you
21 proceed with some more questions, we're gonna
22 take a brief recess. We haven't had a break
23 in a little while. You can step down and
24 take a break. But, before we start the
25 recess, can the attorneys come speak with me
26 back here, all the attorneys that are
27 involved. Court will be in recess.

28 (COURT IN RECESS)

29 (COURT BACK IN SESSION)

30 THE COURT: We'll resume session on the
31 Scully versus Laris matter. I had a brief
32 in-chambers discussion with the lawyers on

1 what my findings were at that time period and
2 asked the lawyers to take a break and maybe
3 think about things before we proceeded any
4 further. Did y'all have enough time to
5 discuss matters and discuss how y'all wanted
6 to proceed? Not with each other necessarily,
7 but with your clients.

8 MR. BARBRE: Judge, for the Plaintiff's,
9 we do want to proceed with Mr. Scully's
10 testimony, but I think we'll expedite it.

11 THE COURT: Expedite it. All right. Mr.
12 Scully, if you could return to the stand and
13 we'll resume with testimony.

14 (WITNESS RETURNS TO STAND)

15 THE COURT: Does he need those exhibits
16 y'all were -- you had a stack with you
17 earlier when you sat down.

18 MR. BARBRE: Your Honor, I think we
19 finished going through the contracts.

20 THE COURT: Okay. I didn't know if he
21 needed, the exhibits he was using while he
22 was testifying, if you needed those.

23 MR. BARBRE: No, ma'am. We're gonna move
24 on. Your Honor, may I approach?

25 THE COURT: Yes, sir.

26 MR. BARBRE:

27 Q Mr. Scully, I'm handing you a document. It's the
28 operating agreement of Pelican Americas that the
29 Defense already offered in as Exhibit 4. It's
30 already in evidence. On the last page of that
31 document, looks like there is Number 1, 2, and 3,
32 and then, witness whereof. Are you with us?

1 A On the last page?

2 Q Yes, sir. Looks like Page 25, down at the bottom.

3 A Correct.

4 Q That's your signature on Number 2?

5 A Yes, it is.

6 Q You signed it on 5/19/23?

7 A Correct. Yes, sir.

8 Q Were you present when, it looks like Mr. Laris
9 signed on 5/22/23?

10 A I was not. No, sir.

11 Q Were you provided a copy of this by Mr. Laris?

12 A No. Later, I believe, I'm not quite sure exactly
13 when. Yes, I was, but it was later from his
14 daughter. I think Macy Laris sent me the copies.

15 Q Okay. When you say later, a couple days later,
16 weeks, months?

17 A I believe closer to a month.

18 Q Closer to a month later. Mr. Scully, do you recall
19 the circumstances around you signing this document?

20 A Yep. We were in need of capital, no longer having
21 money. Mr. Ross wanted to go through with a deal
22 with a company called Axis Rental Company and the
23 company was asking for provided operating
24 agreements, so Mr. Ross was trying to get me to
25 sign these operating agreements and telling me he
26 needed them to get this deal done. I did not want
27 to sign these operating agreements. I read through
28 them. Based on the initial contract, that was not
29 to my liking that I had no agreement with and had
30 been completely changing and against me the whole
31 time. I knew these operating agreements were the
32 same?

1 Q What do you mean the same?

2 A I knew they were completely biased. They were, I
3 believe, at one point, an attorney friend told me
4 that this is not a partnership.

5 Q Mr. Scully, please don't share with the Court --
6 don't testify about anything, any discussions you
7 had with your counsel, what you told your counsel,
8 or what your counsel told you.

9 A It wasn't no counsel. It was just a friend. And,
10 a friend told me this is not a partnership. This
11 is a dictatorship that leaves him one hundred
12 percent in control of everything.

13 Q But, you still signed the agreement. Correct?

14 A I did.

15 Q Why did you sign it?

16 A Because Mr. Ross held the personal guarantee over
17 my head. I think I went home that day. I didn't
18 show up to work the next day. I was super-like,
19 just not knowing what to do. I know, I tried
20 calling Holden to be a mediator, Ross' son, to be
21 kind of, say, man, this is just not right. The
22 only person that thinks that I should sign this and
23 that it's a good deal for me is Ross Laris. My
24 family does not want me to sign this. I remember
25 asking Ross what if this was your son. Would you
26 tell him to sign it? And, he said if it was this
27 much money I would, but I one hundred percent did
28 not want to sign this agreement.

29 Q What do you mean by if it was this much money, I
30 would?

31 A He said that if you had this much personal
32 guarantee and you have no other option. I mean,

1 his exact words to me many times, Scully, if you
2 don't do this, it's not going to be good for you.

3 Q What did you understand that to mean?

4 A That I was going to lose my job, lose everything I
5 worked for, lose absolutely everything. Like he is
6 trying to do now. Take me employees, my work
7 force, come over here and force this personal
8 guarantee. I remember talking to Matt Bernard at
9 the time and Matt, you know, he said you're going
10 to be bankrupt and you're not going to be able to
11 borrow money from nobody.

12 MR. FLOTTE: Objection. Hearsay.

13 THE COURT: Hold on, sir. The objection
14 was to hearsay.

15 MR. BARBRE: Your Honor, it was hearsay.
16 Let me try to ask a question to clean that
17 up.

18 THE COURT: What hearsay is, is when you
19 say something that someone else said outside
20 of court. That's why he made that objection.
21 But, your attorney is going to rephrase his
22 question so that it doesn't illicit what's
23 called hearsay.

24 A Correct. Yes, ma'am.

25 MR. BARBRE:

26 Q Mr. Scully, you mentioned Matt Bernard. Who is
27 Matt Bernard?

28 A Matt Bernard is an employee of Mr. Ross Laris, I
29 believe from the company Oscity Labs. I've read
30 documents that Mr. Ross sent in when I asked Ross
31 one time for fifty thousand dollars because we were
32 not going to be able to make payroll again, that

1 Mr. Ross said, what the hell is going on over
2 there. I'm sending Matt over there to figure out
3 what's going on.

4 MR. FLOTTE: Objection. Hearsay.

5 MR. BARBRE: I'm not sure what the
6 hearsay is.

7 MR. FLOTTE: He's going on about
8 conversations with third parties.

9 THE COURT: He said Mr. Ross said this,
10 this, this. So, that's what hearsay is.

11 A Okay, sir. I apologize.

12 THE COURT: You can't say what somebody
13 else said.

14 MR. BARBRE: Hold on, Your Honor. I'm
15 sorry. I didn't mean to say that.

16 THE COURT: No, that's okay.

17 MR. BARBRE: I meant Mr. Scully.

18 THE COURT: Mr. Scully's last statement
19 was hearsay, what he said this time.

20 MR. BARBRE: For what Mr. Laris said. Is
21 that right?

22 THE COURT: Yes.

23 MR. BARBRE: Okay. So, I disagree with
24 hearsay exception. This is a statement, an
25 admission of interest of opposing party. He
26 can certainly testify to what Mr. Laris said.
27 Mr. Laris wants to get up on the stand, he
28 can. Mr. Scully can surely testify to what
29 an opposing party said that's against the
30 opposing parties interest.

31 MR. FLOTTE: I think we're really getting
32 off there when he's testifying as to what

1 Bernard said Laris said.

2 MR. BARBRE: There was no Bernard said.
3 This was Laris said.

4 THE COURT: So, do you think it doesn't
5 fit within the hearsay objection? He's
6 saying it's a hearsay exception.

7 MR. FLOTTE: Mr. Laris's is a statement
8 of a party and it was kind of garbled. I may
9 not have, it may be my fault. I think if we
10 could ask questions and then answers to that
11 question rather than narrate.

12 THE COURT: The exception, if it fit into
13 the exception would be that it was a
14 statement made by a party against his
15 interest.

16 MR. FLOTTE: Correct.

17 THE COURT: How is that against his
18 interest? He stated, and I'm just
19 paraphrasing -- I sent him over there to
20 check on things because I don't know how Mr.
21 Scully is running the business. That was my
22 interpretation of what the purpose, the
23 statement,

24 MR. BARBRE: I didn't hear the testimony,
25 Judge. I heard the objection. So, I didn't
26 hear that there was --

27 THE COURT: I don't remember the exact
28 words, but, correct me if I'm wrong, it was
29 with regards to what Mr. Laris said and why
30 he sent Mr. Bernard over there was because he
31 thought, and this is all paraphrasing, Mr.
32 Scully was not running the business well.

1 That's my interpretation of the statement.

2 MR. BARBRE: Judge, I am going to
3 withdraw the question, and I'm gonna try to
4 get us back on track.

5 THE COURT: Okay. Thank you.

6 MR. BARBRE:

7 Q So, Mr. Scully, I think you were answering this
8 question. So, let me ask this question again. Why
9 did you sign this document when you didn't agree
10 with it, you thought it was over reaching, and all
11 your previous testimony about it?

12 A Because Mr. Ross Laris made the under assumption
13 that it was my only choice that I had or he was
14 going to enforce the personal guarantee and take
15 everything that I had. He also stated that this
16 deal would just be going through the Axis deal and
17 this was all going to be getting merged soon to
18 another company.

19 Q Okay. Just brief questions on this, Your Honor.
20 The Axis deal, can you explain what that was?

21 A December of 2022, after 2021, I think, we were
22 struggling to figure out how we're going to afford
23 the LAC equipment that Mr. Ross purchased. We were
24 trying to figure out how we were gonna pay these
25 notes, how we're gonna cash flow. I was hunting in
26 Oklahoma. Ross called me and said he got reached
27 out to by somebody named Travis Bergeron, had been
28 in the rental industry and that he would like to
29 meet with him and talk to him about rental
30 equipment because he knows we were operating a lot
31 of LAC's equipment at Pelican, so a lot of people
32 seen this equipment. So, he approached Mr. Ross

1 about doing a merger and saying this was kind of,
2 if we merge this thing, we know how to do it.
3 We've been involved in this business a long time.
4 We've been doing that, so I think it was giving Mr.
5 Ross some comfort that these people had been in the
6 industry, in the rental business a long time, and
7 they were proposing different things to him about
8 doing a merger. So, we would merge NTAC equipment
9 and one of Mr. Ross' companies, Quality Modular,
10 one of Mr. Ross' companies, Pelican Companies, our
11 company, or my company, and LAC Equipment, one of
12 Mr. Ross' companies, to merge together to try to
13 help cash flow. So, we had a big note that was
14 going to be coming up. I say we, LAC had a big
15 note that was going to be coming up come July of
16 2023, so Mr. Ross then put pressure and said I want
17 this deal done July 1, 2023 before his note comes
18 out.

19 Q Just to clarify for the Court, what is LAC?

20 A LAC is another company that Mr. Ross started that I
21 believed was Pelican. At the beginning, I was told
22 that Mr. Laris started LAC because of UCC filings
23 and it would be quicker to form this company and do
24 this.

25 Q Did the company own equipment?

26 A The company didn't exist, I don't believe, until we
27 started Pelican, and it was a form of way of when
28 Mr. Ross Laris considers giving credit to Pelican.

29 Q Does LAC own equipment?

30 A LAC owns equipment. Yes, sir.

31 Q Does LAC allow Pelican Companies to utilize that
32 equipment?

1 A Yes, sir. It does.

2 Q It does. LAC require Pelican Companies to make
3 payments to LAC?

4 A Yes, sir. It does.

5 Q On the payments that are required, can Pelican
6 Companies ever profitably rent the LAC equipment?

7 A No, sir.

8 Q Why not?

9 A Because of the industry. The industry takes that
10 seventy -- you need to be at seventy percent margin
11 and the United Rentals, the Sunbelts, how they did
12 it to make these privately owned companies to be
13 able to stay out of this industry is that the
14 rental rates are not based on bank notes. Rental
15 rates are based on a blended fleets. For an
16 example, you have one truck and the note is a
17 Thousand Dollars a month and you rent it for a
18 Thousand Dollars a month, you're gonna break even.
19 If you have two trucks and one of them is paid off,
20 now, you're making Two Thousand Dollars a month
21 total in revenue, but you have a Thousand Dollars
22 of extra cash minus maintenance, etcetera. So,
23 when Mr. Ross purchased the equipment through LAC
24 because he mentioned he wanted new equipment
25 because of a tax write-off, when he purchased this
26 equipment, we did not get provided with these loan
27 documents or anything for upward of nine or ten
28 months and then, we got the request of saying how
29 much money we had to pay Pelican and it's not
30 profitable. So, that's when the biggest argument
31 became about with me and Mr. Ross.

32 Q When you signed this operating agreement, what was

1 the financial condition of the Pelican Companies?

2 A It was not good.

3 Q What do you mean by that?

4 A Well, one, we showed a Two Million Dollar debt to
5 Mr. Ross on the books. So, Pelican Companies
6 couldn't get any loans. It couldn't do anything on
7 it's own after that point, and it just showed a
8 tremendous amount of debt when you're not a
9 profitable company. It's never been profitable
10 since Mr. Ross Laris put money into it. Our
11 financials showed that. So, it's never been
12 profitable, but, once Ross made a Two Million
13 Dollar loan that we couldn't pay back immediately,
14 and we didn't have the revenue to support that, it
15 damaged Pelican.

16 Q That Two Million Dollars that you reference on the
17 books, is that in addition to what LAC demanded to
18 be paid each month?

19 A Yes, correct.

20 Q That's correct?

21 A Correct.

22 Q Two different categories?

23 A Yes, sir.

24 Q Mr. Scully, I'll ask you to turn to Section 7.6 in
25 the operating agreement.

26 A What's section?

27 Q Section 7.6. It's on Page 8.

28 A I'm there.

29 Q Can you read that section, please?

30 A (Reading) Limited Management by Members. Except as
31 otherwise set forth herein, in the Certificate or
32 in the Act, only Members who have authority or

1 power to take part in the management or control of
2 the company. The responsibility for managing the
3 company has been delegated by the members to
4 Jonathan W. Scully, subject to the limited
5 oversight of the members as provided on this
6 agreement.

7 Q You received a regular paycheck from the Pelican
8 Companies?

9 A I did. Yes, sir.

10 Q It had taxes withdrawn from it?

11 A Yes, sir. It did.

12 Q Do you recall when the last paycheck you got from
13 the Pelican Companies was?

14 A I believe essentially in May. It was -- Ross came
15 in. I worked the whole weekend of Easter weekend
16 delivering equipment, and then, Ross came in the
17 Monday after. When I called Ross to ask him about
18 what we were meeting about, I remember his exact
19 words again being, it doesn't matter Scully. It is
20 what it is. And, he came in that day and told me
21 he was gonna be letting me go, and I could stay as
22 a salesperson, but -- saying if I did not sign
23 agreements giving away more of my ownership, then,
24 he was going to be letting me go, and he wanted me
25 out of the building and away from there because he
26 was bringing in new management, and he didn't want
27 me getting in the way. He knew I'd be getting in
28 the way.

29 Q I'll ask you to turn to Section 16 on Page 19.
30 Just let me know when you're there.

31 A Yes, sir.

32 Q Can you read Section 16.1?

1 A It's 16.1, Page 16?

2 Q Or, on Page 19. 16.1 on Page 19.

3 A 16.1. (Reading) Negotiations. In the event of any
4 dispute, claim, or disagreement arising or related
5 to this Agreement, or otherwise related to the
6 company, the parties involved in this dispute agree
7 to consult and negotiate with one another in good
8 faith in recognizing their mutual interests, use
9 their best efforts to reach a resolution which is
10 satisfaction to all parties involved in the
11 dispute.

12 Q Did you try to address the differences of opinion
13 you and Mr. Laris had in the earlier part of this
14 year?

15 A Yes, sir.

16 Q Did Mr. Laris respond in any way to your efforts to
17 try to resolve the disputes?

18 A Not trying to work together. The last email I
19 think I have between Mr. Ross Laris and I was when
20 I disagreed to give away my ownership for another
21 loan. We didn't have the capital we know we needed
22 to only pay his companies. The last thing I have
23 between Mr. Ross Laris says, if you're not coming
24 sign this loan, don't even worry about showing up.

25 Q Can you read just the beginning section of 16.2,
26 please?

27 A Arbitration. (Reading) All disputes or issues
28 between the members which cannot be resolved by
29 agreement or by appropriate vote of the members
30 shall be decided by binding arbitration in
31 accordance with the Commercial Rules of the
32 American Arbitration Association.

1 Q You've already testified that you had tried to make
2 some changes with this agreement with Mr. Laris
3 before you signed it. Correct?

4 A Correct.

5 Q And, what was Mr. Laris' response to saying, hey,
6 I've got problems with this and I want to make
7 changes?

8 A On this agreement? This document?

9 Q This document.

10 A He would not let me make any changes. He was not
11 changing it at all. There is nothing you can do,
12 Scully, and he didn't even -- when I asked if I
13 could let -- you know, maybe if you and me couldn't
14 agree. I think I looked him in his eyes and said,
15 well, can you and my attorney speak, and, he said
16 I'm 99.9% sure I'm not changing anything.

17 Q Is this a provision you wanted to change?

18 A At this point, I did not even look at half of this
19 because I didn't agree with the whole thing. I
20 wanted to give it to my counsel, give it to my
21 family and make sure my family represents me to
22 sign something that I believe in it. The only
23 reason I signed this is because Mr. Ross basically
24 said, the only thing that I could do and he, once
25 again, kept telling me to trust me, trust me, trust
26 me. Matt as a witness here, I called Matt ten
27 times that day and I said, Matt, I do not want to
28 sign this agreement. I do not want to do this.
29 And, Holden called Matt that day, and his exact
30 words were, if Jonathan this, it's not going to be
31 good.

32 Q Mr. Scully, I will ask to turn to Section 18.1.

1 A Choice of Law. (Reading) Provisions of this
2 agreement shall be construct (sic) and enforced in
3 accordance with the laws of the State of Louisiana,
4 without regard or any conflicts of the laws,
5 policies, or principles. If any dispute arising
6 out of or related to this agreement requires
7 judicial resolution, the parties agree that in such
8 manner shall be litigated in a court of competent
9 jurisdiction located in Terrebonne Parish,
10 Louisiana. The parties hereby -- I don't know that
11 word -- submit to the exclusive jurisdiction of
12 such courts and waive the defense of forum non
13 convenient (sic) to the maintenance of any such
14 action or proceeding in such venue.

15 Q Did you agree with that?

16 A No.

17 Q If you would look at 18.6, please?

18 A 18.6. (Reading) Arm's length negotiations.
19 Understanding fair terms. This agreement is a
20 result of good faith, arm's length negotiations
21 between the parties and/or their respective
22 independent representatives, if any. Each of the
23 parties have read this agreement entirely, and
24 fully understand all of the provisions contained
25 here and the effect thereof. The parties through
26 this contract declare that it is a result of mutual
27 drafting and any annuity (sic) shall not be -- I
28 can't say that word -- interpreted against either
29 party.

30 Q You've testified you didn't have any part of
31 drafting this agreement. Correct?

32 A Not one part of this draft.

1 Q Would you consider this agreement to be the result
2 of good faith arm's length negotiations between you
3 and Ross?

4 A I'm trying to kind of answer this where nobody gets
5 mad at me in this courthouse, but I want throw this
6 agreement and the answer to that is no, sir.

7 MR. BARBRE: Judge, if I could have just
8 a moment. Your Honor, at this time, I'll
9 tender the witness.

10 MR. FLOTTE: I'm ready to proceed.

11 THE COURT: You can proceed.

12 CROSS-EXAMINATION BY MR. FLOTTE:

13 Q Mr. Scully, we've looked at the operating agreement
14 for Pelican Companies of America, which is listed
15 as Exhibit 4.

16 A Yes, sir.

17 Q We've put into evidence nine additional operating
18 agreements for the other nine Pelican Companies
19 that did bear your signature.

20 A Yes, sir.

21 Q Do you agree and understand that the terms in all
22 of those include all of the specific terms that you
23 just testified as to this particular form?

24 A Yes, sir.

25 Q And, you signed all of those agreements?

26 A Yes, sir.

27 MR. FLOTTE: That's all I have.

28 THE COURT: Any other questions for this
29 witness?

30 MR. BARBRE: No, Your Honor.

31 THE COURT: Thank you, sir. You can go
32 have a seat.

1 MR. BARBRE: Judge, on the venue
2 exception, we have no other evidence to
3 offer.

4 THE COURT: All right. There was an
5 argument with regards to the issue of
6 exception of proper venue.

7 MR. FLOTTE: Yes. Your Honor, we have
8 nothing further in rebuttal. We've already
9 offered Exhibits Defendant's 1 through
10 Defendant's 11, which are the ten operating
11 agreements plus the original contract in
12 general. So, we don't have anything further
13 from an evidentiary stand point. Do you want
14 our argument?

15 THE COURT: Yes, sir. If you choose to
16 do so.

17 MR. FLOTTE: Essentially, we will submit
18 it based upon what we previously, our
19 original argument, and nothing different has
20 been shown from the evidence. And, we
21 request that we have these sent to Lafourche
22 Parish.

23 MR. BARBRE: Judge, thank you for this.
24 Judge, the venue arguments that have been in
25 advance of this Court depend on the validity
26 of the September 2021 contract, and if that's
27 not valid, there are no other arguments. The
28 operating agreement is null, has no effect,
29 and they can't rely upon the operating
30 agreement. The contract; we have offered
31 evidence, and on the face of the September
32 2021 contract, it's a nullity. There should

1 be no force in effect given to that
2 agreement. The only obligation by Millennium
3 in that contract is to loan Forty-Five
4 Million Dollars. That's the sole obligation
5 that Millennium undertakes in that agreement.
6 We've heard testimony from Mr. Scully about
7 all the things he gives up, including more
8 than half of the interest in all of his
9 companies for that single commitment; that
10 obligation. However, in the latter provision
11 of the contract, it says that any loan amount
12 is only going to be at the whim of Mr. Laris
13 on whether or not he gives it. It is,
14 therefore, an illusory obligation. There is
15 no substance. There is no commitment. There
16 is no legal obligation by Millennium in that
17 document. The law is very clear. We've
18 cited it. There is a single civil code
19 provision that says if the obligation is at
20 the whim of the obligor, it's null. That's
21 the only obligation in the contract by
22 Millennium. The obligation, itself, as a
23 foundational principle of an agreement
24 doesn't exist. The law very clearly says
25 that, that whim of Ross Laris on whether or
26 not to loan any money or not loan any money,
27 advance, approve, etcetera, means the entire
28 agreement is null. That's our first
29 argument. You've also heard testimony
30 unrefuted testimony that Millennium didn't
31 actually lend Forty-Five Million Dollars. In
32 fact, didn't come close to lending Forty-Five

1 Million Dollars. And, in fact, never had
2 Forty-Five Million Dollars to lend. Mr.
3 Laris could have put Twenty-Five, Five, Three
4 Trillion, it didn't matter. It's at his whim
5 and he didn't have it. He never really
6 committed to making a loan of Forty-Five
7 Million Dollars to Mr. Scully and the Pelican
8 Companies. You also heard about the
9 formation of the contracts. So, the first
10 issue is it's null on it's face because of
11 the whim of Mr. Laris. You've also heard
12 that Mr. Laris very quickly breached the
13 contract by not extending requested loan
14 amounts and therefore, he's still trying to
15 rely upon this agreement that he's in breach
16 of. But, the formation of this contract is
17 also critical. The law is also very clear
18 that if somebody is going to pull one over on
19 somebody else and getting them to sign a
20 contract, the courts don't allow for that.
21 They don't uphold that. They don't enforce,
22 not only the merits of the contract, they
23 don't enforce venue provisions. And, we've
24 cited in brief cases that stand exactly for
25 that proposition. So, Your Honor, I would
26 respectfully suggest that the Court should,
27 in fact, consider the unrefuted testimony of
28 Mr. Scully as to how this agreement came to
29 be, the change from the understanding, the
30 sneaking up on him on the, I've got a Million
31 Dollars for you, but you need to sign this
32 contract. Oh, don't worry if you don't like

1 it, we can change it later. And then, Mr.
2 Laris say, no, we're not going to change it.
3 We're never gonna change it. I got you over
4 a barrel now. Why would I ever change this?
5 The contract on its face; let's move off of
6 whether or not the whim issue nullifies the
7 entire contract, there's also separate basis,
8 even if the Court would not say that the
9 entire contract is a nullity because of the
10 whim of Mr. Laris. Before I get to the next
11 point, let me also suggest to the Court that
12 a null obligation does not get resuscitated
13 into some now-valid obligation just because
14 Mr. Laris put up a Million Dollars. The
15 contract is null. Mr. Laris put up a Million
16 Dollars. He didn't put a second Million
17 Dollars. But, that contract, as an absolute
18 nullity, is no longer binding as to what the
19 effect is on that Million Dollars, or the
20 second Million Dollars, or other instances.
21 We're not here to argue that Mr. Laris
22 doesn't have some claim relative to those
23 amounts. But, him putting up a Million
24 Dollars does not validate an otherwise null
25 contract. Let's talk about the formation
26 just a little bit more. The facts and
27 circumstances that Mr. Scully testified to
28 about how the contract came to be. Again, no
29 advanced notice, no warning. Counsel and Mr.
30 Laris knew what was involved from previous
31 emails. He didn't feel like he should share
32 that with Mr. Scully's counsel. He snuck up

1 on him and said, hey, if you want a Million
2 Dollars, we've talked about this deal. We
3 know you need the money right now. If you
4 don't sign this, you don't get the Million
5 Dollars and again, all these things are not
6 going to go well for you that I've committed
7 to. Mr. Laris just pulled a fast one on him.
8 The law does not recognize a valid contract
9 where you have those circumstances, plus the
10 unreasonableness of the terms of the
11 contract. That's what adhesion is about. We
12 have unreasonable circumstances; somebody of
13 power and influence and control manipulating
14 somebody else. That's the formational
15 element that matches with Louisiana Law. The
16 second is the unreasonableness of the
17 contract itself. Again, setting aside the
18 whim nullity provision that stands alone, you
19 don't have to look any further than that, you
20 have the default provisions. Mr. Scully's
21 testimony was that, under this agreement,
22 Pelican is in default the very next month
23 because it calls for a repayment of principle
24 and interest the immediate following month of
25 any loan. Who does that? That's a predatory
26 lending practice if I've ever seen one. It
27 is unconscionable that that term exists.
28 It's impossible. There is no way that there
29 is any meeting of the minds, mutuality,
30 consent, on that item. I suspect Mr. Laris'
31 very capable lawyers would say, yeah, but he
32 didn't enforce it at that time, but you heard

1 the testimony of Mr. Scully that Mr. Laris
2 sure as heck brought up the personal
3 guarantee and, I've got you over a barrel,
4 whenever it was convenient for Mr. Laris to
5 try to convince Mr. Scully to go along with
6 something he disagreed with. It's an
7 unconscionable provision. It's not practical
8 in any business sense of the word and with
9 the personal guarantee attached to Mr. Scully
10 and the other default provisions, if you read
11 the contract, it then provides Mr. Laris the
12 opportunity, whenever he wants, because Mr.
13 Scully is in default, Pelican Companies are
14 in default whenever he wants them to be in
15 default. He doesn't even have to give notice
16 of default. He can razoo all of Mr. Scully's
17 interest in the companies based on this
18 document, and that's what he has done here.
19 It is adhesiory. It is null. It cannot be
20 enforced. Not one iota. And, that
21 specifically applies to the venue provision.
22 Judge, the last legal argument, unless my
23 partner yanks on my jacket and says, Mark,
24 you missed something, and this is extremely
25 straight forward, the contract addresses Mr.
26 Scully as President of these companies and
27 his employment with the companies. The
28 unrefuted testimony was in this initial
29 meeting in Ross' office with a Million Dollar
30 check and the contract, and Ross said, I'm
31 gonna pay you a salary of \$120,000, part and
32 parcel with this agreement, is employment of

1 Mr. Scully with the Pelican Companies at the
2 direction and control of Mr. Laris.
3 Likewise, for the operating agreement, it
4 also addresses full participation, full
5 commitment to the businesses as an employee
6 by Mr. Scully. I lay that foundation. These
7 are both contracts that address Mr. Scully's
8 employment with the Pelican Companies.
9 Louisiana Law is extremely clear and we've
10 cited it in brief. Louisiana Revised Statute
11 23:921. Typically, it's addressing non-
12 compete provisions, things of that nature,
13 but the opening section of A2 provides,
14 unequivocally, it's null and void to include
15 a forum selection clause, which the cases
16 have interpreted to mean venue provisions,
17 arbitration provisions, that those are null
18 and void as a matter of Louisiana public
19 policy and cannot be enforced, unless the
20 dispute arises and gets filed in a different
21 court and then, the party that's the employee
22 under those agreements consents. Mr. Scully
23 hasn't done that. The law says these are
24 entirely null provisions when it comes to
25 venue. End of story. Straight forward.
26 They have submitted no briefing on the issue.
27 They have not made any argument about it. We
28 sure have advanced it in briefing, Your
29 Honor. They've simply ignored Louisiana
30 Revised Statute 23:921, which addresses this
31 issue directly and refutes every argument
32 that they have made on venue because these

1 relate to Mr. Scully's employment role at the
2 Pelican Companies. Judge, I would be remiss
3 if I did not also make a few additional
4 arguments. The contract is not signed by the
5 Pelican Companies. Look at that blank
6 signature. The Pelican Companies are not a
7 party to that agreement. The contract and
8 the venue provision on the contract cannot be
9 enforced against the Pelican Companies.
10 Pelican Companies, again, are Plaintiffs in
11 this lawsuit. It is wrong for Defendants to
12 rely upon that provision that the Pelican
13 Companies did not execute to try to transfer
14 venue or argue improper venue relative to the
15 Pelican Companies for the case that's been
16 filed. It's also interesting that the
17 Millennium, who allegedly, is a 50.1% member
18 under the operating agreements, they didn't
19 sign any of those agreements. You look at
20 the signature pages, you have Mr. Scully, who
21 is identified as a 49.9% owner in the early
22 pages of the agreements. But, you look for a
23 signature by Millennium, and it doesn't
24 exist. Ross Laris signed, but it doesn't say
25 Ross Laris, in any capacity whatsoever for
26 Millennium. It doesn't say Millennium with a
27 Ross signature. It just has a Ross signature
28 on a goofy signature page that says members
29 1, 2, and 3, even though the document only
30 speaks to two members. So, Millennium would
31 be the party that could try to enforce that
32 agreement against Mr. Scully, and they didn't

1 even sign it. The other item for the Pelican
2 Companies, again, the Pelican Companies did
3 not sign the contracts, so to the provision
4 and the contract cannot be enforced against
5 them. Likewise, the Pelican Companies,
6 they're not parties to the operating
7 agreement. We got two purported members that
8 signed. It does not, in any way, shape, or
9 form, address, if the Pelican Companies have
10 claims, they need to go in some venue. The
11 claims asserted by the Plaintiffs in this
12 case, the Pelican Companies, are requesting
13 preliminary injunction against Mr. Laris and
14 against Millennium because they're mis-
15 managing the companies. The companies have
16 the right to be before this Court to seek
17 preliminary injunction to prevent the further
18 mis-management of these companies by Mr.
19 Laris and by Millennium, solely for their
20 benefit. They are squeezing the life out of
21 the Pelican Companies, and benefitting solely
22 Ross Laris and his other companies. That's
23 what we're here on the preliminary injunction
24 for. So, Judge, if you have any questions, I
25 will surely be glad to try to answer them.

26 THE COURT: Not at this time.

27 MR. BARBRE: Okay. I'll rest. Thank
28 you.

29 MR. FLOTTE: If I may reply?

30 THE COURT: Yes, sir.

31 MR. FLOTTE: Does the Court have the
32 highlighted copy of the contract and personal

1 guarantee because I have one.

2 THE COURT: Exhibit 1.

3 MR. FLOTTE: Exhibit 1.

4 THE COURT: Yes, sir.

5 MR. FLOTTE: So, I'm gonna -- first of
6 all, I think that Counsel said that
7 Millennium or Ross Laris contributed a
8 Million Dollars, but then, didn't contribute
9 another Million Dollars. That is directly
10 inconsistent with Plaintiff's Exhibit 3.
11 And, while the Court hadn't heard evidence of
12 all the amounts of the contribution, there
13 were substantial purchased by Ross for
14 equipment that provided the kind of things in
15 a way of capital that this agreement
16 contradicts. So, let's go through the
17 highlighted parts of the agreement. The
18 parties -- Pelican Companies, as defined in
19 the agreement, and I'm on the first highlight
20 where it says, Pelican Companies of America
21 and all the listed companies, all of which --
22 but before going into paragraph -- are
23 collectively referred to as either Pelican or
24 Pelican Companies. This is a contract for
25 the transfer of 50.1%. The Pelican Companies
26 don't transfer themselves. It's signed by
27 Jonathan Scully, individually, and his
28 personal capacity as guarantor of Pelican.
29 The point is, he's the owner. He's the only
30 one that is needed in order to transfer the
31 ownership. The companies can't transfer
32 themselves. So, furthermore, it says right

1 under the reference on Page 1, that's MSP
2 0001 on Page 1, whereas Pelican, Jonathan
3 Scully and various -- all of the above listed
4 companies are in need of working capital and
5 equipment. This is not an agreement to pay
6 past debts, operating expenses. This is an
7 agreement to provide financing and, either
8 through loans or other means, and the point
9 is that on the -- we'll come back to it --
10 but, it says further, Millennium is able to
11 loan capital needed by Pelican and/or arrange
12 one or more lines of credit to Pelican. The
13 point is, is Mr. Scully was trying to get
14 more money to buy more equipment. He did.
15 And/or had it so it could be operated and
16 expand his business. But, he's got
17 obligations, too. He's got to run a company
18 and manage it in an efficient way. So, in
19 any event, the terms are not illusory. It
20 says, Millennium hereby provides a loan to
21 Pelican in the form of cash or line of credit
22 up to Forty-Five Million Dollars, draws, or
23 disbursements are subject to, you know,
24 written approval of Ross. And, with respect
25 to the obligations under the contract, the
26 venue provision is clear. The venue
27 provision we can beat to death. It's at
28 MSB0005. It is broader than just saying a
29 breach of the contract. The parties agree
30 that any legal action taken between the
31 parties arising out of, or in any way related
32 to this contract, and/or the business

1 relationship shall be filed and litigated in
2 the Seventeenth Judicial District Court for
3 the Parish of Lafourche. Now, there was some
4 talk of the validity and the reference.
5 Counsel suggested that he cited legal cases
6 dealing with venue that supported his
7 position. He didn't. They are all on
8 arbitration. What he did cite on the 17:70
9 and it talks about commissions based upon a
10 whim, but also, it has an alternative
11 provision that says, conditions that make the
12 will of the obligator must be fulfilled in
13 good faith make it a legal contract. And,
14 where is specifically provides in the
15 contract -- on information on 0002, it says,
16 in addition to all of the above, Jonathan
17 Scully will provide, individually and on
18 behalf of the Pelican Companies all
19 financial, business, and legal records of the
20 company documenting -- the documentation or
21 any other kind to Millennium Supply Boats and
22 Marinas, the designee for the purpose of
23 performing financial analysis and/or due
24 diligence necessary to make the decision,
25 whether it advances the funds or draws line
26 of credit by Pelican. He signed this. And,
27 you know, because they are loans, his part of
28 it is he's got to use the money to run the
29 company and operations and pay the
30 outstanding lenders. Having said that, there
31 may be -- they can have a trial on the issues
32 that they raised, but not in this venue. Mr.

1 Scully chose not to take the contract home;
2 take it, look with his lawyer. There was a
3 Million Dollar check. He wanted the Million
4 Dollar check. He made the decision not to
5 read it. He could have brought it home and
6 done anything that he wanted, or delayed it.
7 It was his choice, not ours. Finally, in
8 Coleman versus Jim Walter Homes, which was
9 mentioned before, the law does not compel
10 people to inform themselves of the
11 correctness of instruments which they may
12 choose to sign. In other words, the
13 obligation to read the document is on him,
14 not us. And, that is -- we put this cite in
15 the record before, but it's Supreme Court --
16 wait, it's 6 So. 3d 179. For the above
17 reasons, we request that the Court maintain
18 the exception of venue filed by Laris and
19 Millennium, and transfer this case to the
20 Parish of Lafourche.

21 THE COURT: Anything else before I make a
22 ruling on the exception of improper venue?

23 MR. BARBRE: No, Your Honor.

24 THE COURT: In reviewing the testimony of
25 Mr. Jonathan Scully, and also all of the
26 exhibits that were provided by both parties,
27 at this time I'm going to grant the
28 Defendant's exception of improper venue for
29 the following reasons: The original contract
30 between Jonathan Scully and Ross Laris,
31 specifically, Defense Exhibit 1 that was
32 dated September 6, 2021 included a clause

1 regarding venue, stating that any legal
2 action taken between the parties arising out
3 or in any way relating to the contract and/or
4 their business relationship, shall be filed
5 and litigated in the Seventeenth Judicial
6 Court. Although there was testimony by Mr.
7 Scully that he had never had the intent to
8 include a venue or forum clause in any
9 contract, I determine that Mr. Scully was
10 given the opportunity to have his attorney
11 review the contract, prior to signing the
12 contract. Mr. Scully decided to sign the
13 contract, prior to reviewing same with his
14 attorneys, in order to quickly receive a
15 Million Dollar check from Ross Laris. Mr.
16 Scully, thereafter, deposited the Million
17 Dollar check and started spending funds in
18 consideration of that contract. In
19 considering these factors, I've determined
20 that the initial proper venue for disputes
21 between Jonathan Scully and Ross Laris,
22 regarding the original business dealings
23 between the two parties, is the Seventeenth
24 Judicial Court in Lafourche Parish,
25 Louisiana, and thereby, all matters should be
26 transferred to that court. Since the
27 Sixteenth Judicial District Court is not the
28 appropriate venue for this suit, no other
29 exceptions, injunctions, or declaratory
30 relief will be considered by this court.

31 MR. FLOTTE: May I ask for clarification?

32 THE COURT: Yes.

1 MR. FLOTTE: There was a TRO that was
2 issued, and it's supposed to expire in ten
3 days. It didn't say by its terms, but, have
4 you, can you --

5 THE COURT: I'm not making a ruling on
6 any temporary restraining order or injunction
7 at this time.

8 MR. FLOTTE: Okay. Understood. Thank
9 you, Your Honor.

10 THE COURT: I mean, I obviously made a
11 ruling when I signed the order, but y'all
12 filed an exception of venue which, once I
13 make a ruling on venue, I'm not authorized --
14 I don't think I'm authorized to make any
15 further rulings.

16 MR. FLOTTE: Okay. Thank you, Your
17 Honor. I just wanted to clarify.

18 THE COURT: Anything else?

19 MR. BARBRE: Judge, point of
20 clarification. Do you provide on the process
21 of getting this transferred to the
22 Seventeenth JDC?

23 THE COURT: I have the judgment and the
24 reasons for judgment typed already, and I can
25 give it y'all today. As far as how the
26 clerk, like, how y'all get the record, if
27 y'all choose to do that, that's them.

28 MR. BARBRE: Right.

29 THE COURT: Meaning -- and I don't even
30 know the answer to that. Like, how --
31 between the different clerks departments, the
32 clerk might have the -- I know we've

1 transferred, but it's usually the lawyers
2 that kind of handle that. I don't have any
3 guidance on all that. I would suggest, maybe
4 before y'all leave, y'all go check with the
5 deputy clerk, Ms. Michelle Frederick, and she
6 might be able to give y'all some -- I don't
7 want to say advice, but some direction on how
8 it can happen and how quickly things can get
9 sent.

10 MR. BARBRE: So, Your Honor, did I
11 understand correctly, the Court is going to
12 prepare the judgment?

13 THE COURT: I have it already done.

14 MR. BARBRE: Okay.

15 THE COURT: That's what I am saying. I
16 have it printed on the printer right now and
17 I am going to get it all done. So, before
18 y'all leave, y'all can have something in your
19 hands for if you choose to go directly to
20 Lafourche and get things happening, y'all
21 won't be waiting on me to do that.

22 MR. BARBRE: Okay.

23 THE COURT: I can't make any promises
24 from the other offices, but at least y'all
25 won't be waiting on me. So, I am going to go
26 grab that and then they can make copies to
27 give to everyone. Court is adjourned.

28 (HEARING CONCLUDED)

PARISH OF ST. MARY

STATE OF LOUISIANA

I, Charlotte A. Hoffman, hereby certify that I am a duly appointed, certified, and acting official court reporter of the 16th Judicial District Court for the Parishes of St. Martin, Iberia and St. Mary, State of Louisiana.

I further certify that the foregoing 102 pages are a true and correct transcript of the proceedings in the above-entitled cause; that the testimony of said transcript was reported by me by stenomask and transcribed by myself or under my personal direction and supervision, and that same constitutes a total transcription of the requested material in the above-entitled matter to the best of my ability and understanding.

New Iberia, Louisiana, this 9th day of August, 2024.

CHARLOTTE A. HOFFMAN, CCR
OFFICIAL COURT REPORTER
CERTIFICATE NUMBER 91191

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