

Deposition of
Philip H. Dyson, ESQ.
December 21, 2020

York-Goldman
vs.
Goldman



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Also Present: Dianne York

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I N D E X

WITNESS: PHILIP H. DYSON, ESQ.

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Tuesday, December 21, 2020
1:15 p.m.

PHILIP H. DYSON, ESQ.,
a witness herein, having been sworn, testifies as
follows:

EXAMINATION

BY MR. GRIFFITH:

**Q All right, Mr. Dyson. I suppose I could skip
all the rules since you've done a few depositions in
your career. Just get right into it?**

A It's a fair statement.

Q Excuse me?

A That's a fair statement.

**Q All right. Would you characterize your work
for Ms. York back in 2013 as having represented her?**

A No.

MR. ENGLISH: Assumes facts and lacks
foundation.

Go ahead. Answer.

BY MR. GRIFFITH:

Q Yeah. The answer was no; is that right?

A That is.

Q Do you recall speaking with Richard Freed

1 during the course of your work with Ms. York back in
2 2013?

3 A I do.

4 Q And do you recall what the contents of that
5 conversation were?

6 A I do.

7 Q And what were they?

8 A He had a client who had a banking issue,
9 predatory lending, and was interested in having me look
10 at that issue for the client.

11 Q And I'm assuming, correct me if I'm wrong, that
12 that client was Mrs. York; correct?

13 MR. ENGLISH: Assumes facts. Lack of
14 foundation. May be a legal conclusion.

15 THE WITNESS: No, it was not.

16 BY MR. GRIFFITH:

17 Q Okay. Do you remember how long approximately
18 that phone call lasted?

19 A Less than probably three minutes.

20 Q One of the exhibits that you guys will receive
21 is Mr. Freed's billing statement, so we'll get back to
22 that.

23 Did you speak to Mr. Freed about Ms. York's
24 case at all?

25 MR. ENGLISH: Vague and ambiguous.

1 THE WITNESS: I'm sorry. No.

2 BY MR. GRIFFITH:

3 Q I'll be more specific.

4 Did you speak with Mr. Freed about the
5 dissolution action between Mitchell Goldman and Dianne
6 York?

7 A No.

8 Q Why did you not believe that you and Dianne
9 York had an attorney-client relationship?

10 A Well, what I told Mr. Freed is that I would
11 look at it under certain circumstances. And I then was
12 supplied a number of documents which indicated to me
13 that the predatory lending issue was related to a
14 building that was in an LLC. And I'm assuming it was a
15 single asset LLC like we used to do back in the '70s and
16 '80s and even the '90s. And that was the entity which I
17 believe has a loan which started out with my questions
18 from Mr. Freed.

19 Q Is it fair to say that Ms. York gave you
20 several bankers boxes of documents?

21 A No.

22 Q Can you estimate the volume of documents that
23 Ms. York gave to you?

24 A It was less than one bankers box, and she
25 didn't give them to me.

1 Q Is it true that you and Ms. York met on at
2 least two occasions to speak about her case?

3 A That's incorrect.

4 Q How many times, if any, did you and Ms. York
5 meet in person to talk about her case?

6 A Once.

7 Q How many phones calls did you have with
8 Ms. York?

9 A I don't recall any phone calls.

10 Q So as far as you can remember, there was one
11 meeting between you and Ms. York and no other
12 conversations other than that one meeting including
13 telephone calls?

14 A I recall the one meeting. I may have called
15 her to have a meeting or I may have had my assistant
16 call her to have a meeting, but I don't recall having
17 the phone call with Ms. York.

18 Q And did you read all of the documents that
19 Ms. York provided to you?

20 MR. ENGLISH: Lack of foundation. Assumes
21 facts.

22 THE WITNESS: No.

23 BY MR. GRIFFITH:

24 Q How did you choose the documents that you were
25 going to review and the documents that you weren't going

1 to review?

2 MR. ENGLISH: Assumes facts.

3 THE WITNESS: I don't recall.

4 BY MR. GRIFFITH:

5 Q At some point you decided not to take
6 Ms. York's case; is that right?

7 MR. ENGLISH: Again, argumentative as phrased.
8 Lack of foundation. Assumes facts.

9 THE WITNESS: No. That's not correct.

10 BY MR. GRIFFITH:

11 Q Ms. York never hired you to perform legal
12 services; is that right?

13 A That's correct.

14 Q Do you know why?

15 MR. ENGLISH: Calls for speculation.

16 THE WITNESS: Well, when she came in, she
17 wasn't going to be the client. The LLC was. Because
18 they're the ones that lended the money or the bank
19 borrowed -- they borrowed the money from the bank which
20 was the predatory lending issue. But I was prohibited
21 from representing the LLC because of a conflict.

22 BY MR. GRIFFITH:

23 Q And you ended up returning her entire retainer
24 check; is that right?

25 A That's correct.

1 Q Why did you give her all of the money back?

2 A Because I didn't do any work and I wasn't
3 retained.

4 Q If Mr. Freed stated that he presumed that all
5 of your communications with him were protected by the
6 attorney-client privilege and the work product
7 privilege, would you agree?

8 A I'm not sure in what respect. What
9 communications are you talking about?

10 Q Communications regarding your mutual client
11 Ms. York.

12 MR. ENGLISH: That assumes facts. It's
13 argumentative.

14 BY MR. GRIFFITH:

15 Q Let's just say your mutual customer Ms. York.

16 MR. ENGLISH: Same objections.

17 THE WITNESS: I don't know what it would be
18 except for the fact is I don't see any objection that's
19 valid to what it is that Freed told me in the sense that
20 he said that he had a client who had a lending issue and
21 would I be willing to look at it.

22 BY MR. GRIFFITH:

23 Q So I've seen a letter from Mr. Freed that
24 stated that Ms. York's file was in his office and he
25 invited you to come to his conference room to review the

1 file.

2 Did you ever make that trip to Mr. Freed's
3 conference room to review Dianne York's file?

4 A No.

5 Q Did you ever go to Mr. Freed's office at all
6 regarding --

7 A I've never been to his -- I'm sorry.

8 Q Never been there?

9 A I'm violating my own rule of waiting for the
10 sentence to end, so let's try that once more.

11 Q In fairness I took a long pause between the two
12 clauses.

13 Is it true that you have never been to
14 Mr. Freed's office regarding Dianne York's case?

15 A That is true.

16 Q Did you at least go there to pick up documents?

17 A No.

18 Q Did you ever review any part of Ms. York's
19 dissolution action file?

20 A No.

21 Q At any point during your meetings with Ms. York
22 or your meeting or correspondence with Ms. York, did you
23 render a legal opinion about the issues that you were
24 working on for her?

25 A Absolutely not.

1 Q You didn't discuss with her various legal
2 theories under which she might recover?

3 A No.

4 MR. GRIFFITH: It won't be much longer guys.
5 Bear with me.

6 Q Did you have a paralegal working in your office
7 in 2017?

8 A No.

9 Q Did you have any staff members working in your
10 office in 2017?

11 A I did.

12 Q Do you remember their names?

13 A Amy Morketter who's an associate attorney.
14 Might have been David Herman at the time who's an
15 associate attorney. Jodie Dossegger who's an
16 administrative assistant.

17 Q Is it true that Ms. York contacted you
18 regarding another legal issue separate from the first
19 one you helped her with related to her dissolution case
20 and the --

21 A No.

22 Q Okay.

23 A I'm sorry. You paused there. Can you repeat
24 the question? I'll wait till you're done.

25 Q Actually, I'll --

Philip H. Dyson, ESQ.

1 MR. ENGLISH: Okay. Mr. Dyson, let me make an
2 objection because he imbedded a fact that wasn't true in
3 that question. But I'm sure he can rephrase it just to
4 render it as to 2017.

5 BY MR. GRIFFITH:

6 Q Is it true that Ms. York contacted you after
7 you worked with her in 2017 regarding a separate legal
8 issue related to her dissolution action?

9 A No.

10 MR. ENGLISH: It also assumed facts. Thank
11 you.

12 BY MR. GRIFFITH:

13 Q Is it true that subsequent to your meeting with
14 Ms. York in 2017, that you had a discussion with her
15 regarding her dissolution action and you requested that
16 she bring additional files to your office?

17 MR. ENGLISH: It assumes facts, is
18 argumentative. Lack of foundation.

19 THE WITNESS: The only meeting I had with her
20 was in 2013. Is that what you meant?

21 BY MR. GRIFFITH:

22 Q That is.

23 A Okay. The answer is "no."

24 Q When Ms. York brought you the approximately one
25 bankers box of documents in 2017, did you make and keep

1 **copies?**

2 A She didn't bring any box.

3 MR. ENGLISH: Objection. Did you mean '13 or
4 '17?

5 MR. GRIFFITH: '13. I meant 2013. Sorry.

6 THE WITNESS: I don't believe --

7 MR. ENGLISH: Maybe restate the question and
8 let him answer it.

9 BY MR. GRIFFITH:

10 **Q Hold on a second.**

11 **Did you make copies of any of the documents**
12 **that Ms. York brought to you in 2013?**

13 A I don't know if she brought me any documents
14 regarding the documents that I reviewed, but I did not
15 make copies of anything.

16 **Q Did you scan those documents and save them on**
17 **your computer?**

18 A No.

19 **Q Is it fair to say that you have done consulting**
20 **work for Mr. Cruse?**

21 A Yes.

22 **Q When did you start doing consulting work for**
23 **Mr. Cruse?**

24 A Sometime in 2019 I believe.

25 **Q Do you recall when it was that Mr. Cruse first**

1 gave you a project on the York-Goldman case?

2 A It was sometime in 2019.

3 Q And do you recall what the issue was that
4 Mr. Cruse wanted your help with?

5 MR. ENGLISH: Objection.

6 THE WITNESS: You know what --

7 MR. ENGLISH: Invades --

8 THE WITNESS: Let me say -- I'm sorry.

9 MR. ENGLISH: Go ahead, Phil. Go ahead,
10 Mr. Dyson, but don't disclose the subject matter.

11 THE WITNESS: It may have been 2020. To be
12 quite honest, with this pandemic I'm not sure if it was
13 in early 2020 or late 2019 that it was, so I'd just like
14 to put that in.

15 MR. ENGLISH: And my objection was going to be
16 in the form of an instruction. If you can hear his
17 question and not disclose attorney work product, you may
18 answer. But if you would be disclosing attorney work
19 product, I would instruct you not to answer. If you
20 could rephrase the question and listen to it, John.
21 That would be.

22 MR. GRIFFITH: I will.

23 Q Regarding the York-Goldman case in what ways
24 did Mr. Cruse seek your assistance?

25 A He asked me to consult regarding an issue in

1 that case.

2 Q What issue was that?

3 MR. ENGLISH: That would appear to violate the
4 attorney work product protection. I'll instruct him not
5 to answer.

6 BY MR. GRIFFITH:

7 Q Did you run a conflict check when Mr. Cruse
8 first brought you a project on the York-Goldman matter?

9 A I did.

10 Q At any point prior to my contacting your office
11 requesting that you remove yourself from the case, did
12 you realize that you had once worked for Ms. York?

13 MR. ENGLISH: Assumes facts. It's
14 argumentative.

15 THE WITNESS: I'd never worked for Ms. York.

16 BY MR. GRIFFITH:

17 Q At the time that you took the project for
18 Dr. Goldman --

19 MS. YORK: Oh, here it is.

20 BY MR. GRIFFITH:

21 Q -- did you have present recollection that you
22 had met with Ms. York?

23 A No.

24 (A discussion was held off the record.)

25 ///

1 BY MR. GRIFFITH:

2 Q Did you actually perform any services on the
3 York-Goldman case for Mr. Cruse?

4 A Yes.

5 Q And what services did you perform?

6 MR. ENGLISH: I'm going to object as invading
7 the attorney work product protection and instruct him
8 not to answer.

9 BY MR. GRIFFITH:

10 Q Are you going to listen to the instruction?

11 A Just like my clients, the answer is "yes."

12 Q Did Mr. Cruse give you any documents to review
13 to assist you in performing the work that Mr. Cruse
14 wanted you to do on the case?

15 A He did.

16 Q He did or did not?

17 A He did.

18 Q What documents did Mr. Cruse provide to you?

19 MR. ENGLISH: That would invade the attorney
20 work product of Mr. Cruse and I instruct you not to
21 answer.

22 BY MR. GRIFFITH:

23 Q Did you have substantive conversations over the
24 phone with Mr. Cruse about the York-Goldman matter?

25 A No.

1 Q Did you have substantive conversations in
2 writing with Mr. Cruse regarding the Goldman-York
3 matter?

4 A I'm sorry. I didn't hear the question. What
5 was it?

6 Q Did you have substantive conversations with
7 Mr. Cruse in writing regarding the York-Goldman matter?

8 A In writing?

9 Q Yes.

10 A I don't understand you.

11 Q So at first I asked you over the phone. Next I
12 asked you in writing. What I'm getting at are e-mails,
13 text messages, letters, anything in writing regarding
14 the case.

15 MR. ENGLISH: You're asking about substantive
16 conversations, not just scheduling?

17 MR. GRIFFITH: Correct.

18 THE WITNESS: No.

19 MR. ENGLISH: Yes-or-no answer. Thank you.

20 BY MR. GRIFFITH:

21 Q You were present at an ex parte hearing on the
22 Goldman case on July 20, 2020; correct?

23 A That is correct.

24 Q What was the purpose for your attendance at
25 that hearing?

1 MR. ENGLISH: If you can answer without
2 disclosing work product, feel free to do so. If it's
3 based on work product, I'll be instructing you not to
4 answer.

5 THE WITNESS: I'm not sure I can answer that
6 without violating work product.

7 MR. GRIFFITH: Okay.

8 MR. ENGLISH: Okay. Thank you.

9 BY MR. GRIFFITH:

10 Q Did you ever tell Mr. Cruse that you never saw
11 Ms. York?

12 A No.

13 Q Did you ever tell Mr. Cruse that you never
14 spoke with Ms. York?

15 A No.

16 Q Did you ever tell Mr. Cruse that you never
17 e-mailed Ms. York?

18 A No.

19 Q Did you ever e-mail with Ms. York?

20 A No.

21 Q Did you tell Mr. Cruse that you would be
22 willing to sign a sworn declaration setting forth your
23 position on the facts regarding your dealings with
24 Ms. York and Mr. Freed?

25 A Yes.

1 Q Did you ever draft or sign a declaration on
2 those topics?

3 A No.

4 Q And at some point you decided to remove
5 yourself from the case voluntarily; is that fair?

6 A Yes.

7 Q And why did you do that?

8 A So a tempest wouldn't be made out of a teapot.

9 Q All right. I've got nothing further for you.
10 I appreciate you being here. I know it took us some
11 time to schedule it.

12 MR. ENGLISH: Thank you. I have no questions
13 at this time.

14 MR. GRIFFITH: All right.

15 MR. CRUSE: Neither do I.

16 THE REPORTER: Does anyone need a copy?

17 MR. ENGLISH: Mr. English needs a copy of the
18 transcript. And you can send the original to me to
19 forward to the witness.

20 (Whereupon, at 1:35 p.m., the taking of
21 the deposition of PHILIP H. DYSON, ESQ.,
22 was adjourned.)

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REPORTER'S CERTIFICATE

I, SUSAN MYONG, Certified Shorthand Reporter
No. 13365 in and for the State of California, do hereby
certify:

That, prior to being examined, the witness
named in the foregoing deposition was by me placed under
oath to testify to the truth;

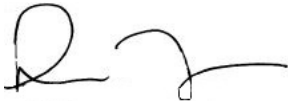
That said deposition was taken down by me in
shorthand at the time and place therein named and
thereafter reduced to typewriting through computer-aided
transcription;

That said deposition is a true, correct, and
complete transcript of said proceedings taken to the
best of my ability.

I further certify that I am not interested in
the event of the action.

The dismantling, unsealing, or unbinding of the
original transcript will render the Reporter's
Certificate null and void.

WITNESS MY HAND this 7th day of January, 2021.



SUSAN MYONG, CSR No. 13365

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DECLARATION UNDER PENALTY OF PERJURY

Case Name: York-Goldman vs. Goldman

Date of Deposition: 12/21/2020

Job No.: 10076128

I, PHILIP H. DYSON, ESQ., hereby certify
under penalty of perjury under the laws of the State of
_____ that the foregoing is true and correct.

Executed this _____ day of
_____, 2021, at _____.

PHILIP H. DYSON, ESQ.

NOTARIZATION (If Required)

State of _____

County of _____

Subscribed and sworn to (or affirmed) before me on
this _____ day of _____, 20__,

by _____, proved to me on the
basis of satisfactory evidence to be the person
who appeared before me.

Signature: _____ (Seal)

Philip H. Dyson, ESQ.

1 DEPOSITION ERRATA SHEET

2 Case Name: York-Goldman vs. Goldman
3 Name of Witness: Philip H. Dyson, ESQ.
4 Date of Deposition: 12/21/2020
5 Job No.: 10076128
6 Reason Codes: 1. To clarify the record.
7 2. To conform to the facts.
8 3. To correct transcription errors.

9 Page _____ Line _____ Reason _____
10 From _____ to _____

11 Page _____ Line _____ Reason _____
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1 DEPOSITION ERRATA SHEET

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21 From _____ to _____

22 _____ Subject to the above changes, I certify that the
transcript is true and correct

23 _____ No changes have been made. I certify that the
transcript is true and correct.

24 _____

25 PHILIP H. DYSON, ESQ.

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