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NEXT CASE ON THE COURT'S CALENDAR IS THE BACARDI CASE.

COUNSEL. ARE YOU READY TO PROCEED THERE?

YES, I AM, YOUR HONOR.

YOU MAY.

MAY IT PLEASE THE COURT. MY NAME IS HECTOR FORMOSO-MURE YAS, AND I REPRESENT THE PETITIONER, ELENA LAURA PESSINO GOMEZ DEL CAMPO BACARDI. WE ARE HERE FROM THE THIRD DISTRICT COURT OF APPEALS. THAT CASE IS DOES THE TRIAL COURT ABUSE ITS DISCRETION FOR NONCONVENIENCE GROUNDS ON THE CASE OF MCKINNEY SYSTEMS VERSUS THE CONTINENTAL CASE IN THIS COURT, WHEN THE PLAINTIFF WAS REQUIRED TO REFILE HER CLAIMS IN MORE THAN ONE ALTERNATIVE JURISDICTION.

IN THAT QUESTION, ARE WE REQUIRED TO LOOK AT WHETHER THE CLAIMS ARE FACTUALLY AND LEGALLY CONNECTED? ISN'T THAT A CRITICAL PART OF THIS QUESTION? THAT IT IS TOO BROADUS WORDED, BECAUSE IF YOU HAD BROUGHT -- YOU CLAIM THESE ARE RELATED. ASSUME, HYPOTHETICALLY, THESE WERE TWO UNRELATED CLAIMS BUT SOMEHOW PUT TOGETHER IN A COMPLAINT. WOULD NOT THAT BE A DIFFERENT SITUATION?

IT WOULD NOT BE A DIFFERENT SITUATION, BECAUSE THAT WOULD NOT BE TREATED AT THE LEVEL OF A FOR NONCONVENIENCE NALEDZ. THAT WOULD BE TREAT -- ANALYSIS. THAT WOULD BE TREATED DIFFERENTLY PURSUANT TO A DIFFERENT MISS JOINDER OF A CASE, OF A PARTY. IT SHOOT NOT BE TREATED THE -- IT SHOULD NOT BE TREATED AT A DIFFERENT LEVEL. THE COURT PREIS -- PRESUMES THAT THERE IS PERSONAL JURISDICTION AND GOOD SUBJECT MATTER OF THE PARTIES BEFORE NONCONVENIENCE ANALYSIS.

HOW COME ALL OF THESE OTHER MOTIONS WERE NEVER RULED ON?

THE COURT DECIDED ON ITS OWN AGENDA, THAT IT WANTED TO HEAR THE ISSUE OF FOR NONCONVENIENCE SPECIFICALLY AS RELATED TO THE OTHER MOTIONS.

DON'T WE, FIRST, NEED TO DECIDE WHETHER THERE IS JUNIORS DICTION BEFORE WE DECIDE WHETHER IT SHOULD BE FOR NONCONVENIENCE, ASSUMED, SINCE JURISDICTION APPLIES.

ABSOLUTELY, YOUR HONOR. THERE IS A PROBLEM, EXCEPT THAT, WHEN A PARTY, SUCH AS THE DEFENDANTS, MOVES TO DISMISS A CASE ON FOR NONCONVENIENCE, THEY ARE, ALSO, RELINQUISHING THE RIGHTS TO CHALLENGE PERSONAL JURISDICTION ON THE CASE OF BADCOCK VWELTMORE, WHICH IS A CASE IN THIS COURT, WHERE YOU TAKE A STEP TO INCLUDE A CHANGE OF VENUE, WHICH IS FOR IMPROPER VENUE. IN ORDER ONLY VERSUS ODD ONLY -- IN ODOM VERSUS ODOM, WHERE THEY SEEK ABATEMENT, IN THIS CASE, WHERE THEY WAIVE JURISDICTION.

HOW ABOUT SUBJECT MATTER JURISDICTION?

NOT SUBJECT MATTER JURISDICTION, YOUR HONOR.

WEREN'T THERE SOME MOTIONS FILED TO CHALLENGE THE SUBJECT MATTER JURISDICTION?

ABSOLUTELY, AND THOSE HAVE NOT BEEN HEARD AND WE HAVE NOT HAD A HEARING OR AN OPPORTUNITY TO BE HEARD ON THOSE MOTIONS. JUSTICE PARIENTE'S CONCERN THAT WE ARE

HERE ON FOR NONCONVENIENCE, AND WE HAVEN'T ADDRESSED THE UNDERLYING ISSUE OF WHETHER THE FLORIDA COURTS EVEN HAVE SUBJECT MATTER JURISDICTION.

THAT IS THE CASE. WE HAVE ARGUED, AS POINT THREE OF OUR ANALYSIS, ON THE ISSUE OF DISCOVERY, FOR INSTANCE, THAT THE DEFENDANT PRESENTED AFFIDAVITS RELATING TO JURISDICTIONAL ISSUES. I MEAN THE ONLY -- THE AFFIDAVITS OF JOSEPH FIELD, WHICH IS A PERSONAL JURISDICTION AFFIDAVIT, AND THE AFFIDAVIT OF DEFENDANTAL PEALE 4 HARRAH, THOSE ARE REPRESENTED TO THIS.

ASSUMING WE ARE IN THE CONTEXT OF PERSONAL JURISDICTION, ASSUMING SUBJECT MATTER JUST DICTION AND NOW WE GET TO THIS ISSUE -- JURISDICTION AND NOW WE GET TO THIS ISSUE ABOUT WHETHER THERE SHOULD BE A MORE CONVENIENT FORUM OUTSIDE OF FLORIDA TO HANDLE THIS, DOES IT HAVE TO BE A FORUM THAT CAN HANDLE THE ENTIRE CASE?

ABSOLUTELY.

SO THAT IS, IN FACT, WHERE WE ARE.

THAT'S RIGHT.

THESE OTHER ISSUES WILL HAVE TO WORK THEMSELVES OUT, ASSUMING WE GO AHEAD AND DECIDE IT. DECIDE THAT THOSE ARE A BARRIER TO US DOING THIS.

RIGHT, JUSTICE ANSTEAD.

WOULD YOU MOVE ON, WITH WHAT THE LAW IS, AND ESPECIALLY WHAT THE FEDERAL PRECEDENT MIGHT INFORM US. ABOUT THAT ISSUE --

LET ME SET THE STAGE. THE STAGE IS THAT WE BROUGHT SUIT. ALLEGING A CONSPIRACY, TORTIOUS CONDUCT IN THE STATE OF FLORIDA, A SCHEME TO DEFRAUD THE PLAINTIFF, AGAINST FIVE DEFENDANTS IN THIS CASE, THREE OF WHICH ARE RESIDENTS OF THE STATE OF FLORIDA. THE LOWER COURT, THE TRIAL COURT, DISMISSED THE CASE ON THE BASIS OF FOR NONCONVENIENCE, AND I INVITE TO YOU THE RECORD, WHERE HE MAKES ABSOLUTELY NO REFERENCE WHATSOEVER TO WHAT ANY SPECIFIC IDENTIFYABLE ALTERNATIVE FORUM. WHAT HE DOES, IN THE RECORD, IS SAY THERE IS AN ALTERNATIVE FORUM, ONE SINGLE ALTERNATIVE FORUM.

IT DOES HELP US A BIT, REALIZING WHAT WE HAVE READ THE BRIEFS, IN TALKING ABOUT THIS, BUT GIVE US A LITTLE FLAVOR OF THE FACTS. YOUR CLIENTS ARE BENEFICIARIES OF TWO TRUSTS?

MY CLIENTS HAVE CHALLENGED THIS, BROUGHT CLAIMS AS TO A CONSPIRACY TO DEFRAUD HER, THAT PREDATES ANY OF THE TRUSTS, BUT IN ADDITION TO THE TRUST-RELATED ACTIONS, MEANING THE ONES THAT SOMEWHAT RELATE TO KOR -- CORNISH OR CORTERRO, MY CLIENT HAS BROUGHT OTHER CLAIMS WHICH ARE NOT ADDRESSED BY THE THIRD DISTRICT. FOR ESTOPPEL, NOT ADDRESSED BY THE THIRD DISTRICT AND CLAIMS NOT CONSIDERED BY ANY DISTRICT BY ANY OF THE FOREIGN COURTS THAT THEY WOULD OTHERWISE BE DISMISSED TO.

HOW CAN YOU EXPLAIN FURTHER, IN ANSWER TO JUSTICE ANSTEAD'S QUESTION, THEN, HIS COMPLAINT, WHICH IS A 50-PAGE COMPLAINT, HOW HAS PROMISSORY ESTOPPEL AND CONSPIRACY BEFORE THE TRUST BEGINS, HOW IS THAT ALL INTERRELATED IN ONE COMPLAINT?

AND IN FLORIDA. OKAY.

OKAY.

WOULD YOU ADDRESS THOSE TWO.

SURE. THE COMPLAINT LAYS OUT, EVEN THOUGH IT IS RECHARACTERIZED BY THE DEFENDANTS AND THE RESPONDENTS IN THIS CASE, IT LAYS OUT CLEARLY THAT THERE IS ONE IDENTIFYABLE CONSPIRACY ORCHESTRATED BY MEMBERS OF THE FAMILY AGAINST ELAINE A LAURA. -- ELENA LAURA A THOSE GO TOWARDS CONSPIRACY -- ELENA LAURA. THOSE RELATE TO --

WHAT IS THE REFERENCE TO TORTIOUS ACTS COMMITTED BY THE CONSPIRACY WITHIN THE STATE OF FLORIDA?

THEY MET HERE. THEY MADE DETERMINATIONS, WITH RESPECT TO THE PLAINTIFF HERE, IN TERMS OF TRUST MATTERS. THEY ADVISED HER ON LEGAL MATTERS IN THE STATE OF FLORIDA. THEY MANAGED THE TRUST EXCLUSIVELY FROM THIS JURISDICTION.

WHEN YOU SAY "THEY", WHICH DEFENDANTS?

I AM REFERRING, TO, JUSTICE QUINCE, TO MARIANNA BACARDI, JERRY LINDS. ZON -- LINDZON, ELENA LINDZON.

SO YOUR COMPLAINT IS THAT ALL FIVE DEFENDANTS MET HERE, IN FLORIDA, AND IN FACT --  
-- COMMITTED TORTIOUS ACTS WITHIN THE STATE OF FLORIDA.

DURING THESE MEETINGS.

RIGHT. IT ALL FALSE WITHIN AS TO THE NONRESIDENT DEFENDANTS, WE PLEAD PURSUANT TO 193.148 SUBB AND 193 SUBF AND -- I AM SORRY 48 .193 SUBPARAGRAPH 2, WHICH PROVIDES TORTIOUS ACTS COMMITTED IN FLORIDA.

AND IS IT YOUR POSITION, ALSO, THAT IN A WAY, TALKING ABOUT THE ISSUES OF PERSONAL JURISDICTION OR SUBJECT MATTER JURISDICTION THAT, AT THIS POINT WE HAVE TO ASSUME THE VALIDITY OF THESE ALLEGATIONS.

RIGHT. THAT IS GILBRY VERSUS GULF OIL, WHICH IS THE US SUPREME COURT CASE.

GET TO WHAT YOU WERE GETING TO NOW, AS FAR AS THE OTHER COURTS THAT HAVE TREATED THIS ISSUE, WHETHER YOU CAN SEND THEM OFF TO A COURT HERE OR A COURT HERE, AND THAT IF YOU DO, THAT IT WOULD BE A REMEDY, AND IT WOULD BE A MORE CONVENIENT FORUM, PERHAPS, FOR EACH OF THESE INDIVIDUAL FACTIONS, AND THEN WE LOOK AT IT HERE. WHAT DOES THE CASE LAW TELL NEWS IS.

THE CASE LAW TELLS US THAT, FIRST OF ALL THIS CASE, THE CASE OF KENNY VERSUS CONTINENTAL, TELLS US THAT, IN ORDER TO ENGAGE IN THIS PROCEEDING, YOU DO HAVE TO HAVE SUBJECT MATTER JURISDICTION, PERSONAL JURISDICTION, GOOD VENUE, AND THEN THERE IS A THRESHOLD ISSUE, WHICH IS DISPOSITIVE ON THE CASE, WHICH IS, AS A PREREQUISITE TO ANY DISMISSAL, THERE HAS TO BE AN IDENTIFIABLE, ALTERNATIVE FORUM, WHICH MUST HAVE JURISDICTION OVER THE CAUSES OF ACTION. THERE IS NO SUCH THING HERE. HAD THE DEFENDANTS CONCEDED THAT POINT, THE THIRD DISTRICT HAS CONCEDEED THAT POINT.

A SINGLE ALTERNATIVE FORUM THAT HAS JURISDICTION OVERALL. THAT GOES TO THE CASE OF -- THAT ANALYSIS IS, THEN --

ARE THOSE CASES BASED ON THE ASSUMPTION THAT, WHOEVER IS BRINGING THE CLAIM GETS TO CHOOSE, INITIALLY, YOU KNOW, WHERE TO BRING THE ACTION?

NO. THE CASE IS BASED ON THE FACT, JUSTICE ANSTEAD, THAT THERE IS A VENT FORUM TO BE TRIED, ONE TRIAL FOR THE CASE, NOT MULTITRIALS FOR THE CASE. ONE PLAINTIFF SHOULD NOT HAVE TO TRY A CASE IN MORE THAN ONE ALTERNATIVE JURISDICTION. THE BUTTER ENIS ON THE DEFENDANTS -- THE BURDEN IS ON THE DEFENDANTS TO PROVE THAT THERE IS, IN FACT, ONE OTHER, BETTER, MORE CONVENIENT FORUM. ONE OTHER SOURCE, ACCORDING TO PIPER VRANIEU, ACCORDING TO CONVENIENCE ANALYSIS, IS THAT IT NOT BE INVENT TO THE PARTIES.

WHAT DO YOU DO, THOUGH, WITH THE THIRD DISTRICT COMMENTS THAT SEVERANCE OF THE DISTRICT CLAIMS IS APPROPRIATE AND THAT CLAIMS IN THIS CASE LACK IDENTITY OF LEGAL OR FACTUAL ISSUES, THAT NO BASIS EXISTS TO REQUIRE DEFENDANTS TO LITIGATE, READILY RECEIVABLE CLAIMS IN ONE FLORIDA PROCEEDING. THIS -- IN ONE SEVERABLE PROCEEDING. THIS IS MY QUESTION AND WHY I THINK THIS PHRASE IS TOO BROAD, BECAUSE IT PRESUMES THAT IT IS --

THAT IS NO SUBJECT MATTER JURISDICTION, FOR INSTANCE.

NO SUBJECT MATTER. THAT YOUR CLAIMS OR YOUR ARGUMENT ASSUMES IDENTITY OF LEGAL OR FACTUAL ISSUES. THE THIRD DISTRICT HAS FOUND, ADVERSELY TO YOU, AS TO THAT VERY POINT.

OKAY. LET'S GO -- THAT GOES TO THE ISSUE OF SEVERANCE ON THE CASE. THERE IS ONE CONSPIRACY THAT IS ALLEGED. IT IS ONE OVERALL CONSPIRACY THAT PREDATES ANY OF THE TRUSTS.

MY QUESTION ABOUT THAT THAT, THOUGH, IS, BRINGING THIS FULL CIRCLE BACK TO JUSTICE PARIENTE'S INITIAL QUESTION, BEING THAT SEVERANCE HASN'T BEEN RULED ON IN THE TRIAL COURT, CORRECT?

RIGHT.

NOW, ONCE SEVERANCE IS RULED ON IN THE TRIAL COURT AND THE TRIAL COURT FOUND THAT IT WAS SEVERED, THEN, WAS SEVERED, SHOULD BE SEVERED, RECEIVABLE, THEN DO -- OR SEVERABLE, DO WE THEN DEAL WITH THE NONCONFORMANCE ISSUE AS TO EACH CASE OR HAVE THEY WAIVED IT?

I THINK -- I BELIEVE THAT, EVEN IF THE CASE WERE TO BE SEVERED, OKAY, ALONG THE LINES OF THE THIRD DISTRICT, YOU WOULD HAVE A MULTITUDE OF PROBLEMS WITH IT. YOU HAVE A BUNCH OF CASES THAT CAN'T -- A BUNCH OF CAUSES OF ACTION THAT HAVEN'T BEEN SEVERED. THEREFORE THE CASE WOULD REMAIN HERE AND WOULD BE TRIED HERE AND WOULD BE TRIED IN THE CAYMAN ISLANDS AND WOULD BE TRIED IN LIECHTENSTEIN.

I THINK THE PROBLEM THAT WE ARE STRUGGLING WITH IS THAT WE ARE KIND OF DEALING WHAT HYPOTHETICAL SITUATION THERE, THEN, BEFORE WE SEE AND HAVE A RULING POP SEVERANCE, BECAUSE -- A RULING UPON SEVERANCE, BECAUSE THEY HAVE GOT TO BUILD UPON ONE ANOTHER. IF THE CASE IS SEVERED AND HAS BEEN PROPERLY SEVERED, THEN THE ANALYSIS OF THAT CASE UNDER KINNEY WOULD BE DIFFERENT, WOULD HAVE TO BE INDIVIDUALIZED.

BUT, AGAIN, HAD I FILED THIS LAWSUIT INDIVIDUALLY, I WOULD HAVE BEEN FORCED TO JOIN ALL THE PARTIES. THIS CASE IS ONE CASE. IT CANNOT BE REDBLY SETTLED.

THAT IS A LEGAL CONCLUSION THAT WE DON'T KNOW, AND IF WE RULE, UNDER YOUR THEORY, THEN SEBIGIGE FROM THE FOURTH DISTRICT WOULD HAVE TO BE QUASHED --

NOT NECESSARILY.

BECAUSE THERE WAS A BREACH OF CONTRACT CASE THAT WAS LEFT IN FLORIDA AND IT HAD

THE REST OF IT, WHICH WAS EASILY SEFERBL AND WHICH -- SEVERABLE, AND THE TORT ACTIONS COULD BE BROUGHT IN ECUADOR AND IT COULD BE EASILY DISTINGUISHABLE, SO YOU DON'T HAVE A SITUATION WHERE THE TAIL IS WAGGING THE DOG.

YOU ARE RIGHT, JUSTICE PARIENTE, EXCEPT THAT IN THAT CASE THE FACT PATTERN IS NOT AS IT IS IN THAT CASE. IN OTHER WORDS THERE WAS NO SEVERANCE IN THE LOWER COURT AT ALL.

BUT YOU DO CONCEDE THE CONCEPT THAT, IF THERE WOULD AND FINDING THAT CLAIMS ARE SO LEGALLY AND FACTUALLY GISHABLE --

ABSOLUTELY -- DISTINGUISHABLE --.

ABSOLUTELY.

THAT THE IDEA OF IT FINDING ONE FORUM MIGHT NOT BE A GOOD IDEA.

RIGHT. AND WHAT YOUR IDEA IS THAT 50% OF THE CASE NEEDING TO STAY IN FLORIDA DOESN'T REALLY --

DOESN'T REALLY DO ANYTHING FOR YOU.

--

WITH THE POLICIES OF KENNY HAVE 20 OR 25% IN LIECHTENSTEIN AND THE CAYMAN ISLANDS.

THE DOCUMENTS THAT ARE IN THE COURT RECORD THAT COULD TAKE JUDICIAL NOTICE OF. THERE IS A DEED OF ACKNOWLEDGMENT THAT WOULD BE REQUIRED TO BE SIGNED BY MY CLIENT, IN ORDER TO BRING ANY ACTION IN THE CAYMAN ISLANDS, WHICH ENJOINS HER FROM BRINGING ANY LAWSUIT ANYWHERE ELSE IN THE WORLD, SO THERE IS NO WAY TO SEVER THIS CASE AND PROSECUTE IN THE STATE OF FLORIDA, AND AT THE SAME TIME ALLOW HER TO PROCEED IN THE CAYMAN ISLANDS OR IN LIECHTENSTEIN, BECAUSE IT FORECLOSES THOSE VENUES TO HER, IN ORDER TO PARTICIPATE IN THE CAYMAN ISLANDS.

DOESN'T THAT, ALSO, PRESENT ANOTHER PROBLEM IN THE CASE, BECAUSE A MOTION TO ABATE WAS FILED? WE HAVE GOT AT LEAST, AND IT SEEMS THE TROUBLE BOTH THE TRIAL COURT AND THE THIRD DISTRICT, IN MAKING ITS RULING, THAT THIS IS VERY DIFFERENT FROM THE KINNEY LINE OF CASES, BECAUSE HERE WE HAD ONGOING CAUSES OF ACTION IN THE CAYMAN ISLANDS AND IN, IS IT LIECHTENSTEIN?

RIGHT.

AND THAT COMEDY, PRINCIPLES OF COMEDY REQUIRE THAT A LATER-FILED ACTION BE ABATE THE PENDING RESOLUTION OF THE EARLIER FILED --

THE A BASEMENT HAS BEEN WAIVED. THE PROCEEDINGS IN THE -- THE ABATEMENT HAS BEEN WACHED. THE PROCEEDINGS IN THE CAYMAN -- HAS BEEN WAIVED. THE PROCEEDINGS IN THE CAYMAN ISLANDS ARE CLOSED. THERE ARE NO PROCEEDINGS IN LIECHTENSTEIN. THE PROCEEDINGS ARE NONE.

IN THIS RECORD?

IF YOU LOOK AT THE RECORD, DEFENDANT O'HARA'S AFFIDAVIT, HE SAYS THAT THE TWO CASES IN WHICH MY CLIENT PARTICIPATED IS CLOSED IN LIECHTENSTEIN. THE JUDGMENT IN THE CAYMAN ISLANDS IS A FINAL JUDGMENT, AS TO THE ISSUES THAT WERE RAISED THERE. I WOULD RESERVE FIVE MINUTES FOR REBUTTAL, BUT I WOULD LIKE TO MENTION THAT THE THIRD

DISTRICT HAS, ALSO, REVERSED THE ENTIRE CASE, THE ENTIRE CASE AS TO ELENA LINDZ ONE, THAN REMAINS THIS THIS COURT, AND THE ENTIRE CASE REMAINS AGAINST JERRY LINDZON IN THIS COURT. THANK YOU.

THANK YOU, COUNSEL.

MAY IT PLEASE THE COURT. ELIZABETH DU FLESNE, ON BEHALF OF THE DEFENDANTS ELENA LINDZON AND JERRY LINDZON. WITH ME ARE ATTORNEYS FROM THE KINNEY, NACHWALT REFORM ER FIRM. -- NACHWALTER FIRM. LET ME SAY THAT I AM PLEASED TO BE HERE, HAVING NOT BEEN HERE FOR MANY YEARS. LET ME SAY THAT THIS CASE, HAVING TO RUN HURDLES TO GET THERE, I TRIED NINE TIMES TO GET A DEFAULT AGAINST ELENA LINDZON RAISED AND NOBODY WILL HEAR IT, SO THEN I GET TOLD, WELL, GEE, YOU HAVE GOT TO GO BACK ON THAT. THE COMPLAINT IN THIS CASE IS WHERE WE START, FAN YOU LOOK AT PARAGRAPH SIX ON ELENA LINDZON AND TEN ON JERRY LINDZON AND 14 ON MARIANNA, AND 21 ON JOE FIELD AND 26 ON PITA HERRA, THAT IS ALL FIVE DEFENDANTS, THE EXACT SAME LANGUAGE IS CONTAINED IN THE DESCRIPTION OF EACH OF THE DEFENDANTS IN THE COMPLAINT. EACH OF THEM, IT SAYS, THIS INDIVIDUAL HAS ENGAGED IN SUBSTANTIAL ACTIVITY, WITHIN THE STATE OF FLORIDA, AND HAS COMMITTED TORTIOUS ACTS WITHIN THE STATE OF FLORIDA, ALL -- ALL OF WHICH PERTAIN TO THE TRUSTS OF WHICH THE PLAINTIFF IS THE BENEFICIARY, AND WHICH ARE THE SUBJECT OF THIS ACTION. IF YOU READ THE BRIEFS IN THIS CASE, FROM THE PETITIONER'S% EFFECTIVE, YOU WOULD -- THE PETITIONER'S PERSPECTIVE, YOU WOULD SEE ALL KINDS OF THING THAT IS DIDN'T HAVE ANYTHING TO DO WITH THE TRUST. WHEN THEY FILED THE COMPLAINT AND THERE HADN'T BEEN AN AMENDMENT, THEY SAID EVERY SINGLE ACT OF ANY OF THE FIVE DEFENDANTS ACCUSED OF DEALT WITH THE TRUST. WE KNOW WHAT THE TRUSTS ARE. WE HAVE GOT A TRUST IN THE QAIM ANSWER AND A TRUST IN LIECHTENSTEIN. WE HAVE -- IN THE CAYMANS AND A TRUST IN LIECHTENSTEIN. WE HAVE CAYMAN TRUSTEES AND BE HAMIAN TRUSTEES IN THE BAM HAMAS, -- IN THE BAHAMAS, WHO MOVED IT FROM THE COURT. WE HAVE LIECHTENSTEIN TRUSTEES. IT HAS BEEN LITIGATED IN SWITZERLAND AND IN LIECHTENSTEIN, AND DECEMBER FIGHT -- AND DESPITE THE REFERENCE TO PITA O'HARA, WITH REFERENCE AND WE SHOW YOU THAT THERE WAS, BEFORE A NEW FILING IN LIECHTENSTEIN, WHICH WAS STILL ONGOING AND YOUR RECORD SHOWS THAT YOU, THAT DEALT WITH AMENDMENT SIX TO THE LIECHTENSTEIN TRUST, WHICH IS THE VERY AMENDMENT THAT REMOVED THE BENEFITS TO ELENA LAURA AND SO, UNLESS THAT IS RESOLVED, THE QUESTION OF WHETHER OR NOT SHE WAS SOMEHOW PRESSURED INTO FILE AGO FRIVOLOUS OR BASE PRESS LAWSUIT IN -- BASELESS LAWSUIT IN SWITZERLAND AND IN LIECHTENSTEIN THAT RESULTED IN HER BEING HARMED BY LOSING BENEFITS UNDER THE CORNISH TRUST, SHE IS A RESIDUAL BENEFICIARY, NOT A DIRECT, CAN'T POSSIBLY BE RESOLVED BY ANY AMERICAN COURT.

SO WOULDN'T THE PROPER PROCEDURE, THEN, BE TO ABATE THE FLORIDA ACTION? ISN'T THAT WHY THIS -- THAT CERTAINLY WAS MEANT TO DEAL WITH CASES THAT REALLY WERE REAL FAR, CASES WHERE A TORT OCCURRED AND SOME OTHER PLACE, AND WE DON'T WANT FLORIDA TO BECOME THE, YOU KNOW, LAWSUIT CAPITAL OF THE WORLD, BUT THIS IS A CASE, WHERE ALTHOUGH YOU HAVE GOT THE CAYMAN ISLANDS AND LIECHTENSTEIN, THIS WAS A SPANISH TRUST SET UP IN, I GUESS, MAD TRID -- I GUESS, IN MADRID AND SIGNED IN MADRID, AND THE PEOPLE INVOLVED IN MANAGING THIS TRUST RESIDE IN FLORIDA. WE CERTAINLY WOULDN'T SAY THAT IF SOMEBODY DESIRED TO SET UP A TRUST AND THEY WERE FLORIDA AND THEY SET IT UP ACCORDING TO THE LAWS OF DELAWARE AND THE BANK WAS UP THERE AND SO THE TRUSTEES HAPPENED TO BE THERE BUT ALL OF THE TRUSTEES LIVED IN FLORIDA, THAT WE WOULD WANT TO MOVE THAT CASE UP TO DELAWARE. CORRECT?

YES, MA'AM.

SO NOW WE HAVE GOT TO ANALYZE IF THIS IS A CASE THAT, AT ITS BASE, TALKS ABOUT CONSPIRACY AMONG PEOPLE THAT ARE AT LEAST THREE OUT OF THE FIVE ARE ACTUALLY

FLORIDA RESIDENTS, WHERE THE CLAIMS ARE THAT THE ACTIONS, THE DEFRAUD OF THE PLAINTIFF, OCCURRED IN FLORIDA, SO WE -- OCCURRED IN FLORIDA, SO WE REALLY HAVE TORTS OCCURRING IN FLORIDA, WHICH IS VERY DIFFERENT THAN, I GUESS, EVERY KINNEY CASE THAT HAS COME ALONG, WHERE THEY HAVE TRANSFERRED IT SOMEPLACE ELSE.

THERE IS NO QUESTION THIS CASE IS UNIQUE. I DO NOT STAND UP HERE AND SAY, BOY, I HAVE GOT ONE THAT FITS RIGHT ON ME LIKE A COOKIE CUTTER AND EVERYTHING IS FINE N KINNEY, AS IN ALL THE FORUM NONCONVENIENCE CASES, THIS TORT SAID YOU DO IT ON A -- THIS COURT SAID DO YOU IT ON A CASE BY CASE BASIS, AND IF THERE IS EVERYONE YOU HAVE TO LOOK AT FACTUALLY, THIS IS IT. WE FILED A MOTION TO ABATE. I FILED EVERY KIND OF MOTION THERE WAS. NOBODY WANTED TO HEAR THEM. EVERYBODY SAID, NO, NO, WE WANT TO HEAR THE MOTION. THEY WOULDN'T HEAR A SINGLE MOTION.

SO WHY ARE WE -- WHY IS THIS QUESTION ONE THAT SHOULD BE RESOLVED BY THIS COURT, IF IT IS SO FACTUALLY UNIQUE, AND BECAUSE THE QUESTION REALLY DOESN'T MEAN ANYTHING, UNLESS YOU LOOK AT WHETHER THERE IS LEGAL AND FACTUAL IDENTITY IN THE CLAIMS, WHY -- WHAT WOULD WE BE DECIDING IN THIS CASE, OTHER THAN THE SPECIFIC FACTS OF THIS CASE AND WE DON'T EVEN KNOW -- I MEAN, WHETHER -- WHAT THE STATUS OF THE ACTIONS ARE IN THE OTHER JURISDICTIONS.

YOU COULD BRING SANITY, IS THE MAIN REASON THAT YOU MIGHT DECIDE. THREE YEARS HAVE GONE BY ALREADY, IN FLORIDA.

TO YOU SANITY TO YOU.

SANITY TO THE SYSTEM. REMEMBER TO TRIAL JUDGE WHO YOU APPROACH IN THIS AREA, WITH A LOT OF DEFERENCE, A TRIAL JUDGE DID READ MOUNTAINS OF MATERIALS, AND HAVE HEARINGS ON THIS, AND CAME TO THE CONCLUSION, IN HIS ORDER, BY SPLITTING THE MATTER AS IT SHOULD BE SEVERED. YOU HAVE, IN ADDITION, THE THIRD DISTRICT LOOKING AT IT AND FINDING NO ABUSE OF DISCRETION SAY, FOR THE ONE FLORIDA BAR MALPRACTICE ACTION, WHICH WE WILL OBVIOUSLY HAVE TO STAY. ALL THESE OTHER THINGS ARE DONE. HE DIDN'T COMMIT MALPRACTICE, IF THE THINGS IN THE OTHER JURISDICTIONS ARE FINE --

LET ME ASK THE QUESTION THAT WAS ASKED OF YOUR OPPONENT, AND THAT IS THE QUESTION OF THE ISSUE OF WHETHER OR NOT WE ARE REALLY, DEALING, NOW, WITH A HYPOTHETICAL, AND THAT IS THAT THERE ARE A NUMBER OF MOTIONS PENDING, IF I UNDERSTAND IT CORRECTLY, THAT CHALLENGE PERSONAL JURISDICTION, CHALLENGE SUBJECT MATTER JURISDICTION, AND, AS YOU SAID FOR SEVERANCE. IS THAT CORRECT?

NO, SIR. IN ONE WAY, AND YES, SIR, IN ANOTHER. IF I MIGHT ANSWER, BECAUSE THERE IS NO QUICK ANSWER.

ANSWER THAT FIRST, BECAUSE --

YES, SIR.

PART OF THIS ISSUE ABOUT BRINGING SANITY OR WHATEVER --

YES, SIR.

IN AN EXTENSION OF THE LAW HERE, IS WHETHER WE SHOULD BE TELLING TRIAL JUDGES THAT, BEFORE YOU GET TO THIS ISSUE, YOU NEED TO RESOLVE THIS ISSUE, SO THAT YOU HAVE A FIRM BASE FOR, THEN, MOVING ON THE REST OF IT. SO GO AHEAD.

WE HAD APPROXIMATELY 11 MOTIONS THAT WERE FILED ORIGINALLY, INCLUDING ABATEMENT,

INCLUDING PERSONAL AND SUBJECT MATTER JURISDICTION, ALL OF THOSE. WE WERE TOLD, BY THE COURTS, AND THEY RECUSED ONE JUDGE AND GOT ANOTHER ONE. HE HAS, NOW, BEEN RECUSED AS WELL. WE WERE TOLD BY THE COURTS THAT, IF THEY WERE GOING TO GET THE CASE GONE, THERE WAS NO REASON FOR THEM TO FIDDLE WITH EXTENSIVE HEARINGS ON WHAT WOULD HAPPEN WITH THIS, WHAT WOULD HAPPEN WITH THAT. AND THUS WHAT WE REALLY HAVE IS AN EXAMPLE IN WHICH HORRID PLEADINGS, I MEAN YOU ALL HAVE STRUGGLED THROUGH THE COMPLAINT. THERE IS A MINGLING IN EVERY COUNT OF THINGS. YOU KNOW WHAT OUR RULES OF PLEADINGS TELL US. WE ARE SUPPOSED TO HAVE ONE CLAIM PER COUNT. WELL, TO DEFEAT KENNY, DEFEAT THE TRIAL JUDGE'S ACTION, BECAUSE OF BAD PLEADINGS, PURPOSE INTERTWINING, AND THE THROWING IN OF A RED HERRING ON THIS FRIVOLOUS, BASELESS LITIGATION IN LIECHTENSTEIN, YEARS AND YEARS AFTER IT HAPPENED, IS TO ALLOW THE PLAINTIFF WHO DOESN'T PLAY BY THE RULES TO CAUSE A DEFENDANT TO STAY IN COURT INDEFINITELY.

BUT SOMEHOW THAT HAS GOT TO BE UNRAVELED.

I AGREE.

IN THE TRIAL COURT. IT IS ALMOST IMPOSSIBLE FOR THIS COURT TO UNRAVEL THINGS THAT HAVE NOT BEEN RULED UPON DIRECTLY BY THE TRIAL COURT, AND I POINT SPECIFICALLY TO WHAT JUDGE EVANS' DECISION SAYS IN THE DISTRICT COURT, WHERE HE SAYS THE TRIAL COURT IMPLICITLY SEVERED THE CLAIMS. WELL, WE CAN'T IMPLICITLY RECEIVER CLAIMS. WE EITHER RECEIVER THEM OR THEY ARE TOGETHER. FOR PROCEDURAL PURPOSES. AND THAT MAKES A LOT OF DIFFERENCE IN AKIN I ANALYSIS.

IT DOES. -- IN A KINNEY ANALYSIS.

I WENT THROUGH THE RULES, TRYING TO FIND SOME HELP AND GUIDANCE THAT I COULD GIVE TO THE COURT. THE THREE RULES THAT YOU LOOK AT FOR SEVERANCE INCLUDE 1.110(S), WHICH SAYS THE SEPARATE STATEMENTS IN EACH CLAIM, AND MUST, AND IF NOT YOU RECEIVER THEM OUT, RULE 1.2 -- YOU SEVER THEM OUT, RULE 1.210(A) SAYS THAT ANY CLAIM MAY BE SEPARATED AND PROCEEDED WITH SEPARATELY AND 1.210(B) ON SEPARATE TRIAL SAYS THAT THE COURT CAN, IN FURTHERANCE OF CONVENIENCE, WHICH BRINGS US BACK TO. NONCONVENIENCE.

IN THE POINT THAT THE CIRCUIT COURT HAS NOT RULED ON THAT ISSUE.

IF THE COURT HAS SAID THAT THE RESPECTIVE ISSUES SHOULD GO TO CAYMAN AND TO LIECHTENSTEIN, HAVE THEY NOT SEVERED? I MEAN --.

IS THERE AN ORDER THAT SAYS THAT THESE ARE SEVERED?

NO, SIR. THERE IS -- THERE IS AN ORDER SAYING THEY ARE DISMISSED FOR NONCONVENIENCE TO GO TO THEIR RESPECTIVE ALTERNATIVE FORUMS. THERE IS NO ORDER THAT SAYS THAT I RECEIVER THEM AND NOW I SEND THEM TO THEIR ALTERNATIVE.

BUT IF THE -- THERE IS NO FINDING THAT THE CONSPIRACY WAS OR WAS NOT INTERTWINED, SO THAT WHEN ONE DEFENDANT ACTED, HE OR SHE WAS ACTING AS TO BOTH TRUSTS AT THE SAME TIME. WE DON'T KNOW THAT, AND IT IS NOT A FAIR THING TO MAKE HALF OF A CASE GO TO ONE JURISDICTION AND, YOU KNOW, IN EUROPE, AND THE OTHER HALF GO DOWN TO THE CARIBBEAN. I MEAN IT JUST SEEMS, YOU KNOW, YOU -- IT LOOKS LIKE WHAT WE HAVE GOT, AND YOU SAID IT HERE. WE HAVE GOT A CASE OF BAD PLEADINGS. WE CAN'T, THEN, DECIDE A FORUM NONCONVENIENCE CASE THAT IS GOING TO BE A CASE THAT IS LOOKED AT FOR PRECEDENCE, WHERE SOMEONE LOOKS AT THIS COMPLAINT, THEY ARE GOING TO SAY, WE FILED THOSE KINDS OF COMPLAINTS. THAT IS GOING TO GET THROWN HERE AND THERE, SO, STILL, IT, I GUESS, GOES BACK TO THE FRUSTRATION THAT JUSTICE WELLS HAS JUST EX-PRESSED THAT IS CORRECT WE



REALLY HAVE HERE -- WE HAVE GOT TO ASSUME FOR THIS QUESTION THAT THERE IS LEGAL AND FACTUAL SEVERABILITY AND THAT THEY WERE SENT TO THEIR RIGHT JURISDICTIONS FOR BEING SEPARATE CASES, AND THERE COULD BE NO JUDICIAL ECONOMY IN HAVING THEM ALL IN ONE PLACE.

AND YOU HAVE, WITHIN THE COMPLAINT, THE INFORMATION TO GET THERE. PARAGRAPH 59 OF THE COMPLAINT TELLS YOU THAT THE COTORA CHARGES, PROBLEMS, ARE A ROSE WITH THE SETTLEMENT OF THE COTORA TRUST. JUNE 1979.

BUT DOES THAT MEAN THAT IT GOES -- I MEAN, THE TRUST IS PHYSICALLY BEING HELD THERE, BUT THE PEOPLE THAT ARE ADMINISTERING IT ARE IN FLORIDA.

WHAT -- I WAS GOING TO GO THROUGH THE THREE-DAY --

I AM SORRY.

THERE ARE THREE ASPECTS OF THIS CASE. COTORA, CORNISH, AND THE MONTHLY PAYOUTS THAT ARE INSTITUTION -- AND THE MONTHLY PAYMENTS THAT ARE INSTITUTIONALIZED OR NOT, AS THE CASE MAY BE. COTORA ARE A ROSE IN '79. CORNISH ARE A ROSE IN '88 BUT THERE ARE THINGS THAT WILL CHANGE ABOUT THEM THERE IS NOTHING WITHIN THE CONTEXT OF THIS COMPLAINT, WHICH IS, AGAIN, YOU ALL HAVE TO GET AN AND ALL I CAN ARGUE FROM. THERE IS NOTHING WITHIN THE CONTEXT OF THIS COMPLAINT THAT SHOWS AN OVER EARTH SERIES OF ACTS TYING THOSE FOUR TOTALLY DISTINCT, IN TIME, FACT, CORPUS, AND EVERY OTHER WAY, EVENTS TOGETHER. THERE IS NOTHING PLED HERE THAT MAKES IT ONE ACTION. WE FILED ALL SORTS OF STUFF TO CHALLENGE ALL THAT. THE COURT'S POSITION, AND YOU HAVE GOT TO REMEMBER WE GO BACK AND LOOK AT A TRIAL COURT SITTING IN A CIRCUIT COURT DOWN IN MIAMI-DADE COUNTY, AND WE SAY WE GIVE GREAT DEFERENCE TO WHAT YOU LOOK AT. HE LOOKED AT THIS AND SAID --

I AM SORRY.

BUT IT SEEMS TO ME THE CORE OF THOSE 50 PAGES OF COMPLAINTS IS THAT ALL OF THESE PEOPLE MET TOGETHER IN FLORIDA AND THEY HAD A CONSPIRACY THAT CHANGED THE PROVISIONS OF THESE TRUSTS AND SOMEHOW CUT THE PLAINTIFF OUT OF HER SHARE OF THEM. IF THAT IS TRUE, THEN WHY NOT -- WHY CAN'T ALL OF THESE THINGS BE TRIED IN THE FLORIDA COURTS?

IN THE TRANSCRIPT OF THE HEARINGS, WHICH IS PART OF THE RECORD OF THIS CASE, IT IS TAB 7, I THINK, OF THE PETITIONER'S APPENDIX. I WOULDN'T BET ON THAT BUT IT IS THERE. THE TRANSCRIPT OF THE HEARING OF THE FORUM NONCONVENES HEARING, THE GENTLEMAN WHO WAS APPEARING ON BEHALF OF THE PLAINTIFF WAS ASKED BY THE COURT, WELL, YOU SAY THEY MET IN FLORIDA. THEY MET IN IRELAND, TONIGHT, DIDN'T THEY? YES, THEY DID. THEY MET IN MANY COUNTRIES, DIDN'T THEY? YES, THEY DID. THERE IS NOTHING UNIQUE TO FLORIDA ABOUT WHAT HAPPENED. YES, THEY MET IN FLORIDA SOMETIMES. THEY, ALSO, MET IN OTHER PLACES ALL THE TIME.

BUT THEY LIVE IN FLORIDA.

YOUR HONOR, I AM TRYING NOT TO GO OUTSIDE THE RECORD. THERE ARE -- THERE IS ONE PERSON WHO LIVES IN FLORIDA. MARIANNA. EVERYTHING ELSE IS THEIR OWN PROPERTY. THEY DON'T LIVE HERE. BUT I AM TRYING NOT -- I HATE PEOPLE WHO STAND UP AND TALK ABOUT I AM NOT SURE HOW MUCH OF THIS GOT INTO THE RECORD. WE CERTAINLY WENT BACK AND FORTH ON IT AT EVERY HEARING.

JUDGE TOBIN CONSIDERED THESE THINGS AS A MAJOR PART OF THAT HEARING THAT WAS GOING

THROUGH, BUT HE REALLY DIDN'T SEEM TO RULE ON THESE THINGS, JUST MADE THE COMMENTS, SO IT MAKES IT TOUGH, VERY DIFFICULT TO SEPARATE THESE OUT.

HE MADE NO FINDING THAT THEY WERE, IN FACT, FLORIDA RESIDENTS. HE SAID JUST TAKE IT AS THOUGH THEY WERE. I WOULD STILL GO HERE. HE SAID, WHAT YOU SHOW ME IS NOT EVIDENCE OF RESIDENCE. IT IS MERELY THAT THEY OWN PROPERTY. I DON'T HAVE RECORD THAT HE CAN SPEAK FURTHER ON THAT POINT. IT WOULD BE NOT APPROPRIATE FOR ME TO STAND UP IN FRONT OF YOU AND SAY I KNOW X. THE REALITY THAT THE TRIAL COURT'S DECISION COMES BEFORE YOU, AFTER HAVING BEEN LOOKED AT BY THE THIRD DCA, IS THAT WE HAVE AN UTTER FRUSTRATION OF THE GRANT TORE OF THE TRUSTS -- OF THE GRANT OR OF THE TRUST'S INTENTION, IF WE ALLOW IT TO STAY IN FLORIDA. SHE SET UP TRUST IN HIS CAYMAN AND LIECHTENSTEIN, OF TWO THE MOST CONFIDENTIAL, HIGHLY PRIVATE PLACES IN THE WORLD, AND SAID THESE TRUSTS, AND EVERYTHING DISPUTED ABOUT THEM, MUST BE DECIDED IN THOSE LOCALES, AND NOW WE HAVE A COMPLAINT FILED IN MIAMI-DADE COUNTY, WHERE PERSONAL LETTERS OF THE FAMILY ATTACHED TO THE COMPLAINT, THE MOST EMBARRASSING KIND OF PUBLICITY YOU CAN POSSIBLY GET, THE ABSOLUTE ANITHESIS OF WHAT THESE TRUSTS SET UP IN PERFECTLY LEGAL MANNERS IN FOREIGN COUNTRIES SHOULD BE TREATED LIKE.

BUT IT SAID IT WOULD BE GOVERNED BY THE LAWS OF THE JURISDICTION. DID IT SAY THAT ANY ACTIONS --

ANY DISPUTES REGARDING THEM, I BELIEVE IS THE LANGUAGE, YOUR HONOR.

SO THAT IS AN INTERPRETATION THE TRUST AGREEMENT.

YES, MA'AM.

THAT IS NOT -- WE DON'T HAVE THAT -- THAT WOULD AND VERY DISCREET, LEGAL ISSUE. THAT IS WE GOT THIS QUESTION ABOUT WHERE TRUSTS GET ADMINISTERED. BUT THAT IS NOT REALLY BEFORE US. THE CERTIFIED QUESTION SAYS THAT THE COURT ABUSED ITS DISCRETION IF IT DISMISSES AN ACTION WHEN DISMISSAL REQUIRES THE PLAINTIFF TO REFILE THE CASE IN MORE THAN ONE ALTERNATIVE JURISDICTION.

WHAT WE ARE TOLD, OF COURSE, IS THAT YOU HAVE TO LOOK AT ALL THOSE FOUR TESTS OF KINNEY. WHEN YOU GET TO THE PUBLIC TEST IN KINNEY, WHICH EVERYBODY HAS TOLD US WE PREVAIL ON THE FIRST TWO, AND WHEN YOU GET TO PUBLIC, WE HAVE ARGUED THAT THE LAWS ON VENUE, ON TRUSTS, ARE APPLICABLE TO SHOW THE PUBLIC DECISION OF POLICY BY THE FLORIDA LEGISLATURE, THAT, NO, WE DON'T LITIGATE ABOUT FOREIGN TRUSTS HERE.

HOW DO YOU EVEN PREVAIL ON THE FIRST ONE, WHICH IS, I BELIEVE, THE ONE THAT SAYS YOU HAVE TO MAKE SURE YOU HAVE AN ALTERNATIVE IN FORUM, WHERE ALL OF THESE CLAIMS CAN BE BROUGHT. CORRECT?

I BELIEVE THAT IT CANNOT POSSIBLY BE READ TO SAY A SINGLE ONE. WE HAVE GIVEN YOU THE CASE LAW SMITH BARNEY, DuPONT, LATINO, SEBA, GIVEY AND MENDEZ, WHICH THEY HAVE GONE TO MORE THAN ONE FORUM, SO THE SINGLE FORUM ASPECT --

WE GO BACK TO THE FACT OF WHETHER OR NOT THESE ARE DISCREET, RECEIVERABLE. -- SEVERABLE, YES, MA'AM. THERE IS NO GETTING AROUND THIS ISSUE. MY COME COUNSEL, RICH CRISP LOW, WOULD LIKE TO HAVE, AND -- RICH CRITCHLOW, WOULD LIKE TO HAVE, AND I ONLY HAVE TWO AND-A-HALF MINUTES LEFT, AND IF I CAN GIVE THAT TIME TO HIM, I WOULD GIVE IT.

YES, YOU MAY.

MAY IT PLEASE IT COURT. RICH CRITHCHLOW, AND I WOULD LIKE TO ANSWER YOUR QUESTION

REGARDING THE TRIAL COURT AND SEVERANCE. IF WE REVIEW THE TRIAL COURT'S DECISIONS, PAINWEBBER AND SEBER GEIGEY, BOTH OF THOSE CAME WITHOUT A RULING BY THE LOWER COURT. THE APPELLATE COURT LOOKED AT THE ENTIRE RECORD IN BOTH OF THOSE INSTANCES AND DECIDED THAT THE SEVERANCE ISSUE, WHETHER IT DEALS WITH IT DIRECTLY, AS IN SEBA GEIGEY, OR TALKS ABOUT IT IN THE PAINWEBBER DECISION, BASED ON THE ENTIRE RECORD, IS THE ONLY WAY THE ACTION COULD BE REVIEWED.

BUT IN SEBA GEIGEY, THE JUDGE RULED IT SHOULD ALL STAY IN FLORIDA.

ABSOLUTELY.

SO THERE WASN'T ANY REASON. THE JUDGE DECIDED THAT IT WASN'T SEVERED. THAT IS A DIFFERENT SITUATION.

IF THE APPELLATE COURT LOOKED AT IT WITHOUT A RULING ON SEVERANCE, LOOKED AT THE ENTIRE RULING AND SAID, BECAUSE THE CONTRACT CLAIMS ARE UNRELATED, NOT BECAUSE THERE IS A MOTION THAT HAS BEEN RULED UPON, BUT MADE ITS OWN DECISION, BASED UPON THE RECORD BEFORE IT, BECAUSE THOSE ARE UNRELATED, AND THE TORT CLAIMS BELONG IN HE CAN ADORE, WE, AS THE APPELLATE COURT, CAN MAKE THAT DECISION, AND THAT IS NO DIFFERENT THAN WHAT THE THIRD DISTRICT DID. THEY HAD BEFORE IT THE ONLY DOCUMENT UPON WHICH THE TRIAL COURT RELIED, AND IT COULD RELY, IN DETERMINING WHAT WAS THIS CASE ALL ABOUT. AND THIS CASE, AS IT IS PLEADED, IS ABOUT THREE DISTINCT AND SEPARATE TYPES OF CLAIMS. EXCEPT -- AS SET FORTH IN PARAGRAPHS 53, EXCUSE ME, 59, THERE IS A TORT RELATING TO CATORO, STARTING IN JUNE OF 1979, IN PARAGRAPH 83, THERE IS A TORT REGARDING CORNISH, WHICH TOOK PLACE IN 1988, UNRELATED BY ALLEGATION ANYWHERE IN THIS COMPLAINT, TO ANY CONDUCT IN FLORIDA. THE ONLY WAY 1979 CAN BE RELATED TO ANYTHING IS TO CREATE THE TRUST IN SPAIN. THE ONLY WAY ANYTHING COULD HAPPEN RELATIVE TO THE CORNISH TRUST IN 1988 WAS RELATIVE TO ACTIONS WHERE THE TRUST WAS AMENDED IN LIECHTENSTEIN. THE COURT HAD EVERYTHING BEFORE IT. IT NEED NOT GO BACK AND ASK FOR A MEANINGLESS EXERCISE. WE DON'T BELIEVE IT NEEDED TO. WE BELIEVE THAT EVERYTHING CAME TO THE THIRD DISTRICT, VIEWED UNDER AN ABUSE OF DISCRETION STANDARD, WITH THE RECORD BEFORE IT, AS IN SEBA GEIGEY, AS IN PAINWEBBER. THE COURT DETERMINED THAT THESE WERE RECEIVERABLE CLAIMS. IT -- WERE SEVERABLE CLAIMS. IT NEEDED NOT AND WE DON'T THINK THE COURT IMPLIED THAT IT WAS SEVERED. IT COULD LOOK AT THE RECORD AND MAKE THAT DETERMINATION ITSELF AND IT DID, AND WE BELIEVE IT IS THE ABUSE OF DISCRETION STANDARD THAT SHOULD BE USED TO JUDGE WHETHER OR NOT THAT WAS APPROPRIATE. THANK YOU.

THANK YOU. REBUTTAL.

YOUR HONOR, FIRST I WOULD LIKE TO REQUEST ADDITIONAL TWO MINUTES, AS THEY HAVE GONE OVER THEIR TIME BY TWO MINUTES, IF POSSIBLE.

TWO MINUTES. HOW MUCH TIME DID HE GO OVER? --

IF IT WAS RECEIVERABLE ORB SHOULD HAVE BEEN SEVERED -- SEVERABLE OR SHOULD HAVE BEEN SEVERED, THEN THE ANSWER POSED BY THE THIRD DISTRICT IS DIFFERENT THAN WHAT WOULD BE THE ANSWER TO THE QUESTION, IF ALL OF THE CLAIMS SHOULD, IN FACT, BE LITIGATED.

IF I UNDERSTAND YOUR QUESTION CORRECTLY, YOU ARE SAYING THAT, IF THE PLAINTIFF HAD AN OPPORTUNITY TO BE HEARD ON A MOTION FOR SEVERANCE AND THERE WERE DETERMINATIONS BY THE COURT THAT THIS CASE WERE RECEIVERABLE, WHETHER THESE TWO SEPARATE CAUSES -- LAWSUITS COULD CONCEIVABLY, BOTH, BE SUBJECT TO DISMISSAL ON FOR NONCONVENIENCE BASIS, I WOULD ARGUE THAT A MOTION COULD BE ENTERTAINED BUT THAT

NEITHER ONE WOULD CONSULT RESULT IN A DISMISSAL. THEY HAVE RECHARACTERIZED MY COMPLAINT IN SUCH A WAY THAT, OF COURSE, IF YOU READ IT TO EXCLUDE THINGS LIKE INTENTIONAL A.M. INFLICTION OF EMOTIONAL DISTRESS, THE INTENTIONAL TORT INTERFERENCE, WHICH TRUSTS CREATED BY THE GRANT OR, BY ELENA LINDZON, WHICH IS CLEARLY IN THE COMPLAINT, THAT IS PARAGRAPH 256 OF MY COMPLAINT, THE ESTOPPEL CLAIM, THE PROMISSORY ESTOPPEL CLAIM HAS NOTHING TO DO WITH THE CLAIM AND ISLANDS OR LIECHTENSTEIN, BUT IT DOES HAVE TO DO WITH THE CONSPIRACY. IT HAS TO DO WITH THE FACTS THAT THESE CLAIMS ARE INTERRELATED. I INVITE TO YOU RESPONDENT'S BRIEF AT PAGE 47, WHERE THEY ADMIT THAT THE LEGAL MALPRACTICE CLAIM IS AGAINST JERRY LINDZON, IS SO INTERTWINED WITH THE REST OF THE COMPLAINT THAT IT WOULD NOT ALLOW THE CASE TO -- THEY WOULD MOVE TO STAY THE CAUSE OF ACTION HERE IN FLORIDA, BEFORE PROCEEDING, BEFORE WE CAN PROCEED ON ANYTHING ELSE. WELL, IF IT SENTER RELATED, THEN IT IS NOT READILY RECEIVABLE. IF THE CLAIMS OF DEPENDENT ON ONE ANOTHER, IT IS NOT --

WHAT THEY REALLY WERE ARGUING IS THAT, IF THE TRUST GETS RESOLVED THIS WAY, IT MAY NOT BE A LEGAL MALPRACTICE CASE. ISN'T THAT A LITTLE DIFFERENT THAN IT BEING SO INEXTRICABLY INTERTWINED? IN OTHER WORDS YOU DON'T HAVE THE LEGAL MALPRACTICE CASE, IF THIS -- IF SOMETHING ELSE HAPPENS IN THE TRUST ACTION IN LIECHTENSTEIN.

BUT THERE IS NOTHING PENNING IN LIECHTENSTEIN. WHEN -- PENDING IN LIECHTENSTEIN. SHE HAS ARGUED THAT OUR CLIENT IS ROVED IN LIECHTENSTEIN THAT, IS INCORRECT. THE PENDING ACTION IN LIECHTENSTEIN HAS NOTHING TO DO WITH THE CLAIM WE BROUGHT FOR FRAUD AND INDUCEMENT TO ENGAGE JOSEPH FIELD TO BRING ABOUT LAWSUITS. THE RECORD IS REplete WITH AFFIDAVIT EVIDENCE FROM MY CLIENT, TALKING ABOUT HOW THE MEETINGS INVOLVED ALL OF THESE THINGS HERE IN MIAMI, HOW THEIR CONDUCT INVOLVED EVERYTHING, ALL OF IT, THE CORNISH LITIGATION, THE COTORO TRUST, THE AMENDMENT, THE FALSE REPRESENTATIONS, FALSE MISREPRESENTATIONS ABOUT LEGAL ADVICE AS TO WHO WAS, THE CONFLICT OF INTEREST. JOSEPH FIELD REPRESENTED ELENA LINDZON. SUPPOSEDLY, ACCORDING TO THE CAYMAN COURT, HE REPRESENTED THE GRANT OR. HE, ALSO, REPRESENTED MY CLIENT AND NEVER FAILED TO ADVISE MY CLIENT AS TO THE FACT THAT THEY HAD IMPROPERLY INVADED THE TRUST. ON HAR, A WHO WAS COMMUNICATING DIRECTLY WITH LINDZON, MARY AND, A ELENA LINDZON, JOSEPH FIELD, WAS THE FIDUCIARY TO MY CLIENT, WOULD COME HERE AND VOTE THE SHARES OF CORNISH TRUST THAT BACARDI CORPORATION MEETING IN FLORIDA, AND WAS THE FIDUCIARY OF MY CLIENT.

LET ME ASK YOU THIS. IF WE ANSWERED THE QUESTION AND BASICALLY THIRD DISTRICTED IT, FROM YOUR CLIENT'S POINT OF VIEW, YOU WOULD, THEN, FILE THE CASE OR THE CASE TO DO WITH THE ONE TRUST WOULD GO TO LIECHTENSTEIN AND THE CASE TO THE OTHER TRUST WOULD GO TO THE CAYMAN ISLANDS. THE LEGAL MALPRACTICE CASE WOULD STAY IN FLORIDA AND BE STAYED, PENDING SOMETHING. WHAT WOULD HAPPEN TO YOUR PROMISSORY ESTOPPEL? WHERE WOULD THAT GO?

IT GOES NOWHERE. ACCORDING TO THE THIRD DISTRICT IT IS NOT ADDRESSED. NEITHER IS AN ASSORTMENT OF CASES OR CLAIMS, INCLUDING THE CONSPIRACY CLAIM. THAT GOES NOWHERE. THE LIECHTENSTEIN COURT DOESN'T HAVE ANY JURISDICTION OVER A CONSPIRACY CASE IN FLORIDA.

BUT THEY ARE CONSENTING, PART OF THE KINNEY THING REQUIRES THOSE DEFS TO CONSENT TO BE -- THOSE DEFENDANTS TO CONSENT TO BE SUED IN THAT ALTERNATIVE FORUM.

JUSTICE PARIENTE, THAT WOULD ALLOW EVERY DEFENDANT IN FLORIDA TO SUE TO DISMISS, WITHOUT AFFIDAVIT, NEVER SUBMITTING ANY AFFIDAVIT THAT THEY WERE AMENABLE TO THE PROCESS OR SUBMIT TO THE JURISDICTION OF THE COURT IN LIECHTENSTEIN, WOULD HAVE

PERSONAL JURISDICTION OVER THEM. WOULD ALLOW EVERY TORTFEASOR, IF THERE WAS A CLAIM FOR MONEY LAUNDERING IN THIS STATE, THE MONEY LAUND REMEMBER WOULD COME INTO THE STATE AND SAY I MOVE TO DISMISS BECAUSE I THINK IT AFFECTS THAT JURISDICTION AND IS A MORE CONVENIENT FORUM. EVERY TIME. YOU MUST HAVE JURISDICTION PERSONAL AND SUBJECT MATTER. THAT IS PIPER. THAT IS KINNEY CITES TO PHOENIX CANADA ON THAT ISSUE. ON THE ISSUE OF COMEDY AND THE ABATEMENT ISSUE, THE HERB STEEN AND MA DIDN'T AMAS, WHICH I HAVE CITED IN THE CASE, BOTH ALLOW, AND SUBMITTED ON SUPPLEMENTAL AUTHORITY, ALL ALLOW CURRENT JURISDICTIONS TO PROCEED, BECAUSE COMEDY REQUIRES THAT YOU ALLOW COURTS TO LITIGATE AND THEN YOU CAN PLEAD AS RACE ADD JUDD CAD A -- REST ADD JUDD CAD A. YOU ARE NOT -- AS RES ADJUDICADA. YOU ARE NOT SUPPOSED TO ALLOW PRESUMPTION THAT THIS IS HER FAVORITE FORUM, WHICH HAS PROPER JURISDICTION, WHICH HAS PROPER VENUE, TO BE DISMISSED AS A PROPER ALTERNATIVE FORUM.

SHE IS A CITIZEN OF FLORIDA?

IS HE IS NOT A CITIZEN OF THE STATE OF FLORIDA.

SHE DOESN'T HAVE THE SAME PRESUMPTION AS A FLORIDA RESIDENT, DOES SHE?

SHE HAS THE SAME PRESUMPTION AS THE FLORIDA CASES CITED BY THE DEFENSE COUNSEL. THE BANCO DEVENEZUELA CASE TALKS ABOUT, IN THEY ARE TREATED IN OTHER COUNTRIES, THEY DO NOT DISCOUNT ANY VALUE WHATSOEVER AS TO HAVING ANY RIGHT TO BRING AN ACTION HERE. YOU ALSO HAVE CHICKITY AN OUT OF THE THIRD DISTRICT THAT -- CHIQUITA OUT OF THE THIRD DISTRICT --

WE HAVE GIVEN YOU THE ADDITIONAL TWO MINUTES THAT ARE REQUESTED. YOU MUST MAKE YOUR CLOSING STATEMENT. THANK YOU.

THANK YOU.