

1 **CHRISTOPHER LOWMAN,**
2 having been first duly sworn, testified as follows:

3 **DIRECT EXAMINATION**

4 BY MS. EVANS:

5 Q. Will you please introduce yourself to the jury?

6 A. Sure, my name is Chris Lowman.

7 Q. What do you do for a living, sir?

8 A. I'm an attorney.

9 Q. How long have you been an attorney?

10 A. Since 1990, so about 23 years.

11 Q. What type of law do you practice?

12 A. I do mostly product liability defense work.

13 I'm a civil lawyer. It's usually easier to tell people
14 what I don't do rather than what I do. I don't do
15 family law. I don't do criminal law. I do lawsuits on
16 the civil side.

17 Q. And do you hold some position as authorized by
18 the State bar?

19 A. I do. I'm the chairman of the Houston
20 subcommittee of the Unauthorized Practice of Law
21 Committee.

22 MS. GAUT: Your Honor, at this time the
23 Defense would like to take this witness on a voir dire
24 outside the presence of the jury.

25 THE COURT: That request is denied at this

1 time.

2 Q. (BY MS. EVANS) Can you tell us generally what
3 is the Unauthorized Practice of Law Committee?

4 MR. GRECO: Objection, relevance, objection
5 under 404(b).

6 THE COURT: Your first objection as to
7 relevance is sustained at this time.

8 Q. (BY MS. EVANS) With respect to people who are
9 holding themselves out as attorneys, is there some
10 action that the State bar can take?

11 MS. GAUT: Objection, relevance. I would
12 like to take this witness on voir dire.

13 THE COURT: Your objection is overruled.
14 Your request is denied.

15 A. Yes, if someone is holding themselves out as a
16 lawyer and they're not a lawyer, our committee is
17 authorized to seek a permanent injunction against that
18 person preventing them from holding themselves out as a
19 lawyer.

20 Q. And a permanent injunction, what is that?

21 A. That's an order from a court prohibiting you
22 from -- well, in this case, engaging in the practice of
23 law. So, it's forbidding that person from holding
24 themselves out as a lawyer.

25 Q. Now, does this committee, the Unauthorized

1 Practice of Law Committee, have anything to do with a
2 criminal investigation?

3 A. It does not.

4 Q. Does it have anything to do with ultimately a
5 criminal prosecution of somebody holding themselves out
6 as an attorney?

7 A. It does not.

8 Q. And how long have you been on this committee?

9 MS. GAUT: Objection, relevance.

10 THE COURT: I'll allow the witness to
11 answer that question.

12 A. About five years.

13 Q. (BY MS. EVANS) Something that a California
14 lawyer, for example, can a California lawyer just come
15 in and set up shop here in Texas?

16 MS. GAUT: Objection, relevance, calls for
17 speculation.

18 THE COURT: Your objection is overruled.

19 A. No.

20 Q. (BY MS. EVANS) Can somebody who is a
21 non-lawyer practice law under somebody else's license?

22 A. No, that's not allowed either.

23 Q. In a prosecution for falsely holding out as a
24 lawyer, the State doesn't have to prove that the
25 Defendant performed legal work. But I would like to ask

1 you, generally speaking, in your position and experience
2 and with your expertise, what are some things that could
3 be considered practicing law?

4 MS. GAUT: Objection, under relevance,
5 objection under 403 all parts, that any probative value
6 is substantially outweighed by unfair prejudice,
7 misleads the jury, confuses the issue and he does not
8 give the law -- it's actually, um, the province of the
9 jury.

10 THE COURT: Your objections are all
11 overruled. You may answer the question that was asked.

12 A. Could you repeat that?

13 THE COURT: And if you could rephrase the
14 question, Ms. Evans.

15 Q. (BY MS. EVANS) I'd like to ask about some
16 specific actions.

17 A. Sure.

18 Q. Generally speaking, before I ask you about
19 specifics, what is it that a lawyer does?

20 MS. GAUT: Objection, speculation and
21 relevance. And I would like to take this witness on a
22 voir dire in regards to his expertise, Your Honor.

23 THE COURT: Your objection is overruled.
24 You'll have an opportunity to cross-examine the witness.

25 A. In the broader sense a lawyer advises a client

1 of his or her legal rights, not just a person but a
2 cooperation, you advise a client what they can and can't
3 do under the law.

4 Q. (BY MS. EVANS) And so in a situation where
5 someone advises someone else of their legal rights
6 regarding the purchase of property, would that be
7 considered practicing law?

8 MS. GAUT: Objection, leading and
9 relevance.

10 THE COURT: Overruled.

11 A. It is. It's defined under the Government Code
12 as a practice of law, Chapter 83 of the Texas Government
13 Code prohibits certain actions in a real estate
14 transaction that can't be accomplished by a non-lawyer.

15 Q. And what are those actions?

16 MS. GAUT: Your Honor, at this time, may we
17 approach?

18 THE COURT: You may approach.

19 (Bench conference.)

20 MS. GAUT: Your Honor, again, we reurge our
21 objections under 404(b). This is unnoticed extraneous
22 conduct. He cannot --

23 THE COURT: Okay. What extraneous conduct
24 exactly would you be referring to?

25 MS. GAUT: It would be the unauthorized

1 practice of law, which is what he testified to. And
2 also falsely holding oneself out as an attorney. He
3 can't instruct the jury on the law. The Court can only
4 instruct the jury on the law.

5 THE COURT: I agree that this witness --
6 and just so that we're clear. I'm not going to allow
7 the witness to give the jury any, I guess, testify to
8 any legal conclusions. But he's certainly entitled to
9 aid -- his testimony is relevant and probative and as to
10 what constitutes practicing law. So, I will allow his
11 testimony in that regard.

12 MS. GAUT: We would like a running
13 objection on that because his testimony will not aid the
14 jury.

15 THE COURT: I will give you a running
16 objection.

17 (End of bench conference.)

18 THE COURT: Ms. Evans, you may continue.

19 Q. (BY MS. EVANS) I believe the last question
20 that I had was, you had referenced that there are very
21 specific rules regarding on a -- is it a land
22 transaction?

23 A. Correct, a real property transaction.

24 Q. What can only be handled by an attorney; is
25 that right?

1 A. An attorney or a licensed broker under the
2 Texas Real Estate Commission Act.

3 MS. GAUT: Your Honor, we would object to
4 this testimony that his area of knowledge is not in
5 regards to real estate.

6 THE COURT: Again, you will have the
7 opportunity to cross-examine the witness; and I've given
8 you a running objection.

9 Q. (BY MS. EVANS) And what are those things on a
10 real property transaction that only a lawyer or a real
11 estate agent can do?

12 A. For example, preparation of a deed, a title
13 opinion, a conveyance instrument, or that is a document
14 that transfers real property from one party to another.
15 Those are some examples of prohibited real estate
16 transactions.

17 Q. Could it be considered to be practicing law if
18 an individual advises someone of their legal rights
19 under an earnest money contract?

20 MS. GAUT: Objection, relevance,
21 speculation, and leading.

22 THE COURT: Overruled.

23 A. Yes, an earnest money contract, again, falls
24 within that same category. It's the type of instrument
25 that can only -- the only people that are authorized

1 under the statute to render advice on that are either a
2 real estate broker, a salesman operating under a broker,
3 or an attorney.

4 Q. (BY MS. EVANS) Could it be considered to be
5 practicing law if an individual advises another person
6 of their legal rights when they're being threatened with
7 a lawsuit for breach of contract?

8 MS. GAUT: Objection, leading, relevance
9 and speculation.

10 THE COURT: Those objections are overruled.

11 A. Yes.

12 Q. (BY MS. EVANS) Could it be considered to be
13 practicing law if an individual advises a client as to
14 whether or not there is, in fact, a legal cause of
15 action against them?

16 MS. GAUT: Objection, leading, relevance
17 and speculation, as well as all parts of 403.

18 THE COURT: Again, I've given you a running
19 objection. You don't need to stand up and object.

20 A. Definitely, if you're advising someone of their
21 legal rights on a cause of action, that is clearly
22 unauthorized practice of law.

23 Q. (BY MS. EVANS) Could it be considered to be
24 practicing law if you're advising an individual as to
25 whether or not they can pursue a legal cause of action

1 against another person?

2 MS. GAUT: Objection, leading, relevance
3 and speculation.

4 THE COURT: Same ruling.

5 A. Yes, again, because you're advising someone of
6 their legal rights, which is defined by statute as
7 practicing of law.

8 Q. (BY MS. EVANS) Could it be considered to be
9 practicing law if you advise your client regarding
10 purchase contracts and their rights underneath those
11 contracts?

12 MS. GAUT: Objection, leading, relevance
13 and speculation.

14 THE COURT: Same ruling.

15 A. Yes, it could be.

16 Q. (BY MS. EVANS) Could it be considered to be
17 practicing law if you negotiate the actual purchase and
18 terms of the purchase of a piece of property?

19 MS. GAUT: Objection, leading, relevance
20 and speculation.

21 THE COURT: Overruled again.

22 A. Yes.

23 Q. (BY MS. EVANS) This jury knows that this
24 Defendant has never been licensed to practice law in
25 this state or any other state or any foreign country.

1 Is there any situation where it would be lawful for him
2 to hold himself out as an attorney?

3 A. No.

4 MS. EVANS: Pass the witness, Your Honor.

5 THE COURT: All right. Thank you, Ms.

6 Evans.

7 Ms. Gaut.

8 **CROSS-EXAMINATION**

9 BY MR. GRECO:

10 Q. To your knowledge, Mr. Brown is not charged
11 with the unauthorized practice of law, is he?

12 A. I don't know anything about this man. I don't
13 know what he's charged with.

14 Q. Okay. So, why are you here?

15 A. I was subpoenaed by the State to appear.

16 Q. Okay. And what discussions did you have
17 with -- when you say "the State," you mean Ms. Evans?

18 A. Correct.

19 Q. And what discussions did you have with Ms.
20 Evans about this case?

21 A. She just told me there was a case involving the
22 unauthorized practice of law and told me to be here last
23 week, I believe, for the trial.

24 Q. Okay. So, she specifically told you that this
25 case involved the unauthorized practice of law?

1 A. She did.

2 Q. And when did she tell you this?

3 A. We first spoke probably two months ago. I
4 would say one to two months ago, sometime in there.

5 Q. And you are sure she used the words
6 unauthorized practice of law?

7 A. No, I'm not. No, I'm not sure about that.

8 Q. Okay. Well, what did she tell you then?

9 A. She said that she knew that I was the chairman
10 of the Houston subcommittee for the unauthorized
11 practice of law, and she said that there was a case that
12 involved or touched on that that she would like my
13 expert testimony on.

14 Q. Okay. And what documents did you review in
15 preparation for your testimony today?

16 A. I reviewed a document called a Primer on the
17 unauthorized practice of law in Texas, which is about a
18 half-inch thick document that our state chairman put
19 together about six or seven years ago. I reviewed a
20 subcommittee handbook, it's about an inch thick; and,
21 basically, it just contains case law and statute on what
22 is and what is not unauthorized practice of law.

23 Q. Okay. So, if someone is not charged with the
24 unauthorized practice of law, then that information you
25 provided would not be relevant, correct?

1 MS. EVANS: Objection, Your Honor.

2 THE COURT: Sustained.

3 Q. (BY MS. GAUT) What documents did you review
4 from Ms. Evans?

5 A. None, I just got the subpoena from her.

6 Q. Okay. And she didn't ask you to look at any
7 e-mails?

8 A. No.

9 Q. Did she show you the indictment in this case?

10 A. No.

11 Q. So, in actuality you have no personal knowledge
12 about what this case is about?

13 A. That's true.

14 Q. And just to be clear, we just looked on your
15 website, real estate is not a specialty of yours,
16 correct?

17 A. It is not.

18 Q. You just do general civil litigation?

19 A. Correct.

20 Q. And so it would be fair to say you're not an
21 expert in real estate transactions?

22 A. Probably fair, I think that's fair.

23 MS. GAUT: Pass the witness.

24 THE COURT: All right. Is there anything
25 further?

1 MS. EVANS: Nothing further, Your Honor.

2 THE COURT: May this witness be excused?

3 MS. EVANS: Yes, Your Honor.

4 MS. GAUT: No, Your Honor, we don't need
5 him.

6 THE COURT: You have no objections.

7 Thank you, sir. You are excused.

8 THE WITNESS: Thank you.

9 THE COURT: Call your next witness, please.

10 MS. EVANS: Your Honor, at this time, the
11 State rests.

12 THE COURT: All right. The State has
13 rested. It is 4:45.

14 Ladies and gentlemen, we are going to
15 adjourn for the evening. I am going to give you some
16 additional instructions. As I told you earlier, please
17 don't discuss any of the evidence that you've heard
18 today with anyone including your fellow jurors. Don't
19 do any outside investigation. Don't seek out any
20 additional information about this case. We are going to
21 resume testimony tomorrow morning at 9:30. Did that
22 work for everyone this morning? You-all were very
23 prompt, and I appreciate that. Have a wonderful
24 evening. We'll see you back here tomorrow morning at
25 9:30.