

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

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| - - - - -X                     |  |
| RUSS MCCOLLOUGH, ET AL.        |  |
| Plaintiffs,                    |  |
|                                |  |
| v.                             |  |
|                                |  |
|                                |  |
|                                |  |
| WORLD WRESTLING ENTERTAINMENT, |  |
| INC.,                          |  |
| Defendants                     |  |
| - - - - -X                     |  |

3:15-cv-01074 (VLB)  
January 24, 2017

Abraham A. Ribicoff  
Federal Building  
450 Main Street  
Hartford, Connecticut

STATUS CONFERENCE

Held Before:  
The Honorable Robert A. Richardson, USMJ

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1 (Commenced: 10:46 a.m.)

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THE COURT: Good morning. Please be seated. We are here this morning on McCullough v. World Wrestling Entertainment, Inc., No. 15-cv-01074 (VLB). I'm Judge Robert Richardson. Will counsel please identify themselves for the record, starting with the plaintiffs?

MR. KYROS: Konstantine Kyros, your Honor, for the plaintiffs.

MR. NORRIS: Anthony Norris for the plaintiffs.

MR. LEYDON: Good morning, your Honor. Brenden Leydon for the plaintiffs in the Laurinaitis matter.

MS. VAN DYCK: Good morning, your Honor. Katherine Van Dyck on behalf of plaintiffs Evan Singleton and Vito LoGrasso.

MR. BLOSS: I'm William Bloss, your Honor, counsel for the plaintiffs in the earlier cases, pre-Laurinaitis.

THE COURT: All right. Thank you. Defense counsel?

MR. MUELLER: Good morning, your Honor.

1 Jeffrey Mueller of Day Pitney on behalf of  
2 the defendants, and with me today are Jerry  
3 McDevitt and Curt Krasik from K & L Gates,  
4 who has been admitted pro hac vice in this  
5 matter, and Mr. McDevitt will speak on behalf  
6 of the defendants today.

7 MR. MCDEVITT: Good morning, your Honor.

8 THE COURT: All right. So we are here  
9 for a status conference, during which I want  
10 to discuss both the status of the case as  
11 well as schedule some hearing dates because I  
12 know we have a couple of matters that we need  
13 to resolve.

14 I've read all the pleadings in the  
15 case; I've looked at the pending motions. It  
16 doesn't appear as though everybody gets along  
17 with each other all the time, I have to say;  
18 but this is a status conference, and I am  
19 hopeful we will all get along for today and  
20 get through this civilly and peacefully  
21 without necessarily getting too deep into the  
22 weeds. Today is a status conference.

23 We have a few motions that need to get  
24 resolved. The first thing I want to talk  
25 about is your Rule 26(f) report, at least

1 with respect to the Laurinaitis case. The  
2 parties need to do a Rule 26(f) report, and  
3 they need to do it soon. You are past the  
4 deadline on the Rule 26(F) report. I  
5 understand there is some disagreement or at  
6 least an argument that the discovery should  
7 be on hold, and the Rule 26(f) deadlines  
8 maybe should be on hold in light of certain  
9 dispositive motions; but the way things  
10 typically work is you have to do a Rule 26(f)  
11 report, you need to do the scheduling order,  
12 and if there is going to be a motion to stay  
13 discovery that one side wants to file with  
14 Judge Bryant, they can do so. But in the  
15 meantime, you guys need to get together and  
16 do your Rule 26(f) report. I am going to  
17 tell you that I have the form for the Rule  
18 26(f) report, which my law clerk, John, will  
19 give to each of you once I get off the bench  
20 and adjourn court today, and you guys can  
21 certainly start doing it at any time you  
22 want. I am going to order that you get that  
23 report done by Tuesday, January 31st, which  
24 is one week, and that needs to be done. Even  
25 if you are unable to reach agreement on the

1 stipulated facts, I imagine you can at least  
2 reach some agreements with respect to the  
3 parties; and then you can report that you  
4 were unable to reach agreement on other  
5 matters. It would be nice if you could reach  
6 agreement on other matters, but you need to  
7 get your Rule 26(f) report done. You have  
8 until Tuesday, January 31st, to get it done.

9 MR. MCDEVITT: Your Honor, may I address  
10 that briefly? I know there's been a big  
11 record in this case, and I don't know how  
12 familiar your Honor is with some of the  
13 earlier orders of Judge Bryant; but in this  
14 case, earlier on, the judge issued a stay of  
15 discovery in the consolidated cases, which  
16 Laurinaitis is now part of the consolidated  
17 cases. Her original order entering a stay  
18 was entered in November of 2015, and we can  
19 give you the docket number, that's Docket 89.  
20 We could actually give you copies of the  
21 orders, your Honor.

22 Then what she did is, January 15th of  
23 2016, she issued an order partially lifting  
24 the stay of discovery in only one of the  
25 cases, which is the LoGrasso case, for a very

1 limited period of time to conduct very  
2 specific discovery in that case only. It has  
3 never been modified since then for any other  
4 cases. There has been no suggestion by the  
5 counsel in this case that the stay does not  
6 apply to the Laurinaitis case, and frankly,  
7 if there had been, we would have went back to  
8 Judge Bryant and asked her to reaffirm the  
9 stay does in fact apply in the Laurinaitis  
10 case.

11 Every complaint that they have filed so  
12 far has been dismissed on motion to dismiss.  
13 They've all been subject to the stay. This  
14 case has now been extensively briefed,  
15 motioned to dismiss, and frankly, your Honor,  
16 if there was any suggestion that the stay  
17 didn't apply, we would have asked Judge  
18 Bryant to reaffirm what I believe the case  
19 is, that there is an existing order staying  
20 discovery, which is why there has been no  
21 Rule 26, because frankly, there's nothing to  
22 talk about while the motions to dismiss are  
23 pending and the judge decides them. That's  
24 why there has been nothing happening on them.

25 THE COURT: Well, but you still need to

1           have your dates set forth, even if you've got  
2           discovery stayed. You still need to have a  
3           date. You can always get extensions of time  
4           on the discovery in light of the fact your  
5           discovery has been stayed, but you need to  
6           have the scheduling order for when discovery  
7           will be complete when summary judgment  
8           motions will be filed. I know that you have  
9           motions filed when your joint trial  
10          memorandum is going to be done and when the  
11          case will be trial ready.

12                 MR. MCDEVITT: Your Honor, the current  
13                 schedule right now on the Laurinaitis case,  
14                 which is what we're here for, we originally  
15                 moved to dismiss and filed sanction motions  
16                 which the judge has referred to you. The  
17                 sanction motion, not the motion to dismiss.  
18                 After we filed that, the original motion to  
19                 dismiss and sanction motion, they amended the  
20                 complaint. We have subsequently moved to  
21                 dismiss that and filed a second sanctions  
22                 motion, neither of which Judge Bryant has yet  
23                 referred to you. They recently asked for an  
24                 extension of time to even move in response to  
25                 that motion to dismiss, which is very fulsome

1 at 95 pages; and I think that due date is  
2 March 15th. If Judge Bryant goes on normal  
3 course, we won't get a decision on this  
4 motion to dismiss until probably late this  
5 year, if then. It's impossible to come up  
6 with any deadlines. The complaint is, like,  
7 all over the place. It has four closed  
8 claims in it; it has claims she has already  
9 decided that aren't meritorious. It would be  
10 impossible, frankly, to frame a discovery  
11 schedule with that complaint until the judge  
12 issues guidance of what, if any of it,  
13 remains.

14 I would point out, your Honor, that so  
15 far, every complaint they have filed has been  
16 dismissed outright with one exception being  
17 the LoGrasso case. Ninety percent of that  
18 complaint has gone out. Only one count  
19 survived, and Judge Bryant was skeptical of  
20 that in her own opinion. She said she was  
21 skeptical of that and gave a very limited  
22 period of time for discovery. So it would be  
23 very prejudicial for us to have to go through  
24 trying to figure out a discovery plan in a  
25 case like this where every complaint has been

1           thrown out, and there's an existing discovery  
2           stay.

3           If your Honor needs to, we'll be more  
4           than glad to file another motion to stay, if  
5           that's what is needed. We thought coming in  
6           here there was an existing stay ordered by  
7           Judge Bryant. It's a matter of record, and  
8           they haven't suggested otherwise. In fact,  
9           when they recently moved for an extension to  
10          respond to our motion to dismiss, they told  
11          Judge Bryant, "These extensions of time,  
12          given the expansive nature of the three  
13          motions filed on December 23rd, are not  
14          likely to cause undue delay in any other  
15          consolidated matters in this case. Further,  
16          as no Rule 26(f) conference has taken place  
17          and no litigation schedule has been  
18          established, there will be no undue burden on  
19          the parties or the Court if these extensions  
20          are granted." That's what they told Judge  
21          Bryant a week or so ago when they were  
22          getting their extension until March to even  
23          move on our motions to dismiss.

24          So I ask if your Honor would perhaps  
25          reconsider whether we should go through the

1 Rule 26 exercise when there are massive  
2 motions to dismiss pending, and every one to  
3 date has been granted.

4 THE COURT: Okay. Thank you.

5 MR. KYROS: Thank you, your Honor. This  
6 is the first I've heard that that's their  
7 position, that there's a stay on the  
8 Laurinaitis case. We've filed our 26(f)  
9 report. They refused to meet and confer with  
10 us about the Rule 26(f) report, and we asked  
11 for discovery in that 26(f) report. I  
12 believe that was filed in September,  
13 September 2nd. And I assumed that they would  
14 raise at this conference a further motion to  
15 stay discovery pending presumably, you know,  
16 a ruling or something on the pleadings in the  
17 motion to dismiss. We were forced to get  
18 these deadlines. That's because they have  
19 not met and conferred with us. So we have  
20 communicated with them, and they have  
21 communicated with us only to the extent that  
22 we've sort of been trading deadlines back and  
23 forth; but there has been no meeting of the  
24 minds with respect to coming up with sort of  
25 any kind of discovery or schedule or anything

1           else related to the case, so it's sort of  
2           been in limbo. So I very much appreciate the  
3           Court suggesting that we file a 26(f) report,  
4           and we are prepared to propose a discovery  
5           schedule, and, you know, we'll rebut in a  
6           hearing or whatever form the Court orders to,  
7           you know, make our case for the discovery in  
8           the Laurinaitis case.

9           THE COURT: Thank you. Anything  
10          further?

11          MR. MCDEVITT: Your Honor, I would just  
12          point out that this motion -- the first time  
13          it was pointed out in the motion for status  
14          conference that there was a stay of  
15          discovery. This isn't new to them; they've  
16          known that for months now, and they haven't  
17          even attempted to do any discovery because of  
18          the discovery stay placed by Judge Bryant.

19          THE COURT: Anything else further for  
20          the plaintiffs?

21          MR. KYROS: As you said, it is a  
22          complicated docket; so it was unclear to us  
23          whether or not that consolidated order  
24          applied. We didn't think so. We thought  
25          that when we filed the Laurinaitis case, we

1 believed that it was a separate matter, and  
2 we proceeded on those grounds. The Court  
3 didn't rule until September 27th that it was  
4 part of the consolidated case, so they failed  
5 to meet and confer with the Rule 26(f)  
6 report, you know, within the deadline, as far  
7 as I can tell. Thank you.

8 THE COURT: Thank you. All right. So  
9 as to the Rule 26(f) report, it's unclear to  
10 me whether the stay applies to Laurinaitis as  
11 well; but I happen to know Judge Bryant's  
12 chambers, and it's easy for me to figure that  
13 out, and I will do so with a phone call. And  
14 so I will hold my current order in abeyance  
15 while I figure out the answer to the  
16 question.

17 I think, while I appreciate that  
18 scheduling becomes difficult in the event  
19 that the stay does apply to the Laurinaitis  
20 matter, I think there is still a preference,  
21 though, to try to come up with the dates that  
22 are in the Rule 26(f) report. They can  
23 always be moved, but the point of having  
24 dates is to have something that at least  
25 allows you to stay on task, and Judge Bryant

1 is very much about staying on task on her  
2 cases.

3 So there are two options, and I will  
4 determine which one to go with, having --  
5 after I talk to Judge Bryant in light of the  
6 defendant's position that the stay does in  
7 fact apply to Laurinaitis and the plaintiff's  
8 position that it doesn't. If I determine in  
9 short order that it does apply, then this  
10 issue may be academic; if it doesn't apply,  
11 then I think the defendant will need to file  
12 a motion to that effect. I think the parties  
13 will then need to have the Rule 26(f)  
14 conference or it may be that I set a schedule  
15 which can be pushed back with motions for  
16 continuance, if it's necessary. If the  
17 parties feel that they can't set a schedule,  
18 I might be able to impose a schedule on you  
19 after conferring with Judge Bryant,  
20 understanding that some of the things are  
21 certainly outside of your control. So we'll  
22 hold off on the Rule 26(f) for the moment  
23 because I think the big question is to what  
24 extent does the stay apply to Laurinaitis,  
25 and at the moment, there is no definitive

1 answer just by the positions of the parties;  
2 and the best way for me to get a definitive  
3 answer is to speak with Judge Bryant as  
4 opposed to each of you since you take  
5 different positions on this. So hold that  
6 thought.

7 We have motions for sanctions in  
8 Singleton, LoGrasso, and Laurinaitis that are  
9 pending; and I guess my question is to the  
10 extent that each of those appears to request  
11 oral argument, number one, how long do you  
12 think oral argument would take on those  
13 motions?

14 MR. MCDEVITT: Would it be your Honor's  
15 intention to have them both on the same day?

16 THE COURT: That was going to be  
17 question number two. So number one, how long  
18 do you think the oral argument would take on  
19 the various motions? Number two, would you  
20 want them all to occur on the same day, which  
21 may be convenient for the lawyers in terms of  
22 travel but may not be convenient in terms of  
23 preparation. So I'd like to hear, one, on  
24 length, and two, on whether it makes sense to  
25 do them all in one day, at the same time or

1 separate days.

2 MR. MCDEVITT: From our standpoint, your  
3 Honor, which may be different from the  
4 plaintiffs because they -- the one case  
5 sanctions motion is LoGrasso, which has  
6 different counsel, although I think, quite  
7 frankly, the way that sanctions motion ends  
8 up being cut at the end of the day is really  
9 against Mr. Kyros and not against Mr. Bloss  
10 or the other co-counsel in that case because  
11 of the way that shaped up as to the briefing.  
12 And in the Laurinaitis case, they're not even  
13 involved in this case, so I don't know if  
14 they even want to be here for the whole  
15 hearing. We can do it either way. If you  
16 want to split it, we can split it. If you  
17 want to do it the same day, we can do it the  
18 same day. Whatever works for you.

19 In terms of how much time to argue, I  
20 would guesstimate about an hour-and-a-half,  
21 your Honor, and I can probably do it quicker  
22 than that, frankly. I assume the Court will  
23 have read the briefs very thoroughly.  
24 They're very specific. I think I can do it  
25 in an hour-and-a-half or less.

1 THE COURT: Okay. All right. I try to,  
2 having been -- I used to be a trial lawyer,  
3 so I try to work things out with trial  
4 counsel, and whatever works best for you. If  
5 it's within reason, I will do my best to  
6 accommodate.

7 MR. KYROS: I think the same day would  
8 be fine with us.

9 THE COURT: Okay. And how much time do  
10 you think you would need?

11 MR. KYROS: Time proportionate to what  
12 is presented. I think the sanctions motions  
13 are pretty well briefed, so I wouldn't think  
14 they would take very much time. I don't  
15 think it would take near an hour-and-a-half,  
16 but if the Court, you know, is scheduling it,  
17 I would ask for a sufficient amount of time  
18 to -- the same amount of time they take to  
19 present their case.

20 THE COURT: Okay. So I have a bench  
21 trial that has been postponed, or they've  
22 given me the last two days are free that  
23 starts -- I have January 22nd and January  
24 23rd open. Otherwise, I am going to push  
25 into March.

1 MR. BLOSS: You meant February, your  
2 Honor? I heard January. We're already past  
3 that.

4 THE COURT: Yes, February. Sorry.  
5 February 22nd and February 23rd. Thank you.  
6 Or March 2nd or March 3rd.

7 MR. MCDEVITT: From our standpoint, I  
8 can tell you March is better than the  
9 February date.

10 THE COURT: Okay.

11 MR. MCDEVITT: What were the dates your  
12 Honor suggested? March --

13 THE COURT: March 2nd or March 3rd.

14 MR. MCDEVITT: Either of those work from  
15 our standpoint.

16 MR. KYROS: March 2nd or 3 would work,  
17 your Honor.

18 THE COURT: All right. Let's go with  
19 March 2nd, oral argument on the motions for  
20 sanctions. Anybody have a preference as to  
21 morning or afternoon? I happen to have the  
22 2nd wide open.

23 MR. KYROS: Afternoon?

24 MR. MCDEVITT: We'll come up the night  
25 before anyway. It doesn't matter to us, your

1 Honor. Whatever is best for you.

2 THE COURT: Can we do -- let's do one  
3 o'clock. That should give you plenty of time  
4 by the end of the day, whether it's a  
5 90-minute estimate or not. So we'll send out  
6 an order scheduling that, March 2nd, one  
7 o'clock.

8 We then have a motion to withdraw  
9 admissions, which I guess is Singleton and  
10 LoGrasso; and it's not clear to me, even  
11 though that motion has been referred to me,  
12 whether I will be handling that or whether  
13 Judge Bryant will be handling that. It is  
14 currently referred to me, although I will  
15 confide in you that it would seem to me that  
16 that might make more sense for Judge Bryant  
17 to handle, especially since there is a domino  
18 effect with respect to the pending motion for  
19 summary judgment, which Judge Bryant is going  
20 to decide; and it would seem to me to make  
21 sense for her to be the one who rules on  
22 that. But in the event that it stays with  
23 me, and I'm ruling on it, let me ask you, the  
24 parties have not indicated, at least as far  
25 as I have seen in reading the relevant

1 pleadings, whether they want oral argument on  
2 that. Do the parties want oral argument on  
3 the motion to withdraw the admissions?

4 MR. MCDEVITT: Their motion first. I  
5 don't know what their --

6 MR. BLOSS: Can we just have a moment,  
7 your Honor?

8 THE COURT: Sure.

9 MR. KYROS: Maybe we can do it in the  
10 morning on the 2nd. It's a full day, but  
11 it's a related...

12 THE COURT: Okay. Well, it sounds like  
13 counsel will be here in the morning. They  
14 wanted the morning, I think, on the 2nd for  
15 the other one. Let me ask you, first of all,  
16 how long do you think that would take?

17 MR. KYROS: I think it's a fairly  
18 straightforward issue, so probably a half an  
19 hour.

20 THE COURT: All right.

21 MR. MCDEVITT: First of all, your Honor,  
22 I definitely agree with your comments that it  
23 probably should be best decided by Judge  
24 Bryant, given the interplay with the summary  
25 judgment motion; but if she wants you to hear

1           it, we can do that probably in a half an hour  
2           too.

3           THE COURT: Okay. Do you have any  
4           objection to doing it on the same day? I  
5           don't want to overload anyone's plate, with  
6           respect.

7           MR. MCDEVITT: We'll come up the night  
8           before anyway, your Honor, so if it works for  
9           you, that's fine with us.

10          THE COURT: So why don't I tentatively  
11          schedule the -- why don't I schedule the  
12          motion to withdraw the admissions at 11:30 --  
13          well, 11 o'clock. I think that should be  
14          relatively short. That gives us time to do  
15          the oral argument on the motion to withdraw,  
16          take a lunch break, and then you guys can get  
17          ready for the one o'clock argument on the  
18          sanctions. I will confer with Judge Bryant,  
19          and if she decides that she should handle the  
20          motion to withdraw the admissions, then I  
21          will let you know. We'll see to what extent  
22          she can accommodate you on a different day or  
23          maybe on that same day to handle that so that  
24          maybe you can get them both done on the same  
25          day. As I said, though, I do really think

1           that that's probably better in her hands than  
2           in my hands. Not that I'm not interested in  
3           hearing it, but I just think whoever decides  
4           that motion has to decide it in the context  
5           of it's going to affect the pending summary  
6           judgment motion, and she's ruling on that one  
7           for sure.

8           MR. MCDEVITT: Your Honor, could I ask,  
9           in terms of the logistics in the sanctions  
10          motion, do you have the ability or will we  
11          have the ability to play videotape for you?

12          THE COURT: You probably -- I think you  
13          will be. Not in this courtroom, but there's  
14          enough time for me to get somebody else's  
15          courtroom, whether it's Judge Bryant's or  
16          Judge Covello's courtroom or Courtroom 3.  
17          Those are the high-tech courtrooms, I believe  
18          in those you will be able to do so. I will  
19          look into that, try to secure another  
20          courtroom, and let you guys know when the  
21          order --

22          MR. MCDEVITT: All right. There's some  
23          audiovisual I think will help you understand  
24          our position.

25          THE COURT: That would be great. Thank

1                   you.

2                   All right. We have a motion to seal  
3                   exhibits pending, and that one is a little  
4                   bit confusing to me, to be perfectly honest.  
5                   It looks like on October 20, 2016, Judge  
6                   Bryant ordered the defendant to file properly  
7                   redacted exhibits. On November 8th, the  
8                   defendants did file redacted exhibits. I  
9                   understand that the plaintiff then filed a  
10                  motion to compel, arguing that the exhibits  
11                  were noncompliant or were too heavily  
12                  redacted, and that motion is still pending.  
13                  So it's unclear to me what the status is on  
14                  that one, and I can check in with Judge  
15                  Bryant. I guess my question is, have the  
16                  defendants, in light of the plaintiffs'  
17                  pending motion to compel compliance,  
18                  reconsidered whether they want to change any  
19                  of the redactions and refile, or you are set  
20                  in terms of, we've done all we think we need  
21                  to do?

22                  MR. MCDEVITT: Mr. Krasik can address  
23                  that for you, your Honor.

24                  MR. KRASIK: If I may, your Honor, we  
25                  agree with you that the situation's

1           confusing. We believe the motion to seal has  
2           been rendered moot by the subsequent  
3           developments. We believe that we did fully  
4           comply with Judge Bryant's October 20 order,  
5           and our time to file an opposition to the  
6           plaintiffs' motion for compliance has not yet  
7           run. I believe that runs on January 31st,  
8           and we intend to file an opposition to that  
9           motion.

10           THE COURT: Very good. Thank you. All  
11           right. I'm guessing I will get that  
12           opposition.

13           All right. Lastly, I guess the only  
14           other item that I think I would address while  
15           we're all here is whether you guys have any  
16           interest in talking settlement with a  
17           magistrate judge. It doesn't have to be with  
18           me. We have many good magistrate judges here  
19           in Connecticut, whether it is Judge Martinez,  
20           who is down the hall, or Judge Merriam, who  
21           is down in New Haven. I could do it,  
22           although I'm going to be ruling on some of  
23           your motions, so you may not want that, not  
24           that I wouldn't be happy to spend the time  
25           with you. But I throw it out there in the

1 event that both parties have any interest in  
2 discussing settlement with a magistrate  
3 judge. We have magistrate judges who are  
4 here and very able and very capable. It  
5 sounds like this litigation has been going on  
6 for a while, since 2015. It sounds like it's  
7 going to continue to go on at least for a  
8 while longer, depending on how motions get  
9 resolved; but I would encourage you that it's  
10 never a bad idea to talk settlement with a  
11 third party. It doesn't mean that anyone is  
12 surrendering on any position, but it gives  
13 you at least a third party's view of things,  
14 and maybe helps you get the case resolved a  
15 lot faster and more efficiently. I throw  
16 that out more as a public service message  
17 than anything else, so feel free, if you guys  
18 decide you want to talk settlement with  
19 somebody, to send in a joint request; and it  
20 will be granted, I'm sure.

21 Anything else we need to address while  
22 we're here?

23 MR. MCDEVITT: Not from our side, your  
24 Honor.

25 THE COURT: Plaintiffs?

1 MR. KYROS: No. Thank you, your Honor.

2 THE COURT: All right. With that, I  
3 want to thank you all for being very  
4 professional and courteous. I appreciate  
5 that, and thank you for braving the weather  
6 to make it here to Hartford.

7 I will confer with Judge Bryant on the  
8 issues that we just discussed. I will send  
9 out an order after I talk to her and get a  
10 little clarification on some of the other  
11 matters, and I'll try to get that order out  
12 by the end of the day. It might not be until  
13 tomorrow, depending on Judge Bryant's  
14 availability. But thank you once again for  
15 traveling. Thank you for being professional.

16 The Court stands in recess.

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18 (Adjourned: 11:14 a.m.)

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