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COURT OF APPEALS

STATE OF NEW YORK

ESTATE OF KAINER,

Appellant,

-against-

NO. 76

UBS AG,

Respondent.

20 Eagle Street
Albany, New York
November 17, 2021

Before:

CHIEF JUDGE JANET DIFIORE
ASSOCIATE JUDGE JENNY RIVERA
ASSOCIATE JUDGE EUGENE M. FAHEY
ASSOCIATE JUDGE MICHAEL J. GARCIA
ASSOCIATE JUDGE ROWAN D. WILSON
ASSOCIATE JUDGE MADELINE SINGAS
ASSOCIATE JUDGE ANTHONY CANNATARO

Appearances:

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Amanda M. Oliver
Official Court Transcriber



1 THE COURT: The next appeal on this afternoon's
2 calendar is appeal number 76, the Estate of Kainer v. UBS.

3 UNIDENTIFIED SPEAKER: Should we move forward,
4 Your Honor, or stay here.

5 CHIEF JUDGE DIFIORE: You may remain right where
6 you are.

7 MR. SMITH: May I have two minutes for rebuttal,
8 Your Honor.

9 CHIEF JUDGE DIFIORE: You may, sir.

10 MR. SMITH: If this case, Your Honors, were a
11 case about the theft of a sack of potatoes in Switzerland
12 which was later sold on the New York potato market, you'd -
13 - - there'd still be argument, but you'd have a much
14 stronger case for a forum non conveniens dismissal. And to
15 me, the most important thing in the whole case here is it's
16 not a sack-of-potatoes case. It's a case about stolen art,
17 art looted by the Nazis. And that that should weigh very
18 heavily in the forum non conveniens calculation.

19 And there's no indication in the opinions below -
20 - -

21 JUDGE GARCIA: Counsel?

22 MR. SMITH: Yes, sir.

23 JUDGE GARCIA: I'm having a little bit of trouble
24 understanding what you would like us to do with this case.
25 So one issue is should they have gotten a personal



1 jurisdiction finding on the record first before they got to
2 the forum non conveniens argument. And to that, I think
3 we'd have to - - - if we agree with you, send it back and
4 have them do it. But it doesn't seem like you want us to
5 do that.

6 MR. SMITH: Well, I - - -

7 JUDGE GARCIA: And then if we find - - - if we
8 find - - - go on the forum non conveniens argument,
9 normally, what we would do, if they missed a factor, is
10 undo that and send it back and have them to do that again.
11 And you don't want us to do that.

12 So I'm having a little trouble as to what you'd
13 like us to do.

14 MR. SMITH: Well maybe - - - yeah, obviously, I
15 have an ideal result. And I have other results that I
16 would ask for in the alternative, Your Honor.

17 My ideal result is that you would determine as a
18 matter of law, which is, I'd admit, an unusual case, but I
19 think this is one, that they erred in granting the - - -
20 this forum non conveniens motion. And on this situation,
21 there was no alternative, as a matter of law, but to deny
22 it.

23 Obviously, if you don't reach that conclusion,
24 then I would, yeah, it should be sent back. But I do think
25 it's a matter of law.



1 On the other problem you mentioned, it's
2 obviously a very sticky one because I do think the court
3 was wrong in reaching a forum non conveniens, and I think
4 that's quite clear under Ehrlich-Bober, which is a holding,
5 not a - - - not dictum, in my view. But the - - - they did
6 it. And they wrote - - - and there are a couple of
7 opinions out there. And what the reason I have the
8 ambivalence that you - - - you comment on in my brief is I
9 am concerned about a catch-22 where I - - - where they say
10 congratulations, you win, you get two or three years of
11 discovery on jurisdictional issues, and then the - - - they
12 say the forum non conveniens holding's before stare
13 decisis, so I've been wasting my time.

14 So I would ask that if you are going to go that
15 route, that you would at least make clear that the
16 decisions that have already been rendered improperly on
17 forum non conveniens, and in violation of Ehrlich-Bober,
18 that they are not precedent, that they are not stare
19 decisis, that they do not bind anyone. And that if the
20 court - - - the courts below later reach the forum non
21 conveniens issue, they do it on a clean slate, without
22 regard for the previous decisions.

23 So I don't know if I've added to the conclusion
24 or clarified it, but the - - - but I do have that kind of
25 hierarchy of preferences. Obviously, if you agree with me



1 that the - - - that as a matter of law, because of the
2 inadequacy of the Smith - - - the Swiss forum, the clear
3 inadequacy of the Swiss forum, forum non conveniens was
4 just out as a matter of law, and that Pahlavi is a sui
5 generis exception that doesn't apply at all to this sort of
6 case, well then, yeah, then I - - - frankly, I'll get over
7 my jurisdictional hang up. I will not complain about that
8 first of all.

9 JUDGE WILSON: I'm sure you understand this, but
10 let me explain my confusion. Sorry, over here.

11 CHIEF JUDGE DIFIORE: Judge Wilson.

12 MR. SMITH: Thank you.

13 JUDGE WILSON: My understanding of your
14 jurisdictional point is that the court - - - if the court
15 lacks jurisdiction, it can't rule on forum non; it simply
16 has to dismiss. This is a question of the power of the
17 court. Yet, here you're asking us - - - your hierarchy,
18 your first preference, is for us to skip by the
19 jurisdictional question and rule on the forum non, which
20 seems to me, if you're right about the first question, we
21 can't do. And if we do what you would like us most to do,
22 we are at least by implication either saying we have the
23 power, or we don't care whether we have the power or not.
24 And I'm having trouble putting that together.

25 MR. SMITH: I - - - I'm - - - if I may be



1 perfectly honest, Your Honor, I have trouble, too. It's a
2 - - - it is a messy situation. I do not purport to know
3 whether I can - - - whether this matter of judicial power
4 can be - - - can be eliminated by my consent to a
5 particular result.

6 JUDGE FAHEY: Well, Mr. Smith, could we, under
7 327, under the language of 327, consider the impact of
8 other factors that weren't considered in prior case law in
9 the Court. And specifically, the language of 327, as I
10 read it, refers to substantial justice and a just result.
11 And that seems to encompass the full equitable powers of
12 whatever court is hearing the case.

13 Does that offer an avenue for the Court to
14 address some of the contradictory complexities in the case?

15 MR. SMITH: Perhaps, it does, Your Honor.
16 Perhaps, it does.

17 JUDGE FAHEY: How so? What would you advocate?

18 MR. SMITH: Well, if you - - - if - - -
19 obviously, it would have to depart to some degree from
20 Ehrlich-Bober - - -

21 JUDGE FAHEY: Um-hum.

22 MR. SMITH: - - - to reach that conclusion, I
23 think. Ehrlich-Bober does suggest that it's a matter of
24 power.

25 My adversaries are arguing that you should just



1 overrule Ehrlich-Bober. I've pointed out that even so,
2 there's a problem. Even if you adopt Sinochem, there's a
3 problem, because Sinochem left open a case, like this case,
4 in which you can't get all the defendants in the foreign
5 forum. And that - - - and that's a - - - yeah. And the -
6 - - even in the - - - even under the federal rule, there
7 might be a problem with judicial power.

8 I do - - - I'd - - - however, I am receptive to
9 the idea that 327, yeah, confers plenary equitable power to
10 reach a just result. The - - -

11 JUDGE FAHEY: If we reach that, would we, for
12 instance, consider factors like the HEAR Act, which I
13 understand were argued below and I'm not sure what was
14 preserved in front of us or not by you on that argument.

15 MR. SMITH: It was preserved, Your Honor. I I
16 have not - - - the - - - the public power was - - - you
17 know, was preserved in the - - - it's at 568 of the record
18 where the - - - this is before the HEAR Act was enacted.
19 But the - - - the brief says, United States - - - critical
20 importance of the well-known United States and New York
21 Public Policies as to stolen art. And the HEAR Act was
22 later specifically called to Justice Friedman's attention,
23 so I don't think there's a preservation problem.

24 I - - - I think the - - - and I do think those
25 are absolutely critical.



1 JUDGE CANNATARO: Counsel, can I - - - can I ask
2 what does the HEAR Act have to teach us about forum non
3 conveniens because - - -

4 MR. SMITH: Well, it - - -

5 JUDGE CANNATARO: - - - I thought it was a
6 statute of limitations law.

7 MR. SMITH: I think - - - well, I think you have
8 to understand that the forum non conveniens argument is an
9 argument for sending this case to Switzerland, where the -
10 - - there is a time bar, or at least they - - - the - - -
11 my adversary says there's a time bar. And the time bar is
12 absolutely essential to this case. If there is - - - under
13 the HEAR Act, there is no time bar. In Switzerland, there
14 may very well be a time bar.

15 That I'm saying that's sufficient as a matter of
16 law to render the Swiss forum inadequate. And the complex
17 issues that the lower courts saw, said, oh, there's these
18 terrible problems of foreign law; it's all - - - all the
19 opinions are abstruse. They're talking about the documents
20 that were - - - that were created before the HEAR Act
21 existed. The HEAR Act simplifies things enormously.

22 And what also simplifies things enormously, also,
23 after the case was submitted before it was decided, was the
24 German appellate decision, which essentially knocked out my
25 adversaries' only argument on the merits. There's no



1 question about who the heirs are here. I'm representing
2 eleven of them.

3 The German courts have rejected the idea that the
4 foundation is the heir of Norbert Levy. And the only thing
5 left is the theory that these - - - that these paintings
6 escheated to these two Swiss jurisdictions because Margaret
7 Kainer died without heirs. Well, she didn't die without -
8 - - I'm here standing here, representing eleven of them.
9 They'd have to prove my eleven clients don't exist, all
10 eleven.

11 So there's really no issue - - -

12 JUDGE FAHEY: Well, I thought there was - - -
13 there was more complexity. I thought that Norbert's will
14 had a provision that if his daughter had no direct
15 descendants, that - - - it's a provision that wouldn't be
16 allowable under American law, but I assume it's still
17 allowable under German law at that time.

18 MR. SMITH: Well, the German courts - - -

19 JUDGE FAHEY: If she had no direct - - -

20 MR. SMITH: - - - no, the German courts said - -
21 -

22 JUDGE FAHEY: - - - descendants, then - - - it
23 went then to this foundation?

24 MR. SMITH: The German court rejected that - - -
25 the German court tossed out the whole - - - the appellate



1 court, the appellate decision, rendered in December of 2015

2 - - -

3 JUDGE FAHEY: But the problem for you is that the
4 foundation is a Swiss foundation, not a German foundation;
5 is - - - is that - - -

6 MR. SMITH: Yes. But the foundation has no claim
7 to inherit from Norvert - - - Norbert Levy under Swiss law.

8 JUDGE FAHEY: Um-hum.

9 MR. SMITH: That's a German law question. They
10 are - - - they have not challenged in any way, the German
11 decision. And they're not claiming in Switzerland as the
12 heirs of Norbert Levy. The heir of Norbert Levy is out of
13 the case since September of 1915 - - - 2015, sorry, not
14 quite that long ago.

15 The - - - yeah. And - - - yeah. They really - -
16 - they talk very generally about, oh, there's such
17 complicated questions about who the heirs. No questions
18 about who the heirs are; they're my eleven clients, and
19 that's all there is to it.

20 The question is whether they're time barred.
21 They are there, they're not here. That's all there is to
22 the case really.

23 CHIEF JUDGE DIFIORE: Counsel, doubling back to
24 something that I think one of my colleagues was asking
25 about, your representation as to what the holding is in



1 Ehrlich-Bober?

2 MR. SMITH: Yes.

3 CHIEF JUDGE DIFIORE: If we were to disagree with
4 your representation, is there any other binding precedent
5 that you're aware of that we can look to?

6 MR. SMITH: Binding precedent on - - - on that
7 issue other than Ehrlich-Bober, not that I'm aware of, Your
8 Honor.

9 CHIEF JUDGE DIFIORE: Okay. Thank you, Counsel.
10 Thank you.

11 Counsel?

12 MR. KING: Good afternoon, Your Honors, may it
13 please the Court.

14 Despite - - - as Your Honors have noted, despite
15 plaintiffs' position in the courts below, the parties seem
16 to agree that the courts do have the power in the
17 appropriate case to decide the forum non conveniens issue
18 before definitively deciding it has personal jurisdiction.

19 The Ehrlich-Bober case, on which - - -

20 JUDGE FAHEY: Can I stop you there?

21 MR. KING: You may.

22 JUDGE FAHEY: If we assume what - - - what you're
23 saying is correct, are we, in essence, adopting the Supreme
24 Court's decision in Sino - - - Sinochem?

25 MR. KING: I think Your Honors should adopt the



1 Supreme Court's decision - - -

2 JUDGE FAHEY: No, but I'm - - -

3 MR. KING: - - - in Sinochem.

4 JUDGE FAHEY: - - - I'm asking if we do that, if
5 we follow that, are we implicitly adopting that?

6 MR. KING: You are implicitly adopting it. There
7 is no possible way that you can do what the plaintiffs are
8 asking to be done here without deciding that the courts do
9 have the authority to decide forum non conveniens before
10 deciding personal jurisdiction.

11 Ehrlich-Bober does not hold as a matter of law
12 that your - - - that the courts cannot do it. It was dicta
13 in Ehrlich-Bober because it was not necessary to the
14 court's decision. The court denied both the personal
15 jurisdiction motion and denied the forum non conveniens
16 motion. It did not present the case that we have here.

17 If Your Honors look back to where the statement
18 comes from in Ehrlich-Bober, it comes from a footnote in
19 the appellant's brief in that case. The appellant cited
20 for their argument, the Gulf Oil language that Justice
21 Ginsburg, in Sinochem, says does not stand for the
22 proposition that the court may not decide forum non
23 conveniens first. Gulf Oil, just as Ehrlich-Bober, has
24 some confusing, less than carefully written language. But
25 it is not the holding of the case. And Justice Ginsburg,



1 in Sinochem, quite clearly said, sure, if you have - - - if
2 we have decided that the court has no personal
3 jurisdiction, we should dismiss on that basis and go no
4 further. The court does not say and Ehrlich-Bober does not
5 hold that the court may not decide forum non conveniens
6 before deciding personal jurisdiction.

7 It would be completely contrary to the whole
8 purpose of the forum non conveniens doctrine, which is to
9 serve considerations of convenience, fairness, and judicial
10 economy. The catch-22 that appellants' counsel talks about
11 here is exactly the problem with a rigid rule that would
12 force the court to decide personal jurisdiction first.

13 If Ehrlich-Bober - - -

14 JUDGE GARCIA: Counsel, I'm sorry - - - here.

15 MR. KING: Sure.

16 JUDGE GARCIA: I take your point on Ehrlich-
17 Bober. I read it slightly differently. It seems to me
18 Ehrlich-Bober is unique and not quite relevant in a couple
19 of ways. One, I think you were getting at, which is the
20 real issue there was comity and whether they were going to
21 keep the case.

22 MR. KING: Absolutely.

23 JUDGE GARCIA: So preliminarily, they had to
24 addressed this forum non conveniens argument, and they were
25 keeping it. So in the forum non conveniens argument, they



1 had to address both forum non conveniens and the underlying
2 personal jurisdiction. Otherwise, the court wouldn't have
3 been able to keep the case.

4 What aggravated that to me is the Appellate
5 Division decision in that case, which is unusual, because
6 it's a big dissent with a short majority that adopts kind
7 of some of the facts from the dissenting opinion because,
8 again, they were talking about comity. So in the forum
9 argument, they kind of were playing off of a dissent. And
10 I think what Judge Wachtler was doing in Ehrlich-Bober, was
11 saying, reading that, we're going to assume the Appellate
12 Division found X and then found Y, not that you have to do
13 that - - -

14 MR. KING: Absolutely right - - -

15 JUDGE GARCIA: - - - order.

16 MR. KING: - - - Your Honor. It really was a
17 comity case. It is dealt with quickly at the beginning.
18 It's not something that the parties engaged on. Unlike
19 this case, where the question was squarely presented to
20 both lower courts, can the court first decide forum non
21 conveniens, or must the court first decide personal
22 jurisdiction.

23 It was squarely presented in this case. It was
24 not squarely presented in Ehrlich-Bober at all, Your Honor.
25 It was mostly a comity case, as you said.



1 I want to address the HEAR Act for a moment. I
2 don't think this Court has the ability to rebalance the
3 factors, to rebalance the considerations that were argued
4 below. That's not this Court's job. It - - - the abuse-
5 of-discretion standard commits the decision on forum non
6 conveniens to the courts below.

7 Here, we have clear, careful findings from both
8 the - - - the trial court, the motion court, and the
9 Appellate Division on some of the most, you know, the
10 relevant factors: where are the witnesses, where are the
11 parties, where are the documents, what law is going to
12 apply. The court balanced all those factors. The court
13 was presented with the HEAR Act argument, at least in the
14 Appellate Division.

15 JUDGE FAHEY: Let me ask you this, though, on the
16 factors. I think you make a fair argument. And I - - -
17 I'm - - - I don't know if I agree with you, but it's a fair
18 argument; it's a reasonable argument.

19 But it seems that we're confronted here with some
20 of the consequences of what is arguably the greatest crime
21 in human history. And in that situation, are we limited in
22 applying what we consider substantial justice to the lower
23 courts' specific balancing of factors that we may
24 personally disagree with but doesn't seem to have balanced
25 - - - have been able or felt that she was able, or he was



1 able, to include that kind of a factor in the same way that
2 the HEAR Act would have included that kind of factor in
3 balancing the justices and reaching substantial justice.

4 Aren't we re- - - aren't we required in that
5 circumstances to reach outside kind of the constrained
6 constipated jurisprudence that seems to hold back an
7 examination of the principles of substantial justice to a
8 very, very unique situation? Aren't our constraints
9 somewhat different here than they would be in another case?

10 MR. KING: I don't think so, Your Honor.

11 JUDGE FAHEY: Um-hum.

12 MR. KING: The courts below were presented with
13 these arguments; at least, the Appellate Division was. The
14 HEAR Act was not argued in the motion court as a grounds
15 for keeping the case in the United States.

16 JUDGE FAHEY: But you argue - - - my argument is
17 based a little bit broader than that. It's based on the
18 language in 327 itself - - -

19 MR. KING: Well - - -

20 JUDGE FAHEY: - - - which talks about substantial
21 justice and reaching a just result. And - - -

22 MR. KING: Well - - -

23 JUDGE FAHEY: - - - it - - - anyway, you go
24 ahead. I - - -

25 MR. KING: Reaching a just result also requires



1 consideration of the important considerations of forum non
2 conveniens. That is an important consideration - - -

3 JUDGE FAHEY: Right. But convenience - - -

4 MR. KING: - - - of the New York courts, to not
5 be forced - - -

6 JUDGE FAHEY: The language itself is revelatory.
7 We measure convenience against justice. Justice is always
8 going to win, we'd all like - - - we'd all agree with that.
9 So does the convenience - - - the inconvenience reach a
10 point where there is no - - - you can't have justice;
11 that's what we have to look for, right?

12 MR. KING: Perhaps, in some case, that is right,
13 Your Honor. But - - -

14 JUDGE FAHEY: Um-hum.

15 MR. KING: - - - but justice also requires that
16 we be able to - - - it's not just convenience. That it
17 would be unjust to require litigation of this case in this
18 Court - - -

19 JUDGE FAHEY: Um-hum.

20 MR. KING: in the New York - - - New York courts
21 because it hinges on what people did in Switzerland and
22 Germany and France years ago. We could not compel those
23 witnesses to be here at trial.

24 JUDGE FAHEY: Um-hum.

25 MR. KING: We are faced with a situation where



1 there could be conflicting rulings of Swiss courts that are
2 deciding the very same remedial relief that is sought here;
3 namely, an award of damages related to the painting and the
4 other assets of the - - - of the Kainer Estate. It is
5 unjust to force this case to be litigated in New York.

6 I understand the - - - the concept and the
7 principle that the courts of the United States and New York
8 want to give the ability to remedy what is a grave
9 injustice of historical proportions. But that's not really
10 the question that's to be asked. It's is litigating this
11 case just, convenient and efficient to be done here in the
12 United States, and I think the answer to that is no.

13 And even if you thought that, Your Honors, if you
14 thought that there was a factor that the lower courts did
15 not properly consider, the right outcome is remitting it to
16 the Appellate Division. CPLR 5613 says as much, that if
17 this Court concludes that a - - - the lower court failed to
18 consider something that it should have considered, it shall
19 remit to the Appellate Division for further consideration.

20 Now, I don't think we need to get there, Your
21 Honors, because the lower courts did consider these
22 arguments. The argument that it was somehow overlooked is
23 inconceivable. It was a linchpin of their argument in the
24 Appellate Division. The court below said, we have
25 considered plaintiffs' remaining contentions and find them



1 unavailing. The argument here is, well, that's
2 boilerplate. But that's really an accusation that the
3 Appellate Division didn't do what it said it did, namely
4 consider the other arguments.

5 There's no requirement that the Appellate
6 Division go point by point by point by point through the
7 appellants' brief and rebut it. And even if you thought it
8 had been overlooked in the initial decision, they moved for
9 reconsideration on the ground that the court had overlooked
10 it. And the court denied that motion, indicating that, in
11 fact, it did not overlook it because had it overlooked it,
12 it would have granted reconsideration and done what it
13 needed to do.

14 Thank you, Your Honors.

15 JUDGE FAHEY: Thank you for your answer.

16 CHIEF JUDGE DIFIORE: Thank you, Counsel.

17 Counsel, your rebuttal?

18 MR. SMITH: Yes, I think the main point to make,
19 Your Honors, this is - - - I don't view this is a balancing
20 case at all. The - - - my point is that we have a forum in
21 Switzerland that is inadequate as a matter of law because
22 it is - - - there are very grave impediments to reaching
23 the merits. Indeed, the only defense he has is, don't
24 reach the merits because he doesn't have any defense on the
25 merits. That's why he wants to go to Switzerland.



1 Where there is such a situation, I'm suggesting
2 to Your Honors, as a matter of law, a forum non conveniens
3 motion may not be granted because you may not send a case
4 to an inadequate forum unless you have the sui generis
5 Pahlavi situation where the Islamic Republic of Iran was
6 saying, oh, please, don't send me to the Islamic Republic
7 of Iran; their courts are all in turmoil. And the court -
8 - - and this Court said, in effect, give me a break; it's
9 your courts.

10 But on - - - but to take that as carte blanche as
11 perhaps some lower courts have and say, oh, we don't need
12 to worry about the adequacy of the foreign forum, that's
13 just one factor we can balance away. And we balance it
14 away by saying we've considered your other arguments and
15 they lacked merit.

16 JUDGE CANNATARO: But Counsel, isn't choice of
17 law one of the issues that would have to be decided in the
18 New York court were this litigation to go forward here?

19 MR. SMITH: The - - - well, there's - - - the
20 choice-of-law issue on the time bar is easy, Your Honor.
21 The HEAR Act chooses the law for you. There's no statute
22 of limitations bar.

23 On the merits, the issues - - - the only really
24 debatable issues relate to Christie's role in the auction
25 in New York, to which New York law should apply. And yes,



1 they would have that choice of law decision, but I think
2 it's a choice - - - I think it would be made in favor of
3 New York.

4 Speaking of the choice of law, I want to refer
5 Your Honors to the Second Circuit decision by Judge Korman
6 in the Bakalar case in 2010, which explained how a choice
7 of law decision can be informed by the contrast between the
8 Swiss policies, very hostile to the claims of Holocaust
9 survivors, and the New York policies favorable to those
10 claims, and that that should impel a court to choose New
11 York law.

12 I would say that by the same token - - -

13 JUDGE CANNATARO: Well, it's not just
14 Switzerland, is it? I mean, we have France; there's
15 litigation there. There's litigation going on in Germany,
16 I think, you know - - -

17 MR. SMITH: Not anymore, Your Honor.

18 JUDGE CANNATARO: That's over now?

19 MR. SMITH: No, the only - - - the only
20 litigation is in Switzerland and here. The - - - yeah, the
21 - - - we won in Germany. And his defense disappeared when
22 we won in Germany. That's - - - I think the problem is
23 that that happened and the HEAR Act was passed while the
24 case was sub judice before Justice Friedman. Presumably,
25 she's already working on her opinion. And you see she does



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talk about the HEAR Act, and she does talk about the German appellate decision, but she talks about them as afterthoughts.

I'm suggesting that they're central, that they simplify and transform the case, and that they make it impossible as a matter of law to send this case to Switzerland because all you're doing is sending it to a case that's going to hinge on a policy absolutely contrary to the policy of the United States and the policy of New York and that's error as a matter of law. It's not balancing.

CHIEF JUDGE DIFIORE: Thank you, Counsel.

(Court is adjourned)



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C E R T I F I C A T I O N

I, Amanda M. Oliver, certify that the foregoing transcript of proceedings in the Court of Appeals of Estate of Kainer v. UBS AG, No. 76 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Signature: Amanda M. Oliver

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