

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT SSC 10 HON. WILLIAM HIGHBERGER, JUDGE

4  
5 SANTA BARBARA CHANNELKEEPER, )  
 )  
6 PLAINTIFF, )  
 )  
7 VS. ) CASE NO. 19STCP01176  
 )  
8 STATE WATER RESOURCES CONTROL )  
BOARD, ET AL., )  
9 )  
DEFENDANTS. )  
10 \_\_\_\_\_ )  
 )  
11 AND ALL RELATED CROSS-ACTIONS. )  
\_\_\_\_\_ )

12  
13 REPORTER'S TRANSCRIPT OF PROCEEDINGS  
14 NOVEMBER 21, 2019  
15

16 APPEARANCES:

17 FOR PETITIONER: COOPER & LEWAND-MARTIN, INC.  
BY: DANIEL G. COOPER, ESQ.  
18 1004B OREILLY AVENUE  
SAN FRANCISCO, CALIFORNIA 94129

19  
20 FOR RESPONDENT BEST BEST & KRIEGER, LLP  
CITY OF SAN BY: GENE TANAKA, ESQ.  
21 BUENAVENTURA: BY: SHAWN D. HAGERTY, ESQ.  
2001 NORTH MAIN STREET  
22 SUITE 390  
WALNUT CREEK, CALIFORNIA 94596

23  
24 FOR CROSS-DEFENDANT BROWNSTEIN HYATT FARBER SCHRECK  
WOOD-CLAEYSSSENS BY: BRADLEY J. HERREMA, ESQ.  
FOUNDATION: 2049 CENTURY PARK EAST  
25 SUITE 3550  
LOS ANGELES, CALIFORNIA 90067

26  
27 REPORTED BY: VIENNA NGUYEN, CSR NO. 13137  
OFFICIAL REPORTER PRO TEMPORE  
28 (SEE FOLLOWING PAGE FOR ADDITIONAL APPEARANCES.)

1 APPEARANCES (CONTINUED):  
2  
3 FOR CROSS-DEFENDANT RUTAN & TUCKER, LLP  
CASITAS MUNICIPAL BY: DAVID B. COSGROVE, ESQ.  
4 WATER DISTRICT: 611 ANTON BOULEVARD  
SUITE 1400  
5 COSTA MESA, CALIFORNIA 92626  
6  
7 ARNOLD LAROCHELLE MATHEWS  
VANCONAS & ZIRBEL, LLP  
8 BY: ROBERT N. KWONG, ESQ.  
300 ESPLANADE DRIVE  
SUITE 2100  
9 OXNARD, CALIFORNIA 93036  
10  
11 FOR CROSS-DEFENDANT HANSON BRIDGETT  
VENTURA COUNTY BY: NATHAN METCALF, ESQ.  
12 WATERSHED PROTECTION 425 MARKET STREET  
DISTRICT: SAN FRANCISCO, CALIFORNIA 94105  
13  
14 FOR CROSS-DEFENDANT LAGERLOF SENEAL GOSNEY & KRUSE  
ST. JOSEPH'S BY: ELSA SHAM, ESQ.  
15 ASSOCIATES OF OJAI, 301 NORTH LAKE AVENUE  
CALIFORNIA, INC.: 10TH FLOOR  
PASADENA, CALIFORNIA 91101  
16  
17  
18 FOR CROSS-DEFENDANTS MUSICK PEELER & GARRETT, LLP  
THE THACHER SCHOOL, BY: GREGORY J. PATTERSON, ESQ.  
19 FRIEND'S RANCH, AND 2801 TOWNSGATE ROAD  
TOPA RANCH: SUITE 200  
WESTLAKE VILLAGE, CALIFORNIA 91361  
20  
21 FOR CROSS-DEFENDANT FERGUSON CASE ORR PATERSON, LLP  
RANCHO MATILIJA BY: NEAL MAGUIRE, ESQ.  
22 MUTUAL WATER COMPANY: 1050 SOUTH KIMBALL DRIVE  
VENTURA, CALIFORNIA 93004  
23  
24 FOR CROSS-DEFENDANT BLATZ LAW FIRM  
ASQUITH FAMILY BY: RYAN W. BLATZ, ESQ.  
25 LIMITED PARTNERSHIP, 206 NORTH SIGNAL STREET  
LTD: SUITE G  
26 OJAI, CALIFORNIA 93023  
27  
28 (SEE FOLLOWING PAGE FOR ADDITIONAL APPEARANCES.)

1 APPEARANCES (CONTINUED):  
2  
3 FOR CROSS-DEFENDANTS LOWTHORP RICHARDS  
ERNEST FORD AND BY: CRISTIAN R. ARRIETA, ESQ.  
4 TICO MUTUAL WATER 300 EAST ESPLANADE DRIVE  
COMPANY: SUITE 850  
5 OXNARD, CALIFORNIA 93036  
6  
7 FOR CROSS-DEFENDANT PACIFIC LEGAL SOLUTION  
ROBIN BERNHOFT: BY: ANTHONY L. FRANCOIS, ESQ.  
930 G STREET  
8 SACRAMENTO, CALIFORNIA 95814  
9  
10 FOR CROSS-DEFENDANT HERUM CRABTREE SUNTAG  
VENTURA RIVER WATER BY: JEANNE M. ZOLEZZI, ESQ.  
11 DISTRICT: 5757 PACIFIC AVENUE  
SUITE 222  
12 STOCKTON, CALIFORNIA 95207  
13  
14 FOR DEFENDANT ALSTON & BIRD, LLP  
BENTLEY FAMILY BY: CLYNTON NAMUO, ESQ.  
LIMITED PARTNERSHIP: 333 SOUTH HOPE STREET  
15 16TH FLOOR  
LOS ANGELES, CALIFORNIA 90071  
16  
17 FOR INTERVENORS: STATE OF CALIFORNIA  
18 DEPARTMENT OF JUSTICE  
BY: NOAH GOLDEN-KRASNER, ESQ.  
19 BY: MARC N. MELNICK, ESQ.  
300 SOUTH SPRING STREET  
20 SUITE 1702  
LOS ANGELES, CALIFORNIA 90013  
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I N D E X

(NO WITNESSES CALLED.)

E X H I B I T S

(NO EXHIBITS OFFERED.)

1 CASE NUMBER: 19STCP01176  
2 CASE NAME: CHANNELKEEPER V. STATE WATER  
3 LOS ANGELES, CALIFORNIA NOVEMBER 21, 2019  
4 DEPARTMENT SSC 10 HON. WILLIAM HIGHBERGER  
5 REPORTER: VIENNA NGUYEN, CSR NO. 13137  
6 TIME: 2:02 P.M.  
7 APPEARANCES: (AS HERETOFORE NOTED.)  
8  
9

10 THE COURT: ON THE RECORD IN CHANNELKEEPER VERSUS  
11 STATE WATER RESOURCES CONTROL BOARD.

12 DO I HAVE ANYBODY HERE FROM CHANNELKEEPER  
13 BY PHONE OR OTHERWISE?

14 COURTROOM ASSISTANT: HE HASN'T CHECKED IN, YOUR  
15 HONOR. NOTHING ON COURTCALL.

16 THE COURT: IT'S 2:00 P.M. DANIEL COOPER, ARE YOU  
17 WITH US? GIVEN THE IMPORTANCE OF WHAT WE'RE DOING, WE  
18 PROBABLY OUGHT TO PROCEED WITH HIM.

19 HAS ANYBODY HEARD ANYTHING FROM HIM,  
20 SUGGESTING HE'S TAKEN ILL OR UNAVAILABLE?

21 WELL, WHO DO WE HAVE FOR THE STATE OF  
22 CALIFORNIA?

23 MR. MELNICK: GOOD AFTERNOON, YOUR HONOR.  
24 MARC MELNICK, FOR THE ATTORNEY GENERAL'S OFFICE, ON  
25 BEHALF OF THE STATE WATER RESOURCES BOARD.

26 MR. GOLDEN-KRASNER: GOOD AFTERNOON, YOUR HONOR.  
27 NOAH GOLDEN-KRASNER, WITH THE ATTORNEY GENERAL'S OFFICE,  
28 ON BEHALF OF THE DEPARTMENT OF FISH AND WILDLIFE.

1 THE COURT: OKAY. AT COUNSEL TABLE FOR THE  
2 DEFENDANT/CROSS-COMPLAINANTS?

3 MR. TANAKA: GOOD AFTERNOON, YOUR HONOR.  
4 GENE TANAKA AND SHAWN HAGERTY, ON BEHALF OF THE CITY OF  
5 SAN BUENAVENTURA.

6 MR. HERREMA: GOOD AFTERNOON, YOUR HONOR.  
7 BRAD HERREMA, ON BEHALF OF THE WOOD-CLAEYSSSENS  
8 FOUNDATION.

9 MR. COSGROVE: DAVID COSGROVE, APPEARING ON BEHALF  
10 OF CASITAS MUNICIPAL WATER DISTRICT.

11 MR. KWONG: ROBERT KWONG, FOR CASITAS MUNICIPAL  
12 WATER DISTRICT.

13 THE COURT: AS TO THE BALANCE OF LAWYERS APPEARING  
14 VIA COURTCALL FOR VARIOUS CROSS-DEFENDANTS, I WILL GIVE  
15 YOUR SURNAME BY REFERENCE TO ATTORNEY SO-AND-SO. PLEASE  
16 RESPOND WITH YOUR FIRST AND LAST NAME AND AT LEAST ONE  
17 OF YOUR CLIENTS. YOU DON'T NEED TO GIVE US THE FULL  
18 LIST OF NAMES.

19 ATTORNEY METCALF.

20 MR. METCALF: YES, YOUR HONOR. THIS IS  
21 NATHAN METCALF, FOR CROSS-DEFENDANT VENTURA COUNTY  
22 WATERSHED PROTECTION DISTRICT.

23 THE COURT: ATTORNEY SHAM.

24 MS. SHAM: GOOD AFTERNOON, YOUR HONOR. ELSA SHAM,  
25 APPEARING FOR CROSS-DEFENDANT ST. JOSEPH'S ASSOCIATES OF  
26 OJAI, CALIFORNIA, INC.

27 THE COURT: ATTORNEY PATTERSON.

28 MR. PATTERSON: GOOD AFTERNOON, YOUR HONOR.

1 GREG PATTERSON, ON BEHALF OF THE THACHER SCHOOL,  
2 FRIEND'S RANCH, TOPA RANCH.

3 THE COURT: THANK YOU.

4 MR. PATTERSON: I THINK THAT'S IT.

5 THE COURT: ATTORNEY MAGUIRE.

6 MR. MAGUIRE: GOOD AFTERNOON, YOUR HONOR.  
7 NEAL MAGUIRE FOR THE RANCHO MATILIJA MUTUAL WATER  
8 COMPANY.

9 THE COURT: ATTORNEY BLATZ.

10 MR. BLATZ: GOOD AFTERNOON, YOUR HONOR.  
11 RYAN BLATZ, ON BEHALF OF TROY BECKER AND OTHER  
12 INDIVIDUAL DEFENDANTS.

13 THE COURT: THANK YOU. ATTORNEY ARRIETA?

14 MR. ARRIETA: CRISTIAN ARRIETA, ON BEHALF OF TICO  
15 MUTUAL WATER.

16 THE COURT: ATTORNEY FRANCOIS.

17 MR. FRANCOIS: GOOD AFTERNOON, YOUR HONOR.  
18 ANTHONY FRANCOIS, FOR CROSS-DEFENDANT ROBIN BERNHOFT.

19 THE COURT: ATTORNEY ZOLEZZI.

20 MS. ZOLEZZI: JEANNE ZOLEZZI, REPRESENTING  
21 CROSS-DEFENDANT VENTURA RIVER WATER DISTRICT.

22 THE COURT: ATTORNEY NAMUO.

23 MR. NAMUO: GOOD AFTERNOON, YOUR HONOR. THIS IS  
24 CLYNTON NAMUO, REPRESENTING CROSS-DEFENDANT BENTLEY  
25 FAMILY LIMITED PARTNERSHIP.

26 THE COURT: THANK YOU. ANYBODY ELSE WISH TO MAKE  
27 AN APPEARANCE? HAS ATTORNEY COOPER FOR THE UNDERLYING  
28 PLAINTIFF SHOWN UP YET? NO RESPONSE.

1 I'M PREPARED TO PROCEED WITHOUT MR. COOPER  
2 UNLESS SOMEBODY ELSE OBJECTS. HE'S GOT PROPER NOTICE IN  
3 THE PROCEEDINGS TODAY, AND WE'RE MOSTLY DEALING WITH  
4 VENTURA'S CROSS-COMPLAINT.

5 HEARING NO OBJECTION, I WILL PROCEED.

6 AS INDICATED WITH MY POSTINGS, YOUR JOINT  
7 BRIEF ABOUT IN REM AND PERSONAM JURISDICTION WAS HIGHLY  
8 EDUCATIONAL. AND NOW I HAVE THE BENEFIT OF YOUR  
9 SUBMISSION OF THE JOINT STATUS REPORT FOR TODAY WITH  
10 CERTAIN PROPOSED PLEADINGS AND ORDERS ATTACHED,  
11 INCLUDING VENTURA CITY'S THIRD AMENDED CROSS-COMPLAINT.

12 ONE COMMENT I WOULD HAVE, MR. TANAKA, IS  
13 YOUR PRAYER IN PARAGRAPHS 4 AND 5, ON PAGE 74, IS A  
14 LITTLE VAGUE, ALTHOUGH I UNDERSTAND IT REFERENCES BACK  
15 TO THE RELIEF THAT YOU SEEK EARLIER IN THE DOCUMENT, BY  
16 REFERENCE, IN NUMBERED PARAGRAPH -- ACTUALLY, IT'S  
17 NUMBER 3.

18 IF YOU'RE COMFORTABLE WITH IT, I THINK I'M  
19 COMFORTABLE WITH IT, THAT IT'S FAIR NOTICE. SO WE CAN  
20 DISREGARD THAT.

21 I'M OKAY WITH THE 60-DAY RESPONSE PERIOD IN  
22 LIEU OF 30 DAYS FOR THE REASONS DESCRIBED.

23 I AM NOT CERTAIN THAT CCP SECTION 836(I)  
24 GIVES ME THE AUTHORITY TO WITHDRAW LEGISLATIVELY  
25 MANDATED FORMS OF NOTICE.

26 TO ME, IT LOOKS MORE PERMISSIVE OF GIVING  
27 ME AUTHORITY TO ADD, ACCORDING TO MY JUDGMENT,  
28 ADDITIONAL MODALITIES OF NOTICE ON TOP OF THE MINIMUM



1 STATUTORILY MANDATED NOTICE.

2 THEREFORE, ALTHOUGH IT COULD BE CONFUSING  
3 TO USE THE LANGUAGE OF CODE OF CIVIL PROCEDURE SECTION  
4 836(A)(1)(B)(III), AND THE GIVING OF NOTICE WHEN THE  
5 COMPLAINT ITSELF IS INCLUDED, THE LANGUAGE THAT IS MORE  
6 EXPRESSED IN THAT SAME SECTION -- THAT'S SUBSECTION  
7 (D)(1)(B) -- THAT MAKES EXPRESS REFERENCE TO GIVING NOT  
8 ONLY DELIVERY OF THE NOTICE AUTHORIZED BY STATUTE, BUT,  
9 QUOTE, COMPLAINT, CLOSED QUOTE, AS WELL AS THE, QUOTE,  
10 FORM ANSWER, UNQUOTE, LEADS ME TO PAUSE WITH ANY PRIOR  
11 SUGGESTIONS THAT YOU SHOULD SAVE THE PHOTOCOPY EXPENSE  
12 AND THE POSTAGE EXPENSE BY OMITTING THE COMPLAINT,  
13 PARTICULARLY IF YOU'RE ONLY RELYING UPON THE GENERALIZED  
14 LANGUAGE IN 836(I).

15 OBVIOUSLY, THIS IS JUST MORE TREES KILLED  
16 AND MORE POSTAGE, BUT IF YOU'RE GOING TO GIVE THIS KIND  
17 OF NOTICE TO THOUSANDS OF PEOPLE, YOU WANT TO DO IT THE  
18 RIGHT -- THE RIGHT WAY THE FIRST TIME.

19 MR. TANAKA: YOU KNOW, OF COURSE, YOUR HONOR, IF  
20 THAT'S YOUR DECISION. IT'S COMPLETELY WITHIN YOUR  
21 DISCRETION.

22 I WOULD NOTE THAT THE LANGUAGE SAYS  
23 "AUTHORIZED ANY OTHER PROCEDURES." IT DOES NOT  
24 NECESSARILY, AS I READ THOSE THREE WORDS, "ANY OTHER  
25 PROCEDURES," SAY THAT YOU CAN ONLY EXPAND, NOT DO  
26 SOMETHING DIFFERENT THAN WHAT THE CODE SAYS.

27 THE COURT: BUT, CONTEXTUALLY, I TAKE THAT AS  
28 PERMISSIVE OF ADDITIONAL FORMS OF NOTICE.

1 MR. COOPER, DO WE NOW HAVE YOU ON THE LINE?

2 MR. COOPER: YES, YOUR HONOR.

3 THE COURT: OKAY.

4 MR. COOPER: I'M HERE.

5 THE COURT: GOOD ENOUGH. LATE, BUT WE WENT AHEAD  
6 WITHOUT YOU. TRY TO COME ON TIME IN THE FUTURE, AT  
7 LEAST IF YOU HAVE MATTERS OF INTEREST TO YOU.

8 MR. COOPER: YES, YOUR HONOR.

9 THE COURT: YOU KNOW, THE REAL QUESTION,  
10 MR. TANAKA, AT THE END OF THE DAY IS: DO YOU WANT TO  
11 HAVE ANY RISK THAT YOU HAVEN'T BULLETPROOFED THE OUTCOME  
12 YOU'RE TRYING TO GET?

13 AND, FROM THAT POINT OF VIEW, IF I WERE  
14 YOU, I WOULD INCLUDE THE COMPLAINT IN THE ENVELOPE. I  
15 WOULD AUTHORIZE YOU TO EDIT THE LANGUAGE IN TERMS OF THE  
16 REFERENCE TO CONTACTING AN ATTORNEY, TO SEE IF YOU CAN  
17 MAYBE GET A DUPLICATE COPY OF THE COMPLAINT, TO AVOID  
18 THE CONFUSION ABOUT THE FACT THAT IT'S GOING TO COME IN  
19 THE SAME PACKAGE THAT INCLUDES A COMPLAINT.

20 MR. TANAKA: WE'LL TAKE BOTH SUGGESTIONS AND DO  
21 THAT, YOUR HONOR. WE WILL ENCLOSE THE THIRD AMENDED AND  
22 WE'LL CHANGE IT TO SAY THAT IF YOU'D LIKE A DUPLICATE  
23 COPY...

24 CAN I JUST TIE BACK TO THE TWO OTHER ISSUES  
25 ON THE THIRD AMENDED CROSS-COMPLAINT?

26 YOUR HONOR'S SUGGESTED IT, AND WE DID NOT  
27 HAVE TIME, GIVEN THE FILINGS, TO ADD THE STATE TO THE  
28 CAPTION ONLY AS THE INTERVENORS, AND SO WE WILL DO SO.

1                   AND THEN, IN OUR PRAYER AND IN ONE OF THE  
2 PARAGRAPHS, I'M GOING TO EXPAND THE IN REM JURISDICTION  
3 TO ALSO INCLUDE THE RIGHT PAIRINGS.

4                   AND THAT'S WHAT WE DISCUSSED IN OUR JOINT  
5 BRIEF. IT'S WHAT WE CITE IN NEVADA VERSUS  
6 UNITED STATES, SUPREME COURT CASE.

7                   SO THIS CASE -- THESE CASES -- AND THAT WAS  
8 A SURFACE WATER CASE.

9                   THESE CASES ARE AKIN TO QUIET TITLE, WHICH  
10 ARE IN PERSONAM, BUT THEY ARE REALLY IN REM IN NATURE.

11                  THE COURT:   EVEN AS TO THE SURFACE WATER?

12                  MR. TANAKA:   YES.

13                  THE COURT:   SO I BELIEVE IT WAS THE WATER  
14 RESOURCES CONTROL BOARD PROTESTED AN EARLIER FORMULATION  
15 THROWING THE RIPARIAN IN.

16                  DOES THE STATE, THROUGH THE WATER RESOURCES  
17 CONTROL BOARD, THROUGH ITS CHOSEN ADVOCATE FROM THE  
18 ATTORNEY GENERAL'S OFFICE, OPPOSE MR. TANAKA'S REQUEST,  
19 INSOFAR AS YOU CAN COMPREHEND IT BEFORE YOU'VE SEEN THE  
20 ACTUAL LANGUAGE?

21                  MR. MELNICK:  I THINK IF HE'S ADDING TO HIS  
22 CROSS-COMPLAINT, THAT'S FINE.  OUR OBJECTION WAS IN THE  
23 NOTICE, AS TO THE LANDOWNERS.

24                  SO HE GETS TO CHOOSE WHAT HE WANTS TO SEEK  
25 AGAINST WHO IN THE CROSS-COMPLAINT.  I CAN'T TELL HIM  
26 HOW TO DO THAT.  I'M HAPPY TO LOOK AT IT AND MAKE SURE  
27 ABOUT IT, BUT THAT'S HIS CHOICE.

28                  OUR CONCERN, PREVIOUSLY, WAS WITH THE

1 NOTICE -- AND IN LIEU OF PERSONAL SERVICE.

2 THE COURT: BUT THOSE CONCERNS HAVE BEEN  
3 SUFFICIENTLY ADDRESSED; CORRECT, MR. KRASNER?

4 MR. MELNICK: YES.

5 THE COURT: YOU'RE MR. KRASNER OR MR. MELNICK?

6 MR. MELNICK: IT'S MR. MELNICK. I'M MR. MELNICK.

7 THE COURT: MY APOLOGIES.

8 MR. MELNICK: IT'S OKAY. YES, THOSE CONCERNS HAVE  
9 BEEN ADDRESSED.

10 THE COURT: DOES ANYBODY WISH TO OBJECT TO A  
11 PROPOSED AMENDMENT OF THE THIRD AMENDED CROSS-COMPLAINT  
12 OF THE CITY OF VENTURA, TO ADD ASSERTIONS THAT IN REM  
13 JURISDICTION IS BEING ASSERTED OVER RIPARIAN RIGHTS?

14 FOR THE RECORD, NO OBJECTION.

15 OKAY. SO THAT'S WHY, ALTHOUGH I WILL,  
16 HOPEFULLY, BE ABLE TO GRANT YOUR MOTION TODAY, THE  
17 NICETIES OF THE ORDERS WILL NEED JUST A LITTLE MORE  
18 TINKERING BEFORE THEY ARE FULL AND COMPLETE, BEFORE THEY  
19 ARE READY FOR SIGNATURE AND FILING.

20 MR. TANAKA: YES, YOUR HONOR. AND LAST OPEN ITEM  
21 ON THE ORDER FOR THE THIRD AMENDED CROSS-COMPLAINT, AS  
22 WELL AS IT'S GOING TO SHOW UP ON THE MOTION TO ACCRUE.

23 WE NEED TO FILL IN A DATE FOR A CMC.

24 SO IF YOU COULD PROVIDE THAT, WE WILL FILL  
25 THAT IN.

26 THE COURT: IS THE TERM "CASE MANAGEMENT  
27 CONFERENCE" DIRECTED BY STATUTE, OR HAVE YOU JUST FALLEN  
28 INTO ITS USE, BECAUSE IN ORDINARY, UNLIMITED CIVIL

1 CASES, IT IS CONSIDERED ONE OF THE EARLY CASE MANAGEMENT  
2 TOOLS?

3 MR. TANAKA: WITH RESPECT TO THE GROUND WATER  
4 ADJUDICATION STATUTES, THEY USE THE TERM "CASE  
5 MANAGEMENT CONFERENCE."

6 THE COURT: THEN WE OUGHT TO DO WHAT THEY WANT US  
7 TO DO AND ACCEPT THEIR JARGON.

8 MR. TANAKA: RIGHT, AND EVEN THOUGH WE HAVE  
9 RIPARIANS...

10 THE COURT: THEY CAN COME TO THE SAME PARTY.

11 MR. TANAKA: EXACTLY.

12 THE COURT: SO WHAT MONTH AND PORTION OF THE MONTH  
13 DO YOU PROPOSE IS GOOD FOR THE CMC?

14 MR. TANAKA: SO IN MY CALCULATIONS, YOUR HONOR, I  
15 THINK SIX MONTHS OUT IS A PRETTY GOOD DATE. AND IF FOR  
16 SOME REASON, WE RUN INTO PROBLEMS, WE WILL, OF COURSE,  
17 INFORM PARTIES AND THE COURT.

18 THE COURT: SO THAT WOULD BE MAY -- MID TO LATE  
19 MAY, I JUDGE, MR. TANAKA?

20 MR. TANAKA: LATE MAY, IF I'M COUNTING RIGHT.  
21 LATE MAY OR EARLY JUNE. YES, YOUR HONOR.

22 THE COURT: YOU'LL REMEMBER I HAD REACHED THE  
23 PRESIDING JUDGE OF VENTURA WHO OFFERED TO MAKE A  
24 COURTROOM IN SIMI VALLEY AVAILABLE. SHOULD THE CASE  
25 MANAGEMENT CONFERENCE BE SCHEDULED TO OCCUR CLOSER TO  
26 THE WATER IN SIMI VALLEY, WHICH IS THE ONE LOCUS I'VE  
27 BEEN OFFERED IN VENTURA COUNTY? OR SHOULD IT BE KEPT IN  
28 DOWNTOWN L.A.?

1 MR. TANAKA: YOU KNOW, YOUR HONOR, WE HAVE TALKED  
2 INTERNALLY, SO WE CAN'T SPEAK FOR OTHER PARTIES, BUT I  
3 THINK SIMI VALLEY IS STILL -- ACTUALLY, IT'S HARDEST FOR  
4 EVERYBODY, THEN, BECAUSE IT'S STILL QUITE A WAYS FROM  
5 VENTURA. AND THEN FOR THE FOLKS THAT ARE COMING OUTSIDE  
6 OF SOUTHERN CALIFORNIA, LOS ANGELES IS THE BEST.

7 THE COURT: WELL, THE GOOD NEWS IS, PEOPLE COMING  
8 FROM VENTURA CITY CAN USE AMTRAK, IF NOT METROLINK, TO  
9 GET IMMEDIATELY ADJACENT TO THIS COURTHOUSE.

10 SO FROM A TRANSIT POINT OF VIEW, IT'S NOT  
11 TOO CRAZY.

12 MR. TANAKA: CORRECT, YOUR HONOR.

13 THE COURT: DO YOU WANT WEDNESDAY, MAY 27TH, OR  
14 THE WEEK PRIOR, WHICH HAS MEMORIAL DAY? ACTUALLY, NO.  
15 THE 27TH ISN'T THE WEEK THAT INCLUDES MEMORIAL DAY, BUT  
16 I'M AVAILABLE ON THE 27TH.

17 MR. TANAKA: CAN WE DO IT AFTER THE MEMORIAL DAY  
18 HOLIDAY?

19 THE COURT: THAT WOULD BE THE WEDNESDAY AFTER  
20 MEMORIAL DAY, BUT IF YOU WANT IT THE FIRST WEEK OF JUNE,  
21 YOU CAN HAVE ANY DAY OF THE WEEK OF JUNE 1.

22 MR. TANAKA: JUNE 1 SOUNDS FINE, YOUR HONOR.

23 THE COURT: ANY OBJECTIONS TO MONDAY, JUNE 1, AT  
24 1:30 IN THE AFTERNOON?

25 HEARING NO OBJECTIONS, THE COURT WILL SET A  
26 CONFERENCE IN THIS DOCKET IN THIS COURTROOM ON MONDAY,  
27 JUNE 1, AT 1:30 P.M., WITH CROSS-COMPLAINANT CITY OF  
28 VENTURA TO GIVE NOTICE.

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NEXT.

MR. TANAKA: YOUR HONOR, IF THERE'S NOTHING ELSE WITH RESPECT TO THE THIRD AMENDED CROSS-COMPLAINT, AND I'M PREPARED TO TURN TO THE MOTION TO APPROVE THE FORM ANSWER AND NOTICE.

THE COURT: THE ONE QUESTION I HAVE -- AND THIS IS, TO SOME EXTENT, GERMANE BETWEEN ME AND MR. FULLER, SENIOR ADMINISTRATOR, AS WELL AS VENTURA'S COUNSEL -- YOUR EXHIBIT D, WHICH IS APPARENTLY THE LIST THAT YOU WILL HAVE TO MAINTAIN INTERNALLY TO KNOW WHO ALL IS GETTING SERVICED AS OWNERS OF LAND OVERLAYING THE GROUND WATER, NOT AT THIS JUNCTURE, NAMED PARTIES, BUT MAY MUTATE THEMSELVES INTO NAMED PARTIES, IF THEY CHOOSE TO FILE AN ANSWER OR, OTHERWISE, FIRST APPEARANCE DOCUMENT.

IT'S A LITTLE WEIRD TO ME BECAUSE WHERE YOU LIST OWNER'S LAST NAME, YOU ARE ONLY USING STREET ADDRESSES.

IS THAT BECAUSE IT'S A PLACEHOLDER UNTIL YOU PRY BETTER DETAIL OUT OF THE LAND RECORDS TO SUBSTITUTE FOR STREET ADDRESSES?

MR. TANAKA: IF I'M FOLLOWING YOUR HONOR, WE HAVE STREET ADDRESSES, AND WE HAVE SERVICE ADDRESSES.

THE COURT: WELL, THE FIRST COLUMN IS OWNER NAME.

MR. TANAKA: CORRECT.

THE COURT: AND THOSE ARE ALL STREET ADDRESSES. ALTHOUGH THE SECOND ONE -- YEAH. I THINK THE FIRST ONE IS 1179 MONELL, M-O-N-E-L-L, ROAD, TR.

NOW, DOES THAT STAND FOR --

1 MR. TANAKA: TRUST.

2 THE COURT: OH, OKAY. SO THAT MIGHT ACTUALLY BE  
3 THE NAME OF AN OWNER.

4 MR. TANAKA: FROM THE ASSESSOR'S OFFICE.

5 THE COURT: I SEE. OKAY. IT JUST HAPPENS THAT  
6 THE WAY YOUR PAGE 1 OF AN ALPHA LIST STARTED, IT DOESN'T  
7 START WITH A MORE PROSAIC THING LIKE TANAKA, GENE, AND  
8 INSTEAD HAS THE -- YOU KNOW, SUCH-AND-SUCH STREET  
9 ADDRESS TRUST BY WHICH THE TANAKA FAMILY CHOOSES TO HOLD  
10 TITLE TO ITS RANCH OR HOUSE OR WHATEVER IT IS.

11 MR. TANAKA: CORRECT, YOUR HONOR.

12 THE COURT: OKAY. I DIDN'T GET ANY OBJECTION FROM  
13 MY STAFF, SO I GUESS THEY UNDERSTOOD IT BETTER THAN I  
14 DID.

15 YEAH. NO, I'M COMFORTABLE WITH YOUR THIRD  
16 AMENDED COMPLAINT AND YOUR NOTICES AND YOUR FORM ANSWER.  
17 BASICALLY READY TO GRANT YOUR MOTIONS, UNLESS SOMEBODY  
18 WANTS TO BE HEARD TO OBJECT.

19 ANYBODY WANT TO BE HEARD TO OBJECT TO THE  
20 CITY OF VENTURA'S MOTION FOR APPROVAL OF THE FORM NOTICE  
21 AND SPECIAL AND ANSWER? NO OBJECTION FOR THE RECORD.

22 SO FAR, SO GOOD.

23 SHOULD I TURN TO THE MOTIONS TO INTERVENE,  
24 OR ARE THERE OTHER THINGS YOU WANT TO TAKE UP,  
25 MR. TANAKA?

26 MR. TANAKA: I'D LIKE TO QUICKLY TAKE UP THE  
27 MOTION FOR APPROVAL OF THE FORM ANSWER AND NOTICE.

28 THE COURT: I THOUGHT I JUST ASKED FOR OBJECTION



1 AND GRANTED YOUR MOTION, BUT GO AHEAD.

2 MR. TANAKA: I THINK THAT WAS TO THE THIRD AMENDED  
3 CROSS-COMPLAINT. SORRY.

4 THE COURT: I HAD IT ALL THROWN IN THERE AT THE  
5 SAME TIME.

6 MR. TANAKA: I WASN'T LISTENING.

7 THE COURT: THAT'S ALL RIGHT. ANYBODY WANT TO --  
8 ACTUALLY, I HADN'T ASKED ABOUT THE THIRD AMENDED  
9 COMPLAINT.

10 ANYBODY WANT TO OBJECT TO THE ALLOWANCE OF  
11 THE FILING OF A THIRD AMENDED CROSS-COMPLAINT?

12 NO OBJECTION. ALL YOUR MOTIONS ARE  
13 GRANTED, MR. TANAKA.

14 MR. TANAKA: THANK YOU, YOUR HONOR. I'LL SUBMIT A  
15 PROPOSED ORDER, HOPEFULLY, TOMORROW, IF I CAN GET THE  
16 DATE OF THE OJAI MEETING.

17 THE COURT: THERE WILL BE TWO DIFFERENT ORDERS;  
18 RIGHT? ONE APPROVES YOUR THIRD AMENDED CROSS-COMPLAINT.  
19 THE OTHER APPROVES THE NOTICE/FORM ANSWER.

20 MR. TANAKA: YES, WITH ATTACHMENTS OF THE THIRD  
21 AMENDED TO THE ONE ORDER, AND THE NOTICE AND FORM ANSWER  
22 TO THE OTHER ORDER.

23 THE COURT: I'M NOT IN THE BUILDING TOMORROW. I  
24 WILL BE HERE EVERY DAY NEXT WEEK MONDAY THROUGH  
25 WEDNESDAY. SO IF IT'S HERE MONDAY, IT'S AS QUICK AS  
26 IT'S HERE TOMORROW, BECAUSE I'M JUST NOT HERE TOMORROW.

27 MR. TANAKA: THANK YOU, YOUR HONOR.

28 THE COURT: I HAVE A MOTION TO INTERVENE BY BOTH

1 THE FISH AND GAME DEPARTMENT AND THE WATER RESOURCES  
2 CONTROL BOARD.

3 OFF THE RECORD.

4  
5 (THERE IS A BREAK IN THE  
6 PROCEEDINGS.)

7  
8 THE COURT: LET ME GO BACK ON THE RECORD.

9 I STAND CORRECTED. IF I HEAR YOU RIGHT,  
10 YOUR MOTIONS TO INTERVENE ARE ACTUALLY NOTICED FOR A  
11 FUTURE HEARING DATE, TO A DECEMBER 6TH, GENTLEMEN?

12 MR. MELNICK: YES, SIR.

13 MR. KRASNECK: CORRECT, YOUR HONOR.

14 THE COURT: THAT EXPLAINS WHY THEY'RE NOT SHOWING  
15 UP ON TODAY'S DOCKET.

16 DOES ANYONE OBJECT TO HAVE THEM HEARD  
17 EARLIER THAN THE CITY OF VENTURA, OR IS THAT THE ONLY  
18 PARTY WITH STANDING TO BE HEARD TO OBJECT?

19 MR. MELNICK: NOBODY HAS OBJECTED TO --

20 THE COURT: THAT'S A DIFFERENT QUESTION. I'M  
21 ASKING WHO WOULD HAVE STANDING TO OBJECT.

22 MR. MELNICK: I THINK ANY PARTY WOULD HAVE  
23 STANDING TO OBJECT, YOUR HONOR.

24 THE COURT: MR. TANAKA, IT'S YOUR CROSS-COMPLAINT  
25 WHETHER THEY WANT TO COME JOIN THE PARTY.

26 DO YOU CONCUR WITH THE SENTIMENT, THOUGH,  
27 THAT EVEN THOUGH IT IS YOUR CROSS-COMPLAINT, THAT OTHER  
28 CROSS-DEFENDANTS THEORETICALLY COULD OBJECT TO INCLUDING

1 ONE MORE, TWO MORE CROSS-DEFENDANTS?

2 MR. TANAKA: WELL, I THINK -- I DON'T THINK  
3 THEY'RE COMING IN AS CROSS-DEFENDANTS. THEY'D BE  
4 COMING -- THEY MADE IT CLEAR THEY WANT TO BE  
5 INTERVENORS.

6 THE COURT: MORE IN THE NATURE OF PLAINTIFFS?

7 MR. MELNICK: NO. WE'RE PURPOSELY NOT CHOOSING A  
8 SIDE.

9 MR. KRASNECK: REAL PARTIES OF INTEREST, YOUR  
10 HONOR, OR SOMETHING AKIN TO THAT.

11 THE COURT: DOES THE LAW CONTEMPLATE THAT YOU CAN  
12 HAVE NEITHER FISH NOR FOWL STATUS BECAUSE YOU'RE THE  
13 GOVERNMENT, OR BECAUSE YOU'RE FISH AND GAME, TO PLAY ON  
14 THE PUN?

15 MR. KRASNECK: WELL, YOU HONOR, THE STATUTE MERELY  
16 SAYS THAT THE STATE CAN INTERVENE IN THE ACTION. IT  
17 DOESN'T STATE HOW WE'RE SUPPOSED TO INTERVENE.

18 THE COURT: OKAY. SO YOU WANT TO CALL YOURSELVES  
19 INTERVENORS, EACH OF THE TWO OF YOUR ENTITIES?

20 MR. KRASNECK: YES, YOUR HONOR.

21 MR. MELNICK: YES.

22 THE COURT: I'M HAPPY TO WAIT UNTIL DECEMBER 6TH  
23 IF THAT AVOIDS ANY PROCEDURAL ISSUES. IF I CAN LEGALLY  
24 ADVANCE IT TODAY, BECAUSE IT APPEARS UNOPPOSED AND QUITE  
25 RATIONAL, I'M READY TO DEAL WITH IT TODAY, BUT I DON'T  
26 WANT TO DO SOMETHING THAT CREATES PROCEDURAL ERROR.

27 MR. KRASNECK: YOUR HONOR, IT MIGHT BE BEST TO  
28 LEAVE IT ON CALENDAR. AND THEN IF NOBODY OBJECTS WITHIN

1 THE TIME PERIOD, THEN MAYBE YOUR HONOR CAN APPROVE IT  
2 WITHOUT A HEARING.

3 THE COURT: WELL, LIKE MR. COOPER, PERHAPS YOU CAN  
4 JUST APPEAR BY COURTCALL AND SAVE YOURSELVES THE TRIP  
5 FROM OAKLAND, AND/OR THREE BLOCKS AWAY.

6 MR. TANAKA: IF YOUR HONOR DOES NOT APPROVE THE  
7 MOTION TO INTERVENE TODAY -- BECAUSE WE OBVIOUSLY HAVE  
8 NO OBJECTION TO IT, THEN I'M NOT GOING TO REVISE THE  
9 CAPTIONS SO TO STATE, BUT I DON'T THINK THAT -- OF THE  
10 THIRD AMENDED CROSS-COMPLAINT -- BUT I DON'T THINK THAT  
11 SHOULD BE A PROBLEM, BECAUSE PARTIES INTERVENE OFTEN  
12 AFTER PLEADINGS HAVE BEEN FILED AND DOESN'T REQUIRE A  
13 CAPTION. FUTURE CAPTIONS WILL INCLUDE THEM.

14 THE COURT: I THOUGHT I HEARD SOMEBODY SAY THAT  
15 THEY'RE OF THE VIEW THAT ANYBODY WHO'S A PARTY IN THE  
16 CURRENT CROSS-COMPLAINT BROUGHT BY THE CITY OF VENTURA  
17 HAS A THEORETICAL RIGHT TO SPEAK TO THE PENDING MOTION  
18 TO INTERVENE.

19 THAT SOUNDS LIKE A CORRECT STATEMENT OF THE  
20 LAW, BUT I THINK I HEARD SOMEBODY SAY THAT THAT WAS  
21 THEIR UNDERSTANDING.

22 MR. MELNICK: YES, YOUR HONOR. THAT'S WHAT I  
23 SAID. I BELIEVE THAT TO BE THE CASE, THAT ANYBODY COULD  
24 OBJECT.

25 THE COURT: BUT THAT THEN MAKES IT, IN THE ABSENCE  
26 OF CLEAR NOTICE -- AND NONE WAS GIVEN -- THAT THIS WOULD  
27 BE HEARD ON A SHORTENED TIME, AND IT WOULD BE IMPRUDENT,  
28 GIVEN HOW MANY CROSS-DEFENDANTS WHO ARE ALREADY ON THAT

1 CASE, TO ASSUME THAT PRESENT COMPANY, INCLUDING THE  
2 LAWYERS ON THE PHONE, AS THE ENTIRE UNIVERSE OF  
3 APPEARING CROSS-DEFENDANTS. I DON'T WANT TO TAKE THE  
4 TIME, FRANKLY, TO COUNT NOSES.

5 MR. MELNICK: I THINK THAT'S ADVISABLE, YOUR  
6 HONOR.

7 THE COURT: OKAY. LET'S JUST LEAVE IT ON CALENDAR  
8 FOR DECEMBER 6TH, AND THAT EXPLAINS WHY IT WASN'T ON  
9 CALENDAR FOR TODAY.

10 OKAY. WELL, WE'RE MAKING PROGRESS.

11 WHAT ELSE DO WE NEED TO ADDRESS TODAY?  
12 PREVIOUSLY WE'VE BEEN SO WORRIED ABOUT HOW TO EXECUTE  
13 THINGS THAT IT SEEMED LIKE THIS WOULD TAKE FOREVER, BUT  
14 IT'S ACTUALLY GOING QUICKLY.

15 MR. TANAKA: AGREED, YOUR HONOR. ONE FINAL ITEM  
16 THAT I'D LIKE TO RAISE.

17 IF IT SUITS YOUR HONOR AND HIS SCHEDULE,  
18 WE'D LIKE TO PICK A DATE IN JANUARY TO HAVE A TECHNICAL  
19 PRESENTATION BY THE EXPERTS, AND THEN A LEGAL DISCUSSION  
20 BY THE ATTORNEYS TO DISCUSS ISSUES RELATED TO THE  
21 PHYSICAL SOLUTION.

22 WE'RE MINDFUL OF THE COURT'S ROLE BEING  
23 VERY TIGHTLY INVOLVED IN THE PHYSICAL SOLUTION.

24 SO WE THOUGHT IT MIGHT BE HELPFUL.

25 THE COURT: I AM FINE, AND I'LL GIVE YOU SOME  
26 SUGGESTIONS IN JUST A MOMENT.

27 THERE WAS ONE OTHER NOTE I THOUGHT I HAD  
28 WRITTEN TO MYSELF THAT I PROBABLY SHOULD TAKE A MOMENT

1 OR TWO FOR DISCUSSION.

2 OH, YES. I'M LOOKING AT YOUR NOTICE,  
3 EXHIBIT E TO TODAY'S STATUS REPORT.

4 I WOULD INVITE YOU TO CONSIDER MODIFYING  
5 PAGE 2, LINE 11. ONE, TO ADD THE WORD "DUPLICATE,"  
6 WHICH I MENTIONED PREVIOUSLY ON LINE 10. SO YOU'D SAY,  
7 A DUPLICATE COPY MAY BE OBTAINED.

8 AND THEN ADD A FURTHER REFERENCE AT THE END  
9 OF THE SAME SENTENCE TO -- OR BY GOING TO SUCH-AND-SUCH  
10 A WEBSITE, WHICH WOULD BE THE WEBSITE THAT THE CITY  
11 PROPOSES TO ESTABLISH.

12 BECAUSE, SURELY, THE COMPLAINT WOULD BE ONE  
13 OF THE THINGS ON A WEBSITE LIKE THAT, OR AT LEAST YOU  
14 COULD MAKE IT, THE CROSS-COMPLAINT, TO BE PRECISE.

15 MR. TANAKA: YES, YOUR HONOR. THE ONLY HESITATION  
16 I HAVE IS WE'VE GOT THE VENDOR READY TO START, BUT I  
17 WANT TO MAKE SURE THAT WE GET IT UP AND RUNNING  
18 PROPERLY, AND THAT ALL PARTIES NEED TO SEE WHAT WE'RE  
19 DOING.

20 IF, FOR SOME REASON, THERE'S A GLITCH AND  
21 THE NOTICES GOT OUT --

22 THE COURT: I WILL LEAVE IT TO YOU TO ADD THIS IF  
23 YOU THINK IT'S EXPEDIENT AND TO LEAVE IT OUT IF IT'S  
24 NOT. I WOULD URGE YOU TO USE THE WORD "DUPLICATE."

25 MR. TANAKA: OH, ABSOLUTELY, YOUR HONOR.

26 THE COURT: NOW, MY OTHER CONCERN -- OKAY, NOW  
27 TURN TO PAGE 4.

28 OFF THE RECORD.

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(THERE IS A BREAK IN THE  
PROCEEDINGS.)

THE COURT: BACK ON THE RECORD.

PAGE 5 OF THE SAME DOCUMENT, LINE 14,  
CAPITALIZED F, FORM, A, ANSWER. AND THEN, FINALLY, THE  
SUBSTANTIVE QUESTION I WANTED TO ASK.

MR. TANAKA: I'M SORRY, YOUR HONOR. WHAT WAS  
THAT?

THE COURT: WE'RE STILL ON THE SUMMARY NOTICE ON  
PAGE 5, LINE 14, CAPITALIZED FORM ANSWER.

MR. TANAKA: GOT IT.

THE COURT: AND THEN IN THE NEXT PARAGRAPH -- WHEN  
WE THOUGHT ABOUT MOVING THE CASE TO E-FILING, THE  
COMPLEXITIES OF HAVING THE SELF-REPRESENTED LANDOWNERS  
HAVING TO CREATE ACCOUNTS WITH ONE LEGAL OR ITS  
COMPETITORS TO BE ABLE TO ELECTRONICALLY FILE WITH THE  
CLERK OF THE SUPERIOR COURT WAS A SERIOUS ADMINISTRATIVE  
PROBLEM. AND WE AVOIDED THAT, FRANKLY. WE'RE USING  
OLD-SCHOOL FILING TECHNIQUES FOR PRESENTATION OF THE  
PAPERS TO THE CLERK OF THE COURT.

BUT HERE WE ARE REQUIRING THESE PEOPLE WHO  
CHOOSE TO JOIN THIS EXERCISE, THIS LITIGATION, TO USE  
FILE & SERVEXPRESS FOR SERVICE, WHICH HAS A LOT TO BE  
SAID FOR IT, BECAUSE IT IS THE REQUIRED MODE OF SERVICE  
FOR ALL THE LICENSED LAWYERS.

IT'S THE ONLY WAY THAT THEY CAN GIVE NOTICE  
TO THE MANY OTHER CROSS-DEFENDANTS WHO ARE IN THE CASE,

1 AND I GUESS -- I'M THINKING OUT LOUD, BASICALLY -- BUT  
2 WHATEVER KIND OF A NUISANCE IT IS, IT'S PROBABLY THE  
3 LEAST BAD ALTERNATIVE.

4 AND I GUESS IF THEY GET A FEE WAIVER, AS  
5 DESCRIBED ELSEWHERE IN THIS DOCUMENT, THEY CAN, TO SOME  
6 EXTENT, MAKE USE OF FILE & SERVEXPRESS, SUBJECT TO A FEE  
7 WAIVER -- FILE & SERVEXPRESS'S ADMINISTRATIVE PROBLEM  
8 BY, ESSENTIALLY, MAILING THEM SOME PAPERWORK AND LETTING  
9 FILE & SERVEXPRESS FIGURE OUT WHAT TO DO NEXT WITH IT.

10 MR. TANAKA: YES. AND THEN, FINALLY, YOUR HONOR,  
11 WE'RE GOING TO BE MAKING ADJUSTMENTS AS THE CASE GOES  
12 ON.

13 AND I THINK THE CMC THAT'S GOING TO BE SET  
14 FOR JUNE IS GOING TO BE VERY INSTRUCTIVE. WE'LL HEAR  
15 BEFORE THAT AND WE'LL HEAR DURING THAT, AND I THINK  
16 THERE MAY HAVE TO BE SOME ADJUSTMENTS.

17 THE COURT: AND MAYBE YOU'LL LEARN THINGS AT THE  
18 FREE PUBLIC MEETINGS.

19 MR. TANAKA: YES.

20 THE COURT: IT'S CONCEIVABLE THAT EVEN SOMETHING  
21 LIKE THIS, CLERICAL AS IT IS, MAY GENERATE ENOUGH BUZZ  
22 IN THE MEETING HALL THAT YOU OR OTHERS MIGHT BE PROMPTED  
23 TO CONSIDER EXPEDIENT ALTERNATIVES.

24 MR. TANAKA: YES. AND IT'S IN EVERYBODY'S  
25 INTEREST TO MAKE THIS AS EASY AS POSSIBLE FOR THE  
26 PUBLIC.

27 THE COURT: IF THERE WAS SOME WAY THAT THEY COULD  
28 UPLOAD IT TO THE WEBSITE THAT YOU'RE CREATING -- AND



1 THAT'S SOMEHOW CREATED A WHOLE DUMP OF THESE NEW  
2 ANSWERS, FORM ANSWERS -- MAYBE, AT THAT POINT, SOMEONE  
3 COULD FIGURE OUT HOW TO DO KIND OF A MASS SERVICE  
4 THROUGH FILE & SERVEXPRESS FROM THE FIRST CATCH BASIN TO  
5 THEN PASS THEM ALONG.

6 WE HAD OTHERWISE -- I THOUGHT TOLD THEM TO  
7 ESSENTIALLY MAIL IT TO YOUR OFFICE, BUT I GUESS YOU'RE  
8 TELLING THEM TO DO MORE THAN THAT; RIGHT?

9 MR. TANAKA: I DON'T THINK -- I DON'T WANT TO BE  
10 RESPONSIBLE FOR FILING ON BEHALF OF OTHER PARTIES.

11 THE COURT: I'M NOT TALKING ABOUT FILING. I'M  
12 TALKING ABOUT SERVICE, FRANKLY, WHETHER YOU WOULD BE THE  
13 MIDPOINT FOR SERVICE ON OTHER PARTIES, NOT A PROXY FOR  
14 ACCOMPLISHING FILING WITH THE COURT.

15 I THINK WE TELL THEM QUITE CLEARLY THE  
16 THREE OLD-SCHOOL WAYS TO FILING: WALK IT IN THE DOOR AT  
17 MOSK, MAIL IT INTO THE MOSK, OR FAX FILE IT INTO MOSK.

18 SO THE FILING PART, I THINK, IS PRETTY  
19 LAYMAN AND APPROACHABLE.

20 IT'S JUST THIS QUESTION OF TELLING THE  
21 LAYMAN TO GO CREATE SOME ACCOUNT WITH FILE & SERVEXPRESS  
22 SO THAT THEY CAN GIVE NOTICE IN THE SAME ELEGANT WAY  
23 THAT YOU OR MR. MELNICK WOULD, WHICH IS A BURDEN I'M  
24 WILLING TO PUT ON LICENSED J.D.'S, BUT IS NOT  
25 NECESSARILY REAL USER-FRIENDLY WHEN WE'RE CONTEMPLATING  
26 HUNDREDS OF THOUSANDS OF LAYMEN GETTING INVOLVED IN THE  
27 LITIGATION.

28 BUT I THINK I CAN LIVE WITH THIS FOR

1 PURPOSES OF THE INITIAL NOTICE. AND THEN IF YOU  
2 DISCOVER SOME WAY IN WHICH YOU CAN CREATE AN  
3 ALTERNATIVE, YOU KNOW, CATCH BASIN INSIDE YOUR NEW WEB  
4 PAGE AS A WAY TO UPLOAD YOUR FORM ANSWER AND GOOD THINGS  
5 WILL HAPPEN AFTER THAT, IN LIEU OF HAVING TO GO CREATE A  
6 RELATIONSHIP WITH FILE & SERVEXPRESS, THAT MIGHT BE  
7 SOMETHING TO AT LEAST CONSIDER.

8 BUT I THINK I'M WILLING TO LET THE PLANE  
9 TAKE OFF WITH THIS PHRASEOLOGY SO WE CAN GET GOING, EVEN  
10 IF WE CHANGE THE FLIGHT PLAN LATER.

11 MR. TANAKA: YES. AND THE NUMBER OF PARTIES THAT  
12 DO DECIDE TO PARTICIPATE IS, OBVIOUSLY, A BIG  
13 CONSIDERATION AS WELL.

14 AND I HEARD -- AND OTHER ATTORNEYS CAN  
15 CONFIRM, SINCE I'M NOT ACTIVELY INVOLVED -- BUT IN THE  
16 LOS COSAS [PHONETIC] CASE, THERE HAS NOT BEEN A HUGE  
17 SURGE OF PARTIES COMING IN.

18 THE COURT: OF PURE GROUND WATER LANDOWNER OVER  
19 GROUND WATER PARTIES?

20 MR. TANAKA: CORRECT. NOT A LOT.

21 THE COURT: DO WE THINK MOST OF THE RIPARIAN  
22 OWNERS WILL BE PROMPTED TO FILE APPEARANCES AND TO  
23 ANSWER? DO YOU THINK THERE WILL BE A HIGH DEFAULT RATE  
24 IN THAT UNIVERSE OF 1,750 NAMED CROSS-DEFENDANTS?

25 MR. TANAKA: I'M A LITTLE MORE NERVOUS TO  
26 SPECULATE ON THAT. I WILL SAY, THOUGH, THAT BY NAMING  
27 ALL THE KNOWN USERS, WE'RE HOPEFULLY -- PREVIOUSLY --  
28 AND WE'LL ADD NEW ONES.

1                   BUT WE, HOPEFULLY, HAVE SWEPT PRETTY  
2 BROADLY, BUT I CAN'T -- I COULD NOT TELL YOUR HONOR.

3                   THE COURT: WELL, IF THE PEOPLE YOU'VE NAMED  
4 BEFORE YOU ADD THESE 1,750 PEOPLE ARE THE FOLKS WHO ARE  
5 REALLY TAKING THE VAST PREPONDERANCE OF THE WATER, BY  
6 IMPLICATION, THAT MEANS THE NEXT 1,750 PEOPLE MAY OWN  
7 LAND THAT'S ADJACENT TO THE RIVER OR TRIBUTARY, BUT IF  
8 THEY'RE NOT MEANINGFUL TAKERS AT THE MOMENT, THEN THEY  
9 MAY BE DISINTERESTED IN GETTING INVOLVED IN THE LAWSUIT  
10 IF IT INVOLVES HIRING A LAWYER OR EVEN PAYING \$435.

11                  MR. TANAKA: CORRECT.

12                  THE COURT: THAT MAY THEN LEAD THEM TO TOLERATE  
13 ALLOWING THEIR DEFAULT TO BE TAKEN, ALL OF WHICH CAN BE  
14 DONE. I MEAN, I'M SURE IN THE SUPERIOR COURT, WE  
15 PROBABLY TAKE DOZENS OF DEFAULTS EVERY DAY, IF NOT  
16 HUNDREDS.

17                         AND IT'S JUST A QUESTION OF HOW LONG IT  
18 TAKES TO PROCESS 1,750 DEFAULTS, IF YOU'VE GOT A GOOD  
19 PROOF OF SERVICE SO THAT YOU CAN MAKE A PROPER DEFAULT  
20 REQUEST.

21                         SO, I MEAN, THIS IS GOING TO BE A LOT OF  
22 PARALEGAL WORK FOR YOUR OFFICE, JUST AS MUCH IT'S GOING  
23 TO BE A LOT OF WORK FOR THE COURT'S OFFICE.

24                  MR. TANAKA: YES. I'M NOT A BIG FAVORITE AMONG  
25 THE PARALEGALS.

26                  THE COURT: OKAY. WELL, THEY GET A LOT OF  
27 OVERTIME AT SOME POINT, MAYBE NOT IN TIME TO BUY THEIR  
28 CHRISTMAS PRESENTS, BUT YOU'LL BE THE SOURCE OF FULL

1 EMPLOYMENT, I'M SURE.

2 OKAY. WHAT ELSE DO YOU WANT TO TAKE UP  
3 WITH THE COURT?

4 MR. TANAKA: SO IF THERE WERE A DAY IN --

5 THE COURT: OH, YES, IN JANUARY FOR SCIENCE DAY.

6 MR. MELNICK: YOUR HONOR, CAN I SPEAK TO THE  
7 SCIENCE DAY?

8 THE COURT: YES. SURE.

9 MR. MELNICK: MR. TANAKA AND I HAVEN'T TALKED  
10 ABOUT THIS SINCE THE LAST TIME.

11 I'M A LITTLE BIT CONCERNED ABOUT HOW IT'S  
12 BEEN DESCRIBED TO YOU THIS MORNING, BECAUSE IT SEEMS  
13 RELATED TO THE SETTLEMENT CONVERSATIONS THAT THEY'VE  
14 BEEN HAVING.

15 AND I WOULDN'T WANT TO PREJUDICE YOUR  
16 HONOR'S ROLE AS A TRIER OF FACT WITH DISCUSSION OF THAT  
17 CONVERSATION.

18 THE COURT: WELL, I CAN GIVE YOU A STATUS  
19 CONFERENCE MAYBE EVEN AS EARLY AS DECEMBER 6TH WHEN WE  
20 HAVE THIS MOTION TO INTERVENE ON CALENDAR, EVEN IF IT'S  
21 GOING TO BE PERFUNCTORY, AND MAYBE YOU AND MR. TANAKA  
22 WILL BE MORE COMFORTABLE ABOUT THIS PLAN. BECAUSE YOU  
23 BASICALLY ARE JUST COMING UP TO SPEED, EVEN TO GET ANY  
24 AWARENESS OF THE TENTATIVE SETTLEMENT PHYSICAL SOLUTION;  
25 CORRECT?

26 MR. MELNICK: I KNOW NOTHING ABOUT THIS TENTATIVE.

27 THE COURT: BUT, IN THEORY, THE PARTIES TALKING  
28 SETTLEMENT KNOW ENOUGH THAT IF THEY CHOOSE TO TELL YOU,

1       THEY WILL HAVE SOMETHING TO TELL YOU; RIGHT, MR. TANAKA?

2               MR. TANAKA:    YES.

3               THE COURT:    SO THERE'S A WHOLE LOT OF EDUCATING OF  
4       MR. MELNICK AND MR. KRASNER THAT NEEDS TO HAPPEN IN THE  
5       NEAR FUTURE, BUT BETWEEN NOW AND DECEMBER 6TH, YOU MIGHT  
6       BE ABLE TO BEGIN THE DIALOGUE, MAYBE EVEN TODAY, FOR  
7       THAT MATTER.

8                       YOU WANT TO TAKE A BREAK AND GO INTO MY  
9       JURY ROOM AND TALK IF YOU WANT TO EDUCATE HIM?  I HAVE  
10      NOTHING ELSE ON CALENDAR.

11              MR. TANAKA:  WE'VE ALREADY TALKED TO THEM ABOUT  
12      DISCUSSING AFTER TODAY, AFTER THIS CONFERENCE, AND SO  
13      WE'LL TALK.

14              THE COURT:  I'M HAPPY TO JUST KICK THIS TO  
15      DECEMBER 6TH, HAVE A STATUS CONFERENCE DECEMBER 6TH, AND  
16      ON DECEMBER 6TH, I'LL HAVE THE SAME AVAILABILITY IN  
17      JANUARY THAT I HAVE NOW.  I DON'T HAVE ANY TRIALS IN  
18      JANUARY.  SO AS LONG AS I'M NOT IN TRIAL, I'VE GOT GREAT  
19      AVAILABILITY.

20              MR. TANAKA:  VERY WELL, YOUR HONOR, THAT WORKS FOR  
21      US.

22              MR. MELNICK:  THAT'S FINE.

23              THE COURT:  OKAY.  WHAT ELSE CAN I DO TO HELP YOU  
24      TODAY?

25              MR. TANAKA:  NOTHING, YOUR HONOR, FROM OUR END.

26              THE COURT:  MR. COOPER, YOU'RE THE ORIGINAL  
27      PLAINTIFF IN THE CASE.

28                        ANYTHING YOU WANT TO TAKE UP WITH THE COURT

1 OR MATTERS OF CONCERN?

2 MR. COOPER: NO, YOUR HONOR. I THINK EVERYTHING  
3 GOT COVERED, AS LONG AS I'M PART OF THOSE SETTLEMENT  
4 DISCUSSIONS BETWEEN THE STATE AND THE CITY AND THE  
5 USERS.

6 THE COURT: I HOPE YOU ARE. THEY DON'T WANT TO  
7 SET YOU UP TO BE THE BEST OBJECTOR.

8 MR. COOPER: THAT'S RIGHT.

9 THE COURT: MR. TANAKA, DO YOU BELIEVE MR. COOPER  
10 AT THE RIGHT TIME IS GOING TO GET INVOLVED?

11 MR. TANAKA: ABSOLUTELY, YOUR HONOR. WE THINK WE  
12 HAVE A GOOD RELATIONSHIP WITH HIM, AND WE UNDERSTAND  
13 PART OF MAINTAINING THAT IS TO KEEP HIM APPRISED AS WE  
14 MOVE ALONG.

15 THE COURT: SO CAN I DEDUCE THAT UP TILL NOW,  
16 RETIRED JUDGE KOMAR AND THE CONSUMPTIVE USERS OF THE  
17 WATER HAVE LIMITED THE DISCUSSION TO THE PRIMARY USERS  
18 OF WATER AND NOT NECESSARILY TO THE NON-PROFIT PLAINTIFF  
19 WHO BROUGHT THE CASE ORIGINALLY?

20 MR. TANAKA: THE LAST HAVE. JUDGE KOMAR HAS NOT  
21 BEEN INVOLVED. WE'VE JUST BEEN MEETING AMONG OURSELVES,  
22 TALKING AND SPEAKING.

23 MR. HAGERTY: YOUR HONOR, AS YOU KNOW, THERE'S A  
24 SETTLEMENT -- TEMPORARY SETTLEMENT, AN INTERIM  
25 SETTLEMENT, BETWEEN THE CITY AND CHANNELKEEPER, AND THAT  
26 GREW OUT OF OUR INITIAL DISCUSSIONS.

27 AND WE HAVE HAD DISCUSSIONS THAT ORIGINALLY  
28 DID INCLUDE THE STATE BOARD AND DFW. WHAT'S OCCURRED

1 SINCE THOSE, WHICH OCCURRED EARLIER THIS YEAR, IS THAT  
2 THE CONSUMPTIVE USERS HAVE BEEN WORKING ON IDEAS THAT  
3 CAME OUT OF THOSE MEETINGS.

4 AND NOW THAT'S WHEN -- WE'RE AT THE POINT  
5 NOW SOON WHERE WE NEED TO BRING THE STATE AND  
6 CHANNELKEEPER BACK INTO THOSE DISCUSSIONS, AND WE THINK  
7 THERE'S A PROGRESSING LAW, AND THAT'S WHY WE'RE ASKING  
8 FOR THIS HEARING.

9 THE COURT: FINE BY ME. AND I CAN UNDERSTAND WHY  
10 THE ACTUAL USERS OF THE WATER ARE PROBABLY TRYING TO  
11 HAGGLE AMONGST THEMSELVES TO FIGURE OUT HOW EVERYBODY  
12 CAN MAKE DO WITH A LITTLE BIT LESS OR A LOT LESS, BUT  
13 AMONGST THE USERS, YOU'VE GOT TO FIGURE THAT OUT BEFORE  
14 YOU GO TO THE OTHER INTERESTED PUBLIC AND QUASI  
15 INTERESTED PUBLIC ENTITIES AND SEE IF THEY WILL BLESS  
16 YOUR SUGGESTION FOR IMPROVING THE CONDITIONS OF THE  
17 RIVER AND THE ASSOCIATED GROUND WATER GOING FORWARD.

18 OKAY. MR. COOPER, ANYTHING ELSE YOU WANT  
19 TO TAKE UP WITH THE COURT TODAY?

20 MR. COOPER: NO, YOUR HONOR.

21 THE COURT: STATE AG, ANYTHING MORE YOU WANT TO  
22 TAKE UP WITH THE COURT?

23 MR. MELNICK: NO, YOUR HONOR.

24 MR. GOLDEN-KRASNER: NO, YOUR HONOR.

25 THE COURT: ANYBODY ELSE WHO'S HERE IN COURT OR ON  
26 COURTCALL HAVE ANYTHING YOU WANT TO TAKE UP WITH THE  
27 COURT?

28 MR. HAGERTY: NO, THANK YOU, YOUR HONOR.

1 THE COURT: HEARING NOTHING FURTHER, AGAIN, YOUR  
2 MOTIONS ARE ALL GRANTED, MR. TANAKA.

3 ON MONDAY, WHEN I'M BACK IN THE BUILDING,  
4 I'LL LOOK FORWARD TO SIGNING A HARD COPY OF YOUR  
5 PROPOSED ORDERS.

6 AND BECAUSE THERE WAS NO OBJECTION TO THE  
7 MOTIONS, I'M ASSUMING I CAN WAIVE THE WHOLE PERIOD ON  
8 PROPOSED ORDERS AND SIGN THEM ON PRESENTATION ON MONDAY.

9 IS THERE ANYBODY WHO WISHES TO OBJECT TO MY  
10 PROMPT HANDLING OF PROPOSED ORDERS ON MONDAY, WHEN I  
11 NEXT HAVE A CHANCE TO REVIEW THEM, WITHOUT HOLDING THEM  
12 FOR A FIVE-DAY-PLUS-TWO COURT DAY OBJECTION PERIOD?

13 MR. HERREMA: NO, YOUR HONOR.

14 THE COURT: NO OBJECTION NOTED. OFF THE RECORD.

15  
16 (THERE IS A BREAK IN THE  
17 PROCEEDINGS.)

18  
19 THE COURT: BACK ON THE RECORD.

20 COUNSEL, IF YOU WILL GIVE ME, AT LEAST BY  
21 POSTING ON FILE & SERVEXPRESS, IF NOT A WRITTEN PLEADING  
22 DOCUMENT, AN UPDATE ON DECEMBER 3, WITH WHERE THINGS  
23 STAND, IN TERMS OF GETTING AGREEMENT ABOUT HAVING YOUR  
24 SCIENCE DAY ABOUT THE PHYSICAL SETTLEMENT -- PHYSICAL  
25 SOLUTION, AND ANYTHING ELSE THE COURT NEEDS TO KNOW  
26 ABOUT YOUR EFFORTS TO MOVE THINGS FORWARD.

27 BUT I'LL ACCEPT IT AS NOTHING MORE THAN A  
28 POSTING ON DECEMBER 3. BUT IF YOU NEED TO PUT IT IN A



1 MORE FULL-BLOWN REPORT, YOU CAN USE YOUR BEST JUDGMENT  
2 AS TO HOW TO COMMUNICATE.

3 MR. TANAKA: AND THAT'S DIRECTED TO ME, TANAKA?

4 THE COURT: IF YOU DON'T MIND, OBVIOUSLY, WITH  
5 INPUT FROM OTHERS, BUT YOU HAVE CROWNED YOURSELF TO BE  
6 THE HUB IN THE CENTER OF THE WHEEL WITH ALL THE SPOKES  
7 LEADING OUT FROM CROSS-DEFENDANTS, CITY OF BUENAVENTURA,  
8 COMMONLY KNOWN AS VENTURA.

9 MR. TANAKA: THANK YOU, YOUR HONOR.

10 THE COURT: AND YOU'RE GIVING NOTICE?

11 MR. TANAKA: YES, I WILL GIVE NOTICE OF TODAY.

12 THE COURT: OKAY. COURT'S IN RECESS.

13 MR. COOPER: THANK YOU, YOUR HONOR.

14

15 (THE PROCEEDINGS ARE CONCLUDED AT  
16 2:43 P.M.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES  
DEPARTMENT SSC 10 HON. WILLIAM HIGHBERGER, JUDGE

SANTA BARBARA CHANNELKEEPER, )  
)  
PLAINTIFF, )  
)  
VS. ) CASE NO. 19STCP01176  
)  
STATE WATER RESOURCES CONTROL )  
BOARD, ET AL., )  
)  
DEFENDANTS. )  
\_\_\_\_\_)  
)  
AND ALL RELATED CROSS-ACTIONS. ) REPORTER'S CERTIFICATE  
\_\_\_\_\_)

I, VIENNA NGUYEN, OFFICIAL REPORTER PRO  
TEMPORE OF THE SUPERIOR COURT OF THE STATE OF  
CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY  
CERTIFY THAT THE FOREGOING PAGES, 1 THROUGH 29, COMPRISE  
A FULL, TRUE, AND CORRECT TRANSCRIPT OF THE PROCEEDINGS  
AND TESTIMONY TAKEN IN THE ABOVE-ENTITLED CAUSE ON  
NOVEMBER 21, 2019.  
DATED THIS 16TH DAY OF DECEMBER, 2019.



VIENNA NGUYEN, CSR NO. 13137  
OFFICIAL REPORTER PRO TEMPORE

[& - anybody]

<p><b>&amp;</b>  <b>&amp;</b> 1:17,20 2:3,7,13  2:17 3:13 23:24  24:6,7,9 25:4,21  26:6 32:21</p>	<p><b>2801</b> 2:18  <b>29</b> 34:18  <b>2:00</b> 5:16  <b>2:02</b> 5:6  <b>2:43</b> 33:16</p>	<p><b>92626</b> 2:5  <b>930</b> 3:7  <b>93004</b> 2:22  <b>93023</b> 2:26  <b>93036</b> 2:9 3:5  <b>94105</b> 2:12  <b>94129</b> 1:18  <b>94596</b> 1:22  <b>95207</b> 3:12  <b>95814</b> 3:8</p>	<p><b>administrative</b>  23:18 24:7  <b>administrator</b>  15:8  <b>advance</b> 19:24  <b>advisable</b> 21:5  <b>advocate</b> 11:17  <b>afternoon</b> 5:23,26  6:3,6,24,28 7:6,10  7:17,23 14:24</p>
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[anybody - city]

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[city - current]

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[marc - orders]

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[ordinary - quickly]

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[quiet - special]

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[speculate - townsgate]

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[tr - zolezzi]

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California Code of Civil Procedure

Article 5. Transcript or Recording

Section 2025.520

(a) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition when the Original transcript of the testimony for each session of the deposition is available for reading, correcting, and signing, unless the deponent and the attending parties agree on the record that the reading, correcting, and signing of the transcript of the testimony will be waived or that the reading, correcting, and signing of a transcript of the testimony will take place after the entire deposition has been concluded or at some other specific time.

(b) For 30 days following each notice under subdivision (a), unless the attending parties and the deponent agree on the record or otherwise in writing to a longer or shorter time period, the deponent may change the form or the substance of the answer to a question, and may either approve the transcript of the deposition by signing it, or

refuse to approve the transcript by not signing it.

(c) Alternatively, within this same period, the deponent may change the form or the substance of the answer to any question and may approve or refuse to approve the transcript by means of a letter to the deposition officer signed by the deponent which is mailed by certified or registered mail with return receipt requested. A copy of that letter shall be sent by first-class mail to all parties attending the deposition.

(d) For good cause shown, the court may shorten the 30-day period for making changes, approving, or refusing to approve the transcript.

(e) The deposition officer shall indicate on the original of the transcript, if the deponent has not already done so at the office of the deposition officer, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve, the transcript. The deposition officer shall also notify in writing the parties attending the deposition of any changes which the deponent timely made in person.

(f) If the deponent fails or refuses to approve the transcript within the allotted period, the

deposition shall be given the same effect as though it had been approved, subject to any changes timely made by the deponent.

(g) Notwithstanding subdivision (f), on a reasonable motion to suppress the deposition, accompanied by a meet and confer declaration under Section 2016.040, the court may determine that the reasons given for the failure or refusal to approve the transcript require rejection of the deposition in whole or in part.

(h) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition under this section, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

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VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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