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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES  
SPRING STREET COURTHOUSE

DEPT 10 HON. WILLIAM H. HIGHBERGER, JUDGE PRESIDING

SANTA BARBARA CHANNELKEEPER, a )  
California non-profit corporation, )  
 )  
Plaintiff, )

V. ) No. 19STCP01176

STATE WATER RESOURCES CONTROL BOARD, )  
et al., )  
 )  
Defendants. )

\_\_\_\_\_ )

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
MONDAY, MAY 10, 2021, 1:30 P.M.

Reported by:  
ALEXANDER T. JOKO, CSR No. 12272  
Court Reporter Pro Tem

1 IN-PERSON APPEARANCES OF COUNSEL:

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FOR CITY OF VENTURA:

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BEST BEST & KRIEGER LLP

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FOR CASITAS MUNICIPAL WATER DISTRICT:

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RUTAN & TUCKER, LLP

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BY: DAVID B. COSGROVE

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FOR ROBIN BERNHOFT:

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FOR STATE WATER RESOURCES CONTROL BOARD:

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OFFICE OF THE ATTORNEY GENERAL

BY: MARC N. MELNICK

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NOAH GOLDEN-KRASNER

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22

FOR THE CITY OF OJAI:

23

BARTKIEWICZ, KRONICK & SHANAAN

BY: HOLLY J. JACOBSON, ESQ.

24

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FOR AERA ENERGY, LLC:

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MANATT, PHELPS & PHILLIPS, LLP

BY: SIGRID WAGGENER

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PETER DUCHESNEAU

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1 APPEARANCES (CONTINUED):

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3 FOR CALIFORNIA DEPARTMENT OF PARKS AND RECREATION:

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CALIFORNIA DEPARTMENT OF JUSTICE

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BY: CARLOS MEJIA, DEPTUTY AG

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SOPHIE WENZLAU

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FOR VENTURA RIVER COUNTY WATER DISTRICT:

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HERUM CRABTREE SUNTAG

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BY: JEANNE M. ZOLEZZI

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11 FOR OSCAR ACOSTA:

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RYAN BLATZ, ESQ.

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FOR ELAINE V. KRANKI:

15

GOLDENRING & PROSSER

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BY: PETER GOLDENRING

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18 FOR VENTURA COUNTY WATERSHED PROTECTION DISTRICT:

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HANSON BRIDGETT

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BY: NATHAN METCALF

21

FOR RANCHO MATILIJA MUTUAL WATER COMPANY:

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FERGUSON CASE ORR PATERSON LLP

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BY: JESSICA WAN

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25 FOR ROBERT MARTIN:

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OSSENTIYUK & BOTTI

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BY: DAVID A. OSSENTIYUK

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1 APPEARANCES (CONTINUED):

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FOR SANTA BARBARA CHANNELKEEPER:

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SCOTT S. SLATER

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FOR CITY OF BUENAVENTURA:

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DLA PIPER LLP  
BY: DAVID FARKAS

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FOR AGR BREEDING, INC.:

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ALSTON & BIRD  
BY: GINA ANGIOLILLO

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FOR VENTURA LAND TRUST:

14

MORRISON & FOERSTER  
BY: PATRICIA TSAO

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FOR OAK HAVEN, LLC:

17

LINDLEY FRALEY, ESQ.

18

ALSO PRESENT TELEPHONICALLY:

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LOA E. BLISS

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I N D E X  
( N O N E )

1 Case Number: 19STCP01176  
2 Case Name: Santa Barbara Channelkeepers  
3 vs. State Water Resources  
4 Control Board, et al.  
5 Los Angeles, California Monday, May 10, 2021  
6 Department 10 Judge William H. Highberger  
7 Appearances: (As heretofore noted.)  
8 Reporter: Alexander Joko, CSR No. 12272  
9 Time: 1:30 P.M.

10

11 (The following proceedings were held  
12 in open court:)

13

14 THE COURT: We're on the record in  
15 19STCP01176, Santa Barbara Channelkeeper versus State  
16 Water Resources Control Board.

17 We've got various lawyers before us. I  
18 need to get the computer set up so the reporter has the  
19 benefit of it.

20 In the good-news category, I've never had  
21 a happier report from my clerk's office about  
22 processing requests for dismissal. They were almost  
23 giddy with joy that things are going so well.

24 Okay. And most people have taken the  
25 safe approach of using audio.

26 The court reporter should be able to see  
27 who is speaking based on the way the audio feeds will  
28 show. If he has a problem because we don't know who is

1 talking via L.A. Court Connect, it's probably the  
2 course of wisdom to give us your name first and not  
3 rely on the technology working right.

4 We have lawyers in the courtroom, Hagerty  
5 at counsel table with the red tie, Mr. Pisano at the  
6 podium and Mr. Cosgrove for a different party over  
7 there with the gray tie.

8 As I indicated, my clerk's office  
9 indicates that the defaults are going well even at 200  
10 at a time. I didn't hold out hope, but I will give a  
11 pat on the head for your paralegal at Best, Best &  
12 Krieger because that's an excellent sign.

13 Is there anybody who wishes to be heard  
14 who opposes the order to show cause re: issuing an  
15 order allowing service by publication of certain people  
16 who are located in locked residence without a gate  
17 guard who can let the process server onto the property?

18 Hearing no objection, I'm going to grant  
19 your order, Mr. Pisano and Mr. Hagerty.

20 Any reason I shouldn't?

21 MR. PISANO: Not from us, your Honor.

22 THE COURT: Okay. And Exhibit A currently  
23 lists 49 names, and that's what you want signed?

24 MR. PISANO: Yes, your Honor.

25 Although, we received two notices of  
26 acknowledgment and receipts this morning from the  
27 Lansbergs. They are numbers 13 and 38 on Exhibit A.

28 THE COURT: So cross out 13, Edward Lansberg

1 and cross out 38 --

2 MR. PISANO: Yes.

3 THE COURT: -- of Patricia Lansberg?

4 MR. PISANO: Yes, your Honor.

5 THE COURT: That gets us down to 47 humans,  
6 not necessarily at 47 addresses.

7 MR. PISANO: Correct, your Honor.

8 THE COURT: So it was 51 hard-to-reach people,  
9 but it wasn't necessarily 51 addresses?

10 MR. PISANO: Correct, your Honor.

11 THE COURT: The order is signed. You may  
12 proceed to send some money to the Ventura Star --

13 MR. PISANO: Thank you, your Honor.

14 THE COURT: I got your posting on File &  
15 ServeXpress about a modified schedule for sharing the  
16 physical solution with the Court. I'm a patient man.  
17 I'm certainly willing to consent to the delay.

18 Is there somebody who wants to object to  
19 this revised schedule that was on the posting?

20 For the sake of clarity, I can state what  
21 I understand it to be, which is that it goes to the  
22 parties, but not the Court, on May 17. It's available  
23 for lodging with the Court on June 21. But it won't be  
24 lodged until the Court, on June 21, deals with  
25 objections to this process. Objections can be filed no  
26 later than June 14. I'll resolve those objections on  
27 June 21. And if there are no objections or I overrule  
28 the objections, the lodgement will occur. If I am



1 persuaded by one or more of the objections, the  
2 lodgement may be further deferred or perhaps never  
3 happen, and then we'll never have a physical solution  
4 and something else will happen.

5 MR. PISANO: Yes, your Honor.

6 THE COURT: So anybody wish to quarrel with  
7 this proposal that was put forward by Mr. Hagerty and  
8 Mr. Pisano earlier today?

9 Hearing no objection, I'll adopt that as  
10 a modified schedule for the sharing of the physical  
11 solution.

12 Based on your joint report, it wasn't  
13 clear there was much else you wanted me to address  
14 today.

15 Mr. Hagerty or Mr. Pisano, what else do  
16 you want me to address today?

17 MR. PISANO: Nothing else, your Honor, other  
18 than we have some Roe cross-defendants who we are in  
19 the process of serving. And we have some more issues  
20 regarding persons living behind locked gates with no  
21 guard.

22 We were hoping that the Court could  
23 possibly set an OSC for the next status conference, and  
24 we will just follow the same procedure.

25 I mapped out the dates based on what we  
26 did today. And that would be filing an application and  
27 a notice of OSC by June 7th, serving everything by  
28 Fed Ex as of that date, and then filing all of our

1 service papers by June 16th.

2 THE COURT: Anyone object to the Court issuing  
3 an OSC, returnable on Monday, June 21 at 1:30 p.m., why  
4 these certain additional Roe cross-defendants shouldn't  
5 be served by publication given the practical inability  
6 to serve them in locked houses where they live without  
7 a gate guard providing access?

8 Hearing no objection, I'll make that  
9 order, setting that order to show cause returnable in  
10 this department on Monday, June 21 at 1:30 p.m. with  
11 cross-complainant, City of Buenaventura, to give  
12 notice.

13 Remind me, they're Roe -- sure, because  
14 it's a cross-complaint. That's why they're "Roe" and  
15 not a "Doe." But you're still the same party filing  
16 the pleading. You are just going to be Roe amending?

17 MR. PISANO: Correct, your Honor.

18 THE COURT: Okay. So far so good.

19 What else?

20 MR. PISANO: That's all, your Honor.

21 THE COURT: Mr. Cosgrove, anything --

22 MR. COSGROVE: Nothing. Thank you, your  
23 Honor.

24 THE COURT: Is Casitas getting any happier  
25 with the physical solution?

26 MR. COSGROVE: Casitas is examining it  
27 closely. We have another board meeting on that topic  
28 this week.

1 THE COURT: Okay.

2 MR. PATTERSON: Your Honor, this is Greg  
3 Patterson on behalf of a number of agricultural  
4 interests and Thacher School, et cetera.

5 I have one -- I haven't been able to talk  
6 to any counsel about this --

7 THE COURT: Stop. You're breaking up, so the  
8 court reporter couldn't get anything --

9 MR. PATTERSON: Can you hear me?

10 THE COURT: Mr. Patterson? Mr. Patterson,  
11 please, slower and annunciate.

12 MR. PATTERSON: Okay. This is Greg Patterson  
13 on behalf of Thacher School and a number of other  
14 agricultural interests.

15 I haven't had a chance to talk to other  
16 counsel about this, but I was going back over the other  
17 rulings of the Court. And the Court, on February 9th,  
18 ordered that initial disclosures are due June 1, 2021  
19 for parties who have appeared by March 1st, which is a  
20 substantial number of parties.

21 And I'm wondering whether, given the  
22 motion to bifurcate that will be filed, that should be  
23 continued?

24 And, perhaps, my suggestion would be that  
25 I would be happy to talk to Plaintiff and some of the  
26 other counsel about whether that's appropriate at this  
27 time.

28 The motion to bifurcate may cause a bunch

1 of parties to be dropped off of what would be a  
2 potential physical solution potentially. And I'm  
3 wondering whether that exercise should be continued?

4 THE COURT: I'm agnostic.

5 Maybe Mr. Hagerty or Mr. Pisano have a  
6 thought.

7 MR. HAGERTY: Your Honor, we were not pushing  
8 for that process originally. So I guess we would be  
9 happy to talk with Mr. Patterson about it.

10 However, now that it's sort of in process  
11 and people are all working on it, we see some value in  
12 going ahead with it.

13 We believe that the -- I mean, we've  
14 expressed our position with regard to the first phase  
15 and what we think will come of that. We don't think  
16 parties will be dropping off after the first phase. We  
17 would hope it would encourage parties to move toward  
18 the physical solution.

19 So I guess I don't have a strong position  
20 on it, your Honor. I guess we could -- we would be  
21 happy to meet and confer with Mr. Patterson and other  
22 parties.

23 We do see some value in it now that the  
24 process is moving forward, and the parties are moving  
25 toward that disclosure.

26 We've also prepared and made available to  
27 some unrepresented parties, pro per parties, a form  
28 they could use regarding the disclosures to make it as

1 easy as possible for people.

2 So I guess that's not a strong answer,  
3 your Honor; but we don't have a strong position on the  
4 issue.

5 THE COURT: Let me make the following inquiry:  
6 It's my recollection that, if this goes the way the  
7 City hopes, it will demonstrate that some percentage, I  
8 think it's 50 percent by nose count of the groundwater  
9 basin persons, like the physical solution. And  
10 two-thirds or three-quarters of the consumptive users  
11 for some period of time, I think it might have been  
12 five years, liked the solution.

13 And if that's demonstrated, then the City  
14 of Ventura and its fellow proponents get to turn the  
15 tables on the objectors and put the burden of proof on  
16 them.

17 But all this presupposes that one has  
18 decent data on who is taking what with their wells.

19 And does anybody already have that data  
20 or, the truth of the matter is, it's only through these  
21 disclosures that there's any chance to properly conduct  
22 this kind of census by well operators and census by  
23 consumptive users by acre feet?

24 MR. HAGERTY: The parties do have a  
25 significant amount of that data, but there are  
26 definitely holes. And this process would help fill  
27 those holes.

28 We were not strongly pushing it, but now

1 that it has been set by the court, we see a value in  
2 moving forward with those initial disclosures.

3 THE COURT: Educate me as to who would have  
4 any level of data about pumping behavior in years past?

5 MR. HAGERTY: So there's two groundwater  
6 sustainability agencies, your Honor. And the Ojai  
7 agency has been collecting data for some time. The  
8 State Water Resources Control Board would also have a  
9 significant amount of data, and they have that data, as  
10 the Court is aware, with regard to the modeling  
11 exercise that they're doing.

12 So there is a lot of data out there. The  
13 City has some of the data. Some disclosures have  
14 already been made. Some of the larger parties have  
15 already filed their initial disclosures. It's  
16 really --

17 THE COURT: Does the good work of the Ojai  
18 City agency reach the political limits of the City?

19 MR. HAGERTY: Yes, it's beyond the political  
20 limits of the City. It's the Ojai basin --

21 THE COURT: Functionally, is it the entirety  
22 of all of these several groundwater basins or a subset?

23 MR. HAGERTY: It's a subset in that situation.

24 THE COURT: That's at least a partial gap in  
25 the data --

26 MR. SLATER: Your Honor--

27 THE COURT: I'll get to you in a second. This  
28 is the Judge talking, and I get to talk first.

1                   So, Mr. Hagerty, does Ojai go down to  
2 everybody who has got a well and pumps a quarter or an  
3 acre foot a year or at some point they just go for what  
4 they consider the big consumption use?

5                   MR. HAGERTY: I don't remember the cutoff for  
6 Ojai, your Honor, from the last report. But 20-acre  
7 feet a year is a requirement for the State. So  
8 everyone who is taking more than 20-acre feet a year  
9 should be and must file reports to the State.

10                  THE COURT: But if you take 15-acre feet a  
11 year, aren't you part of the plebiscite though because  
12 you're -- to determine whether 50 percent of the takers  
13 like the idea? Even the little users are part of the  
14 plebiscite.

15                  MR. HAGERTY: Yes. If we elect to pursue that  
16 process, yes.

17                  That's why -- and, again, we weren't  
18 pushing for this. But now that the process has been  
19 set, we do see a value in having this information. So  
20 that would be our position, your Honor.

21                  THE COURT: So, Mr. Hagerty, if I understand  
22 right, some of the small-takers of like 19.9-acre feet  
23 and less may not yet be part of the readily-available  
24 compilation of data and yet would be relevant to  
25 conducting a proper plebiscite?

26                  MR. HAGERTY: Yes, your Honor.

27                  THE COURT: What about the question of the  
28 three-quarter of two-thirds percentage of consumptive

1 users, are the takes so large that these are otherwise  
2 irrelevant or is it important to get all of the 19-acre  
3 foot users on the table to know both the numerator and  
4 the denominator?

5 MR. HAGERTY: We believe it's good to have all  
6 of that information. Not necessarily for that specific  
7 reason, your Honor, because, again, we -- the proposing  
8 parties haven't made the election of which way we want  
9 to go. But this whole physical solution -- part of the  
10 physical solution is getting your hands around all of  
11 that information, which is why having -- with the Court  
12 having set the date, we think it's appropriate for just  
13 to go forward with it.

14 THE COURT: I'm going to turn to Mr. Slater in  
15 a second, but just as a parting comment to  
16 Mr. Patterson who raised the question, while I  
17 certainly don't foreclose you from seeking reasonable  
18 extension either for one or three clients or on a  
19 preliminary basis, Mr. Hagerty is providing what seems  
20 to be a plausible reason why we ought to go forward  
21 with the current game plan.

22 Having said that, Mr. Slater, you wanted  
23 to say something?

24 MR. SLATER: Yes, your Honor.

25 I did want to reemphasize the point that  
26 Mr. Hagerty was making. Ventura County is one of four  
27 counties in the State of California that have an  
28 express statutory obligation that pertains to any and



1 all, without limitation, producers of groundwater.  
2 They must file and report, under penalty of perjury, to  
3 the State every year if they use 25-acre feet, not 20,  
4 "25-acre feet." And their failure to do so is a  
5 reflection, an admission that they have no right to  
6 groundwater.

7 So from a materiality standpoint, we do  
8 know the more significant users in the basin. Now for  
9 the purpose your Honor was inquiring about, counting  
10 heads for purposes shifting the burden of proof, that's  
11 a separate question. And, indeed, as Mr. Hagerty  
12 represents or acknowledges, we do want that  
13 information.

14 But from a materiality standpoint and  
15 understanding the consequences of groundwater use on  
16 basin, we do have quite a bit of information about who  
17 is doing what.

18 THE COURT: Thank you.

19 But that also tends to confirm that, for  
20 the first of the two plebiscites, we really need to  
21 know everybody who has got even a teeny-tiny well, not  
22 to mention a big gusher of a well.

23 MR. SLATER: That's correct, your Honor.

24 THE COURT: Thank you.

25 Open mic, other people wish to be heard?

26 I'm happy to keep talking if there's  
27 something useful to talk about; but if the lawyers  
28 don't have anything else to talk about, all I'm doing

1 is running up your legal bills for no good purpose. So  
2 perhaps the most merciful thing to do is to recess.

3 Last chance, anybody got something they  
4 want to take up with the court?

5 MR. PATTERSON: Your Honor, this is Gregg  
6 Patterson again.

7 I just brought up the issue because of  
8 the effort that may be involved. And I disagree with  
9 the City's perception that everybody in this case is  
10 going to be in the case after the bifurcation.

11 But I understand the issues, and I'm fine  
12 with that. So I don't think there needs to be any  
13 further discussion. I just brought up the question.

14 THE COURT: Okay. For State representatives,  
15 is anything good happening in regard to the State  
16 studies that somehow we're going to be on an expedited  
17 track?

18 Is that your problem, Mr. Golden-Krasner,  
19 or is it somebody else from the AG's Office?

20 MR. GOLDEN-KRASNER: Mr. Melnick can probably  
21 speak to that.

22 THE COURT: Mr. Melnick, do you have any good  
23 news for the Judge?

24 MR. MELNICK: I think, your Honor, we're  
25 working on trying to expedite things so that portions  
26 of what we're working on can be circulated relatively  
27 quickly, your Honor. And I think I'll have -- I'm  
28 fairly confident that, at the next case management

1 conference, I'll be able to report what exactly we're  
2 going to do and when.

3 THE COURT: Wonderful. Make it a Father's Day  
4 present for me.

5 MR. MELNICK: Okay.

6 THE COURT: Okay. So, Mr. Hagerty, you're  
7 going to give notice of your victory on this OSC, as  
8 well as the issuance of the new OSC?

9 MR. HAGERTY: Yes, your Honor.

10 THE COURT: Hopefully, I'll get a report a  
11 week in advance of the June status conference.

12 MR. HAGERTY: Yes, your Honor.

13 THE COURT: With that, you're free to go.  
14 Nice talking to you.

15 MR. HAGERTY: Thank you, your Honor.

16 MR. PISANO: Thank you, your Honor.

17 (End of Proceedings)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

DEPT 10 HON. WILLIAM H. HIGHBERGER, JUDGE PRESIDING

SANTA BARBARA CHANNELKEEPER, a )  
California non-profit corporation, )  
 )  
Plaintiff, )

V. ) No. 19STCP01176

STATE WATER RESOURCES CONTROL BOARD, )  
et al., )  
 )  
Defendants. )

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I, ALEXANDER T. JOKO, court reporter pro tem,  
of the Superior Court of the State of California, for  
the County of Los Angeles, do hereby certify that the  
foregoing pages comprise a full, true, and correct  
transcript of the proceedings held in the  
above-entitled matter on MAY 10, 2021.

Dated this 11TH day of MAY, 2021.



ALEXANDER T. JOKO, CSR No. 12272

<b>&amp;</b>	<b>4</b>	<b>agency</b> 14:7,18 <b>agnostic</b> 12:4 <b>agr</b> 4:9 <b>agricultural</b> 11:3 11:14 <b>ahead</b> 12:12 <b>al</b> 1:11 6:4 20:10 <b>alexander</b> 1:27 6:8 20:17,28 <b>allowing</b> 7:15 <b>alston</b> 4:10 <b>amending</b> 10:16 <b>amount</b> 13:25 14:9 <b>angeles</b> 1:2 2:5 6:5 20:2,19 <b>angiolillo</b> 4:11 <b>annunciate</b> 11:11 <b>answer</b> 13:2 <b>anthony</b> 2:15 <b>anton</b> 2:10 <b>anybody</b> 7:13 9:6 13:19 18:3 <b>appearances</b> 2:1 2:13 3:1 4:1 6:7 <b>appeared</b> 11:19 <b>application</b> 9:26 <b>approach</b> 6:25 <b>appropriate</b> 11:26 16:12 <b>attorney</b> 2:19 <b>audio</b> 6:25,27 <b>available</b> 8:22 12:26 15:23 <b>avenue</b> 2:5 <b>aware</b> 14:10	<b>bartkiewicz</b> 2:23 <b>based</b> 6:27 9:12,25 <b>basin</b> 13:9 14:20 17:8,16 <b>basins</b> 14:22 <b>basis</b> 16:19 <b>behalf</b> 11:3,13 <b>behavior</b> 14:4 <b>believe</b> 12:13 16:5 <b>benefit</b> 6:19 <b>bernhof</b> 2:14 <b>best</b> 2:3,3 7:11,11 <b>beyond</b> 14:19 <b>bifurcate</b> 11:22,28 <b>bifurcation</b> 18:10 <b>big</b> 15:4 17:22 <b>bills</b> 18:1 <b>bird</b> 4:10 <b>bit</b> 17:16 <b>blatz</b> 3:12 <b>bliss</b> 4:19 <b>blvd</b> 2:10 <b>board</b> 1:10 2:18 6:4,16 10:27 14:8 20:9 <b>botti</b> 3:26 <b>brad</b> 4:4 <b>breaking</b> 11:7 <b>breeding</b> 4:9 <b>bridgett</b> 3:19 <b>brought</b> 18:7,13 <b>brownstein</b> 4:3 <b>buenaventura</b> 4:6 10:11 <b>bunch</b> 11:28 <b>burden</b> 13:15 17:10
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