

suggestion	54:5 58:18	140:23	test 23:8,14,17	98:5,11,16
80:18	65:18 67:12	talking 9:10	testified 4:7	102:22 103:13
Suite 2:2,11,15	68:2 69:21	11:7 48:2 52:3	14:23	106:20 111:10
sum 66:24 97:19	71:10 82:19	58:4 59:1,3,4	testify 14:22	120:8 121:1,8
97:21 98:2	83:11 91:7	102:11 113:18	146:10	132:24 135:22
102:3 114:12	101:6 105:1,20	116:10 122:25	testimony 13:24	135:22 137:2,6
summarize	105:21 107:6	123:9 124:6	14:19,20	138:8 140:6,16
27:13	112:6,16,22	125:25 128:6,7	109:13	142:20,22,23
summary	114:19 117:17	130:10 131:21	Thank 142:17	142:24
113:11	117:18 121:18	tapped 47:23	They'd 54:23	thinking 32:10
sums 114:1,2,10	122:2 133:5,6	tedious 100:12	thick 54:21	third 29:10
support 13:21	137:5 141:18	telephone	thing 5:20 11:21	114:25
140:18	takedown	110:13 127:25	17:23 26:17	thought 31:20
supposed 11:14	113:18,21	131:23	46:5 47:21	40:7 70:3
81:24 97:8	114:3	tell 6:9 11:11	51:17 54:12,14	126:9,18
98:10 136:12	takedowns 96:1	12:14 15:10	55:18 60:11,23	130:13
sure 12:13 13:15	103:16 106:20	18:21 19:2	60:25 66:2,6	thousand 36:22
14:15 15:3	113:12 132:16	33:3,9,16	70:5 78:7	threatened
16:2,17 17:6	133:10 134:1,2	34:13 39:7,25	102:12 110:23	41:12
17:12,24 53:14	134:5,7,19	40:2 42:9	114:4 123:11	three 19:23 29:5
62:9 63:21	135:2,5,6	43:16,18,21,24	136:9 142:3	80:17 81:7
64:2 74:6 75:8	taken 2:1 14:3	48:17 53:8	things 4:20 6:3	116:12,14
120:1 132:14	24:21 31:9	54:1 55:5 56:6	11:17,24 12:7	139:19 140:17
132:23	37:10 71:12	67:17 69:15,16	14:8 16:22	140:22
surprise 66:3	78:18 89:23	69:17 79:7	47:10 48:4	throw 54:20
suspect 98:3	90:2 91:9	80:7 102:7,12	49:15 54:9	67:20
swap 49:11	93:10,14,20	102:14,24	56:12 57:9	time 7:10 8:4
sweat 18:7	94:2 95:8,21	109:20 118:19	66:5 99:13	12:19 14:22
sworn 4:7	96:5 97:4	128:1,1,13	100:3,4 109:1	16:6,13,23
146:10	104:8 106:2	131:2,3 133:2	133:10 137:16	21:22,24 26:7
S-O-N-I-A 7:18	107:7 108:14	136:16 138:3	138:23,24	28:8 29:10,24
S-O-V-E-I-G-...	120:8,18	140:13,20	140:10	30:2,10 31:13
38:8	135:19 141:20	143:3	think 4:16 9:4,4	34:5 37:9 40:8
	takes 141:3	telling 5:24 32:9	10:5 12:17	48:12 50:1
	talk 4:13 33:7	66:12 109:8	16:3 17:4	51:17 53:6
	33:10,14,15	123:4,6 139:8	22:25 23:3,3	54:17 57:23
tag 118:16	48:7 54:23	tells 52:14 135:1	23:13,14 26:12	58:19 60:14
119:11	90:23 128:4,5	140:8	27:4 28:18	63:6 73:2
take 6:2 12:10	128:6 130:8,8	ten 37:14,16,18	31:12,12,14,24	74:15 82:16
13:1 16:5	137:17	40:5 71:11	34:23,25 35:6	84:14 102:22
18:20 19:13	talked 33:8,10	97:22	35:6 37:4 39:8	109:20 112:2
20:9,20 23:16	46:2,20 48:9	tenure 24:17	46:11 48:21	112:11 126:18
26:5 40:12	49:9,9,13,14	term 43:17	54:4 56:13	129:6,15
41:6,8 42:9	60:2 102:18	terms 16:15	58:9 68:12,16	131:21 137:18
43:1,2,13,23	125:24 127:25	32:25 33:2,3	68:21 69:3,5	141:1,9 142:10
46:24 48:14,25	129:1 131:19	65:7,10 93:1	78:5,6 84:3	times 7:8 48:6
51:15 53:21				

65:15 112:9	54:13 80:24	73:12 131:23	63:15 102:14	24:7 51:3 71:5
127:24 138:24	133:4 140:24	trying 16:17	types 49:15 57:8	99:23 108:6,20
title 54:22 55:13	tracking 120:5	17:2 37:4 43:5	typewriting	understood
55:21,24 56:2	tract 49:13	46:3 53:19	146:12	17:15 65:11
74:17 120:11	trade 20:1	56:17,21 60:2	typewritten	75:19 83:25
128:22,23	training 27:9	73:11 90:17	146:12	84:21,23 85:23
129:2,14,17,21	transaction	110:24 116:9	Typically 9:11	88:12 89:1
titled 77:8	37:13,23 51:20	121:5 123:5,10	U	unit 36:25
today 4:17 13:8	60:6 61:11	131:16 138:13	UCC 39:4,25	units 36:22
14:12,19,23	63:24 79:1,9	143:16	41:21	University
15:5 17:21	99:16 115:1	TUESDAY 1:15	uh-uhs 16:13	20:25 28:15
37:17 42:3	131:17 132:21	2:3 4:2 146:7	ultimately 62:16	unpaid 97:20
45:17 93:14,25	transactions	turn 37:22 85:7	127:4	upper 100:25
98:1 137:20,22	47:1 53:2,4,5	95:2 113:10	Um-hmm 15:23	121:22 122:6
143:23	56:12	116:11	33:24 86:19	urinary 140:16
told 26:22 41:6	transcribed	Turning 47:11	99:24 101:13	use 5:14,24 6:3
45:11,14,14	146:11	59:11 94:4	107:16 114:23	6:4,6,22 14:24
60:4 61:2	transcript 6:15	Twitter 6:21	underneath	15:2 16:14
71:22 108:7	14:6,7 15:2	two 13:17 17:5	41:5	31:20 92:21
109:4 110:17	31:17 143:10	35:13 36:11	underscored	123:21,24
111:6 120:12	146:12	48:18 51:20	15:19	usually 142:13
126:22 135:9	transcription	58:1,3 64:12	understand	V
140:13,15,18	145:19 146:13	64:15,16 65:5	11:25 14:14	vacate 143:23
tomorrow	transferred	65:24 66:19	15:4,22 16:11	vacation 5:1
143:24	67:22	68:12,14,16	16:20 17:6,9	Valley 44:24
top 72:16 74:21	transfers 137:12	69:6 81:2	17:17 28:3	45:2
74:22 76:14	trial 14:21,23	83:10 85:14,22	33:8,9 36:10	various 40:1
83:12 118:17	31:22	85:25 86:1,16	50:11 53:3,9	41:21 62:14
119:11,16	tried 15:20	86:23 87:3,5,9	57:4,5 65:6	132:4
133:13 137:11	40:20 42:4	87:17,21,23,25	72:25 75:24	Vegas 1:15 2:2
topics 72:5,9	55:14 68:5	89:7,14 92:10	84:22 86:13	2:11,16 4:1,23
142:19	70:12 102:20	94:9,17 95:9	90:12 91:13	7:18 20:17
Torrey 36:23	109:14 135:8	95:22 96:6,25	96:11 98:8,20	28:14,25 46:1
37:15	true 129:23	97:18 109:2,5	99:10,17,18	130:1
total 67:2 68:9	146:13	113:10,11	101:18 108:1	verbal 46:20
114:1,9,12,14	trust 32:10	117:21 125:20	108:18,22	view 66:6
114:19 133:20	54:24 60:12,12	127:7 134:17	116:9,22	violate 15:17
totalled 114:16	60:12 101:10	138:9,12,14,18	117:14,24	violated 15:13
toughest 16:4	trusted 60:5	140:22 142:10	124:25 129:19	violation 15:15
tower 21:5	truth 15:11	type 5:1 6:22	135:24 136:21	15:16,20
town 25:5 32:22	146:10	15:21 24:8,16	138:25	Virginia 5:9
32:23	truthful 15:1	24:23 29:16	understanding	20:15,20,24
trace 21:16,20	truthfully 91:18	46:5 51:25	7:4,24 8:8	28:13,15 56:8
track 11:18,21	truthfulness	52:18 53:20	9:22 13:10	57:7
11:25 12:4	60:4	55:2,5,18	14:16,17 15:7	visit 29:5
47:20 52:1,20	try 16:8 69:12	57:14 61:13		

voice 4:13,19 vs 1:6	120:16 126:10 wanting 50:22 wants 143:15 wasn't 8:12 25:12,18 30:3 32:5 41:9,19 46:21 48:12 91:4 125:23 watched 47:17 47:18 water 45:2,4,6 45:10,13 47:22 47:23 48:10 49:9,14 way 12:8 53:1 55:4 58:4 65:23 66:13 73:19 91:4 95:24 99:15 106:16 109:6 120:5 124:5,5 124:19 126:5 129:3 Wayne 25:16 ways 98:6,7,17 98:22 wear 142:9 website 6:22 38:13 weeks 140:22,22 well-informed 106:18 went 8:10,13,20 20:19,23,24 22:8,9 26:8,18 26:25 27:1,2 27:11,20,23 28:22,24 32:7 32:21 34:23 40:19 41:11,17 42:19,24 43:12 44:17,22,24 45:3,15 47:9 49:8 55:14,21 59:19 60:6,8 60:14 62:1	66:13 68:15 69:10 71:25 84:8,14,19,20 90:14 91:2,23 98:4 99:16 103:9 107:2 108:17 121:7 126:3,5 129:13 131:16 weren't 40:18 73:25 131:17 West 2:2,15 5:9 20:15,20,24 25:10 28:13,15 36:20,21,23 37:14 40:5 56:8 57:7 Western 22:2 28:22 Weston 20:15 we'll 67:12 91:8 144:1 we're 11:7 14:9 26:13 41:12 48:21 67:15 75:8 81:3 84:25 87:10 88:21 100:11 123:10 143:23 we've 45:25 51:13 65:23,24 67:4 71:8 110:18 120:5 138:22 143:23 whatsoever 58:23 wheelchair 138:6,7 whereabouts 7:15 WHEREOF 146:20 White 44:18 Whitemore 43:8 45:22,23 47:12 47:13,16 48:15	49:5 50:2 53:12 58:20 131:10,11,16 131:18,20 132:3 whole-hearte... 117:16 wife 7:14 12:3 22:8 141:11,13 wife's 6:6,9 Wilkes 1:4 35:11 36:10 44:15 46:6 50:16,25 53:13 69:9 70:1,17 71:6 72:22,25 110:6 122:12 122:18 128:18 129:16 137:19 138:8,19 143:21 Wilkes's 124:2 139:9 William 12:24 willing 6:18 143:8,23 WILSON 2:14 win 99:11 wish 112:3 witness 3:2 4:6 13:4 18:13 31:21 33:12,18 34:23 35:4,20 35:25 66:10 78:16 87:4 115:19 146:9 146:20 Witnesses 3:21 124:9 Wolfram 1:4,14 2:1 3:2 4:5,10 4:12 7:7,18,23 10:15 18:18 19:19 36:15,24 39:13,18 68:8 74:13 76:9	91:11 98:17 100:11 110:2 111:18 113:2,8 118:14 120:15 134:12 141:22 145:18,22 146:7 woman 18:6 word 12:10 68:2 123:2,10 133:5 133:6 words 8:14 23:9 33:21 71:3 75:13,20,25 109:8 139:25 work 4:20 20:1 26:19 28:20 44:19,21,24 57:7 60:3 61:3 88:21 102:17 114:5 123:18 131:24 worked 21:6 25:7 26:5 28:17,17 34:5 41:16 109:4 110:20 working 21:6 25:23 28:6,24 30:18 47:3 63:6 worried 18:1 141:16 worry 67:11 wouldn't 12:3 15:16 46:24 53:6 55:25 69:17 70:7 88:17 96:7 write 39:10 writing 9:12 10:3 46:23 written 11:2 94:16,22 95:4 95:10 wrong 25:4
-------------------------	--	--	---	--

26:22 82:20	\$2,632,000	77:22 78:21	1973 20:18	146:8,22
142:2	69:22,25	82:3 85:9	1974 23:3 24:1	212 4:23 23:13
wrote 39:16	\$2.4 69:2	86:12 87:11,13	27:16,18	23 3:14 109:24
123:8	\$232,000 69:9	88:4 94:5		110:5
	\$232,500 68:4	107:20	2	2300 2:1,15
X	68:21	1st 78:1,8	2 3:9,12 74:10	232,000 69:21
X 3:1	\$40,000 85:17	120:10	74:14,22 77:2	24 3:16 112:24
	88:9	1(b) 83:12	77:9 80:15,17	24th 113:6
Y	\$400,000 68:14	1,950 68:1 70:8	81:2 88:1 92:6	134:16
yeah 23:7,20,20	\$450 35:7	90:18 103:9,17	92:8 107:23,24	25 30:12
23:25 37:1	\$50 67:5 68:22	103:24 106:3	108:12	258-0880 5:17
42:1 43:4	79:19	121:6 128:2	2,112 70:4,15	28 82:24
45:12 49:25	\$550 35:6	136:24,25	103:17	28th 76:17,24
52:25 57:12	\$66 81:17,25	1/7/38 7:2	2.4 69:21	115:2,5 116:3
69:5,24 74:3	82:22,24	1:15 91:8	200 68:18	116:23 117:7
75:23 90:14	135:16 138:16	10 3:8,18 118:11	2000 10:9	
104:12 112:4	\$8,000 36:5,11	118:16 119:16	2002 51:23 52:4	3
130:20 138:22	\$84 66:2,14 70:5	10th 146:22	53:14	3 3:10 76:5,10
140:21	70:6 83:16,23	10:00 2:3 4:2	2003 51:16	76:10 82:14
year 7:16 21:11	84:6 85:1	146:8	2004 3:8 10:6,13	108:12
24:12 27:8,14	105:5,15,18,24	100 2:11 3:14	10:19 11:9	30 97:21 126:21
54:1,3,5	112:15,17,21	1000 2:2,15	51:16 52:4	31st 77:13,21
years 7:10 12:21	114:14,21	109 3:14	64:4,9,14	78:1,8 83:7
22:7,25 26:12	115:3 116:19	11 3:19 121:12	72:17 73:17	84:7,10
27:5,19 28:18	118:1 121:8	121:16,21	74:1,25 75:3	3101 7:18
28:19 29:5	126:7 132:17	124:20 125:4,6	76:17,24,25	388-7171 2:12
30:12 31:2	133:20 135:12	11,000 126:9	77:14,21,22	395-5513 7:22
47:21 51:20	135:18	11:30 19:7	82:24 83:8	
54:4 56:21		111 3:15	107:21	4
127:10	#	112 3:16	2005 26:13	4 3:5,12 77:2,7,8
yellow 32:17	#809 1:24	115 3:16	27:23 115:2,6	83:4,5,6
66:8 71:14	146:25	118 3:18	116:4,23 117:7	101:23 108:13
		12 3:20 124:8,12	2006 26:14	4th 10:8,9 72:23
Z	0	124:15	27:23	415 2:11
zip 5:10	0151 3:19	121 3:19	2007 3:15	43,000 126:18
	118:12	124 3:20	109:25 110:5	126:19
\$	1	14 23:14	110:14	44 7:10
\$10,000 36:4,5	1 3:8,8 10:6,12	14th 101:1	2008 120:11	5
36:11 102:4	10:12,16,18,19	145442 1:25	2009 3:15,16	5 3:14 100:9,17
\$11,200 67:10	11:8 13:18	16 66:1	66:5 70:11,14	100:18 101:25
\$116,000 113:23	60:18 62:17	16.1 3:20 124:8	105:7 111:16	50 65:25
114:2,19	63:2 64:3,3,9	17 110:21,22	111:21 112:24	50/50 38:3,4
\$16 67:6 68:23	64:14 72:17	18 7:16 57:11	113:6 118:17	52,000 125:8
\$18 135:17,18	73:17 74:1,8	102:2	120:10 134:16	126:1,9
135:20	75:10 76:25	19 102:2	2011 1:15 2:3	
\$2 134:6		1964 21:12	4:2 101:2	

6				
6 3:14,15 109:24				
110:3,3 111:16				
6th 72:20				
111:21				
66 135:14				
7				
7 3:15 111:16,19				
702 2:12,16 5:17				
7:22				
74 3:9 23:16				
24:12 25:7				
26:21 37:5				
76 3:10				
77 3:12				
776 120:3,10,14				
8				
8 1:15 2:3 3:16				
4:2 112:24				
113:3 116:23				
117:6 134:12				
134:13,16				
146:7				
801 25:19,19				
873-4100 2:16				
89101 2:11				
89102 2:16				
89107 4:23 7:19				
9				
9 3:16 115:10,15				
115:15,21				
116:12,14				
117:10				
9th 118:17				
91-acre 120:3				

EXHIBIT “2”



EXHIBIT “2”



CERTIFIED
COPY
DISTRICT COURT

Las Vegas
Reno
Carson City

CLARK COUNTY, NEVADA

JAMES WOLFRAM,)
WALT WILKES,)
)
Plaintiffs,)
)
vs.) CASE NO.: A-10-632338-C
) DEPT. NO.: IV
)
PARDEE HOMES OF NEVADA,)
)
Defendant.)
_____)

DEPOSITION OF WALTER WILKES

LAS VEGAS, NEVADA

MONDAY, NOVEMBER 28, 2011

REPORTED BY: CARRE LEWIS, NV CCR NO. 497, CA CSR NO. 13337

LST JOB NO. 147615

t 702.314.7200
f 702.631.7351

www.litigation-services.com

3770 Howard Hughes Pkwy, Suite 300
Las Vegas, Nevada 89169



1 DEPOSITION OF WALTER WILKES,
2 taken at 2300 West Sahara, Las Vegas, Nevada, on
3 Monday, November 28, 2011, at 9:00 a.m., before
4 Carre Lewis, Certified Court Reporter, in and for
5 the State of Nevada.
6

7 APPEARANCES:

8 For the Plaintiff:

9 JIMMERSON HANSEN
10 BY: LYNN HANSEN, ESQ.
415 South Sixth Street, Suite 100
Las Vegas, Nevada 89101
11 (702) 388-7171

12 For the Defendant:

13 McDONALD CARANO WILSON, LLP
14 BY: PAT LUNDVALL, ESQ.
BY: AARON D. SHIPLEY, ESQ.
2300 West Sahara Avenue, No. 10, Suite 1000
15 Las Vegas, Nevada 89102
(702) 873-4100
16 lundvall@mcdonaldcarano.com
ashipleym@mcdonaldcarano.com
17

18 Also Present:

19 James Wolfram
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I N D E X

WITNESS: WALTER WILKES

EXAMINATION

PAGE

By Ms. LUNDVALL

6

1	Walter Wilkes	
2	Wolfram vs. Pardee	
3	Monday, November 28, 2011	
4	Carre Lewis, CCR No. 497	
5	E X H I B I T S	
6	NUMBER	PAGE
7	1 September 1, 2004 Commission Letter	67
8	2 Option Agreement for the Purchase of	75
9	Real Property and Joint Escrow	
10	Instructions	
11	3 Amendment to Option Agreement for the	77
12	Purchase of Real Property and Joint	
13	Escrow Instructions	
14	4 Amendment No. 2 to Option Agreement	79
15	for the Purchase of Real Property and	
16	Joint Escrow Instructions	
17	5 Amended Complaint	103
18	6 August 23, 2007 Pardee Homes Letter	106
19	to Walt Wilkes	
20	7 April 6, 2009 Pardee Letter to Jim	107
21	Wolfram	
22	8 November 24, 2009 Pardee Letter to	109
23	Jim Wolfram	
24	9 Amended and Restated Option Agreement	113
25	for the Purchase of Real Property and	
	Joint Escrow Instructions	
	10 Handwritten Notes; PLTF0151	114
	11 Letter to Pardee; PLTF0146 - 147	115
	12 Agreement Between Mark Carmen and Las	122
	Vegas Realty Center and Walt Wilkes,	
	Broker Salesman	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
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21
22
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Walter Wilkes
Wolfram vs. Pardee
Monday, November 28, 2011
Carre Lewis, CCR No. 497
E X H I B I T S

NUMBER		PAGE
13	Assignment of Real Estate Commission and Personal Certification Agreement	123

INFORMATION TO BE SUPPLIED

Page	Line
11	2
13	3
32	13

1 LAS VEGAS, NEVADA; MONDAY, NOVEMBER 28, 2011;

2 9:00 A.M.

3 -oOo-

4 Whereupon --

5 WALTER WILKES

6 having been first duly sworn to testify to the
7 truth, was examined and testified as follows:

8 EXAMINATION

9 BY MS. LUNDVALL:

10 Q. Would you please state your full name for
11 the record.

12 A. Walter D. Wilkes, W-I-L-K-E-S.

13 Q. What does the "D" stand for?

14 A. Doyle, D-O-Y-L-E.

15 Q. Do you have a personal address or home
16 address?

17 A. 1215 Anchorage Way Drive, Ventura,
18 California.

19 Q. Do you know what the zip is there?

20 A. It's 93001.

21 Q. Do you have a business address?

22 A. No. I'm retired. I have been retired for
23 a while.

24 Q. Are you conducting any business at this
25 point in time?

1 A. No.

2 Q. Are you employed in any fashion at this
3 point in time?

4 A. I'm employed. I'm employed for Rubicon
5 Realty, but I'm not doing anything. License is kind
6 of -- it's not officially hanging. It's there. If
7 I did any business, I would have to bring it back
8 over, and I haven't done any business.

9 Q. Do you have office space at Rubicon Realty
10 or an office?

11 A. It's an office where your license kind of
12 hangs.

13 Q. What's the address there?

14 A. Sixty -- I think it's 6500 West Charleston.

15 Q. That's here in Las Vegas?

16 A. Yes.

17 Q. Do you recall what the zip is there?

18 A. No. 8910-something.

19 Q. Any type of a vacation or resort home for
20 which you have an address?

21 A. No.

22 Q. If you can tell me what your phone number
23 is, please?

24 A. I use my Las Vegas cell more than anything.
25 497-7700. I still have it.

1 Q. That's a 702 area code?

2 A. Yes.

3 Q. Are there any other phone numbers at which
4 you can be reached?

5 A. That's the main one that you can reach me
6 at. The other phone we don't answer. Ventura, just
7 got a message on. This is the best one to get me
8 on.

9 Q. Sounds like you have a landline at your
10 home in Ventura?

11 A. Yes.

12 Q. Do you have a recollection of what that
13 phone number is?

14 A. Area code (805) 650-6145.

15 Q. Do you have an e-mail address?

16 A. I do.

17 Q. What is that, please?

18 A. WW5@ATT.net.

19 Q. Do you have a Twitter or Facebook or some
20 type of a social media site --

21 A. No.

22 Q. -- with which you communicate with people?

23 A. No, ma'am.

24 Q. What's your date of birth, sir?

25 A. 6/16/41.

1 Q. Sounds like from your previous answers that
2 you are married?

3 A. Correct.

4 Q. What's your wife's name?

5 A. My previous answer? I didn't get that.
6 How did you pick that up?

7 Q. You made reference to your home and
8 something with your wife.

9 A. I don't remember that.

10 Q. At least that's what I picked up.

11 A. My wife is Angela Limbecker, dash, Wilkes.

12 Q. I take it that she lives with you?

13 A. Yeah.

14 Q. How long have you been married?

15 A. Oh, I remember the wife thing now.
16 We have been married 11 years. Been
17 together 15.

18 Q. First marriage?

19 A. You want to go through all of my marriages?

20 Q. I want to know if this one is your first
21 marriage.

22 A. No, it's not. Fifth marriage.

23 Q. So you have been married five times?

24 A. Yes.

25 Q. Do you remember the names of all of them?

1 A. Okay.

2 Q. I asked that question to Michael Love and
3 he couldn't give me all the names so let's see how
4 well you do.

5 A. The first one was Judy Claudette Wilkes.
6 The second one -- wholly mackerel. Who was the
7 second one? The second one was Pamela Davis. Okay.
8 The third one was Sherry Brown. Okay. And the
9 fourth one was -- we are getting there, hang on --
10 the fourth one was Judy -- two Judys, this is Judy
11 two, we call her. Judy-two's last name was -- oh,
12 what was her last name. She used to call us all the
13 time. I met her at Stewart Title. Judy. I
14 remember the girls, I can't remember all their
15 names. Judy -- I can't think of it. I apologize.
16 Maybe it will come to me and we can come back to it.

17 Q. I tell you what. If I ask the court
18 reporter to leave a blank in the deposition
19 transcript, will you fill in the name, if you
20 recall, between now and when you review your
21 transcript?

22 A. Sure. When do we do the transcript? When?

23 MS. HANSEN: In about two weeks.

24 THE WITNESS: Surely. Absolutely.

25 MS. LUNDVALL: Would ask the court reporter

1 to do so.

2 (INFORMATION TO BE SUPPLIED: _____
3 _____
4 _____)

5 THE WITNESS: Absolutely.

6 BY MS. LUNDVALL:

7 Q. Did all of your previous marriages end in
8 divorce?

9 A. Yes.

10 Q. That's what location then --

11 A. Mostly all of them Clark County.

12 Q. All of them in Clark County?

13 A. Yes.

14 Q. Do you have any children?

15 A. I have two -- I had two children. One was
16 Thomas L. Wilkes, and the other one was Lonny J.
17 Wilkes. He died about a year ago.

18 Q. I'm sorry to hear that.

19 But Thomas is still alive?

20 A. Yes.

21 Q. He is an adult, I take it?

22 A. Yeah.

23 Q. Does he work within your profession?

24 A. No.

25 Q. What does he do?

1 A. He has his own business in Ventura,
2 California. It's electronic communication systems.

3 Q. Do you maintain communications with him?

4 A. Yes.

5 Q. Can you give me an address and phone number
6 for him?

7 A. I'll give you the phone number. (805)
8 644-9525, extension 101 for him.

9 Q. Sounds like that must be a business
10 address?

11 A. That's his business address. I don't
12 remember what the home address is.

13 Q. Okay. Can you give me the name, address
14 and phone number of someone who is likely to know
15 your whereabouts across the next year to about 18
16 months?

17 A. I guess Todd Wilkes, my son.

18 Q. And you don't have a recollection of what
19 his address is; is that right?

20 A. No. But I would be more than happy to
21 provide it.

22 Q. So in other words, if the court reporter
23 leaves a blank in the deposition transcript, you are
24 going to be able to fill it in for me?

25 A. Yes, ma'am.

1 MS. LUNDVALL: Would ask the court reporter
2 to do so.

3 (INFORMATION TO BE SUPPLIED: _____
4 _____
5 _____)

6 BY MS. LUNDVALL:

7 Q. Can you describe to me what preparation you
8 have done for your deposition today?

9 A. Well, I have tried to look at some of the
10 documents and some of the things and talk to my
11 attorney. I talked to my partner, Jim Wolfram,
12 and -- basically.

13 Q. Let's start with the documents you
14 reviewed. Can you tell me which ones those were?

15 A. I just went through them. I can't tell you
16 which ones. Just tried to skim through them.

17 Q. Did you do your best to prepare yourself to
18 give full and complete answers to my questions here
19 today?

20 A. I will try.

21 Q. Did you do the preparation in an effort to
22 try to do that?

23 A. Yes.

24 Q. You don't have a recollection, then, of any
25 of the documents that you did take a look at?

1 A. The commission letter.

2 Q. Commission letter. Anything else?

3 A. Not offhand, that I can remember.

4 Q. You also indicated that you had an
5 opportunity to meet with your counsel; is that
6 right?

7 A. Yes.

8 Q. And as a result of that meeting, do you
9 have a basic understanding of what your obligations
10 are here today?

11 A. Yes.

12 Q. You also indicated that you spoke with your
13 partner, Mr. Wolfram; is that correct?

14 A. Yes.

15 Q. When did you do that?

16 A. Down -- just now coming up in the elevator
17 and yesterday I talked to him.

18 Q. Tell me what he told you, the topic of your
19 discussions, then, on the way up in the elevator.

20 MS. HANSEN: Yesterday or just in the
21 elevator?

22 MS. LUNDVALL: I just said in the elevator,
23 just now.

24 MS. HANSEN: If there is anything that he
25 talked to you about that we talked about together,

1 then I don't want you to talk about that. It's
2 attorney-client privileged.

3 THE WITNESS: Okay. Well, that
4 conversation in the elevator was with the attorney
5 there present.

6 BY MS. LUNDVALL:

7 Q. So the attorney was present?

8 A. Yeah.

9 Q. She jointly represents the two of you; is
10 that right?

11 A. That's correct.

12 Q. Tell me how you communicated, then, with
13 Mr. Wolfram yesterday?

14 A. It was with -- in the meeting with the
15 lawyer, and I can't say that. She won't let me.

16 Q. So at any point, then, did you have any
17 conversation with Mr. Wolfram at which your attorney
18 was not present?

19 A. We talked on the phone. We talked on the
20 phone. He tried to -- he tried to -- we tried to
21 remember some of the different things that went on
22 and everything.

23 Q. Give me an example.

24 A. The example was -- one example was how the
25 commission came about. That was -- Jim was on

1 vacation. This was back in, I think, it 2002,
2 approximately. Jim was on vacation. I had a great
3 relationship with Jon Lash at that time, of Pardee.

4 Jim had been tracking property that Harvey
5 Whitemore had. So I saw another article in the
6 paper. We already saw one just before Jim went on
7 vacation. So I called Jim. I said, Jim, you are
8 going to be gone for a week, ten days? Why don't I
9 run this by Jon Lash and see if he is interested in
10 this property? And Jim says that's a great idea, go
11 right ahead.

12 So I believe -- I don't remember for sure
13 if I called Harvey first and asked him if the
14 property was still available but I think I did.
15 That was number one.

16 Number two, I called Jon Lash and I says,
17 John, I says, I would like to take a run at this
18 property with Coyote Springs for you, but I want to
19 represent me as the buyer and he said absolutely.
20 He says you just -- you tell Harvey that you
21 represent Pardee Homes and set up a meeting. Okay.
22 And I says, okay, but we want 4 percent commission
23 like we talked about on other properties and he says
24 that was okay. All right.

25 So I called up Harvey with the

1 understanding. I told Harvey that I was
2 representing Pardee Homes. They were paying my
3 commission and would he like to talk to them about
4 the property. He says yes. So it led to me making
5 a few more calls and setting up a meeting. Jim came
6 back. We went down to the Pardee office. Where was
7 it? Over by Warm Springs?

8 MS. HANSEN: You can't ask him to answer
9 questions.

10 THE WITNESS: Anyway, I think it's over by
11 the Warm Springs area, over there in their beautiful
12 new office building over there. So we set up the
13 meeting. We set up the meeting and Jim and I,
14 Harvey Whitemore, Jon Lash and brought in Klif
15 Andrews, and I don't think there is anybody else.
16 And we had a meeting. It went very, very well.

17 BY MS. LUNDVALL:

18 Q. What else did you talk with Mr. Wolfram
19 about?

20 A. We talked about how the commission letter
21 was dated September 4 -- no, September 1, 2004, and
22 we talked about how the hell did they slip in this
23 other leader commission thing that went up to 84
24 million that we didn't get paid on, which we never
25 agreed upon. We didn't see that until long after

1 the two-thousand -- September 1, 2004.

2 We talked about how they should pay us for
3 that because where is the money? We talked about --
4 we talked about -- I guess Jim had -- I guess Jim
5 had told them that they thought they overpaid us at
6 one time, and I never thought they did overpay us.
7 I didn't trust them from this point on.

8 Jim talked to them. I didn't talk to -- I
9 never talked to Jon since that point but Jim talked
10 to him. And I don't believe they overpaid us
11 because I believe they were paying us for other
12 things that they took down.

13 And when they told us they were paying it
14 out of a slush fund, I knew that something is wrong.
15 A slush fund. What the hell is a slush fund, you
16 know, for a big company like that? That's about all
17 I can remember.

18 Q. Anything else you discussed with
19 Mr. Wolfram?

20 A. Probably so but I can't recall it. Sorry.

21 Q. When you came in this morning you had a
22 copy of Mr. Wolfram's deposition; is that right?

23 A. That's correct.

24 Q. Did you review that transcript before
25 coming to this deposition?

1 A. Briefly. Very briefly.

2 Q. When did you get a copy of it?

3 A. Yesterday when we met.

4 Q. How would you describe the nature of your
5 relationship with Mr. Wolfram today?

6 A. He is still my partner. He will be my
7 partner for life. We were partners. We took down a
8 lot of property in this town.

9 Q. Did you also discuss with Mr. Wolfram that
10 the commission letter was based -- or your
11 commissions under the commission letter were based
12 upon a property purchase price, not upon acreage?

13 A. Well, yeah, because if you are talking
14 about the commission letter, that's not true. It
15 was based on -- it was based on acreage. And that's
16 what item 3 says in that commission letter.

17 Q. Item 3 is the option property?

18 A. Yes.

19 Q. Do you have any evidence, in fact, that
20 Pardee has taken down option property from CSI?

21 A. I have seen -- Jim showed me his maps and
22 it showed a lot more property, a lot more property
23 that was taken down that were -- that involved more
24 than the 2112 acres. Originally it was 1950 acres.

25 We want to know what that property was for.

1 We think that they did this just to get out of
2 paying us the money on the options and that they
3 never told us about it. We called them. Jim called
4 them especially. He even -- he wrote letters to
5 them. And basically that's looking at Jim's map,
6 trying to find parcel numbers, trying to find
7 anything which they never provided us and they
8 agreed in that contract to provide to us.

9 Q. Back to my question. Do you have any facts
10 or do you have any evidence that, in fact, Pardee
11 took down option property from CSI?

12 A. Only Jim's maps and the fact that they
13 didn't tell us anything.

14 Q. Do you have any option property deeds that
15 ran from CSI to Pardee?

16 A. No, they never gave us anything. We asked
17 for all of that stuff but they would never give it
18 to us. The only thing we saw from them was that
19 map.

20 Q. It's my understanding, Mr. Wilkes, that
21 your primary claim in this litigation was one for
22 breach of contract; is that right?

23 A. Yes.

24 Q. And the contract that is at issue is the
25 commission letter between yourself and Pardee?

1 A. Yes.

2 Q. Is there only one commission letter that's
3 at issue under your relationship between Pardee?

4 A. Well, there was other letters that came
5 about later that we -- I didn't see until -- I think
6 the first time I saw them is in the lawyer's office.
7 Mr. Jimmerson tried very hard to get the information
8 from them, from lawyer Stringer, from lawyer Curtis,
9 I think was the other one.

10 Anyway, they kept stalling him for months
11 and months and months and months. And finally he
12 sent them a letter saying that they hadn't done
13 anything. And they gave us some stuff, but it
14 wasn't anything.

15 Q. I want to go back to my question to you.

16 Is there any other contract between you and
17 Pardee, other than the September 1, 2004 commission
18 letter?

19 A. That we have signed?

20 Q. That you have signed.

21 A. No, not to the best of my knowledge.

22 Q. Do you have any contract with CSI?

23 A. No.

24 Q. And you know CSI to be Coyote Springs
25 Investments, LLC?

1 A. Yes.

2 Q. What prompted the filing of this lawsuit?
3 I'm listening.

4 A. I know. I'm thinking. Hang on. I want to
5 give you the right answer.

6 MS. HANSEN: I don't want you to talk about
7 anything that you discussed with -- anything with me
8 or anyone in my firm.

9 THE WITNESS: I can't answer that then.

10 BY MS. LUNDVALL:

11 Q. What prompted you to seek out --

12 A. I --

13 Q. Hold on.

14 What prompted you to seek out and hire an
15 attorney thinking that you had some type of a legal
16 dispute with Pardee?

17 A. The fact that they wouldn't give us the
18 information, the documentation that we requested.
19 We asked for parcel maps. We asked for parcel
20 numbers. We asked for anything they this done. We
21 asked for anything that they could provide us -- we
22 asked for anything they could provide us that would
23 track any sale of the land that CSI sold to Pardee,
24 and they would give us nothing. So we felt that
25 they were -- there was a breach there so we went and

1 saw Mr. Jimmerson.

2 Q. I want to go back to one question based
3 upon your preparation that I did not ask you before.

4 When you reviewed Mr. Wolfram's deposition
5 transcript, and I understand that it was a quick
6 review, was there any glaring inaccuracies that
7 jumped out at you in your review of his deposition
8 transcript?

9 A. No.

10 Q. Sir, have you ever had your deposition
11 taken before?

12 A. You know, I sued one time -- God, I think
13 it was 25 or 30 years ago for \$100,000 commission,
14 and we settled out of court and they gave me my
15 hundred grand.

16 Q. Okay.

17 A. But I don't remember who or what, it was so
18 long ago.

19 Q. As a part of that litigation did you have a
20 deposition taken of yourself?

21 A. Yes.

22 Q. Did you keep a copy of that deposition?

23 A. No.

24 Q. Who was it that represented you in that
25 transaction?

1 A. What is that one -- I think his name is
2 Curtis and he worked with -- at that time he worked
3 with the -- I can't remember his first name, but he
4 was known kind of like Jimmerson. He was like a
5 shark. He was a grab-them-by-the-throat lawyer, you
6 know.

7 MS. HANSEN: Mark that for me, Ms. Court
8 Reporter, so I can point that out to Mr. Jimmerson.

9 THE WITNESS: He is a bulldog,
10 Mr. Jimmerson. That's why we picked him. This one
11 was a bulldog too. Like I said, his name was
12 Curtis, was the last name. And I cannot, for the
13 life of me -- it's been like 25, 30 years, guessing
14 at that.

15 BY MS. LUNDVALL:

16 Q. Now, earlier you told me that you had an
17 opportunity to meet with your counsel, then, and had
18 a basic understanding of your obligations during the
19 course of this deposition, correct?

20 A. Yes.

21 Q. What is your understanding of your basic
22 obligation?

23 A. To answer these questions to the best of my
24 knowledge.

25 Q. And truthfully?

1 A. And truthfully.

2 Q. Let me give you a few instructions. It
3 maybe might make the deposition go a little built
4 smoother across the course of the day.

5 The primary purpose of a deposition is
6 twofold. It allows me to ask you questions to find
7 out what facts or evidence that you may have in
8 support of the allegations that you have asserted
9 against Pardee.

10 The second purpose of a deposition is to
11 memorialize your testimony. In other words, what
12 that means is the court reporter here, she is going
13 to take down all of my questions, she is going to
14 take down all of your answers, as well as anything
15 else that may go on during the course of this
16 deposition.

17 A. Okay.

18 Q. At the conclusion, what she does is she
19 prepares a transcript similar to the transcript of
20 Mr. Wolfram that you have had an opportunity to take
21 a look at. Once she prepares a transcript, you are
22 given an opportunity to review it, make sure that
23 she has done her job right, make sure that you have
24 answered the questions correctly.

25 If, in fact, you think that the changes

1 need to be made to your answers, you have that right
2 by which to do so; however, I caution you that if
3 you do make changes and those changes are material,
4 and this case goes to trial, I could make comment on
5 that to suggest that somehow you are being less than
6 truthful or less than candid or less than honest
7 during either this proceeding or at the time of
8 trial.

9 So I share that with you so that you have
10 an understanding that this is an important process
11 and important proceeding. Do you have that
12 understanding?

13 A. Yes, ma'am.

14 Q. The obligation that you have to tell the
15 truth is an obligation that is vested in law, and if
16 you intentionally breach that obligation, there can
17 be an action for the crime of perjury. Do you
18 understand that?

19 A. Yes.

20 Q. It's much easier for the court reporter
21 when you answer my questions out loud. So if for
22 some reason you shake your head one way or another,
23 I'm going to ask you "Does that mean yes or no?" I
24 intend no disrespect when I do that, I'm just trying
25 to make sure that's --

1 A. It would not mean yes or no. I won't shake
2 my head; I have arthritis in my neck.

3 Q. Also it's very difficult for her to discern
4 between uh-huh and huh-uh. If that happens, I'm
5 going to ask you does that mean yes, does that mean
6 no.

7 A. Have I been uh-huh and huh-uh?

8 Q. A little bit.

9 A. Okay.

10 Q. So to the extent I need to make sure --

11 A. Absolutely.

12 Q. -- my record is clean, I'm going to ask you
13 if that's a yes or no and, once again, I intend no
14 disrespect.

15 A. Okay.

16 Q. It's also very difficult for her to take
17 down when two people talk at once. So I'm going to
18 try to be polite and not talk over the top of you
19 and I would ask for a same courtesy, then, in
20 exchange.

21 A. Yes, ma'am.

22 Q. That way my full question gets out there
23 and your full answer gets out there and so you and I
24 don't talk over each other. All right?

25 A. Yes.

1 Q. If I ask you to stop or slow down a little
2 bit and I repeat the same question, what I'm trying
3 to do is make sure that you and I don't walk on top
4 which of each other. Okay?

5 A. Okay.

6 Q. I think probably the most important
7 instruction that I try to give is one where you have
8 the opportunity to understand what it is that I'm
9 asking of you.

10 If for some reason you don't understand my
11 question, ask me to rephrase it, ask me to repeat
12 it, ask me to clarify my words, ask me to define
13 whatever my words may be --

14 A. Got it.

15 Q. -- so that you can understand and give a
16 full and complete answer to my question.

17 A. Okay.

18 Q. All right.

19 If, in fact, you don't ask me to repeat or
20 clarify, I'm entitled to assume that you did
21 understand my question and you have given me a full
22 and complete answer. Do you understand that?

23 A. Yes.

24 Q. Is there any reason that would prevent you
25 from being able to answer my questions truthfully

1 today?

2 A. No.

3 Q. Is there any medical or physical condition
4 that would prevent you from being able to answer my
5 questions truthfully?

6 A. I can -- I have medical problems, as you
7 know. I'm sure you have seen the letter. Okay.
8 But they are not going to -- they won't interfere in
9 me answering.

10 Q. Okay.

11 A. If they do, if it does become a problem, I
12 will tell you.

13 Q. My next few questions are asked out of
14 necessity; it's not that I intend to pry.

15 How is your health?

16 A. I'm sure you have seen the letter that we
17 used to postpone the deposition for me before. I
18 have -- I was down -- they had to get my heart going
19 this last time when I was at the hospital. They had
20 to -- which seems to be okay now. They had to put a
21 breathing tube down my throat because I had some
22 type of infection. And they put a breathing tube
23 down my throat for two or three days, which I hated.
24 But I came out of that and went on oxygen and was
25 breathing okay. I take medications for that.

1 Basically I'm -- basically I'm okay.

2 Q. I hope you --

3 A. I can answer your questions.

4 Q. I hope you take no offense, but I was going
5 to say, you look pretty good, pretty healthy.

6 A. Pretty good for a 29-year-old. You don't
7 have to look at him, but tell him that I'm better
8 looking than him, will you?

9 Q. I'm glad that you were the one that took
10 the oath and not me.

11 You do look pretty healthy and I think
12 that's good.

13 A. I feel pretty good. For the first time
14 last night I slept good and I feel great.

15 Q. Good deal.

16 A. Let's go. Move forward. I'm ready to go.

17 Q. You indicated that you had hired
18 Mr. Jimmerson because you thought he was a good
19 attorney, I take it; is that right?

20 A. I heard -- yes, I heard from several people
21 that he was the best, and I found out that to be
22 true.

23 Q. Can you tell me what the terms of your
24 engagement of Mr. Jimmerson's office are, please?

25 A. Just hourly.

1 Q. I take that to mean that they work on an
2 hourly basis and they send you a bill?

3 A. That's correct.

4 Q. And you are also responsible for any
5 out-of-pocket costs that they incur on your behalf?

6 A. That's correct.

7 Q. Like photocopies or court reporter fees?

8 A. I have never -- I don't remember ever
9 getting a bill like that, but I would assume I would
10 be.

11 Q. How much have you paid to Mr. Jimmerson's
12 firm at this point?

13 A. In total?

14 Q. In total.

15 A. I can't give you an amount. It's
16 significant. I can't give you an amount.

17 Q. "Significant" is a relative term. Can you
18 give me a ballpark of the amounts that you have
19 paid?

20 A. I just don't know. Sorry.

21 Q. More than ten thousand, more than a hundred
22 thousand?

23 A. I can't say at this time.

24 Q. No idea?

25 A. No idea.

1 Q. What would you take a look at to refresh
2 your recollection?

3 A. What would I take a look at? I would have
4 to go over the thing with my bookkeeper, Jim.

5 Q. So if I asked the court reporter, then, to
6 leave a blank in your deposition transcript, you
7 could fill that number in after reviewing that?

8 A. Sure.

9 Q. Are you willing to do so?

10 A. If it's all right with my attorney.

11 MS. LUNDVALL: I would ask the court
12 reporter to do that, please.

13 (INFORMATION TO BE SUPPLIED: _____
14 _____
15 _____)

16 BY MS. LUNDVALL:

17 Q. Can you tell me what sources of income that
18 you have at this point in time?

19 A. Social security. That's basically it now.

20 Q. You had indicated that you were working for
21 Rubicon Realty; is that correct?

22 A. Yes.

23 Q. Do you receive some type of a monthly
24 income from them?

25 A. No.

1 Q. Is it strictly commission based?

2 A. Yes, ma'am.

3 Q. When was the last time that you earned a
4 commission from Rubicon?

5 A. I never earned one from them. I only --
6 only commission that we earning were taken down from
7 Pardee.

8 Q. You have described for me what prompted you
9 to file this lawsuit. My next question to you,
10 then, is what is it that you hope to recover through
11 this lawsuit?

12 A. It we would like to -- we would like to get
13 documentation that shows what Pardee has taken down
14 from Coyote Springs so we can track our commissions.
15 We would also -- we also think that they owe us
16 money and we would like to get our commission.

17 Q. What documents do you believe exist that
18 would track any of the takedowns that are not public
19 records?

20 A. Any and all documents that would -- that
21 are shown on the parcels -- Jim's parcel map that we
22 could get answers on.

23 Q. What do you mean by that? Give me an idea.

24 A. Nothing. They have absolutely given us
25 nothing.

1 In the commission letter they promised to
2 give us documentation, maps, all of the stuff needed
3 so we could see what was going on. They promised to
4 make us a part of it. They didn't. They have never
5 done that. Okay. So that's what we are trying to
6 get now.

7 We are trying to get stuff that we can
8 track any sales at all, anything at all that would
9 show that they -- maybe they decided to trade
10 Mr. Whitmore for commission. You know. Do this
11 and not this. Maybe they decided to take it down
12 this way and not call it an option property so they
13 wouldn't have to pay us. Okay. Anything at all.

14 We are very suspicious of them right now
15 because of all of this stuff. We have been
16 suspicious of them a long time. That's why we filed
17 a lawsuit.

18 **Q. Do you have believe that you are entitled**
19 **to documents from Pardee that are not described in**
20 **the commission letter?**

21 A. I believe that we are entitled to the
22 documents, yes, because I don't know what they are
23 doing. I would like to see them.

24 **Q. But my question to you is a little bit**
25 **different than that.**

1 A. Okay.

2 Q. Your commission letter identifies certain
3 pieces of information to which you may be entitled
4 to.

5 A. Right.

6 Q. Do you recall that?

7 A. Yes.

8 Q. All right. Do you believe that you are
9 entitled to documents other than what was described
10 in the commission letter?

11 A. I don't know.

12 Q. You also indicate that at this point in
13 time that you think that maybe that there was some
14 swaps or maybe some trades or maybe some deals with
15 Mr. Whitmore between Pardee so that Pardee could
16 avoid having to pay you a commission. Is that your
17 testimony?

18 A. Yes. That's very suspicious of them.

19 Q. Are you speculating that that is the case
20 or do you have facts in evidence in support of your
21 suspicion?

22 A. I have no facts. I have no evidence
23 because Pardee never gave us information they were
24 supposed to. They will not give us anything.

25 Q. Why don't you be a bit more descriptive for

1 me how it is that you became to be involved in the
2 transaction between Pardee and CSI?

3 A. I thought that first answer was pretty
4 descriptive from the beginning.

5 Q. Let me see if I can go back, then, and put
6 a little flesh on the bones of what you gave me.

7 A. Thank you.

8 Q. You indicated that you had a great
9 relationship with Jon Lash; is that right?

10 A. Absolutely, at that time.

11 Q. How is it that you came to meet Mr. Lash?

12 A. When he took over his job as vice president
13 for Pardee Homes, I had called -- I had called the
14 other guy I was working with and he says, no, I have
15 got his job now, he is gone. I said, well, would
16 you have any interest of property that I have, could
17 we get a relationship going? He says absolutely.
18 He says I would love it. He said I want you to
19 present any property and all properties that you
20 have. And I says, well, sometimes they don't pay a
21 commission. He says don't you worry. He says I
22 paid commissions up to 10 percent, I will take care
23 of you.

24 So from that point on, we started getting
25 property, and Jim and I became -- Jim and I became

1 partners. We pushed a lot of property on to Jon
2 Lash with a lot of understanding, we showed him a
3 lot of big properties, Sandy Valley and a lot of
4 different properties, but we never got any of the
5 big ones on until Coyote Springs.

6 Q. Did you have any other transactions with
7 Pardee where either you sold property on their
8 behalf or you brought to them property that they
9 purchased?

10 A. I believe we brought to them some lots and
11 some other acreage and -- couple times.

12 Q. Did those transactions go through?

13 A. Yes.

14 Q. So then did you receive a commission?

15 A. I believe -- I believe -- I believe those
16 closed okay and we got paid by the seller.

17 Q. So in other words, then, that you were paid
18 in full on any other transactions that you did on
19 behalf of Pardee?

20 A. Outside of Coyote Springs?

21 Q. Outside of Coyote Springs.

22 A. Yes.

23 Q. And at this point in time you do not
24 believe that you have been paid in full for Coyote
25 Springs; is that right?

1 A. I don't know. They got to produce some
2 documentation or something that shows us that.

3 Q. You had indicated that when you and Jim
4 became partners, you began showing Pardee some
5 properties. How is it that you and Mr. Wolfram
6 became partners?

7 A. Well, he knew I went on the computer a lot
8 and he knew a lot about land. We met originally
9 years ago at a different realty firm. And all of a
10 sudden -- and I kept calling. I says, Jim, we got
11 to do partners. So about a year before the Jon Lash
12 thing, and Jim and I became partners. We worked
13 together. He was at one office I was at another,
14 but we met at my -- we met at my house or my office
15 or wherever we could to sit down and discuss
16 business.

17 Q. I take it that at that point in time that
18 you were a licensed Realtor?

19 A. Oh, of course.

20 Q. What year was this, approximately?

21 A. Let's see. Coyote Springs was about 2002.
22 This -- I'm going to estimate that it was around
23 2000.

24 Q. So you and Mr. Wolfram became partners
25 in -- your term, then, somewhere in the year of

1 2000?

2 A. Approximately.

3 Q. Did you do anything formal to memorialize
4 your partnership, like enter into some type of an
5 agreement?

6 A. No, we didn't need that. Our handshake was
7 bond. We are honest men.

8 Q. What was the name of the realty company
9 that you were working out of at the time?

10 A. You are tough. Let's see. Jim was working
11 out of Award, I believe. I know you didn't ask me
12 that, but I was trying to use that as a trigger to
13 make me remember. I think at that time I was
14 working out of General Realty. I'm not sure of
15 that, though.

16 Q. How long had you been a licensed Realtor at
17 that point?

18 A. I think I got my license in 1980.

19 Q. From 1980 to present?

20 A. 1970 to 1980. It's a long time ago.

21 Q. I understand that.

22 A. Okay.

23 Q. I know that I'm pressing your memory.

24 A. Yes, you are.

25 Q. To that extent, I'm just looking for the

1 best answer that you can give me.

2 A. I understand.

3 Q. It's not a test. It's not a marathon.

4 A. I understand.

5 Q. It's your recollection that you received
6 your Realtor's license sometime in 1970?

7 A. Yes, plus or minus.

8 Q. Have you continuously held a Realtor's
9 license now to the present day?

10 A. Yes, ma'am.

11 Q. I note that your license is scheduled to
12 expire at the end of this month, according to public
13 records. Do you intend to renew it?

14 A. It's already in the envelope here to be
15 dropped off, if I get down there today. I had
16 already done my hours.

17 Q. You have done -- when you say you have done
18 your hours, continuing education?

19 A. Yes. I even passed them.

20 Q. Good for you.

21 During the time frame from 1970 to present,
22 have you had any disciplinary actions or
23 disciplinary complaints lodged against you?

24 A. To the best of my knowledge, I don't think
25 I had any.

1 Q. At least not to your recollection?

2 A. Not to my recollection. That's a long
3 time.

4 Q. You indicated that you were working at
5 General Realty for a period of time. I think that's
6 General Realty Group, Inc.; is that right?

7 A. Yes, ma'am.

8 Q. How long were you with General Realty
9 Group, Inc.?

10 A. Oh, man. This is purely estimation. I
11 think I was at General Realty for -- no, you know
12 what? Yeah, first I was at -- first, before I went
13 to General, I was at Jack Matthews commercial. Then
14 I went to -- I believe I went to General. Then I
15 was at General for quite a while. Then I went to
16 General Realty. I went to Las Vegas Realty Center
17 and Las Vegas Realty Center, same owner for Rubicon,
18 is where I put my license. And I don't know, might
19 have been something else in between there, but I
20 can't remember.

21 Q. When you went from Jack Matthews to
22 General, did you get any type of an assignment from
23 Jack Matthews realty?

24 A. An assignment?

25 Q. Yes.

1 A. Jack was my very close friend and he
2 assigned me to make us play golf once a week.

3 Q. I think that's a fabulous assignment. I'm
4 glad to hear that. Did you make good on that
5 assignment?

6 A. I made good, but he cheats. He would take
7 a Mulligan every time he missed a shot. But he was
8 a good guy and I loved him like a brother.

9 Q. Good deal.

10 Do you recall approximately when you left
11 Jack Matthews realty to join General?

12 A. There you go again. Let's see. I guess
13 sometime in the early '80s or late '70s.

14 Q. Was there any type of hiatus where you
15 weren't working for a realty company from 1970 to
16 the present?

17 A. I don't know what a "hiatus" is.

18 Q. Was there any break?

19 A. No, I have always been employed.

20 Q. So when you went from Jack Matthews to
21 General, you didn't take any time off, didn't take a
22 sabbatical or anything like that?

23 A. Maybe a vacation.

24 Q. Same question, then, when you went from
25 General to Las Vegas Realty Center?

1 A. No.

2 Q. Same question, then, from Las Vegas Realty
3 Center to Rubicon?

4 A. No.

5 Q. You started late '70s, early '80s, then, at
6 General; is that right?

7 A. Actually, when I -- no. Let me -- let
8 me -- I just thought of something. I started at
9 Chapelle Realty, Buddy Chapelle, then the others
10 came into place. And I was with Chapelle Realty
11 for, golly, several years. I don't remember the
12 exact years, eight or ten.

13 Q. Why don't you just tell me when you started
14 with General, approximately?

15 A. I would say -- I would say probably -- I'm
16 sorry, I don't know. I'm estimating in the '80s,
17 early '80s.

18 Q. Started with them in the '80s, then when
19 did you start with Las Vegas Realty Center?

20 A. I started with Las Vegas Realty Center, I
21 would say, about three years ago.

22 Q. So that takes me to 2008.

23 A. Well -- no, I started with them probably
24 in -- probably 2008, yeah. Okay. And I have been
25 with them up to this last year, which I went to

1 Rubicon.

2 Q. When you left General did you get
3 assignments from General?

4 A. When you say "assignments," I don't
5 understand the question.

6 Q. Did anyone assign any claims to you?

7 A. I had a -- my commission order from -- that
8 I have him sign over to me on the Coyote
9 Springs transaction because it was all mine. That
10 was our deal, that I pay -- I paid my few hundred
11 dollars a month and anything I brought in, I got to
12 keep 100 percent of.

13 Q. So in other words, you have some type of an
14 assignment, then, at least as to your commissions,
15 correct?

16 A. Yeah. He assigned them over to -- he
17 assigned them over to General Realty -- I mean,
18 Las Vegas Realty and Las Vegas Realty signed them
19 over to Rubicon. I have documentation of that, I
20 believe.

21 Q. That's why I'm asking, because I'm trying
22 to figure out what documentation there is there.

23 You are telling me that General, then,
24 did an assignment of your commissions to Las Vegas
25 Realty Center; is that right?

1 A. I'm telling you that the General did an
2 assignment to Las Vegas Realty Center. Actually, I
3 think he assigned it to me, but I had Las Vegas
4 Realty Center sign a statement that any commissions
5 that come in before I joined them, prior commissions
6 would go -- would go to me.

7 Q. So any of the monies, then, Las Vegas
8 Realty said that they should go to you; is that
9 right?

10 A. Yes, of the prior commissions.

11 Q. Then when you left Las Vegas Realty Center
12 did you have any type of an assignment, then, to
13 Rubicon?

14 A. Yeah, same thing. He signed over the exact
15 same thing.

16 Q. So any of the claims to the commissions,
17 then, went from general to Las Vegas Realty Center
18 to Rubicon, and then Las Vegas Realty Center and
19 Rubicon said that you get the monies commissions; is
20 that right?

21 A. (No audible answer.)

22 Q. Is that a yes?

23 A. That's approximately, yes.

24 Q. You say "approximately yes." Tell me where
25 I'm wrong.

1 A. I can't tell you, you are wrong. I don't
2 have memory of exactly how it went down to which
3 one, but basically I would say yes.

4 Q. Is there written documentation, then, to
5 that effect?

6 A. Yes.

7 Q. Do you have copies?

8 A. Yes.

9 Q. Of those, that written documentation?

10 A. Yes.

11 Q. Have you shared it with your counsel?

12 A. My counsel is the one -- Jim Jimmerson is
13 the one that typed it up for me.

14 Q. Turning your attention back to how you
15 became involved with Pardee and the CSI property,
16 you indicated that, to your knowledge, Mr. Wolfram
17 had been tracking that particular property; is that
18 correct?

19 A. Well, there was articles in the papers that
20 Jim had picked up on and showed to me, and I believe
21 he talked to Harvey a couple times about the
22 property, but I wasn't part of that. Only thing I
23 was part of is when I said, Jim, let's go after it,
24 and he was on vacation.

25 Q. He was on vacation or getting ready to go

1 on vacation at that point?

2 A. He was on vacation during that time, and I
3 presented the property to Jon Lash myself.

4 Q. So it sounds like Mr. Wolfram had the
5 relationship with Mr. Whitmore and that you had the
6 relationship a little bit with Mr. Lash; is that
7 right?

8 A. No.

9 Q. Tell me where I'm wrong.

10 A. We both had a relationship with Mr. Lash.
11 Jim and Jon and I, we were all good guys, good
12 buddies. Jim new about -- we were always looking
13 for property. Jim and I were in our four-wheel
14 drive vehicle all over this town looking for
15 property to present to Jon Lash or other builders,
16 too.

17 Jim -- there was some articles in the paper
18 that Jim had been reading about, and he had heard
19 about it before. And I believe he called -- I
20 believe he called Harvey a couple times, talked to
21 him about the property. He was -- Harvey was trying
22 to get his water and we wanted to make sure he had
23 his water before we presented the property. And
24 when we found out he had his water, then took it to
25 Pardee, and Pardee just loved the property.

1 Q. Other than the meeting that you set up at
2 Pardee's offices, did you have any communications,
3 yourself, with Mr. Whitmore?

4 A. No, absolutely not. Pardee was our -- we
5 were -- it was our client. We represented Pardee.
6 We stayed away from them.

7 Q. During the course of this deposition, when
8 you made reference to "Harvey," you are referring to
9 Harvey Whitmore; is that correct?

10 A. Yes, ma'am.

11 Q. When you made reference to "Jim" you are
12 referring to Jim Wolfram?

13 A. (No audible answer.)

14 Q. When you made reference to "Jon," you are
15 making reference to Jon Lash?

16 A. Correct.

17 Q. And earlier you made reference to Klif, you
18 are referring to Klif Andrews?

19 A. He was the right-hand man for Jon Lash at
20 that time and for Pardee here in Las Vegas.

21 Q. You know Klif's name to be spelled K-L-I-F?

22 A. I think it is.

23 Q. I just want to make sure you and I are on
24 same page. You are using the first names and I'm
25 using the last names and I want to make sure we are

1 talking about the same people. Okay?

2 A. Okay.

3 Q. You indicated, then, that you are going to
4 run by this CSI property to Mr. Lash during the
5 period when Mr. Wolfram was on vacation; is that
6 correct?

7 A. Yes.

8 Q. Do you have a recollection of the
9 conversation that you had with Mr. Lash when you
10 presented it to him?

11 A. I just told you that in the beginning. I
12 told him and he said go after the property. Okay.
13 He says tell them that you are going to represent
14 Pardee. Tell them we are going to pay your
15 4 percent commission. He said tell them you are
16 going to pay a commission to him. We talked about
17 the 4 percent commission later on. And tell him
18 that we would like to set up a meeting.

19 I did everything that Mr. Lash asked for
20 and we got the meeting going and we were very proud
21 to be at that meeting representing the property of
22 that size. That's the biggest land parcel I have
23 ever sold in Nevada, and Jim and I were very proud
24 of that.

25 Q. When you discussed your commissions with

1 Mr. Lash, it's my understanding that you later
2 negotiated down to a commission letter, correct?

3 A. Yeah.

4 Q. And you understand that that commission
5 letter then dictates the terms of your contractual
6 relationship with Pardee, do you not?

7 A. Yes.

8 Q. Somebody then contacted Harvey Whitmore
9 saying that you were representing Pardee; is that
10 right?

11 A. That was me.

12 Q. That was you.

13 Do you recall your conversation, then, with
14 Mr. Whitmore?

15 A. I said, Mr. Whitmore, I said, I have a
16 company that's interested in taking down your
17 property at Coyote Springs. I said -- no, I just --
18 I said Mr. Whitmore, I represent Pardee Homes and
19 they are hiring me to take -- to get the information
20 on your property. They have an interest in your
21 property and they want to know if we can sit down
22 and talk about a meeting. And when he heard
23 "Pardee," he was extremely interested.

24 Q. Then what happened?

25 A. Then we set up the meeting.

1 **Q. Did you attend the meeting?**

2 A. We are going over the same stuff. You know
3 that, right? I told you Jim and I, Klif Andrews,
4 Jon Lash and Harvey all sat down in that meeting.

5 **Q. Tell me what happened at the meeting.**

6 A. Well, they discussed property, they
7 discussed water. They discussed all kinds of stuff.
8 Jim and I just sat there like -- you know. Builders
9 do not have much use for you once you bring them the
10 property. They like to do these things themselves.
11 Okay. But anyway, they discussed everything that
12 would be an advantage for them with the property.

13 **Q. Are were you involved in any other meetings**
14 **between representatives and Pardee and Coyote**
15 **Springs after that initial meeting?**

16 A. Jon Lash had called us and said, listen,
17 I'm going to ask you guys not to attend these other
18 meetings. We were disappointed, but, of course,
19 they didn't want us there. At that point they
20 went -- they went ahead and had several meetings
21 without us. And it was sometime later that Jon Lash
22 called up and said, hey, we got a deal. We got this
23 thing together. And we were excited and everything.
24 Then it comes out that he wants to give us a hundred
25 thousand dollars for commission, you know. He

1 really lowballed us on that.

2 Q. You got for more than that at the end?

3 A. He told us that and we had to fight for it.

4 Q. You had a negotiation, correct?

5 A. Had to get an attorney.

6 Q. You had a negotiation?

7 A. We had a negotiation, yes.

8 Q. You reached an agreement?

9 A. We reached an agreement.

10 Q. And that's the agreement that's at --

11 A. We had Mr. Jimmerson draw it up.

12 Q. And that's the agreement that's at issue in
13 this litigation, correct?

14 A. Yes.

15 Q. Describe for me your recollection as to the
16 negotiations that led then to the September 1, 2004,
17 commission letter.

18 A. Repeat that question, will you?

19 Q. Describe for me your recollection of the
20 negotiations that led up to the September 1, 2004,
21 commission letter.

22 A. Okay. We were negotiating back and forth
23 on the telephone -- Jim mostly, on the telephone.
24 And we wrote some letters to him telling him that we
25 would take a lesser commission to get this thing

1 going, get this thing on. And I think first -- then
2 we went down to -- he asked if we could come down to
3 Pardee in Los Angeles so Jim and I flew down there.
4 We went and had a meeting with Jon Lash, and he told
5 us that -- he asked what's the lowest we could do.
6 At that time we said 2 percent. He said we can't
7 give you that kind of money. I said what do you
8 mean you can't give us that kind of money? You
9 agreed to 4. You told me you had people that you
10 paid 10 percent to. We bought you the best land
11 thing that you ever had in Las Vegas and you don't
12 want to give us 2 percent? And he said I just can't
13 do it, just can't do it. So we left and we came
14 back.

15 And so in the interest to get the thing
16 going, we sent a letter -- we sent a letter to Jon
17 Lash stating that we would take 1-3/4 percent or,
18 you know, we would take -- excuse me, we would take
19 4 percent over the first -- I forget what we said in
20 that letter, but it was 4 percent for the first
21 amount, then it was -- and it wasn't 50 million.
22 That came later from John. And that we would take
23 4 percent for good portion of it, then we would go
24 down to 1-3/4 percent.

25 Q. What happened after that?

1 A. Eventually we got a letter from Jon stating
2 that they would give us 50 million -- they would
3 give us 4 percent on the first 50 million. I think
4 it was 1-1/2 on the next 16 million, which would
5 have been 66, then 1-1/2 on the balance.

6 **Q. Then what happened?**

7 A. We took that letter to Mr. Jimmerson and
8 made sure that all I's and T's were crossed and sent
9 it back to Jon, and then I got -- I got a delivery
10 of a letter, Federal Express, shortly after that,
11 where he had agreed to the 50 million and the
12 4 percent and all of the way down to 1-1/2 for
13 everything else.

14 **Q. Then what happened?**

15 A. Then what happened?

16 **Q. Yes.**

17 A. Then --

18 **Q. Signed the letter?**

19 A. Yes.

20 **Q. Throughout the negotiations you were**
21 **represented by counsel; is that correct?**

22 A. Yes.

23 **Q. You were relying upon the advice of**
24 **Mr. Jimmerson to enter into the commission letter?**

25 A. Yes.

1 Q. How much in total have you been paid?

2 A. I believe the figure is 1 million -- I
3 think I got 1 million 240 [sic], plus I think there
4 was another 232,000, approximately.

5 Q. Those are about the same numbers that
6 Mr. Wolfram testified to in his deposition. Do you
7 recall that portion of his depo?

8 A. I -- yes.

9 Q. And so the two of you then believe that you
10 were paid then the same amounts; is that correct?

11 A. Oh, of course.

12 Q. If my recollection serves me of his
13 testimony, he believed that there was \$2.4 million
14 that had been paid plus an additional 232,000 that
15 had been paid and the two of you then split that
16 50/50; is that right?

17 A. Yeah.

18 Q. So what we are looking at if you totaled
19 2.4 million with 232,000, you get \$2,632,000; is
20 that right?

21 A. To the best of my knowledge.

22 Q. And then you split that 50/50 with
23 Mr. Wolfram; is that right?

24 A. Absolutely.

25 Q. Have you run the calculations under the

1 commission letter based upon the \$84 million
2 property purchase price?

3 A. Yeah, we ran them once.

4 Q. Okay. Do you know that your \$2,632,000
5 commission is an overpayment to you?

6 A. No, I don't know that.

7 Q. Do you think that if in fact you are
8 overpaid, that Pardee is entitled to a return of any
9 monies that have been overpaid?

10 A. Well, number one, I don't think we were
11 overpaid. I think they were paying us on property
12 that they had -- that they were taking down, and
13 when Jim thought we were being overpaid, they used
14 that for an excuse. I don't think we were overpaid.
15 I don't think -- and I certainly don't think we owe
16 them money back.

17 Q. That will be an issue of proof, would you
18 agree with me?

19 A. Yeah.

20 Q. If in fact the proof indicates that you
21 have been overpaid, do you believe that Pardee is
22 entitled to a reimbursement of the amounts that you
23 have been overpaid?

24 A. I don't know.

25 Q. Let me ask you this. I'm not asking you

1 from a legal standpoint. Do you think it's only
2 fair that Pardee gets reimbursed any amounts that
3 you may have been overpaid?

4 A. I think it's only fair that they give us an
5 accounting of everything so we can determine that
6 fact and see how much they owe us.

7 Q. Do you think that the contractual
8 obligation, then, of fairness runs both ways?

9 A. I don't think it has run both ways. I
10 think there is property they have taken down that
11 they won't give us anything on. No, I don't think
12 it's both ways. I do not trust them now.

13 Q. Do you believe that you have an obligation
14 to be fair with Pardee?

15 A. Yes.

16 Q. How much total time --

17 MS. HANSEN: Finish your answer.

18 THE WITNESS: I have an obligation to be
19 fair with them, not if they in turn haven't been
20 fair with us and given us the proper takedowns and
21 the information on the property.

22 BY MS. LUNDVALL:

23 Q. How much in total time did you spend at the
24 meeting at the Pardee offices where representatives
25 of Pardee and CSI were present?

1 A. Gee, I think we spent like a half day to --
2 the first meeting you mean?

3 Q. Okay.

4 A. Excuse me. The first meeting you mean?

5 Q. Yes.

6 A. Okay. I think we spent approximately a
7 half a day.

8 Q. Thereafter, then, it's my understanding
9 that Mr. Lash then asked you and Mr. Wolfram not to
10 be involved in the negotiations that led to any
11 transaction between Pardee and CSI; is that right?

12 A. They wanted us to step aside. They didn't
13 want the brokers in there.

14 Q. Sounds like you had very little time
15 investment after that initial meeting, correct?

16 A. No, after that initial meeting we had a lot
17 of time invested just trying to make sure we got
18 paid. I mean, making sure that they were going to
19 pay us more than a hundred grand.

20 Q. Let me clarify my question.

21 You had very little time investment in
22 trying to put together CSI and Pardee after that
23 initial meeting?

24 A. Well, you've got to remember that all the
25 property that we worked with on Pardee that didn't

1 get sold. We spent months on properties we didn't
2 get sold. And when we finally found one, okay. We
3 didn't spend as much time on it, but the intent was
4 there. He was going to pay us a commission and they
5 went back on that.

6 Q. Mr. Wilkes, I'm not trying to quarrel with
7 you. I'm just trying to understand what your time
8 commitment was for this. So if you just kind of
9 stick to my question a little bit, I would
10 appreciate it.

11 After the initial meeting at Pardee's
12 offices, in trying to put together CSI and Pardee,
13 did you have any other time commitment after that
14 initial meeting?

15 A. We talked to Jon several times. We talked
16 to Jon several times, trying to get our commission.
17 The thing about it is, is like most builders, they
18 don't really want you in there. You bring the
19 property to them, you have earned your commission.
20 They don't -- they don't want you in there to be --
21 for anymore time to get involved with the lawyers or
22 anything like that. Okay. It just doesn't happen
23 that way.

24 Q. Would it be fair to say that your time
25 commitment after that initial meeting was, in large

1 part, with Mr. Lash, negotiating your commission?

2 A. Yes.

3 Q. As far as before that particular meeting,
4 how much time commitment had you invested in simply
5 putting together CSI and Pardee for this particular
6 transaction?

7 A. We had to get -- we had to get maps and
8 stuff and everything to present to them so they
9 would see, you know, what the property was like. We
10 had to find out about the water. We had to search
11 out newspaper articles. We had to do a lot of
12 different things to get -- because we wanted, of
13 course, Pardee to be really interested in the
14 property. So there was quite a bit of time there.

15 Q. Sounds like you did a good job, then,
16 making Pardee interested in the property; is that
17 right?

18 A. Yes.

19 Q. So if you had to quantify how much time
20 that you had spent in doing that, how much would you
21 approximate?

22 A. I don't know.

23 Q. Was it 20 hours, 40 hours?

24 A. I don't know.

25 Q. Can you approximate how many days you

1 spent?

2 A. Several days.

3 Q. So several days of putting together that
4 type of information?

5 A. Yeah.

6 Q. Eight --

7 A. And working with Jon.

8 Q. I would imagine eight, ten-hour days that
9 you were working, trying to gather the information?

10 A. Approximately.

11 Q. When you say "several days," are we talking
12 about a week's period of time, more than a week's
13 period of time?

14 A. You know, that was eight years ago, ten
15 years ago. I just can't remember.

16 Q. Was it more than a week's period of time?

17 A. Yes.

18 Q. How much more?

19 A. I don't know, can't remember.

20 Q. More than two weeks' period of time?

21 A. I don't remember, I'm sorry.

22 Q. So somewhere maybe between a week and two
23 weeks' period of time working maybe eight to ten
24 hours a day to gather that information?

25 MS. HANSEN: Counsel, he said he doesn't

1 remember.

2 THE WITNESS: I don't remember.

3 BY MS. LUNDVALL:

4 Q. Am I close?

5 A. I'm not going to guess on it. I can't
6 remember.

7 Q. Prior, then, to the execution on the
8 commission letter, did a final draft get delivered
9 to Mr. Jimmerson for his review?

10 A. Prior to the time?

11 Q. Prior to you signing the commission letter,
12 did the final copy get delivered to Mr. Jimmerson
13 for his review?

14 A. You know, I remember getting it and I do
15 not -- you know, I don't remember who went to him
16 first or not.

17 Q. Did you save any of the drafts that went
18 back and forth between Pardee and yourself and/or
19 Mr. Jimmerson?

20 A. I think Mr. Jimmerson has them.

21 Q. But my question to you is did you save any?

22 A. Yes.

23 Q. So --

24 A. We saved some -- we saved some stuff and we
25 took it over to Jimmerson.

1 Q. So when you say "we," who are you referring
2 to?"

3 A. Jim and I, Jim Wolfram.

4 Q. You had some materials and you brought them
5 to Mr. Jimmerson; is that right?

6 A. Yes.

7 Q. At this point in time do you have any files
8 related to CSI or Pardee that you keep?

9 A. No.

10 Q. Did you give originals to Mr. Jimmerson of
11 the documents that you had had?

12 A. Yes.

13 Q. So at this point in time --

14 A. I believe we did.

15 Q. So at this point in time, you don't have
16 any paper, no documents whatsoever dealing with CSI
17 or Pardee?

18 A. Jim's testimony.

19 Q. I'm sorry?

20 A. Jim's testimony there in the book I had
21 there this morning. That was it.

22 Q. So the only thing that you have is his
23 deposition transcript is what you are saying?

24 A. There you go.

25 MS. HANSEN: I think he is talking about

1 the exhibits to the deposition.

2 THE WITNESS: And the exhibits.

3 BY MS. LUNDVALL:

4 Q. Now I understand.

5 So any other documents that you may have
6 had dealing with Pardee or CSI, the originals have
7 all been given to your counsel, correct?

8 A. To the best of my knowledge.

9 Q. Did you keep any electronic files, in other
10 words, anything stored on the computer?

11 A. Nothing that we haven't given to counsel.

12 Q. So anything that you had stored
13 electronically, you have given that to counsel as
14 well?

15 A. Absolutely.

16 Q. After you gave those electronic files to
17 counsel, what did you do with your electronic files?

18 A. I gave those files -- I sent all of those
19 files to her co-counsel. In fact, it was over the
20 weekend. So I guess I still got some -- I still got
21 the same ones on my computer. I didn't delete them.
22 Okay. So there were just stuff I just sent over,
23 just in case. So all -- counsel has all of those
24 files.

25 Q. Your electronic files, then, are still on

1 your hard drive, is what you are telling me?

2 A. Yes.

3 Q. You didn't delete them, you didn't destroy
4 them, you didn't send them through a destruction
5 program?

6 A. No. I have a few of them. I changed
7 computers three times and I lost -- and when I
8 changed over, it didn't copy over everything right
9 so I lost a lot of files.

10 Q. I would take it you would have had to open
11 up a file, take a look at it and then be able to
12 send it to your counsel; is that right?

13 A. That's what I did with the ones I had left.
14 There were not that many.

15 Q. Tell me which ones then that you sent to
16 your counsel over the weekend.

17 A. You know what I did? I'm sorry, you are
18 not going to like this answer, I don't think. But
19 what I did is I just highlighted every one of them
20 and sent them to her co-counsel.

21 Q. What were the titles on the documents?

22 A. I don't know. I just highlighted and sent
23 them. But she will have them.

24 Q. Your files would have had highlights --
25 would have had titles on them, correct?

1 A. They had titles, but I bomb, bomb, bomb and
2 I got them all down in one thing and sent them in
3 one e-mail.

4 Q. Then what were the titles that you
5 highlighted?

6 A. I don't remember.

7 Q. How did you know that they were Pardee
8 or --

9 A. Anything to do --

10 Q. -- CSI?

11 Please don't talk over top of me. Okay.

12 MS. HANSEN: You need to wait for her to
13 finish her --

14 THE WITNESS: I understand.

15 MS. HANSEN: -- question.

16 BY MS. LUNDVALL:

17 Q. How did you know they were CSI or Pardee
18 files for you to be able to forward them?

19 A. Anything that looked like it was a CSI or a
20 Pardee file, I just clicked on them, you know. Then
21 I sent them to her. She will have it. She will
22 have all of that stuff, and probably Mr. Jimmerson
23 has got them anyway.

24 MS. HANSEN: I would like to take a break.

25 MS. LUNDVALL: That would be fine. Back in

1 ten.

2 (Off the record.)

3 MS. LUNDVALL: Mr. Wilkes, you ready to go
4 forward?

5 THE WITNESS: Ready.

6 (Exhibit 1 marked.)

7 BY MS. LUNDVALL:

8 Q. I'm going to hand you what's now been
9 marked as Exhibit 1 to your deposition. It's a
10 letter that bears a date of September 1, 2004. I
11 believe that's the commission letter that we have
12 all been discussing.

13 A. Yes, ma'am.

14 MS. HANSEN: I have copies, thanks.

15 BY MS. LUNDVALL:

16 Q. Can you confirm that for me Mr. Wilkes?

17 A. Yes.

18 Q. This is the contractual agreement between
19 and you Pardee; is that correct?

20 A. Yes, ma'am.

21 Q. Were there any amendments to that contract
22 between you and Pardee after September 1, 2004?

23 A. Well, there was -- we got amendments that
24 we never saw. This is the only thing we saw before
25 we signed this. We didn't get any of the amendments

1 to it. I think it was 2007.

2 Q. You are referring to amendments between the
3 contractual arrangement between Pardee and CSI,
4 correct?

5 A. No, I'm referring to the amendment where
6 the commission went to 84 million that we never saw.

7 Q. This is my question. Let me see if I can't
8 focus you.

9 A. Okay.

10 Q. You and Pardee signed a contract, correct?

11 A. That's correct.

12 Q. And Exhibit 1 is a copy of that contract
13 that's in front of you?

14 A. Correct.

15 Q. After September 1, 2004, did you and Pardee
16 sign any subsequent contracts?

17 A. To the best of my knowledge, no.

18 Q. And any of the terms under this contract
19 are what you contend is at issue in this litigation,
20 correct?

21 A. Yes, ma'am.

22 Q. Nothing more, nothing less?

23 A. Well, any takedowns that they take down.

24 You know, they -- for example, on the commission --
25 let me see if I can put this right. Give me a

1 minute here. Okay.

2 You say nothing more, nothing less. I say
3 that there was other -- now after seeing Jim's map
4 and everything, I think there was other takedowns
5 that I think we are entitled commission on that.
6 That's number one.

7 Number two, Jon Lash told my partner, Jim
8 Wolfram, that sometime this year that they were
9 taking down 300 acres. And we didn't -- we did not
10 ever see a commission on that and that we would get
11 a good sized commission on that. And also he said
12 not to worry. He says, Jim, not to worry. He was
13 talking to Jim Wolfram. He says we have to take
14 down 300 acres per year so you will be doing okay.
15 Okay. So that would be on top of a commission.

16 Q. Mr. Wilkes, what I would like for you to do
17 is turn to Page 2 of Exhibit 1.

18 A. Also --

19 Q. Hold on. Let me direct your attention to
20 the very bottom of Page 2. There is a paragraph
21 that reads -- let me know if I read this correctly.
22 Very last paragraph "This agreement represents our
23 entire understanding concerning the subject matter
24 hereof, and all oral statements, representations,
25 and negotiations are hereby merged into this

1 agreement and are superseded hereby."

2 The next sentence reads "This agreement may
3 not be modified except by a written instrument
4 signed by all of us."

5 Did I read those two sentences correctly?

6 A. Yes.

7 Q. Did you have any written instruments that
8 were signed by all of you after this particular
9 document had been entered into?

10 A. To the best of my knowledge, no.

11 Q. Now, you understand that Pardee has an
12 obligation to live up to the contractual terms of
13 this commission letter, correct?

14 A. Yes, sir.

15 Q. You understand that you also have an
16 obligation to live up to those contractual terms?

17 A. Yes, ma'am.

18 Q. What I would like you to do is highlight
19 with a highlighter the terms of this contract --

20 A. With the exception of -- with the exception
21 of if they did take down other properties and didn't
22 pay us on and the 300 acres we didn't get paid on
23 and the 300 acres per year that they were supposed
24 to.

25 Q. Do you have a written agreement concerning

1 that?

2 A. No, but you asked me if I would have any --
3 you asked me if I would have anything else with
4 that.

5 You want me just to do -- what do you mean,
6 the terms of this thing?

7 Q. I want you, number one, to listen to my
8 question.

9 A. Okay.

10 Q. Then, number two, I'm going to try real
11 hard not to talk over the top of you and I'm going
12 to ask for that same courtesy.

13 A. Okay.

14 Q. What I would like for you to do is if you
15 think that Pardee has not lived up to its
16 obligations under this particular commission letter,
17 I would like you to highlight those particular terms
18 that you believe that they have not lived up to.

19 A. May I ask a question?

20 Q. Yes, sir.

21 A. You did get down the fact that they did
22 tell Jim that they were going to take down 300 acres
23 and they were going to take down -- this year and
24 300 acres every year after that.

25 Q. The court reporter has taken down every

1 word that you have said.

2 A. Just making sure.

3 Better turn this thing off. I'm going to
4 run over the court reporter.

5 Q. I would like you to keep that in front of
6 you, please.

7 A. Okay.

8 Q. I would like for you to turn to the third
9 page back.

10 A. Third page back. I can do that.

11 Q. About halfway down the page does your
12 signature appear there?

13 A. Yeah, General Realty Group.

14 Q. Does your signature appear there?

15 A. Yes.

16 Q. And you were signing on behalf of General
17 Realty Group, Inc.?

18 A. Well, yes.

19 Q. When you signed this particular agreement,
20 did you first read it?

21 A. Of course.

22 Q. Did you understand this commission letter?

23 A. Yes.

24 Q. Do you believe that there is any ambiguity
25 contained within this commission letter?

1 A. I'm not an attorney. I can't answer that.

2 Q. But when you read it, there was nothing
3 that caused any confusion or that you didn't
4 understand?

5 A. To the best of my knowledge, no.

6 Q. What I would like to do is walk you through
7 a couple of these terms and ask you a few questions,
8 if I could, please.

9 A. Yes.

10 Q. Can you start on Page 1 for me, please.

11 A. I can.

12 Q. I want to start at the "re" line or the
13 subject line of the commission letter. Let me ask a
14 general question.

15 A. Gray line? You mean number one?

16 Q. I say the "re" line, the R-E line or the
17 subject matter.

18 A. Gotcha.

19 Q. Commission letters, were they frequent or
20 common in your business?

21 A. Yeah, commission letters and the commission
22 agreements.

23 Q. So those are the types of contractual
24 documents with which you were familiar, correct?

25 A. Yes.

1 Q. You have dealt with those your entire
2 professional career, have you not?

3 A. Yes.

4 Q. The subject on this particular commission
5 letter makes reference to an option agreement. Do
6 you see that?

7 A. Right.

8 Q. And it makes reference to an option
9 agreement for the purchase of real property and
10 joint escrow instructions dated June 1, 2004, as
11 amended. Then after the words "as amended," it
12 makes reference to the option agreement.

13 Do you see where I'm referencing?

14 A. I see "as amended," right.

15 Q. As you sit here today, are you aware that
16 there were two amendments that were entered into
17 between Pardee and CSI after the June 1, 2004,
18 agreement?

19 A. I'm not sure, because we let our
20 attorney -- I kind of went with our attorney,
21 Mr. Jimmerson.

22 Q. Let's see if I can't get a little clarity
23 to this.

24 A. Can I ask a question?

25 Q. Feel free.

1 A. You say I have been around commission
2 letters and commission agreements and everything my
3 whole life. I have never been around anything like
4 this for the option agreement. We have done option
5 property before, but anything like between what they
6 have done with this, this is the first time.

7 (Exhibit 2 marked.)

8 BY MS. LUNDVALL:

9 **Q. Mr. Wilkes, I now hand you what's marked as**
10 **Exhibit 2 to your deposition.**

11 A. Do I keep Exhibit 1?

12 **Q. I want you to keep Exhibit 1 because we are**
13 **going to go back and forth to it.**

14 MS. LUNDVALL: Counsel, you indicate that
15 you already have copies?

16 MS. HANSEN: Yes, I do.

17 THE WITNESS: Okay.

18 BY MS. LUNDVALL:

19 **Q. You see the date on this particular**
20 **agreement?**

21 A. Dated 11/28/11 down here at the bottom?

22 **Q. Let's take a look at May of 2004.**

23 A. That's when it was signed, May of 2004?

24 **Q. Well, why don't you just stick to the first**
25 **page on this.**

1 A. Gotcha.

2 Q. You see May of 2004?

3 A. Got it.

4 Q. This was the original option agreement,
5 then, it was between Coyote Springs and Pardee Homes
6 of Nevada?

7 A. Right.

8 Q. Do you see where I'm making reference?

9 A. Yes, ma'am.

10 Q. At some point in time Mr. Jimmerson then
11 received copies of this option agreement?

12 A. Mr. Jimmerson probably did, but I don't
13 think he has seen it and we didn't see it until
14 after we had signed our commission agreement, which
15 made us feel that they're trying to pull a fast one
16 on us.

17 Q. Let me ask you a general question. Do you
18 think that between Pardee and CSI, that they've got
19 one set of books for you and one set of books for
20 themselves?

21 A. You know, I don't know what they have done.
22 I'm very suspicious that something like that could
23 have happened. They could have gone to Harvey
24 and -- we don't know what it was they have taken
25 down. You know, they could have gone to Harvey and

1 A. Yes.

2 Q. Okay. But if Pardee doesn't purchase any
3 option property under paragraph two --

4 THE WITNESS: Is this what she's saying is
5 paragraph two?

6 MS. BROOKHYSER: If you have a question,
7 ask her.

8 A. I'm sorry. Show me what you're referring
9 to as paragraph two.

10 Q. What I'm referring to is we're on Exhibit
11 No. 1.

12 A. Okay.

13 Q. Exhibit No. 1, (iii).

14 A. Okay.

15 Q. Follow along with me. It says "Then with
16 respect to any portion of the Option Property
17 purchased by Pardee pursuant to paragraph two of the
18 Option Agreement?"

19 A. Okay.

20 Q. Are you following me up to there?

21 A. I am at paragraph two of the option
22 agreement.

23 Where is paragraph two of the option
24 agreement?

25 Q. Paragraph two of the option agreement is

1 found in Exhibit No. 2.

2 A. Okay.

3 Q. All right. I want to stick though as far
4 as with your Exhibit 1?

5 A. Okay. Go ahead.

6 Q. It does on to say "Pardee shall pay one and
7 one-half percent of the amount derived by
8 multiplying the number of acres purchased by Pardee
9 by \$40,000."

10 Do you see where I'm at there?

11 A. Yes.

12 Q. So that means that you understood that, if
13 Pardee purchased additional option property, that
14 you were going to get additional commission?

15 A. Absolutely.

16 Q. Okay. But if Pardee didn't purchase
17 additional option property, then you wouldn't get
18 additional commission?

19 A. It depends on what you call option
20 property.

21 Q. Well, we're going to work through that, but
22 we have definitions found within the commission
23 letter and definitions found within the option
24 agreement, correct?

25 A. Yes.

1 Q. And you understood that you were bound by
2 those definitions, correct?

3 A. Yes.

4 Q. Okay. Now, my question to you is: Do you
5 have any evidence that, in fact, Pardee has
6 purchased any option property pursuant to paragraph
7 two of this option agreement?

8 A. I have no evidence because nobody gives me
9 anything.

10 Q. Okay.

11 A. Okay. But --

12 Q. Now, my next question is: Are you aware
13 that Pardee has not purchased any option property
14 pursuant to paragraph two of the option agreement?

15 MS. BROOKHYSER: Objection, assumes facts
16 not in the record.

17 BY MS. LUNDVALL:

18 Q. Go ahead.

19 MS. BROOKHYSER: You can answer.

20 A. The property that is purchased by Pardee --
21 here's what gets confusing: I never have even had a
22 map of what the original purchase was. I don't know
23 the acres. I don't know what was taken down. I
24 don't have anything.

25 You're asking me these questions. I didn't

1 have a parcel number. I didn't have anything from
2 Pardee to show what properties were taken down. I
3 don't know what they were.

4 Q. Do you have --

5 A. I don't have a clue.

6 Q. Let me ask you this question: Do you have
7 any option property deeds that have been filed in
8 either Clark County or Lincoln County?

9 A. Do I have option --

10 Q. Yes.

11 A. No.

12 Q. You understand that deeds are a matter of
13 public record, correct?

14 A. Yeah. I went down to the recorder's office
15 because I could get no information from Pardee. I
16 spent hours down there. I know you've seen my map.

17 I came up with properties and I was trying
18 to figure out what the 1,950 acres was. I couldn't
19 find out what the parcel numbers were. I didn't
20 have any of that. It took me hours with those
21 people down there to find out what I found on that
22 map. And until I got that map, nobody would even
23 talk to me.

24 Q. Okay. My question to you though is a
25 little bit simpler: In your research, whether it be

1 Clark County or Lincoln County, did you find any
2 option property deeds that went back and forth
3 between CSI and Pardee?

4 A. No. That wasn't the way I did the map, but
5 still --

6 MS. LUNDVALL: I'm going to go ahead and
7 take our lunch break. Based upon our agreement,
8 we'll come back at 1:15.

9 (Thereupon, a break was taken.)

10 BY MS. LUNDVALL:

11 Q. Mr. Wolfram, are you ready to go?

12 A. Yes.

13 Q. Do you understand you continue to be under
14 oath?

15 A. Yes.

16 Q. Is there anything from the lunch break that
17 would prevent you from answering my questions
18 truthfully?

19 A. No.

20 Q. Let's go back to some of the documents you
21 have in front of you.

22 A. Okay.

23 Q. Before we went to lunch, you were looking
24 for a definition of option property.

25 Do you recall when you asked me that

1 question?

2 A. Yes.

3 Q. And I said I'd get to that and show you in
4 the documents. Let me see if I can help you out.

5 A. Okay.

6 Q. What I want you to do is pick up Exhibit 2.

7 A. Okay.

8 Q. Exhibit 2 is the option agreement between
9 CSI and Pardee. If you look at the very bottom of
10 page one and it continues over to page two, I'm
11 going to read aloud the portion that I'm going to
12 make reference to because that gives you then the
13 definition of option property. Okay?

14 A. Okay.

15 Q. The very bottom, four lines up, it starts
16 "buyer's option to purchase the remaining portion...

17 Do you see that?

18 A. Yes, I do,

19 Q. ...the remaining portion of the Entire Site
20 which is or becomes designated for single-family
21 detached production residential use, as described
22 below (the "Option Property") -- which is
23 capitalized -- in a number of separate phases
24 (referred to herein collectively as the "Option
25 Parcels" and individually as an "Option Parcel")

1 upon the terms and conditions hereinafter set
2 forth."

3 Do you see where I'm making reference?

4 A. Yes.

5 Q. That gives you the definition then of the
6 option property. All right?

7 A. Yes.

8 Q. And, once again, you're not aware or at
9 least let me ask you this: Are you aware that
10 Pardee has never taken down any of the option
11 property?

12 A. I'm not aware.

13 Q. All right. I'm making that representation
14 to you here today that Pardee has not taken down any
15 of the option property and will be able to get you
16 an affidavit or declaration from the party
17 representatives themselves. Okay?

18 Let me continue on as far as with a couple
19 of additional questions that I have.

20 A. Okay. You say they haven't taken down the
21 option property, right?

22 Q. Yes, sir.

23 A. I don't know that I agree with everything,
24 but let's go ahead.

25 Q. Well, as you sit here today, you don't have

1 any evidence to suggest that they have exercised and
2 taken down any of the option property, do you?

3 A. No. They don't give me any information.

4 Q. Okay. Turning your attention then back to
5 the Exhibit No. 1, which is the commission letter in
6 front of you.

7 A. Okay.

8 Q. I want you direct your attention then to
9 page two if I could, please.

10 A. All right.

11 Q. I want to focus on the paragraph that you
12 highlighted, which is that second full paragraph.
13 I'm going to read it out loud for purposes the
14 record.

15 "Pardee shall provide to each of you a copy
16 of each written option exercise notice given
17 pursuant to paragraph two of the Option Agreement,
18 together with information as to the number of acres
19 involved in the scheduled closing date."

20 Did I read that correctly?

21 A. You did.

22 Q. Now, you haven't received any written
23 option exercise notices from Pardee, correct?

24 A. I've received nothing.

25 Sorry.

1 Q. No apologies necessary. Sometimes I forget
2 to turn off my cell phone, too.

3 Just to clarify, you have not received any
4 written option exercise notices from Pardee,
5 correct?

6 A. Correct.

7 Q. And maybe this is a common sense question,
8 but if Pardee hadn't taken down any of the option
9 property pursuant to paragraph two, then there would
10 be no written option exercise notices to send to
11 you.

12 Would you agree with that?

13 MS. BROOKHYSER: Objection, incomplete
14 hypothetical.

15 A. I am so confused on that option property,
16 what they might be doing, as to what they're not
17 doing. I can't answer that question.

18 Q. Okay. I guess what I'm looking for is
19 possibly a double negative, but if you assume just
20 for the sake of argument, all right, if they haven't
21 taken down any option of property pursuant to
22 paragraph two, then they had no obligation to give
23 you any notices?

24 A. Well, let me put it this way: Not just the
25 option property, I don't even have anything on the

1 takedowns on the original property. I don't have
2 anything.

3 Q. Can you stick to my question though first?

4 A. Explain it again.

5 Q. Okay. If they haven't taken down any of
6 the option property pursuant to paragraph two, then
7 they wouldn't have had any obligation to give you
8 any notices of what they haven't done?

9 A. If they didn't, okay, but I'm not in
10 complete agreement with that.

11 Q. I understand. I'm just saying for the sake
12 of argument.

13 A. Okay.

14 Q. All right. The second sentence in here
15 reads "In addition, Pardee shall keep each of you
16 reasonably informed as to all matters relating to
17 the amount and due dates of your commission
18 payments.

19 Do you see where I'm at?

20 A. Yes.

21 Q. Did I read that correctly, sir?

22 A. What?

23 Q. Did I read that correctly?

24 A. Yes, you did.

25 Q. Okay. Now, you've got two different pieces

1 of information that were required then from Pardee.

2 Do you see that in this paragraph?

3 A. Yes.

4 Q. Okay. So if, in fact, they had taken down
5 option property, then they had the duty to give you
6 those notices, correct?

7 A. Should have, right.

8 Q. And then they were also supposed to keep
9 you reasonably informed as to the amounts and the
10 due dates of your commission payments, correct?

11 A. Yes.

12 Q. All right. And the commission payments
13 under paragraph (i) and (ii) on the front portion of
14 the page, those were based upon the percentage of
15 the purchase property price, correct?

16 A. Yes.

17 Q. All right. I want to go down to the next
18 portion on page two that you highlighted, and that
19 is the section then that reads "In the event any sum
20 of money due hereunder remains unpaid for a period
21 of 30 days, said sum shall bear interest at the rate
22 of ten percent per annum from the date due until
23 paid."

24 Did I read that correctly?

25 A. Yes.

1 Q. As you sit here today, do you know of any
2 sum of money that is due to yourself?

3 A. I suspect because I was overpaid some
4 money. I don't have a clue what it went to.

5 Q. All right. Do you think that this
6 particular portion then runs both ways?

7 A. What do you mean runs both ways? I don't
8 understand.

9 Q. If you got more money than what you were
10 supposed to have received and you're obligated to
11 pay it back, do you think you have to pay interest
12 on it as well under this provision?

13 A. I don't know. I'm not an attorney.

14 Q. Makes sense though, doesn't it?

15 A. What was that extra money for?

16 Q. I'm asking you, do you think that this
17 particular provision runs both ways, Mr. Wolfram?

18 A. I don't want to answer that question
19 because I'm not -- legally, I don't -- I don't
20 understand legalities like you do, and I'm not
21 certain until I know how it was going to run both
22 ways or what was involved with the money. If I knew
23 that, then I could probably answer your question,
24 but since I don't, I can't answer your question.

25 Q. The second sentence here reads "In the

1 event either party brings an action to enforce its
2 rights under this agreement, the prevailing party
3 shall be awarded reasonable attorneys' fees and
4 costs.

5 Did I read that correctly?

6 A. You did.

7 Q. All right. Now, you have brought an action
8 under this agreement, correct?

9 A. Correct.

10 Q. All right. And do you understand that, if
11 you win, that you might be entitled to reasonable
12 attorneys' fees and costs?

13 A. Legally, I don't know how these things go
14 with attorneys. I don't know if they award part to
15 some and part to the other because of the way the
16 transaction went, so I don't want to answer that
17 question because I don't understand.

18 Q. Do you also understand that if you lose, if
19 it's determined that Pardee is the prevailing party,
20 that you may have to pay their attorneys' fees and
21 costs as well?

22 A. May.

23 Q. Do you have that understanding?

24 A. Um-hmm.

25 Q. Is that a yes?

1 A. Well, it's not a yes because, like I say,
2 there may be instances in there that might make
3 those things change.

4 Legally, I don't know all the things you
5 attorneys know, and I don't want to put myself on
6 the line to say something like that when I don't
7 know legally how it would come out with a judge or a
8 jury or anything.

9 (Exhibit No. 5, Amended Complaint, marked.)

10 BY MS. LUNDVALL:

11 Q. Mr. Wolfram, we're now getting into the
12 portion where a lot of people find it tedious. I'm
13 going to go through a series of documents with you.
14 Okay?

15 A. Okay.

16 Q. I'm going to hand you what's been marked as
17 Exhibit 5 to your deposition.

18 Exhibit 5 to your deposition is a copy of
19 the Amended Complaint. It's the operative complaint
20 in this case.

21 My first question to you is whether or not
22 before this was filed if you had an opportunity to
23 see this, sir?

24 A. What's the date on this?

25 Q. If you look on page one in the upper

1 right-hand corner, it was filed on January 14th of
2 2011.

3 A. Yes.

4 Q. Okay. So before this was put on file on
5 your behalf, then you were given an opportunity to
6 take a look at this?

7 A. Yes.

8 Q. Did you make any changes then before the
9 document was filed?

10 A. I made no changes. I trust my attorney.

11 Q. And you authorized your attorneys to file
12 this on your behalf?

13 A. Um-hmm.

14 Q. Is that a yes?

15 A. Yes.

16 Q. As before, sir, I don't intend any
17 disrespect.

18 A. I know. I understand.

19 Q. Okay. Sir, I'm going to direct your
20 attention to -- there's no page numbers on this
21 Amended Complaint, so you have to count back with
22 me. I want you to go back to page four of Exhibit
23 No. 4, please.

24 A. Okay.

25 Q. No. 5. Excuse me.

1 A. Okay.

2 Q. On lines 18 and 19, it indicates that
3 Plaintiffs have been damaged in a sum in excess of
4 \$10,000.

5 Do you see where I'm at?

6 A. I do.

7 Q. All right. Can you tell me how much that
8 you believe you've been damaged, sir, and that
9 you're seeking to recover from Pardee?

10 A. I can't. I don't know enough about what
11 I'm talking about. That's the reason this whole
12 thing has come about. I can't tell you that. I
13 don't have enough information.

14 Q. Okay. Tell me what type of information it
15 is that you need to determine if you've been damaged
16 or not?

17 A. Work that I've done. I've called and I've
18 talked to people. No one would give me anything.
19 That's the reason I ended up with an attorney.

20 I tried, but I don't know what the damages
21 are. It's kind of a hard question for you to put
22 forth when no one hasn't really had time to think
23 about that.

24 Q. Tell me what information it is that you
25 claim that you need so you can determine whether

1 **you've been damaged or not?**

2 A. Maps, parcel numbers, amendments, letters,
3 anything. I don't have -- I have nearly nothing.
4 I've asked for it, but I have nothing.

5 **Q. Okay. What maps is it in particular you're**
6 **interested in?**

7 A. I can name a few but not all. From the
8 very beginning, I have never received a map on the
9 1,950 acres. I have no clue as to where we went
10 there.

11 I have no clue if any property was picked
12 up according to them over and above the commission
13 agreement. In my mind, I did my own map and I think
14 they have, but that, you know -- that's all.

15 **Q. I'm asking you, what maps do you need?**

16 A. I need maps of every one of the takedowns.
17 I need a map of the 1,950 acres and the final 2,112,
18 any maps pertinent to this commission agreement.

19 **Q. Okay. That assumes that your commission**
20 **agreement was based upon acreage, not property**
21 **purchase price, correct?**

22 A. Well, there's always acreage in property
23 purchase price. I mean, there's some acres in
24 there. They got 1,950 acres in there.

25 **Q. Show me as far as where in your commission**

1 letter that your commission is based upon the amount
2 of acreage?

3 A. The (ii) is not.

4 Q. Okay. Now, you also indicated that you
5 needed some parcel information.

6 What parcel information do you claim that
7 you need?

8 A. Any parcel of property that's been taken
9 down.

10 Q. Okay. Once again, you need that parcel
11 information to determine the acreage, is that right?

12 A. Price, acreage, yeah.

13 Q. And, once again, that would -- but there's
14 nothing in the commission letter though that bases
15 your commission based upon acreage, correct?

16 A. No, it's not based on acreage.

17 Q. Okay. Now, you also indicated that you
18 needed some amendments.

19 What amendments are you making reference
20 to?

21 A. Whatever you have. You've given me a few
22 here that I don't even recollect ever seeing. It's
23 been hard having to do business now like that.

24 Q. Well, now that you have the amendments and
25 at least your attorneys have had them for a few

1 months now, have you had an opportunity to take a
2 look at them?

3 A. I did.

4 Q. And so what you saw was the amount property
5 purchase price was \$84 million, correct?

6 A. I didn't know that until Jon Lash sent me a
7 letter on November of 2009.

8 Q. Okay. And you knew that then before you
9 brought this litigation, did you not?

10 A. Knew what?

11 Q. You knew that before you brought this
12 litigation, did you not?

13 A. Yes.

14 Q. That the property purchase price was
15 \$84 million, correct?

16 A. Yes.

17 Q. Did you run the calculations on
18 \$84 million?

19 A. Calculations as to what?

20 Q. Did you take your commission letter and
21 take (i) and (ii) and run your calculations based
22 upon that?

23 A. You know, what you're saying is all the
24 property comes out of the \$84 million. It's not
25 done on acreage.

1 I have nothing to run. What am I going to
2 run? I don't even know what's been taken down. I
3 don't even know the 1,950 acres.

4 Q. Well, let me ask you this: The commission
5 letter has (i) and (ii), correct?

6 A. Correct.

7 Q. And you've got percentages that are based
8 upon the property purchase price?

9 A. I've been paid on those.

10 Q. Okay. Been paid on those, right?

11 A. Yes.

12 Q. All right. You indicated that you
13 also needed some letters.

14 What letters is it that you're interested
15 in obtaining?

16 A. Let me explain it this way: Anything
17 that's pertinent. It says here I'm to be
18 well-informed. Nobody ever gave me anything.

19 Any letters to do with my commissions or
20 the takedowns or anything like that, I think I
21 should be informed so I can see what's going on, how
22 the project is developing. Nobody sent me any of
23 that stuff.

24 MS. LUNDVALL: Would you read my question
25 back, please?

1 (Thereupon, the requested portion was read back.)

2 A. Any letters that went back and forth that
3 pertained to my interest in this property.

4 Q. After you received the option agreement in
5 the amendments that had been entered into prior to
6 your commission letter, did you take a look to see
7 if there was any option property that was taken down
8 that there needed to be an option property deed
9 recorded --

10 A. Which --

11 Q. Hold on. Let me ask my question, please.

12 You received through this litigation at the
13 very minimum the option agreement, the first
14 amendment and the second amendment.

15 Correct?

16 A. Um-hmm.

17 Q. Is that a yes?

18 A. Yes.

19 Q. And all of those are dated then prior to
20 your commission letter that's dated September 1 of
21 2004, correct?

22 A. All of what are dated before that?

23 Q. Option agreement, Exhibit 2?

24 A. Exhibit 2?

25 Okay. In my mind -- and I don't even

1 understand completely -- this is what I have right
2 here. This is what I've always gone by right here
3 what you're looking at here. This one over here, it
4 doesn't always match up.

5 All I know, not being an attorney, not
6 understanding all the legalities of everything, they
7 told me this is what I was going by, this is how I
8 was going to get paid. They didn't say anything
9 about what was going on in here.

10 So that's what I'm basing everything on
11 right there. That's where I get paid.

12 **Q. Did you review either Exhibit 2, Exhibit 3**
13 **or Exhibit 4 to determine that if, in fact, any**
14 **option property was taken down that there would need**
15 **to be an option deed, option property deed to be**
16 **filed either in Clark County or Lincoln County?**

17 A. Well, that's the reason I went through an
18 attorney. We didn't understand all that and I don't
19 really know what to say on that.

20 **Q. So you don't have that understanding, is**
21 **that right?**

22 A. I understand this right here. When I start
23 reading this, I'm not like you. I don't read down
24 through here and just go through this stuff.

25 In my mind -- and I don't remember what

1 they are -- these agreements in these things between
2 mine and this and your two right there, this is what
3 I know that I should get paid on. This is what we
4 worked out. This is what I was told.

5 They didn't say, Jim, go to two here and
6 all this stuff. This is the way it's going to
7 happen, right here.

8 Q. So, in other words, what you're telling me
9 is that, after you received the documents during
10 this litigation, you didn't go through and review
11 any of these documents, is that right?

12 MS. BROOKHYSER: Objection, misstates the
13 testimony.

14 A. I tried to read some of that stuff, but I
15 took it to my attorney.

16 Q. And I would imagine you, like most other
17 clients, you expected your attorney to be able to
18 review those, is that right?

19 A. Most attorneys can read attorneys.

20 Q. Okay. At this point in time you can't tell
21 me any amounts then that you may have been damaged,
22 is that right?

23 A. Not yet.

24 (Exhibit No. 6, Certified Letter Dated August 23,
25 2007, marked.)

1 BY MS. LUNDVALL:

2 Q. Mr. Wolfram, I'm handing you what's been
3 marked as Exhibit 6 to your deposition. Exhibit 6
4 to your deposition, sir, is a certified letter that
5 bears the date of August 23 of 2007 addressed to
6 yourself and to Mr. Wilkes and General Realty Group
7 as well as Award Realty group.

8 Did you receive a copy of this letter?

9 A. Yes.

10 Q. I'll direct your attention then to the last
11 page. There's a reference by Mr. Lash to, if you
12 have any questions, to call him.

13 Did you place a telephone call to Mr. Lash
14 in August of 2007 after receiving this letter?

15 A. You know who instigated this letter?

16 Me.

17 They were overpaying us, and I told Walt,
18 we've got to be honest. I called, said, you guys
19 are overpaying us, I don't know what for.

20 We worked it out to get it back. Nothing
21 in September, nothing in October, and 17 -- or was
22 it 17? -- something like that, the next month?

23 But this whole thing here came about
24 because Walt and I were trying to be honest with
25 Pardee.

1 Q. After you received a copy of this letter
2 from Mr. Lash --

3 A. No. It was before that.

4 Q. -- did you give him a call?

5 A. This letter is something that originated
6 because Walt and I told them they were overpaying us
7 and we didn't want them to overpay us.

8 That's how that originated right there.
9 They didn't even know they were overpaying us.

10 Q. Back to my question. And I think I got an
11 answer, but I just want to confirm.

12 After you received this letter though, you
13 didn't give Mr. Lash a call asking him to explain
14 this to you?

15 A. I don't know. I don't remember.
16 (Exhibit No. 7, Letter Dated April 6, 2009, marked.)
17 BY MS. LUNDVALL:

18 Q. Okay. Mr. Wolfram, I'm going to hand you
19 what's been marked as Exhibit 7 to your deposition.

20 This is a letter that bears the date of
21 April 6th of 2009. It's from Jim Stringer. It's
22 addressed to you.

23 You received a copy of this, did you not?

24 A. I did.

25 Let me read the letter again.

(Exhibit No. 8 Letter Dated November 24, 2009,
marked.)

1 BY MS. LUNDVALL:

2 Q. Mr. Wolfram, I'm handing you what's been
3 marked as Exhibit 8 to your deposition.

4 A. Okay. This is that letter where I --

5 Q. This is a letter that bears the date of
6 November 24th of 2009.

7 Did you receive a copy of this letter
8 Mr. Wolfram?

9 A. I did.

10 Q. Now, I want you to turn to page two. Page
11 two has got the chronological summary of the land
12 takedowns.

13 Do you see that?

14 A. I do.

15 Q. It's got all of the dates of the closing
16 and identifies what the purchase prices are.

17 Do you see that?

18 A. You're talking about the takedown chart
19 there.

20 Q. There you go.

21 And then right above that takedown chart,
22 it makes reference that Pardee still has about
23 \$116,000 that's on account.

24 Do you see that?

25 A. I do.

1 Q. All right. If you total up all those sums
2 between that \$116,000 and then all of the sums that
3 are listed in the takedown chart?

4 A. I've looked this thing over. I can't make
5 hide nor hair of it. I did work on my own over at
6 the county. I couldn't get anything to balance with
7 what I've done and I couldn't make hide nor hair of
8 what he said right here.

9 Q. My question to you is if you total up all
10 those sums?

11 A. Well, I probably have. In my mind, I don't
12 know what the sum total of that is, if that's what
13 you're asking.

14 Q. If you total that up, you get \$84 million,
15 don't you?

16 A. I don't know. If you've totalled that
17 up -- I don't remember.

18 Q. Okay. I'll represent to you that if you
19 total up and you take into account the \$116,000
20 that's still on account that they make reference to,
21 then you end up with the \$84 million, which was the
22 property purchase price. Okay?

23 A. Um-hmm.

24 Q. Now, I have a question for you: On page
25 one, you see about the third paragraph down that

1 there's a reference made that this transaction was
2 amended on March 28th of 2005 to reflect the
3 adjusted acquisition price of \$84 million?

4 A. That's right. That's --

5 Q. Okay. Do you know where that March 28th of
6 2005 date comes from?

7 A. No.

8 Q. All right. Let me see if I can help you
9 out then a little bit.

10 (Exhibit No. 9, Amended and Restated Option
11 Agreement For the Purchase of Real Property and
12 Joint Escrow Instructions, marked.)

13 BY MS. LUNDVALL:

14 Q. I'm going to hand you what's been marked as
15 Exhibit 9 to your deposition, sir. Exhibit 9 is the
16 Amended and Restated Option Agreement For the
17 Purchase of Real Property and Joint Escrow
18 Instructions.

19 THE WITNESS: I need to ask a question.

20 BY MS. LUNDVALL:

21 Q. Exhibit 9, once again, sir, is an agreement
22 between Coyote Springs and Pardee, correct?

23 A. It appears, yes.

24 Q. Do you see that in the first paragraph
25 there on the first page?

1 A. Up here?

2 Q. Yes.

3 Do you also see it has a date of March 28th
4 of 2005?

5 A. I do.

6 Q. All right.

7 A. But keep in mind my commission letter has a
8 date of September.

9 Q. I understand. I'm trying to help you out
10 pointing out to you what I'm talking about.

11 Once again, I want you to turn to page
12 three of Exhibit 9.

13 A. Okay.

14 Q. Page three of Exhibit No. 9 under paragraph
15 one, subsection (b), do you see the definition set
16 forth there of purchase property price?

17 A. I do.

18 Q. And that purchase property price was
19 \$84 million, correct?

20 A. Yes.

21 Q. Okay. So from the standpoint of you
22 understand then as far as where the date of March
23 28th of 2005 comes from in the Exhibit 8 letter?

24 A. I need a second.

25 Q. Okay.

1 A. Okay.

2 Q. All right. Do you see where I made
3 reference then to that date on that letter?

4 A. Make reference again because I was just
5 reading that.

6 Q. Do you see on Exhibit 8 that there's a date
7 of March 28th of 2005 referenced?

8 A. Right.

9 Q. And that's the same date that's in
10 Exhibit 9, which is the amended and restated option
11 agreement that I just showed you?

12 A. That amendment is after my agreement right
13 here.

14 Q. I understand that.

15 A. My agreement, I go by this.

16 Q. I agree whole-heartedly with you, sir.

17 But if you take a look at this or if you
18 have your attorneys take a look at this, what you're
19 going to see is this is an amended and restated
20 option agreement. It has the same information as
21 the option agreement amendment one and amendment two
22 that I've already shown you that predates your
23 commission letter. Okay?

24 A. I don't understand that, so I'm not going
25 to say anything. I didn't know about this until

1 right here on this letter, this \$84 million.

2 Q. I'm not going to ask you any questions on
3 that. Those are questions that, from a legal
4 standpoint, I'm not entitled to give you advice.
5 I'm only permitted to ask you questions. Okay?

6 A. Yes.

7 Q. And you've made it pretty clear that you're
8 not an attorney and so, therefore, I'm not going to
9 ask you a bunch of legalese. All right?

10 A. Yes.

11 (Exhibit No. 10, Handwritten Letter Bates No. PLTF
12 0151, marked.)

13 BY MS. LUNDVALL:

14 Q. Next exhibit for you, Mr. Wolfram, is a
15 handwritten page of notes that's been marked now as
16 Exhibit No. 10 to your deposition. The fax tag line
17 at the top of it bears a date of April 9th of 2009.
18 It has a signature, Jim.

19 Can you tell me if this is your
20 handwriting, sir?

21 A. It's my handwriting.

22 Q. Okay. Who is this note or letter addressed
23 to?

24 Who were you sending it to?

25 A. I don't remember. It could have been Jon.

1 It could have been, I believe, and I believe it was
2 Jon Lash.

3 Q. So you believe that you sent this note then
4 to Jon Lash?

5 A. I believe so.

6 Q. All right. See, this is a document that we
7 received from you.

8 A. Okay.

9 Q. That's why I'm asking this question. This
10 exists in your files, not in our files.

11 At the top, you see on the fax tag line
12 it's page six.

13 Do you know what the other five pages were
14 in front of that?

15 A. Where is this?

16 Q. At the very top of Exhibit No. 10, sir?

17 A. What are the other --

18 Q. Do you know what you faxed with that?

19 A. No.

20 Q. Do you have any idea?

21 A. I don't remember.

22 Q. Okay.

23 A. I don't remember.

24 Q. Why don't you do this for me since your
25 handwriting is not too bad, but I just want to make

1 sure I got a pretty good idea what it says: Why
2 don't you read it out loud into the record for me?

3 A. Are the 776 and 91-acre parcel part of the
4 original sale or an addition? We need proof since
5 we've had no way of tracking sales. Once they
6 explain all of this to us with maps and backup
7 information, we can agree. We still need an
8 accounting of how the land is taken down. I think
9 it is additional acreage. Last payment was
10 April 1st, 2009 and they closed 776 acres on
11 August 2008. If so, did they get title to land
12 before it was all paid for? Mr. Stringer told you
13 that there were no parcel numbers, but I gave you
14 the parcel numbers for the 776 acres. Jim.

15 Q. Okay. Mr. Wolfram, if I'm reading this and
16 particularly your first paragraph, you wanted
17 information as to the amount of acreage that was
18 taken down by Pardee from CSI, is that right?

19 A. Yes.

20 Q. Okay. If the commission letter was based
21 upon property purchase price --

22 A. It is.

23 Q. It is.

24 -- what relevance does the acreage have to
25 do with it?

1 A. I think I was mistaken here.

2 Q. Okay.

3 A. But the only reason I was mistaken is
4 because this happened later, it really happened
5 late, and I was still trying to determine what the
6 1,950 acres were so I could go on. I didn't, you
7 know, then you guys went up without getting to
8 \$84 million. I think this came late, but I believe
9 I was paid for this.

10 Q. Okay. Let's direct your attention to the
11 next exhibit.

12 (Exhibit No. 11, Letter to Jon Lash With Handwritten
13 Note, marked.)

14 BY MS. LUNDVALL:

15 Q. Sir, I'm going to hand you what's been
16 marked as Exhibit 11. It doesn't have a date on it,
17 but it has a handwritten notation on it.

18 Feel free to take a look at that and then
19 I'm going to have a couple questions for you.

20 A. Okay.

21 Q. Exhibit No. 11, is that your handwriting in
22 the upper right-hand portion of this?

23 A. That is. But I need to read what I have
24 here.

25 Q. Feel free. My apologies.

1 A. Okay.

2 Q. Have you had an opportunity to take a look
3 at that, sir?

4 A. Yes.

5 Q. Is that your handwriting that's in the
6 upper right-hand portion?

7 A. Yes.

8 Q. Who was going to be the signator to this
9 letter?

10 A. The what?

11 Q. Who was going to be signing this letter?
12 Was this going to be Mr. Wilkes and
13 yourself?

14 A. You mean who -- I still don't get it.

15 Q. Once this letter was going to be finalized,
16 who was going to be the signers on this letter?

17 A. It's back here.

18 Q. Mr. Wilkes and yourself?

19 A. Right.

20 Q. Who was author of this letter?

21 A. Walt and I.

22 Q. Okay. Is this a note from you to Walt?

23 A. That was just a note that I made for my
24 mental -- if I ever had to come back to something,
25 it would help remind me what we were talking about.

1 Q. Okay. The reason I ask is because the very
2 last line of your handwritten note, it says "word
3 this as you see fit."

4 That sounds like you're telling somebody to
5 do something, and I'm trying to figure out who you
6 might be telling.

7 A. I have no clue. That was when Walt and
8 I -- Walt and I wrote this letter. That's probably
9 when I'm talking to Walt, be my guest, you know,
10 when we're trying to figure out how to word this
11 thing out.

12 Q. All right. It looks like at the very
13 bottom there is some notation for purposes of
14 indicating as to where on the computer you could
15 find this letter.

16 Do you see that?

17 A. Yes. That would be Walt because Walt does
18 all that computer work. He was the one took care of
19 all that.

20 Q. Actually, it's the same notation that your
21 attorneys use.

22 A. Same what?

23 Q. It's the same notation that your attorneys
24 use.

25 So my question to you is whether or not one

1 of your attorneys drafted this letter and it was
2 going to be sent out over yours and Mr. Wilkes's
3 signature?

4 A. I have no clue on that. It doesn't appear
5 that way to me, but it may appear that way to you.

6 Q. Okay. Let me show you what I'm talking
7 about. All right?

8 (Exhibit No. 12, Plaintiff's NRCP 16.1 Disclosure of
9 Witnesses and Documents, marked.)

10 BY MS. LUNDVALL:

11 Q. Sir, I'm going to hand you what's been
12 marked as Exhibit 12 to your deposition. This is a
13 document that came from your attorneys.

14 You see at the very bottom on page one of
15 Exhibit 12 that they've got some notations there in
16 the lower right-hand corner?

17 A. You mean Pastor Brown?

18 Q. Yes.

19 See the way that those are signalled and
20 very similar then to what's on Exhibit No. 11?

21 A. Where does it match up to that?

22 Q. Well, I'm saying it's similar. I'm not
23 saying it matches up to it. I'm saying that the
24 signals are very similar.

25 A. I don't know. I don't understand.

1 Q. Okay.

2 A. I don't.

3 Q. All right. But let me go back to Exhibit
4 No. 11 if I could, please.

5 A. Okay.

6 Q. On Exhibit No. 11 in your handwritten
7 portion, you note that Harvey decided not to sell
8 the whole 52,000 acres, correct?

9 A. Correct.

10 Q. And you knew that, correct?

11 A. Correct.

12 Q. All right. You knew that Pardee was buying
13 a piece of what CSI had to sell?

14 A. Single-family residence.

15 Q. Okay. And you knew that Pardee was going
16 to pay a purchase property price for that, correct?

17 A. Correct.

18 Q. And your commission letter then indicates
19 that your commissions were going to be paid, at
20 least as to one and two, on that purchase property
21 price, right?

22 A. Wait a minute. When we originally started
23 on this, it wasn't purchase property price. When
24 Walt and I were involved in this, we all talked --
25 we were always talking acres. This was earlier on,

1 52,000 acres.

2 Harvey was keeping some where he didn't
3 want the single family that went to CSI. He kept
4 CSI at the industrial and the commercial. Jon just
5 got the single family acres. That's the way it went
6 down when we first started. There was none of this
7 \$84 million like we have now.

8 So I remember in the beginning
9 52,000 acres. Harvey thought maybe he had 11,000
10 acres he wanted to keep for industrial and
11 commercial.

12 There had been had a realignment. They
13 were doing a realignment with the government, which
14 changed those figures a little bit. I've never
15 received a map on the realignment, so I don't really
16 know how the figures changed or anything.

17 But that's what it boiled down to was Jon
18 at one time was getting 43,000 acres, or we thought
19 43,000 acres of single-family residential.

20 After the realignment, I don't know what
21 happened. I guess 30. I don't know. You know,
22 it's in there. But no one ever told me what
23 happened there.

24 **Q. But you did know that there was going to be**
25 **a realignment or what they called a reconfiguration**

1 because of the BLM, correct?

2 A. Right. Harvey explained that to us very
3 clearly.

4 Q. Then, ultimately, the commission letter
5 then that you signed and you agreed to and you've
6 acknowledged that you're bound by your commission as
7 to one and two was based upon the purchase property
8 price, correct?

9 A. Yes. That was on down the road, in fact,
10 years down the road. Before they started referring
11 to purchase property, it used to be acres.

12 Q. I'm going to ask you a couple questions on
13 individuals.

14 A. Which exhibit?

15 Q. No exhibit.

16 Do you know a Frances Butler?

17 A. I do.

18 Q. Is Frances a male or female?

19 A. Female.

20 Q. Have you had any conversations with
21 Ms. Butler related to this case?

22 A. Yes.

23 Q. What conversations are those please?

24 A. I met in her office a couple times. I
25 talked to her on the telephone. Basically, somebody

1 please, tell me, give me a map, tell me the
2 1,950 acres where I am. I have no clue. I am part
3 of the escrow. I am with recorded with that escrow.

4 And she kept saying, I have to talk to Jon
5 Lash, I have to talk to Jon Lash. I said, you don't
6 have to talk to Jon Lash. I'm talking about my
7 commissions and I'm talking about what property has
8 gone down. Just give me something, I'm part of the
9 escrow.

10 Q. Ms. Butler did confirm though that you were
11 part of the escrow, correct?

12 A. Yes.

13 Q. And did she tell you that a copy of your
14 commission letter then had been made part of the
15 escrow instructions?

16 A. Yes.

17 Q. Okay. And you've acknowledged then that
18 any of the payments that either you or Mr. Wilkes
19 have received have come from the escrow company,
20 correct?

21 A. Yes.

22 Q. All right. And before Chicago Title was
23 involved, Stewart Title was involved as well,
24 correct?

25 A. Yes.

1 Q. Have you talked to any representatives of
2 Stewart Title?

3 A. Way back. Linda Jones.

4 Q. Ms. Jones, did she confirm that you were
5 part of the escrow that she was administering at
6 that point in time?

7 A. I can't really remember whether when they
8 pulled out of there, it's beyond me whether they had
9 it really set up to where, you know, we were part of
10 anything. I don't remember.

11 They were still dickering back and forth on
12 how they were going to make this go down, and I
13 don't really remember how it went down with Stewart
14 Title.

15 Q. There was a period of time when you and
16 Mr. Wilkes were receiving then your commission
17 checks from Stewart Title, correct?

18 A. Yes, we did.

19 Q. Did you understand your commission letter
20 had been made part of the escrow instructions to
21 Stewart Title?

22 A. It must have because we were getting
23 payments from them, that's true.

24 Q. Who is Clifford Anderson?

25 A. That's Jon Lash's right-hand man at Pardee

1 Homes here in Las Vegas.

2 Q. Have you had any conversations with
3 Mr. Anderson since this litigation has begun?

4 A. Very, if we had any at all with Cliff, it
5 would be almost nothing.

6 Q. Okay.

7 A. We always dealt with Jon. Jon says, don't
8 talk to anybody else, talk to me. And that's what
9 we did.

10 Q. Are you talking about Cliff Andrews?

11 A. Yes.

12 Q. It's not Clifford Anderson, correct?

13 A. Oh, I thought you meant Cliff.
14 Clifford Anderson?

15 Q. Do you know a Clifford Anderson?

16 A. That's not the Cliff with Jon Lash?

17 Q. No.

18 A. It's not?

19 Q. Yes, Cliff Andrews.

20 A. Yeah, Cliff Andrews.

21 Clifford Anderson, I don't recollect.

22 Q. All right. So, to your knowledge, you
23 don't know anyone by the name of Clifford Anderson
24 with Pardee Homes?

25 A. Where is his office?

1 Q. I don't know.

2 A. Well, if you could tell me, maybe I could
3 tell you if I know him.

4 Q. All I know is on the document that your
5 attorneys gave me it has my address and --

6 A. Is he in San Diego? There was a guy in San
7 Diego, but I don't remember.

8 Q. Got me. That's why I'm asking you.

9 A. Got me, too.

10 Q. All right. Now, Mr. Whitmore, have you
11 spoken to Mr. Whitmore since this litigation began?

12 A. No.

13 Q. Prior to the litigation beginning, did you
14 ask him anything about your commissions?

15 A. We had very little or no conversation with
16 Harvey Whitmore ever since they went into trying to
17 put together a transaction. We weren't calling
18 Mr. Whitmore and asking this and asking that.

19 I'm saying that I've never talked to
20 Mr. Whitmore. I met him at a party in Reno one
21 time, and we were talking at the party. We were
22 both at the same party and what have you.

23 But as far as telephone calls to him to try
24 to work all this out, I don't really remember.

25 Q. Okay. So you don't know if he has any

1 information related to the commissions that you
2 claim are owed to you?

3 A. I don't know what Mr. Whitmore has.

4 Q. Okay. Given the various pieces of
5 correspondence that you have received from Pardee,
6 can you identify for me what documents Pardee has
7 already given to you?

8 A. I can't remember.

9 Q. Okay. Do you recall receiving some parcel
10 maps from them?

11 A. No parcel maps.

12 Q. Do you recall receiving some escrow closing
13 statements?

14 A. To my recollection, no, I'm not sure.

15 Q. Do you recall receiving the details
16 concerning the takedowns that made up the
17 \$84 million, which was the purchase property price?

18 A. In my mind I believe I've received none of
19 that.

20 Q. Any of the income that you received as a
21 result of this transaction, have you reported that
22 to the IRS?

23 A. Oh, sure.

24 Q. Do you think that Pardee has acted in bad
25 faith towards you?

1 A. Yes.

2 Q. Tell me why you believe they've acted in
3 bad faith.

4 A. I can't track anything. Put yourself in my
5 place. Would you take someone's word for it?

6 You got to take my word for it that all
7 this stuff is happening. Would you do that if you
8 were sitting in my chair?

9 No. You would want some information, some
10 maps, some parcel numbers, some takedowns, things
11 that we didn't get. We don't have a clue as to
12 where we are on it.

13 Q. Well, let me start with from the top as far
14 as what you had to say.

15 Your commission letter indicates you're
16 going to be paid commissions then on the property
17 purchase price, correct?

18 A. Correct.

19 Q. You got a letter from Mr. Stringer
20 identifying the total \$84 million that had been paid
21 by Pardee to CSI, correct?

22 A. Correct.

23 Q. As well as the dates when those monies were
24 paid, correct?

25 A. Correct.

1 Q. As well as when the takedowns and what the
2 chronology of those takedowns were from
3 Mr. Stringer, correct?

4 A. Mr. Stringer's letter didn't have the
5 takedowns. The letter you handed me said that the
6 last \$2 million had been paid. Jon's letter had the
7 takedowns.

8 MS. HANSEN: What exhibit number is it,
9 please?

10 BY MS. LUNDVALL:

11 Q. I want to direct your attention to Exhibit
12 No. 8, Mr. Wolfram.

13 A. No. 8?

14 MS. HANSEN: It's right here.

15 BY MS. LUNDVALL:

16 Q. Exhibit No. 8 is the November 24th of 2009
17 letter from Mr. Lash. On page two it identifies the
18 dates of the closing, the chronology of those
19 takedowns and what the purchase price was.

20 A. That's not Mr. Stringer. Oh, I'm sorry.

21 MS. HANSEN: Your initial question was what
22 Mr. Stringer said in his letter not Mr. Lash.

23 MS. LUNDVALL: My apologies then if I
24 misspoke.

25 BY MS. LUNDVALL:

1 Q. In this letter Mr. Lash tells you the dates
2 of the closing, the chronology of the takedowns, as
3 well as the purchase price that had been paid by
4 Pardee to CSI, correct?

5 A. They have the takedowns in here. According
6 to Jon Lash, these are the takedowns.

7 Q. Okay. And you've identified --

8 A. According to what I tried to find out, I
9 don't agree with that. Like I told you, I couldn't
10 make hide nor hair of what he's done right there.

11 Q. And you've acknowledge that you've been
12 paid the commissions on the \$84 million, which is
13 the property purchase price, correct?

14 A. I've been commissions on the 66 that my --
15 this is what I go by. I've been paid commissions on
16 the \$66 million.

17 There's \$18 million between there and the
18 \$84 million. I never knew anything. There's \$18
19 million in there. If land has been taken down on
20 that \$18 million, I didn't get anything.

21 Q. Well, have you ever run the calculations?

22 A. I think I have. Well, you know, I think it
23 has, but no one gave me anything. That's the reason
24 I don't understand any of this. I've got nothing to
25 go by.

1 Q. Well, now you do, and at the conclusion of
2 this deposition, you can run your calculations and
3 you can make your own determination.

4 I want to ask another question then: Any
5 other bad faith that you contend that Pardee has
6 acted in for purposes of their contractual
7 relationship with you?

8 A. I have nothing personally against anybody,
9 if that's what you're getting at. My whole thing is
10 I just want to know what's going on and I have
11 received nothing. I mean, my contract says they're
12 supposed to keep me informed. They did not keep me
13 informed.

14 Q. Anything else, sir?

15 A. No.

16 Q. Okay. Tell me what parcel maps you believe
17 exist that are not a matter of public record to
18 which you believe that you're entitled?

19 A. What do you mean not a matter of public
20 record.

21 Q. You understand that parcels maps by and
22 large are a matter of public record?

23 A. I came up with some parcels. See, I can't
24 put them back against the 1,950 acres because I
25 don't know where the 1,950 acres is.

1 But I know I've come up with some parcels
2 in my estimation, and this is what I think: I've
3 come up with some parcels over and above what my
4 initial agreement right here was. And you've got
5 the map. You can take a look at it and see what you
6 think.

7 **Q. Back to my question: What parcel maps that**
8 **are not matter of public record that you believe**
9 **exist to which you have not been given by Pardee?**

10 A. They're on my map. I can't pick them off
11 the top of my head. I don't know.

12 **Q. What transfers or sales documents that are**
13 **not a matter of public record that you believe exist**
14 **that you have not been given from Pardee?**

15 A. I don't know what all the parks and all
16 those things are. Then again, I don't have enough
17 information to talk about this.

18 **Q. All right. When is the last time you spoke**
19 **with Mr. Wilkes?**

20 A. Today.

21 **Q. I'm sorry?**

22 A. Today.

23 **Q. At lunch?**

24 A. Not at lunch.

25 **Q. In the morning?**

1 A. Yes.

2 Q. How's he doing?

3 A. How he doing? I'll tell you how he's
4 doing. Have you read the letter? Walt's a very
5 sick man. Walt has almost every heavy man's disease
6 there is. He's in a wheelchair now. I never saw
7 him in a wheelchair before.

8 Q. Do you think Mr. Wilkes has information
9 concerning the commission letter between the two of
10 you that you don't have?

11 A. No.

12 Q. The two of you have been pretty active
13 about trying to share as much information between
14 the two of you?

15 A. Happiest day of my life when I finally got
16 a commission letter, and I base it all on that \$66
17 million. That's what they gave me.

18 Q. And the information that the two of you
19 have sought back and forth, you and Mr. Wilkes have
20 been open and complete about the sharing of
21 information, is that right?

22 A. Yeah, we've been open. But I'm not saying
23 that we didn't see things different. Anybody sees
24 things different a times.

25 Q. I understand that.

1 What I'm interesting in learning, in your
2 opinion, does he have any additional facts that he
3 kept secret from you that he didn't share with you?

4 A. No, no.

5 MS. HANSEN: How would he know that?

6 A. He would have nothing that he kept secret
7 from me, nor I him.

8 Q. All right. So what you're telling me is
9 that, in your opinion, Mr. Wilkes's health is not
10 real good right now?

11 A. It's not funny, but I mean --

12 MS. HANSEN: Just answer yes or no.

13 A. No. His health is not good.

14 Q. Okay. Was he in the hospital recently?

15 A. Yes.

16 Q. Did you go see him?

17 A. No. He didn't call me.

18 Q. Did you know that he was in the hospital?

19 A. He was flat-lined for three days, and
20 that's one of the reasons he didn't call me after he
21 was out. I didn't even realize that he was getting
22 out of the hospital. I called him and he explained
23 the situation to me. He was going to call me, but
24 he was flat-lined.

25 Q. Okay. So, in other words, after he got out

1 of the hospital, then he shared some information
2 with you about his hospital stay, is that right?

3 A. Yes.

4 Q. Okay. And what information did he share
5 with you, sir?

6 A. I don't think I should be the one to say
7 what some doctor says to him and I don't want to do
8 that. That's -- you have a letter, and it tells you
9 what it was. But for me to start going into his
10 sicknesses, which I can't elaborate on those things,
11 I don't know.

12 Q. I'm not asking you to elaborate. I'm just
13 asking you to tell me what he told you.

14 I'm entitled to ask those questions, sir.

15 A. He told me that he was flat-lined, that he
16 had some kind of a -- I think it was a urinary
17 infection and his heart quit, and for three days
18 they had him on life support. That's what he told
19 me.

20 Q. Did he tell you how long ago that was?

21 A. Yeah. It was not very long ago. It might
22 be -- I don't know -- three weeks, two weeks. I
23 don't know. I mean, I talked to him, but I didn't
24 keep track of it.

25 Q. Do you know if he has a caregiver at this

1 point in time?

2 A. I don't know.

3 Q. Is there somebody that takes care of him?

4 A. He lives in California. I don't know. I
5 don't know.

6 Q. Okay. So you don't know what his
7 care-taking situation is at this point?

8 A. I don't know.

9 Q. Is he married at this time?

10 A. He is married.

11 Q. Okay. So do you know if his wife is
12 around?

13 A. His wife is living with him.

14 Q. Okay. How's your health?

15 A. Well, prostate cancer, but I'm going to
16 beat that so I'm not worried about it. If you can
17 just get me off these hot flashes, I'll be fine.

18 MS. LUNDVALL: Let's take a short break
19 here. We might be complete.

20 (Thereupon, a break was taken.)

21 BY MS. LUNDVALL:

22 Q. Mr. Wolfram, are you ready to go back on
23 the record?

24 A. I certainly am.

25 Q. You look pretty healthy to me.

1 **How do you feel?**

2 A. I'm fine. There's nothing wrong with me
3 other than that prostate thing.

4 Q. **That's good.**

5 A. Caught that early.

6 Q. **I'm glad that my eyesight is not bad.**

7 **Okay?**

8 A. No. My eyesight's good except I have to
9 wear -- those aren't glasses; they're a prism. Once
10 in a while after I read a long time, I get two poles
11 instead of one, so there's prisms in there and that
12 brings them in.

13 That's usually after reading and reading
14 and reading, but the rest of my eyesight is good.

15 Q. **Good. Then I'm glad that my eyesight is**
16 **pretty good, too, that you look pretty healthy.**

17 A. Thank you.

18 Q. **Any questions that I haven't asked you or**
19 **any topics that I haven't asked you any questions**
20 **upon for which you think are important to your case**
21 **against Pardee?**

22 A. I don't think.

23 Q. **You don't think so?**

24 **Think I covered pretty much everything?**

25 A. I believe you have. You know, you sit here

1 and you listen to it all and you're hoping we got it
2 all in here. I'm not saying I won't remember
3 something later, but I didn't purposely not tell you
4 anything.

5 **Q. I appreciate that.**

6 MS. LUNDVALL: I have no further questions.

7 MS. HANSEN: I have no questions.

8 MS. LUNDVALL: Counsel, I'm willing to
9 enter into an agreement that the original of this
10 deposition transcript can be sent to you for your
11 submission then to your client for review.

12 MS. HANSEN: I've already instructed the
13 court reporter to do that.

14 MS. LUNDVALL: I know, but the court
15 reporter always wants to have it on the record. So
16 that's why I'm trying to put it there, for her
17 protection.

18 Is that okay?

19 MS. HANSEN: Yes.

20 I'll get some additional dates for
21 Mr. Wilkes.

22 MS. LUNDVALL: Based upon the information
23 that we've received today, we're willing to vacate
24 his deposition then tomorrow. We'd like to be able
25 to get the dates as soon as we can.

1 MS. HANSEN: When we get back, we'll call.

2 MS. LUNDVALL: Good deal.

3 I'd like to have a copy, an ASCII and a
4 condensed, please.

5 - - - - -

6

7 (Proceedings concluded.)

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CERTIFICATE OF DEPONENT

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* * * * *

I, JAMES WOLFRAM, deponent herein, do hereby
 certify and declare the within and foregoing
 transcription to be my deposition in said action;
 under penalty of perjury; that I have read,
 corrected and do hereby affix my signature to said
 deposition.

 JAMES WOLFRAM, Deponent

CERTIFICATE OF REPORTER

STATE OF NEVADA)
) SS:
COUNTY OF CLARK)

I, Jackie Jennelle, a duly commissioned
Notary Public, Clark County, State of Nevada, do
hereby certify: That I reported the deposition of
JAMES WOLFRAM, commencing on TUESDAY, NOVEMBER 8,
2011, at 10:00 a.m.

That prior to being deposed, the witness was
Duly sworn by me to testify to the truth. That I
thereafter transcribed my said shorthand notes into
typewriting and that the typewritten transcript is a
complete, true and accurate transcription of my said
shorthand notes.

I further certify that I am not a relative
or employee of counsel, of any of the parties, nor a
relative or employee of the parties involved in said
action, nor a person financially interested in the
action.

IN WITNESS WHEREOF, I have set my hand in my
office in the County of Clark, State of Nevada, this
10th day of November, 2011.



JACKIE JENNELLE, RPR, CCR #809

A				
AARON 2:15	acted 132:24	117:16 120:7	100:9,19	91:17
able 4:13 13:19	133:2 136:6	135:9	101:21 115:2	answers 7:3
93:15 109:17	action 9:14	agreed 61:5	115:10,16	14:1
143:24	24:21 86:25	127:5	117:10,19	anybody 29:19
Absolutely	99:1,7 145:19	agreement 3:9	amendment	29:21,25 30:19
15:19 88:15	146:18,19	3:10,12,17	3:10,12 76:5	32:9 42:22
accomplishme...	active 8:2,2,3	11:2,4 45:16	76:11,16,20	57:21,22 130:8
7:12	36:17,19 37:19	55:17 58:24	77:2,9 82:15	136:8 138:23
account 6:21,22	52:21 138:12	60:23 63:18	82:19,23 83:3	anyway 49:1
113:23 114:19	add 69:21	64:7,13 72:15	83:3,7 107:14	apologies 86:8
114:20	adding 71:20	73:6,16,19	107:14 117:12	95:1 121:25
accounting	addition 96:15	74:10,18,24	117:21,21	134:23
120:8	120:4	75:2,14,16,22	amendments	apologize 19:10
accurate 146:13	additional 68:18	76:1,5,12 77:2	59:9,10 64:13	51:5
accurately	69:8 71:20	77:9 79:18	64:16 73:25	appear 124:4,5
81:21	76:3 86:14	80:1,8,12,16	74:3 82:10	APPEARAN...
acknowledge	88:13,14,17,18	81:23 83:12,22	103:2 104:18	2:7
135:11	93:19 120:9	85:14 86:2,3	104:19,24	appears 79:5
acknowledged	139:2 143:20	86:17,24 87:18	107:5	115:23
127:6 128:17	address 4:21,24	87:22,24,25	amount 34:5	append 15:15
acquired 46:13	5:7 6:5,7,10	88:24 89:7,14	68:4,9,11,13	appreciate
46:15	131:5	91:7 92:8	82:2 83:23	143:5
acquiring 46:12	addressed 110:5	94:17 96:10	84:20 85:15	approach 55:4
acquisition	111:22 118:22	99:2,8 103:13	88:7 96:17	approves 78:25
115:3	adds 69:24	103:18,20	104:1 105:4	79:8
acreage 49:10	adjusted 115:3	107:4,13,23	120:17	approximately
70:4 103:20,22	administered	115:11,16,21	amounts 79:11	26:18 35:18
104:2,11,12,15	23:22	117:11,12,15	97:9 109:21	April 3:15
104:16 105:25	administering	117:20,21	Anderson	111:16,21
120:9,17,24	129:5	137:4 143:9	129:24 130:3	118:17 120:10
acres 37:14,16	Adult 19:24	agreements	130:12,14,15	archives 69:11
40:5 68:1 70:4	adults 19:25	58:24 59:4,9	130:21,23	area 45:5
70:8,15 85:1	20:6	109:1	Andrews 49:21	areas 65:5
85:16 88:8	advice 118:4	ahead 37:7 78:5	130:10,19,20	argument 95:20
89:23 90:18	affidavit 93:16	78:6 88:5	annual 24:9	96:12
94:18 103:9,17	affiliate 71:1	89:18 91:6	annum 97:22	Arlington 5:9
103:23,24	affiliation 38:14	93:24	answer 16:8,10	arrangement
106:3 120:10	affix 145:20	allegations	16:18 17:16	10:25 32:25
120:14 121:6	agenda 52:19	13:22	32:8 33:18	63:11,16
125:8,25 126:1	agent 24:18 71:3	allowed 33:18	35:21 72:12	arrived 61:17
126:5,9,10,18	ago 12:20 26:12	aloud 92:11	84:3 89:19	arts 21:9
126:19 127:11	30:10 53:5	Amanda 2:10	95:17 98:18,23	ASCII 144:3
128:2 136:24	140:20,21	33:11	98:24 99:16	asked 33:5
136:25	agree 59:15	amended 3:14	111:11 112:11	34:17 39:9,12
	65:23 66:13	3:16 64:9	112:19 139:12	39:20 44:15,23
	93:23 95:12	73:18 83:13,23	answering	48:22 51:5,10

54:21 91:25	35:10 44:4,7	back 19:13 20:9	120:20 127:7	bet 51:19
103:4 142:18	48:23,25 50:19	20:20 21:24	143:22	better 86:7
142:19	51:14 58:2,20	23:16 37:18	bases 104:14	beyond 35:7
asking 16:10	78:12 80:24	39:8,24 40:22	basically 20:13	129:8
22:14 36:7	99:3,12,14,20	42:11 52:3	22:6 26:3 49:3	big 42:20,21
38:16 67:24	100:5 101:11	55:18 56:4	56:16 58:20,22	43:16,20 51:12
89:25 98:16	104:25 109:19	58:4 59:14,25	59:18 61:22	81:19
103:15 111:13	109:19 117:18	60:1,22 61:14	127:25	biggest 40:23
114:13 119:9	123:21,23	61:15 62:1,14	basin 47:22	bill 34:9 35:13
131:8,18,18	124:1,13 131:5	66:15 67:22	basing 108:10	35:16
140:12,13	attorney/client	71:11 73:4	basis 24:9 33:17	billing 34:2,4
assert 9:14	33:13 72:11	74:7 75:6,10	34:8	bind 46:3
assets 39:6 40:1	August 3:14	78:3,5,21 82:3	Bates 3:18 80:20	birth 7:1
41:22	77:14,21 78:1	84:8 85:9,20	118:11	bit 4:17 6:21
assign 9:13	78:8 83:7 84:7	91:2,8,20 94:4	bear 97:21	13:2 14:12
assignment 9:11	84:10 109:24	98:11 101:21	bears 10:6,18	20:10 41:12,25
assignments 9:2	110:5,14	101:22 106:25	74:25 77:13	55:4 64:22
9:7	120:11	107:1,2 110:20	83:7 110:5	66:5 67:21
associate 25:17	author 122:20	111:10 122:17	111:20 113:5	69:19 72:15
25:22,25 26:16	authorized	122:24 125:3	118:17	76:4 80:19
28:6	101:11	129:3,11	beat 18:1 141:16	90:25 115:9
assume 17:15	available 45:9	136:24 137:7	began 131:11	126:14
95:19	Avenue 2:2,15	138:19 141:22	beginning 15:10	black 62:5,10
assumes 89:15	award 8:5,8,10	144:1	27:16 78:24	black-line 62:14
103:19	8:14,16,20 9:3	background	103:8 126:8	black-lined
attached 112:7	9:19 25:13,14	20:10	131:13	61:25 62:1
attend 50:16	25:16,22,22,24	backup 120:6	begins 66:20	blank 6:15
51:6 58:19	26:1,7,19 27:2	bad 119:25	78:25	BLM 127:1
attendance	27:21,22 63:5	132:24 133:3	begun 130:3	board 24:24
49:20	63:9 99:14	136:5 142:6	behalf 9:2,6,8	31:2
attention 47:11	110:7	balance 114:6	9:15 34:6 63:9	boiled 126:17
59:11 73:4	awarded 99:3	balanced 12:8	73:1 101:5,12	boiling 84:25
85:7 94:4,8	aware 41:20	ballpark 36:5	believe 9:4,24	born 20:14
101:20 110:10	64:12 73:25	51:19,19,21	13:13 25:14	bottom 80:20
121:10 134:11	89:12 93:8,9	ballparks 35:3	26:20 31:15	92:9,15 123:13
attorney 12:13	93:12	36:3	64:25 65:2	124:14
31:14 32:10,23	A-10-632338-C	bank 68:20,21	102:8 119:1,1	bought 22:10
53:16 67:14	1:6	69:11	119:3,5 121:8	37:14
98:13 101:10	a.m 2:3 4:2	bankruptcy	132:18 133:2	Boulder 44:18
102:19 108:5	146:8	31:5	136:16,18	bound 89:1
108:18 109:15		base 138:16	137:8,13	127:6
109:17 112:12	B	based 83:21	142:25	boy 31:13
118:8	b 81:8,9,14	84:16 91:7	benefits 29:7,11	boys's 22:6
attorneys 32:2	83:14 116:15	97:14 103:20	best 30:13,16	breach 9:24
32:22 33:22	bachelor's	104:1,15,16	32:22,23 49:8	breached 63:12
34:5,14,17,19	20:12 21:8,9	105:21 106:7	54:12	65:1

break 18:20 19:11,13 71:10 71:12,15 72:2 91:7,9,16 141:18,20	button 52:13 buy 54:11 buyer 45:14 75:4 buyer's 92:16 buying 45:4 47:19 125:12	75:13,20,25 80:5 81:16 85:13 92:23 caps 81:17 captioned 76:11 CARANO 2:14 care 26:5 35:8 67:12 123:18 141:3 caregiver 140:25 care-taking 141:7 Carlo 22:22 carry 5:18 case 1:6 9:22 14:21 30:14 35:11 100:20 127:21 142:20 Caught 142:5 causes 9:14 CCR 1:24 146:25 cell 5:18 95:2 cells 18:3 center 37:17 40:5,11 41:15 57:17 certain 46:13,15 51:24 83:21 98:21 certainly 47:5 53:6 141:24 CERTIFICA... 145:1 146:1 certified 2:4 3:14 109:24 110:4 certify 145:18 146:6,15 chair 133:8 chances 5:22 change 8:17,19 82:24 100:3 145:2 changed 6:11,12	8:9,19 66:5 126:14,16 changes 14:7 82:11,18 101:8 101:10 Charleston 25:11 chart 113:18,21 114:3 cheaper 22:11 check 71:4,5 checks 70:20,25 129:17 Chicago 128:22 children 19:20 19:24 20:3 choice 21:24 chronological 113:11 chronology 134:2,18 135:2 city 22:13 claim 102:25 104:6 132:2 claims 9:2,7,9 9:13 29:25 clarify 4:18 17:11 69:1 78:7 95:3 Clark 1:2 90:8 91:1 108:16 146:3,5,21 class 23:7 classes 23:16 classic 53:16 classroom 23:9 23:11,18 clean 16:18 17:2 63:21 cleaner 69:19 clear 41:25 118:7 clearly 127:3 client 9:24 143:11 clients 109:17	Cliff 49:21 130:4,10,13,16 130:19,20 Clifford 129:24 130:12,14,15 130:21,23 climate 22:2 close 23:4 25:8 27:11 86:9 closed 28:9 120:10 closing 94:19 112:6 113:15 132:12 134:18 135:2 clothing 22:5,6 22:15,16,18 28:10 clue 11:18 32:6 32:7 38:9 90:5 98:4 103:9,11 123:7 124:4 128:2 133:11 code 5:11 cold 4:17 14:12 collectively 92:24 college 20:12,23 20:24 come 13:1 25:8 37:6 45:1 46:21 47:22,24 49:1 60:2 70:8 70:25 71:10 78:6 84:11 91:8 100:7 102:12 122:24 128:19 137:1,3 comes 34:9 35:9 38:15 78:1,8 105:24 115:6 116:23 coming 53:4,8 67:8 commencing 146:7
---	---	--	---	---

commercial 126:4,11	58:7	128:10 129:4	101:1 124:16	96:21,23 97:24
commission 3:8 10:5,12,19,24 11:9 32:4 34:19 42:10,12 46:18 55:17 59:1,3,12,12 59:23 60:5,8 60:25 61:15 62:17 63:8 65:8 67:3 69:2 71:4,5 73:6 75:11,14,20 76:24 77:21 79:4,11 84:16 85:3 86:4,15 88:14,18,22 94:5 96:17 97:10,12 103:12,18,19 103:25 104:1 104:14,15 105:20 106:4 107:6,20 116:7 117:23 120:20 125:18 127:4,6 128:14 129:16 129:19 133:15 138:9,16	community 28:11 companies 8:19 30:19 38:14,15 54:22 company 8:17 8:24 9:12 22:2 23:15 26:5 28:23,25 36:14 36:17,21,24 37:3,20 38:5 50:7 55:13,21 55:25 56:2,9 70:18,23 128:19 compared 43:20 complaint 3:14 31:2 34:18 100:9,19,19 101:21 complaints 24:16 30:1,20 complete 17:16 66:2 71:24 96:10 138:20 141:19 146:13 completed 41:15 completely 65:23 108:1 computer 58:11 123:14,18 concept 84:23 concerning 33:1 47:1 62:21 63:24 132:16 138:9 concerns 9:24 concluded 144:7 conclusion 14:5 136:1 condensed 144:4 conditions 93:1 confirm 111:11	conflict 84:9,12 confused 95:15 confusing 89:21 Congratulatio... 7:11 consummated 47:8,9 contained 61:21 contend 63:12 136:5 contingency 79:1,9 contingent 33:16 continue 18:23 19:10 91:13 93:18 continued 8:15 continues 92:10 continuing 24:8 24:13 contract 9:25 10:3,20 40:15 68:22 136:11 contractor 25:23 contractual 9:11 10:25 11:8 50:25 63:11,15 65:6 85:2 136:6 control 18:8,14 conversation 131:15 conversations 127:20,23 130:2 copies 61:19,24 62:4 copy 31:16,19 94:15 100:18 110:8 111:1,23 113:7 128:13 144:3 corner 37:14	corporation 28:20 correct 7:25 8:22 9:20 10:3 11:9 19:20 20:21 21:2 23:19 24:11 26:8 28:6,7 37:20 45:19 53:14,15 56:15 56:24 60:18 62:7,18 63:6 63:25 65:8 66:17,25 67:1 69:15 70:1,18 71:6,21 72:20 74:2,25 75:4 75:22 76:21,22 76:25 77:14,22 77:23 79:4,13 79:14 80:5,9 80:12 81:25 82:9 84:21,23 88:24 89:2 90:13 94:23 95:5,6 97:6,10 97:15 99:8,9 103:21 104:15 105:5,15 106:5 106:6 107:15 107:21 115:22 116:19 125:8,9 125:10,11,16 125:17 127:1,8 128:11,20,24 129:17 130:12 133:17,18,21 133:22,24,25 134:3 135:4,13 corrected 145:20 corrections 14:8 correctly 77:11 79:21 80:2 85:18 94:20	correspondence 132:5 costs 99:4,12,21 counsel 13:7,12 19:6 31:11,15 34:16 62:11 66:9 71:16 72:3 73:10 143:8 146:16 count 101:21 county 1:2 90:8 90:8 91:1,1 108:16,16 114:6 146:3,5 146:21 couple 6:20 27:5 27:18 40:21 43:22 62:20 75:7 76:2 93:18 121:19 127:12,24 course 4:14 14:2 16:1 17:7 18:21 30:18 66:11 court 1:1 2:4 6:14 14:3 16:2 19:9 41:7,8,12 143:13,14 covered 142:24 Coyote 43:5 44:12 45:7,8 47:7 50:2 54:13 55:7,10 56:5,15 57:3 73:20,20 75:3 76:21 77:16 115:22 create 69:19 criminal 15:14 15:14,21 cross-validate 39:1 CSI 49:24 50:5

50:10,13 51:2	68:4 138:15	42:3,15 66:11	dictated 65:7	54:16 55:2,5
58:13,14,25	146:22	74:14 76:10	Diego 131:6,7	55:10,16 56:5
59:5 61:10	days 97:21	77:8,8 100:17	different 14:20	57:15 62:12
63:16,18,23,24	139:19 140:17	100:18 110:3,4	25:6 38:13	64:18 75:7
71:1,1 91:3	Daytimer 52:1	111:19 113:3	46:2 53:5 55:4	80:25 91:20
92:9 112:15,21	52:18 53:20	115:15 118:16	96:25 138:23	92:4 100:13
120:18 125:13	deal 31:4 32:24	124:12 136:2	138:24	109:9,11 112:1
126:3,4 133:21	63:19,23 144:2	143:10,24	differently	124:9 132:6
135:4	dealing 61:22	145:19,20	14:22	137:12
cut 22:10	deals 56:15	146:6	difficult 16:13	doing 5:6 8:12
	dealt 85:24	depositions	16:23	16:6,23 28:21
	130:7	18:18	dimensions 57:1	47:10 51:13
D	decided 125:7	DEPT 1:7	direct 94:8	52:14,20,21,22
D 2:15 3:1	decision 29:13	derived 85:15	101:19 110:10	53:6,7 95:16
dam 44:18,18	54:8	88:7	121:10 134:11	95:17 126:13
damaged 102:3	declaration	describe 47:6	directly 70:17	138:2,3,4
102:8,15 103:1	93:16	49:4	director 29:3	double 63:22
109:21	declare 145:18	described 7:23	discard 54:8,17	95:19
damages 102:20	deed 107:8	92:21	disciplinary	drafted 124:1
date 7:1 10:6,18	108:15,15	designated	24:20	drafts 61:14
27:6 64:3	deeds 90:7,12	92:20	Disclosure 3:20	62:15
72:17 74:25	91:2	designed 18:19	124:8	drawer 43:23
76:16,23 77:13	Defendant 1:8	desk 57:13	discretion 19:1	56:19,21,24
77:20 83:7	Defendants 2:13	destroy 62:10	discuss 13:7	57:2,13
94:19 97:22	defined 75:13	62:13	discussion 19:17	Drive 4:23
100:24 110:5	definition 80:16	detached 92:21	72:6,9	dropped 22:16
111:20 113:5	81:6 91:24	details 132:15	discussions	due 66:24 96:17
115:6 116:3,8	92:13 93:5	determination	12:10	97:10,20,22
116:22 117:3,6	116:15	136:3	disease 138:5	98:2
117:9 118:17	definitions	determine	dismissed 30:15	duly 4:6 146:4
121:16	85:21 88:22,23	102:15,25	dispute 9:23	146:10
dated 3:8,14,15	89:2	104:11 108:13	disputes 46:25	duty 97:5
3:16 10:12	degree 20:12	121:5	47:2	D&W 8:9,10,11
64:8 73:17	21:1,9	determined	disrespect 16:16	8:13,20,24 9:6
76:25 77:22	depart 19:7	99:19	17:1 101:17	9:19 26:8,16
107:19,20,22	depends 88:19	develop 44:14	DISTRICT 1:1	27:2,24
109:24 111:16	deponent 145:1	50:22	doctor 140:7	
112:24	145:18,22	developing	document 9:12	E
dates 51:18	deposed 12:18	40:11 106:22	10:11 74:17	E 3:1
96:17 97:10	146:9	development	76:11 101:9	earlier 125:25
113:15 133:23	deposition 1:14	50:22	119:6 124:13	early 48:20
134:18 135:1	2:1 6:15 10:16	dicker 60:1	131:4	51:23 142:5
143:20,25	13:1,8,17,23	dickered 42:11	documentation	ears 4:20
daughter 7:17	14:3,5,6,24	59:25	41:10	easier 21:22,23
day 4:14 16:1	15:2,10 17:20	dickering 55:18	documents 3:21	64:22 80:19,24
17:8 18:21,22	31:8,16 41:24	59:14 129:11	42:18,24 43:12	easy 16:3 62:23
18:24 47:22				

echo 4:19	65:13	excess 102:3	expected 109:17	faxed 119:18
education 21:14	escrow 3:9,11	exchange 58:6	explain 96:4	feel 38:25 48:24
24:8,14	3:13,17 11:17	exchanged	106:16 111:13	74:15 82:16,19
educational	11:18 44:19	61:14,15	120:6	112:1,2 121:18
20:10	64:8 70:18	exciting 51:12	explained 33:5	121:25 142:1
effect 112:13	71:3 73:17	Excuse 101:25	127:2 139:22	fees 34:18,19
eight 12:21	74:11,19 76:6	exercise 94:16	extensive 44:24	35:10 99:3,12
22:25,25	76:13 77:3,10	94:23 95:4,10	extra 70:3 98:15	99:20
either 9:19	115:12,17	exercised 94:1	eyesight 142:6	fell 68:24
18:20 28:9	128:3,3,9,11	exhaust 18:19	142:14,15	felt 47:22 51:11
38:21 46:7	128:15,19	exhibit 3:7	eyesight's 142:8	female 127:18
90:8 99:1	129:5,20	10:12,16,18	e-mail 6:5,7,9	127:19
108:12,16	132:12	60:18,20 62:17	58:1,2	figure 23:17
128:18	especially 25:4	63:2 64:3 74:8	e-mails 57:21,22	36:6 53:19
elaborate	ESQ 2:10,10,14	74:10,14,22	58:6,9,14	68:19 69:12,15
140:10,12	2:15	75:10 76:5,10		70:14 90:18
electronic 57:20	estate 7:25 8:1,5	76:10 77:2,7,8	F	123:5,10
58:7	8:9,10,12,12	78:21 80:15,17	fact 15:13 17:14	figured 37:12
emphasize	8:13,21,24 9:6	82:3,14 83:4,5	19:2 50:18	figures 68:15,20
15:20	22:9,10,15,17	83:6,11 85:9	86:22 89:5	69:10 126:14
employ 31:25	23:1,6 24:2,18	86:12 87:10,13	97:4 108:13	126:16
32:12,14	25:2 28:9	88:1,4 92:6,8	112:15 127:9	file 11:12 42:19
employee 25:22	50:19 54:11	94:5 100:9,17	facts 13:21	42:20,25 43:3
146:16,17	56:10,14	100:18 101:22	89:15 112:20	43:4,18,23
employment	estimation	107:23,24	139:2	44:4,6 54:21
21:16,18 28:11	137:2	108:12,12,13	fair 12:8 36:9	55:1,15,19
29:24	event 66:24	109:24 110:3,3	Fairfield 26:24	56:14,19,21,24
ended 42:11,12	78:25 79:8	111:16,19	faith 132:25	57:2,12,12,13
59:18,19	97:19 99:1	112:24 113:3	133:3 136:5	61:22 101:4,11
102:19	eventually	115:10,15,15	familiar 36:14	filed 31:5 90:7
enforce 99:1	22:16 23:15	115:21 116:12	38:5	100:22 101:1,9
engagement	everybody 23:8	116:14,23	family 5:20	108:16
33:3	30:4 32:9	117:6,10	126:3,5	files 43:5 56:8,9
enter 143:9	evidence 13:20	118:11,14,16	far 9:21 16:6	56:10 57:18
entered 10:25	89:5,8 94:1	119:16 121:11	34:18 35:19	119:10,10
11:2 74:1	112:20	121:12,16,21	43:13 47:10	filing 39:4,25
107:5	exact 27:6 69:14	124:8,12,15,20	52:12 88:3	41:21
entertainment	exactly 51:21	125:3,6 127:14	93:18 103:25	fill 6:15
29:2,3	70:8	127:15 134:8	116:22 131:23	final 61:16
Entire 92:19	exam 23:21,24	134:11,16	133:13	103:17
entirety 83:13	23:25	exhibits 3:6	fashion 17:11	finalized 122:15
entitled 17:14	EXAMINATI...	76:3	fast 19:13 22:13	finally 29:10
99:11 118:4	3:3 4:8	exist 62:7	fat 43:18,19	40:2,25 41:4
136:18 140:14	examined 4:7	136:17 137:9	favor 39:5	42:11 60:15
equal 38:2 79:11	example 9:10	137:13	fax 118:16	61:5 62:2
equally 16:9	52:12	exists 119:10	119:11	70:14 138:15

financial 38:19 40:6,9 41:18	focused 61:10	82:16,19 112:1	60:5,7,9 66:10	14:1 17:20,25
financially 146:18	folks 49:23,24	112:2 121:18	67:24,25 68:19	18:6,9 19:1,11
financials 40:18	50:9,10,12,13	121:25	94:3 95:22	19:12 22:1
financing 41:2	follow 75:8	fringe 29:7,11	96:7 97:5	27:11,13 29:7
find 21:23 32:11	87:15	front 37:16	102:18 111:4	30:22,24 37:5
44:16 53:25	following 47:25	39:17 60:18,20	111:13 112:12	40:12 41:6,8
55:14 69:16	48:1 79:11	62:17 86:5	118:4 128:1,8	41:12 45:8,10
70:12 80:15	86:6 87:20	91:21 94:6	given 17:16 18:2	47:20,21,24
82:18 85:21	follows 4:7	97:13 119:14	94:16 101:5	48:25 49:11
90:19,21 91:1	81:18 83:13,17	full 4:10 17:12	104:21 132:4,7	52:15 55:9
100:12 123:15	foolish 78:11,12	17:16 65:24	137:9,14	56:1 57:10
135:8	foregoing	78:24 94:12	gives 86:14 89:8	60:5,7 61:6,10
finds 21:22	145:18	fund 67:20	92:12 93:5	62:11 63:1
fine 18:16 19:5	forest 21:5	funny 139:11	giving 61:7	64:23 66:9
45:14 141:17	forestry 20:13	further 143:6	glad 142:6,15	71:8,9,14
142:2	21:2,3	146:15	glasses 142:9	72:10,15 73:12
finish 16:8,9	forget 40:16		Globe 25:10	74:13 75:6
71:19	95:1	G	26:19,20 27:1	76:9 79:4,6,16
firm 32:1,13,14	formed 50:2	gain 11:22,24	27:2,2,4,19,20	80:18 81:5
33:1,4,17,23	forth 42:11	12:5,15	go 13:14 14:2,21	82:3 84:3 85:9
35:15,19	55:19 59:14	ganged 48:24	19:15 23:7	86:24 88:14,21
first 4:6 21:25	60:1,1 61:14	ganging 48:21	29:11 32:17	91:6 92:11,11
23:1 25:9	61:16 62:1,14	general 13:14	33:20 34:25	94:13 98:21
28:16 34:25	67:22 75:6,15	15:24 24:7	36:7 37:7 39:8	100:13,16
39:5,9,12,24	91:2 93:2	73:1 110:6	51:10,11 60:11	101:19 106:1
41:20 49:4	102:22 107:2	generally 11:11	60:22 64:24	106:21 108:7,8
50:13,15 51:7	116:16 129:11	35:16 72:8	66:15 67:13	108:9 109:6
51:22 53:11	138:19	gentleman	68:20,25 75:6	111:18 115:14
58:19 65:25	forward 17:20	31:12 37:9	75:10 78:5,6	117:19,24
75:11 81:3,5	21:23 24:12	40:3	78:21 80:7,17	118:2,8 121:15
82:15,19,23	25:7	Germany 40:19	81:8 82:2,14	121:19 122:8
96:3 100:21	found 42:25	40:21	83:2,10 85:20	122:11,12,15
107:13 115:24	43:3 68:5 83:3	getting 5:23	88:5 89:18	122:16 124:2
115:25 120:16	84:7,11 85:3	12:9 26:25	91:6,11,20	124:11 125:15
126:6	88:1,22,23	32:6,15 40:24	93:24 97:17	125:19 126:24
fit 123:3	90:21	41:10 46:17	99:13 100:13	127:12 129:12
five 26:12 37:18	four 60:25 61:2	48:24 67:15,19	101:22 108:24	133:16 136:10
119:13	61:3,6,7 65:25	86:9 100:11	109:5,10	139:23 140:9
flashes 141:17	67:4 68:12,14	121:7 126:18	113:20 117:15	141:15
flat-lined	68:16 69:6	129:22 136:9	121:6 125:3	good 16:7 20:8
139:19,24	79:16 82:6	139:21	129:12 135:15	22:1 29:15
140:15	92:15 101:22	give 4:21 5:7,22	135:25 139:16	31:4 32:23,24
focus 79:15	Frances 127:16	7:13 9:9 14:1	141:22	47:3 120:1
94:11	127:18	14:19,20 20:10	goes 80:11	139:10,13
	Frederick 4:12	35:3 42:6 44:9	going 7:15 10:15	142:4,8,14,15
	free 38:25 74:15	54:5,22 55:25	12:9,14 13:25	142:16 144:2

government	3:18,20 118:11	healthy 141:25	11:1 12:24	ii 66:17 79:12,15
126:13	118:15 121:12	142:16	46:19 70:21	79:23 82:4
graduated	121:17 123:2	hear 4:14	73:21 75:4	83:21 97:13
21:12 28:15	125:6	hearing 4:15	76:21 77:17	104:3 105:21
grandchildren	HANSEN 2:9	14:12 31:22	130:1,24	106:5
20:4,6	2:10 18:11,16	heart 140:17	honest 42:5	iii 79:12 85:7,11
Greg 40:4	19:6 33:7,13	heavy 138:5	53:25 67:8	85:24 86:12,13
Greg's 40:18	33:19 34:15,21	heck 29:10	110:18,24	86:14 87:13
group 63:5,6,9	35:5,21,23	hedge 56:21	hope 11:22,24	imagine 109:16
73:1 110:6,7	52:3 66:8 69:4	held 49:16	12:5,15 34:10	impeach 14:25
guess 7:17 12:21	134:8,14,21	help 13:2 15:25	hopeful 30:25	importance
26:12 27:5	139:5,12 143:7	41:24 44:10	hopefully 73:12	15:4
35:23 36:1	143:12,19	73:12 74:4	hoping 77:24	important 14:13
41:11 45:4	144:1	76:3 92:4	143:1	39:2 142:20
46:17 54:5	happen 12:2	115:8 116:9	hormone 18:2,8	inch 43:22,25
80:10 95:18	18:10 109:7	122:25	hospital 139:14	44:1
126:21	happened 26:2	helped 22:6	139:18,22	inches 43:22
guessing 27:5	49:3 51:23	helpful 17:4,5	140:1,2	57:11
guest 123:9	121:4,4 126:21	73:11	hot 141:17	income 132:20
guilty 18:11	126:23	hereinafter 93:1	hour 35:6,7 71:9	incomplete
guy 30:5 40:15	happening	hereunder	71:9	95:13
40:23 131:6	11:15 133:7	97:20	hourly 33:22	independent
guys 67:9	happens 16:15	hey 67:9	34:14	25:23
110:18 121:7	17:8 18:5,9	hide 114:5,7	hours 90:16,20	index 18:11
	67:23	135:10	house 54:10,11	Indiana 28:16
H	Happiest 138:15	high 20:12,19	56:8 57:8	28:22
hair 114:5,7	happy 18:24	highlight 64:24	61:23	indicate 112:20
135:10	29:13	71:20	How's 138:2	indicated 19:19
half 67:5 71:9	hard 14:12	highlighted	141:14	25:21 31:8
hand 10:15	23:12 102:21	66:16,19,23	hundred 65:25	37:19 42:25
64:23 74:13	104:23	94:12 97:18	68:12,14	53:11 73:24
76:9 77:6	Harvey 43:6,8	highlighter	hu-uhs 16:14	104:4,17
100:16 111:18	45:7,9,12,21	64:23	hypothetical	106:12
112:1 115:14	45:22,23 48:5	highlighting	95:14	indicates 102:2
121:15 124:11	48:7,21 49:22	72:5		125:18 133:15
146:20	50:1 125:7	Hills 44:18	I	indicating
handed 134:5	126:2,9 127:2	history 21:17	idea 12:3 19:12	123:14
handing 77:7	131:16	29:17	67:7 68:6,23	individually
110:2 113:2	HC78 5:9	hit 50:9,12	119:20 120:1	92:25
handle 4:16	head 16:24,25	hold 29:8 66:9	identified 135:7	individuals
handled 58:11	137:11	107:11	identifies 34:4	127:13
handwriting	headache 40:23	home 4:24 5:2	38:13 113:16	industrial 20:13
118:20,21	41:3	5:14 30:7	134:17	21:3 126:4,10
119:25 121:21	heading 26:1	43:14 54:17	identify 132:6	industry 21:6
122:5	health 139:9,13	55:3,6 56:6	identifying	infection 140:17
handwritten	141:14	Homes 1:7 9:23	133:20	informal 14:11

information	interest 66:25	Jim 33:11 35:6	K	46:3 47:12,15
11:13,17 12:25	97:21 98:11	109:5 111:21	keep 11:15	50:5,23 51:18
13:19 39:1	107:3	118:18 120:14	31:16 32:5	51:21 52:22
42:4,6 47:8	interested 52:11	Jimmerson 2:9	51:25 52:18,25	53:24 55:15,18
55:22,24 90:15	53:19 55:2	12:12 32:11,21	54:8 55:6,10	56:9,22 57:8
94:3,18 97:1	68:8 103:6	33:5,6 42:17	57:18 61:19	57:24,25 59:10
102:13,14,24	106:14 146:18	44:9 59:19,21	63:1 96:15	59:17 65:21,21
104:5,6,11	interesting	62:2	97:8 116:7	65:22 66:1,1,6
112:14 117:20	139:1	Jimmerson's	126:10 136:12	67:11,25 68:6
120:7,17 132:1	International	32:1 33:1,4	136:12 140:24	68:7 69:14
133:9 137:17	29:3	job 1:25 16:2,4	keeping 30:6	70:7,10 71:13
138:8,13,18,21	Investment 38:6	22:1 28:16	126:2	71:23 72:7,8
140:1,4 143:22	39:16,21 44:12	29:6 41:1 86:8	kept 47:20,24	73:11 77:23,23
informed 11:15	50:2 73:20	Joe 29:3 37:11	48:1 52:20	78:11 84:5
32:5,6 50:18	75:3 77:16	Joint 3:9,11,13	53:21 54:12	89:22,23 90:3
96:16 97:9	involved 30:3	3:17 64:8	55:11 60:10,12	90:16 93:23
106:21 136:12	39:22 41:2	73:17 74:11,19	62:4 67:7 68:3	98:1,13,21
136:13	44:11 50:25	76:6,13 77:3	126:3 128:4	99:13,14 100:4
initial 134:21	53:13 94:19	77:10 115:12	139:3,6	100:5,7 101:18
137:4	98:22 125:24	115:17	kill 29:7	102:10,20
instances 100:2	128:23,23	Jon 3:19 43:6,10	kind 12:3 41:11	103:14 105:6
instigated	146:17	44:13,20,23	42:21 46:18	105:23 106:2,3
110:15	involvement	45:11,15,15,18	47:9 57:1	108:5,19 109:3
institutions	58:23 59:6,8	45:18 46:20,21	102:21 140:16	110:15,19
41:18	iPad 52:13	48:20 49:21	kinds 69:11	111:9,15
instruct 72:11	IRS 132:22	54:23 55:11	knew 12:25 25:2	112:17 114:12
instructed	issue 10:20	59:17 60:2,4,6	44:17 45:8,9	114:16 115:5
143:12	14:24 34:20	60:10 61:7	45:24 47:21,23	117:25 119:13
instruction 17:4	45:3,6	66:4 67:13,13	52:22 53:6	119:18 121:7
17:17 23:10,11	issued 70:21	70:13 105:6	64:17 70:7	123:9 124:25
66:10	IV 1:7	112:18 118:25	98:22 105:8,10	126:16,20,21
instructions	J	119:2,4 121:12	105:11 125:10	126:21,24
3:10,11,13,18	Jabberwocky	126:4,17 128:4	125:12,15	127:16 129:9
13:15 15:25	22:20	128:5,6 129:25	135:18	130:15,23
64:8 73:17	Jack 26:23 27:7	130:7,7,16	know 5:5 6:13	131:1,3,4,25
74:11,19 76:7	27:14,18	135:6	7:15 15:9	132:3 135:22
76:13 77:4,10	Jackie 1:24 2:4	Jones 25:20	16:18 17:8	136:10,25
115:12,18	146:4,25	129:3,4	18:5,9,14 19:7	137:1,11,15
128:15 129:20	James 1:4,14	Jon's 134:6	19:13 21:25	139:5,18
intend 16:16	2:1 3:2 4:5,12	judge 30:5	22:12 23:12	140:11,22,23
22:8 101:16	145:18,22	100:7	26:21 30:12	140:25 141:2,4
intention 17:1	146:7	July 76:17,24	34:21 35:8,22	141:5,6,8,11
intentional	January 101:1	82:24	35:24,25 36:1	142:25 143:14
15:15,16,20	Jennelle 1:24	June 64:9 73:17	36:4,8 41:10	knowing 12:8
intentionally	2:4 146:4,25	jury 100:8	41:18 42:10,18	knowledge
15:17				130:22

L	led 59:22	138:4,9,16	105:9,12	122:2 137:5
land 11:25	left 26:7 28:21	140:8	107:12 109:10	141:25 142:16
37:10 45:1,25	45:6	letters 12:13	130:3 131:11	looked 56:20
46:1,2,3,15	legal 118:3	42:17 46:18	131:13	114:4
47:17,18 49:11	legalese 118:9	54:25 55:17	little 4:15,17	looking 26:13
49:12 51:13	legalities 98:20	61:13 103:2	6:20 13:2	36:3 44:13,14
67:21 113:11	108:6	106:13,14,19	14:11 20:7,9	54:25 57:1
120:8,11	legally 98:19	107:2 112:13	36:22 41:12,25	91:23 95:18
135:19	99:13 100:4,7	let's 7:16 10:10	55:4 64:22	108:3
large 15:25 21:7	Leonard 44:20	19:15 29:11	66:5 67:21	looks 72:19,22
44:13,14	letter 3:8,14,15	36:7 39:8 52:6	69:19 72:15	123:12
136:22	3:16,18,19	62:23 72:14	76:4 80:19	lose 99:18
Las 1:15 2:2,11	10:5,12,18,19	74:4 80:15	86:10 90:25	lost 40:20,21
2:16 4:1,23	10:24 11:9	82:10 83:2	115:9 126:14	lot 6:2 8:12
7:18 20:17	32:4 34:19	85:20 86:12	131:15	45:25 54:25
28:13,25 46:1	42:10,12 55:11	91:20 93:24	live 65:10	100:12
130:1	55:12 59:1,3	121:10 141:18	lived 65:2	lots 46:4
Lash 3:19 43:10	59:12,13,23	liability 37:3	lives 141:4	loud 4:13 79:7
44:13,20 45:19	60:5,8 61:15	50:6	living 141:13	94:13 120:2
45:24 47:4	62:17 63:8	license 8:2 22:9	LLC 36:15	lower 124:16
48:15,20 49:5	65:8 66:4 67:3	22:12 23:2,6	44:12 50:3	LST 1:25
50:18 53:12	70:13 75:11,14	24:2,5,9 25:2	73:20 75:3	lunch 86:9,10
54:23 58:19	75:20 76:25	licensed 23:12	77:17	91:7,16,23
61:7,14 66:4	77:22 85:3	24:18	LLP 2:14	137:23,24
70:13 105:6	86:4 88:23	life 40:24	loan 40:13,24	LUNDVALL
110:11,13	94:5 104:1,14	138:15 140:18	41:19	2:14 3:5 4:9
111:2,13	105:7,20 106:5	liked 37:11 48:7	lodge 29:25	10:10,14 18:17
112:18 119:2,4	107:6,20	limited 37:3	lodged 24:17	19:15,18 34:17
121:12 128:5,5	109:24 110:4,8	50:6	long 12:20 19:12	35:2 36:2
128:6 130:16	110:14,15	Lincoln 90:8	20:16 22:24	39:15,19 42:8
134:17,22	111:1,5,12,16	91:1 108:16	25:12 27:7,8	52:5 58:15
135:1,6	111:20,25	Linda 129:3	30:10 31:13	66:9 71:8
Lash's 49:21	112:4,6,24	line 48:14 53:9	51:17 52:21	72:13 74:12
129:25	113:4,5,7	64:6 73:6,6	53:5 60:14	76:8 77:5
late 19:10 121:5	116:7,23 117:3	100:6 118:16	81:19 140:20	78:20 89:17
121:8	117:23 118:1	119:11 123:2	140:21 142:10	91:6,10 100:10
law 33:17,23	118:11,22	145:2	longer 37:19	106:24 110:1
35:14,19	120:20 121:12	lines 62:5,10	look 42:9,14	111:17 113:1
lawsuit 11:12	122:9,11,15,16	92:15 102:2	43:13 53:21	115:13,20
29:18,21 30:4	122:20 123:8	listed 114:3	65:18 80:8	118:13 121:14
lead 15:21	123:15 124:1	listen 143:1	82:10,20 83:11	124:10 134:10
learning 68:9	125:18 127:4	litigation 9:1,14	86:4 92:9	134:15,23,25
139:1	128:14 129:19	10:20 11:23	100:25 101:6	141:18,21
leave 6:14 19:1	133:15,19	12:6,16,23	105:2 107:6	143:6,8,14,22
41:7	134:4,5,6,17	13:3,4,20	112:6 117:17	144:2
	134:22 135:1	29:17 32:3	117:18 121:18	LYNN 2:10

Lyon 12:24	121:13,16	13:24	misstates	24:25 31:23
M	124:9,12	memory 38:10	109:12	nearly 103:3
maintain 24:9	married 7:4,9	menopause 18:6	mistake 40:8	necessary 95:1
making 22:14	7:10 141:9,10	mental 122:24	mistaken 121:1	need 4:18 17:10
22:15 50:6	match 108:4	mention 17:23	121:3	18:20 19:2
64:10 67:9	124:21	men's 22:5	money 25:3	25:3 31:19
74:20 93:3,13	matches 124:23	met 37:9 55:14	40:13,19,20	56:13 60:10
104:19	material 14:24	127:24 131:20	64:2 66:24	86:10 102:15
male 127:18	materials 44:3	middle 49:12	67:20,23 71:13	102:25 103:15
man 45:9 49:22	math 69:23,24	84:4,9	71:23,24 97:20	103:16,17
129:25 138:5	matter 90:12	mill 21:7,7	98:2,4,9,15,22	104:7,10
Manufacturing	136:17,19,22	million 65:25,25	monies 70:16	108:14 115:19
28:23	137:8,13	66:2,14 67:5,6	133:23	116:24 120:4,7
man's 138:5	matters 96:16	68:12,14,16,23	Monte 22:22	121:23
map 89:22	Matthews 26:23	68:23 69:2,6	month 110:22	needed 104:5,18
90:16,22,22	27:7,14,18	69:21 70:5,6	monthly 34:8	106:13 107:8
91:4 103:8,13	Maverick 38:19	79:19 81:17,25	months 7:16	negative 63:22
103:17 126:15	maximum 79:19	82:22,25 83:16	105:1	95:19
128:1 137:5,10	McDONALD	83:23 84:6	morning 19:9	negotiations
maps 11:16,24	2:14	85:1 105:5,15	137:25	51:1 59:22
67:24 103:2,5	mean 5:3 9:9	105:18,24	Mortgage 39:5	nerve 29:6
103:15,16,18	16:15,16,25	112:15,17,21	39:25 41:20	Nevada 1:2,7,15
120:6 132:10	17:1 21:4 46:9	114:14,21	move 8:23 21:23	2:2,5,11,16 4:1
132:11 133:10	53:1 56:11	115:3 116:19	21:24 28:13	7:18 11:1
136:16,21	98:7 103:23	118:1 121:8	54:7	23:22 46:19
137:7	122:14 124:17	126:7 132:17	moved 25:19	70:21 73:21
marathon 18:18	136:11,19	133:20 134:6	moving 22:13	75:4 77:17
March 115:2,5	139:11 140:23	135:12,16,17	multiple 39:6	146:2,5,21
116:3,22 117:7	meaning 75:14	135:18,19,20	multiplying	never 24:19,22
Mardian 44:20	75:21 76:1	138:17	85:16 88:8	25:1 26:4
61:1,3,5,6	meanings 75:15	mind 65:18 78:3	mutual 45:16	30:14,21 31:1
Mardian's	means 13:24	78:6 84:2	mystery 71:24	31:20 47:23
60:24	25:25 80:9	103:13 107:25		64:17 68:5
mark 10:10	88:12	108:25 114:11	N	89:21 93:10
76:2	meant 130:13	116:7 132:18	N 3:1	103:8 126:14
marked 3:6	meet 13:6,12	mine 77:25	name 4:10 7:6	131:19 135:18
10:13,16 65:19	46:21	109:2	7:13,14 8:9,17	138:6
74:11,14 76:7	meeting 19:8,14	mini 36:20,21	8:19 22:18	new 27:10
76:10 77:4,7	49:5,16 50:13	37:18 40:11	25:9,15 31:13	newspaper 48:2
100:9,16	50:15 51:23	41:15	31:14 38:24	48:4
109:25 110:3	53:11 58:19	minimum 24:13	39:16,22 40:3	Nicole 7:17
111:16,19	meetings 49:2	107:13	40:16 103:7	normal 57:12,12
112:25 113:3	49:20 50:16	minute 125:22	130:23	notarized 72:20
115:12,14	51:6,10,11	minutes 71:11	named 30:4,5	72:22
118:12,15	52:1,9,24	misspoke	nature 12:22	Notary 146:5
	memorialize	134:24	13:20 14:8	notation 121:17

123:13,20,23	obligation 65:1	52:23 53:10	124:6 125:1,5	83:22 85:12,14
notations	95:22 96:7	54:15 56:4	125:15 128:17	85:21 86:2,3
124:15	obligations 13:7	57:3,14 58:18	130:6 131:25	86:15,17,23,23
note 3:20 55:22	13:11	59:8,21 60:17	132:4,9 135:7	87:3,16,18,21
118:22 119:3	obtain 23:6	61:19 62:4,12	136:16 139:14	87:23,25 88:13
121:13 122:22	obtaining	62:22 64:21	139:25 140:4	88:17,19,23
122:23 123:2	106:15	65:3 66:21	141:6,11,14	89:6,7,13,14
125:7	obviously 76:23	69:8,18,20,23	142:7 143:18	90:7,9 91:2,24
notes 55:15 56:1	77:20	69:25 70:9	old 56:11	92:8,13,16,22
118:15 146:11	October 110:21	71:10,15,22	once 5:19 6:6	92:24,25 93:6
146:14	odd 6:21	72:2 73:4,13	17:1 31:9	93:10,15,21
notice 94:16	offhand 12:17	73:14 75:6	60:11 77:20	94:2,16,17,23
noticed 40:17	46:22	76:2 78:23	93:8 104:10,13	95:4,8,10,15
notices 94:23	office 25:10,20	79:3,6 80:4,11	115:21 116:11	95:21,25 96:6
95:4,10,23	26:24 27:10	80:13,14,25	120:5 122:15	97:5 107:4,7,8
96:8 97:6	54:7,10,16	81:1,3,11,14	142:9	107:13,23
November 1:15	55:3,6 56:6,15	82:2,12,13	ones 42:18	108:14,15,15
2:3 3:16 4:2	90:14 127:24	83:5,6,20 85:4	61:24 62:23	115:10,16
66:4 70:11,14	130:25 146:21	85:5,7,8 86:6	one-half 79:10	117:10,20,21
105:7 112:18	officer's 24:24	86:10,11,14,22	79:24 82:7	original 49:13
112:24 113:6	offices 49:17,18	87:2,12,14,19	85:15 88:7	67:4,15 68:1
134:16 146:7	off-site 57:14	88:2,5,16 89:4	ongoing 54:14	68:11,13,22
146:22	off-the-record	89:10,11 90:24	open 22:24	81:23 89:22
NRCP 3:20	19:17	91:22 92:5,7	138:20,22	96:1 120:4
124:8	Oh 23:20 29:14	92:13,14 93:17	opened 22:5	143:9
number 5:16	30:9 49:25	93:20 94:4,7	27:10	originally
7:8,21 85:16	73:9 130:13	95:18 96:5,9	operative	125:22
86:12 88:8	132:23 134:20	96:13,25 97:4	100:19	originated
90:1 92:23	okay 8:14 9:22	100:14,15	opinion 32:22	111:5,8
94:18 134:8	11:7,22 12:18	101:4,19,24	139:2,9	outside 56:5
numbers 11:16	12:22 13:14,16	102:1,14 103:5	opportunity	overpaid 98:3
11:24 28:2	14:13 15:9	103:19 104:4	13:6,12,18	overpay 111:7
67:25 80:20,21	17:2,3,19	104:10,17	14:7 17:13	overpaying
80:23 90:19	18:24,25 19:4	105:8 106:10	71:16 72:3	110:17,19
101:20 103:2	20:4 21:13	107:25 109:20	100:22 101:5	111:6,9
120:13,14	22:18 24:20	111:18 112:4,5	105:1 112:5	overpayment
133:10	26:10 27:3	112:14 113:4	122:2	69:12
numerous 41:18	28:1,4 30:8,18	114:18,22	option 3:9,10,12	owed 132:2
	33:21 34:21	115:5 116:13	3:16 58:24	owned 36:25
O	35:3,4,13 38:5	116:21,25	64:7,13 73:15	39:6
oath 14:10 15:9	38:19 39:14	117:1,23 118:5	73:19 74:10,17	owner 44:20
15:10,13 91:14	42:14,24 43:12	118:22 119:8	74:24 75:2,15	ownership
object 72:10	43:17,21 47:6	119:22 120:15	75:21 76:1,5	44:25
Objection 89:15	48:17 49:19	120:20 121:2	76:11 77:2,9	owns 45:25
95:13 109:12	50:1,5,15,24	121:10,20	79:18 80:1,8	ofo 4:3
obligated 98:10	51:9,15 52:17	122:1,22 123:1	80:12,16 81:23	

P	83:12 85:14,22	97:1 99:19	paying 41:9	36:24 37:8
page 3:4,7 13:16	85:25 86:1,16	102:9 110:25	68:3	38:1 39:13
62:24,25,25	86:23 87:3,5,9	112:15,21	payment 68:15	40:4
63:1 65:20	87:17,21,23,25	113:22 115:22	120:9	phases 92:23
66:15,19 73:4	89:6,14 94:11	120:18 125:12	payments 67:7,9	phone 5:13,14
74:7 75:9	94:12,17 95:9	125:15 129:25	79:4,17,25	5:16,18,25
76:14 80:17,20	95:22 96:6	130:24 132:5,6	96:18 97:10,12	7:21 95:2
81:2,6 83:10	97:2,13 114:25	132:24 133:21	128:18 129:23	physical 18:23
92:10,10 94:9	115:24 116:14	135:4 136:5	penalties 15:14	physically 18:19
97:14,18	120:16	137:9,14	penalty 145:19	54:6
100:25 101:20	parcel 11:16,24	142:21	pending 78:15	pick 21:22,24
101:22 110:11	47:17,17 67:25	Parker 40:4	78:19,19	80:14 92:6
113:10,10	90:1,19 92:25	parks 137:15	people 21:22,23	137:10
114:24 115:25	103:2 104:5,6	part 15:25 78:4	22:13 23:13	picked 103:11
116:11,14	104:8,10 120:3	99:14,15 120:3	41:9 52:22	piece 53:17
118:15 119:12	120:13,14	128:2,8,11,14	90:21 100:12	86:24 125:13
124:14 134:17	132:9,11	129:5,9,20	102:18	pieces 96:25
145:2	133:10 136:16	particular 74:24	percent 60:25	132:4
pages 32:17	137:7	76:16 98:6,17	61:2,3,6,7 67:5	Pines 36:23
80:25 119:13	parcels 46:2	103:5	67:5 79:16,24	37:15
paid 12:1 35:18	92:25 136:21	particularly	82:6,7 85:15	place 110:13
36:10,13,13	136:23 137:1,3	14:23 120:16	88:7 97:22	133:5
65:24,24 67:4	Pardee 1:7 9:23	parties 146:16	percentage	placed 14:10
67:15,19 68:3	11:1,2 45:15	146:17	37:25 84:16	34:20 39:17
68:21 69:6	45:25 46:7,12	partner 12:3	97:14	places 28:5
70:6 82:3	46:18 49:17,23	40:8,9,16	percentages	Plaintiff 2:8
83:20 84:25	50:9,12 51:1	58:10	83:21 106:7	Plaintiffs 1:5
97:23 106:9,10	58:8,25 59:5	partners 47:18	period 8:4 32:6	102:3
108:8,11 109:3	59:22 61:10	partner's 40:16	43:7 54:12	Plaintiff's 3:20
112:15,21	63:12,24 64:25	party 13:3 93:16	79:1,9 97:20	124:8
120:12 121:9	65:1,7 66:20	99:1,2,19	129:15	playing 22:21
125:19 133:16	67:8 68:10	131:20,21,22	perjury 145:19	please 4:11 5:8
133:20,24	70:21,23 73:21	pass 23:7,17	permitted 118:5	17:11 20:11
134:6 135:3,12	73:21 75:4	passed 23:14,18	person 16:5	47:14 65:2
135:15	76:21 77:17	23:24,25	146:18	66:11 94:9
paper 21:7,7	78:25 79:8,9	Pastor 124:17	personal 6:3	101:23 106:25
22:2 28:22,25	79:16,17,23,25	PAT 2:14	32:18	107:11 125:4
52:23 53:2,17	85:13,14,17	pay 33:20,22	personally	127:23 128:1
papers 42:16	86:16,22 87:2	34:8,10 35:8	136:8	134:9 144:4
paperwork 56:5	87:17 88:6,8	35:17 61:1,2,6	perspective	PLTF 3:18
paragraph	88:13,16 89:5	63:19 79:10,16	30:23 52:10	80:21 81:2
66:20,21 75:11	89:13,20 90:2	79:23 85:15	pertained 107:3	118:11
78:25 79:3,18	90:15 91:3	88:6 98:11,11	pertinent	point 18:22 26:7
79:25 80:12	92:9 93:10,14	99:20 125:16	103:18 106:17	44:21 50:1,20
81:3,5,8,9,14	94:15,23 95:4	payable 81:18	Petersons 45:4	54:17 58:18
	95:8 96:15	83:16	Pezzano 36:15	109:20 129:6

141:1,7	82:12,19,22	106:22	143:17	purposely 143:3
pointed 73:10	83:14,16,22	prompted 11:11	provide 66:20	purposes 13:17
pointing 116:10	84:14,17,19	proof 120:4	94:15	39:15 42:3
poles 142:10	97:15 103:21	proper 39:17	provided 64:19	45:17 58:25
polite 16:9	103:23 104:12	properties	provision 34:18	94:13 123:13
portion 23:19	105:5,14 106:8	44:17 85:24	66:25 98:12,17	136:6
40:12 82:6,8	114:22 115:3	90:2,17	provisions 85:3	pursuant 79:18
85:12 86:15	116:16,18	property 3:9,11	public 30:23	79:25 85:13,25
87:16 92:11,16	120:21 125:16	3:13,17 37:11	38:12 48:3	86:1,16 87:17
92:19 97:13,18	125:21,23	40:14 41:2	49:12 90:13	89:6,14 94:17
98:6 100:12	127:8 132:17	44:13,14 46:3	136:17,19,22	95:9,21 96:6
107:1 121:22	133:17 134:19	46:8,12 60:24	137:8,13 146:5	push 52:13
122:6 125:7	135:3,13	61:8 64:8	pull 52:12 68:20	put 37:1,16,18
portions 64:25	prices 113:16	73:16 74:11,18	pulled 25:13,15	40:13 41:2
position 26:4	primarily 5:25	76:6,12 77:3	129:8	45:15 48:15,18
possible 16:3	primary 9:23	77:10 79:17,24	purchase 3:9,11	48:19 49:5
possibly 95:19	prior 38:14 47:1	80:4 81:6,15	3:12,17 64:7	50:21 51:17,20
post 21:13	64:13 107:5,19	81:16,24 82:11	73:16 74:10,18	52:23 55:15
power 56:9	131:13 146:9	82:18,21 83:15	76:6,12 77:3,9	58:25 74:7
predates 117:22	prism 142:9	83:15,22 84:13	79:17,24 80:4	80:24 95:24
prefer 48:23	prisms 142:11	84:17,19 85:12	81:6,15,15,16	100:5 101:4
49:1	private 5:25	85:22 86:15,23	81:24 82:11,18	102:21 131:17
preparation	44:25	87:3,16 88:13	82:21 83:14,15	133:4 136:24
42:2	privilege 33:14	88:17,20 89:6	83:15,22 84:13	143:16
prepare 14:6	72:11	89:13,20 90:7	84:17,19 87:2	putting 53:2
42:15	probably 27:19	91:2,24 92:13	88:16 89:22	
present 24:1	28:18 48:25	92:22 93:6,11	92:16 97:15	Q
25:20 52:8	53:24 54:19	93:15,21 94:2	103:21,23	question 10:17
presidential	56:20 57:24	95:9,15,21,25	105:5,14 106:8	16:7,10,19,24
30:25	58:1,10 68:6	96:1,6 97:5,15	113:16 114:22	17:9,15,16
pretty 14:13	71:25 98:23	103:11,20,22	115:11,17	33:9 39:24
16:6 25:8	112:10 114:11	104:8 105:4,14	116:16,18	51:5 53:16
118:7 120:1	123:8	105:24 106:8	120:21 125:16	56:4 58:12
138:12 141:25	problem 4:15	107:3,7,8	125:20,23	71:19 78:14,18
142:16,16,24	problems 12:24	108:14,15	127:7,11	78:19 87:6
prevailing 99:2	proceeding	112:16,22	132:17 133:17	89:4,12 90:6
99:19	14:13 15:5	114:22 115:11	134:19 135:3	90:24 92:1
prevent 17:20	Proceedings	115:17 116:16	135:13	95:7,17 96:3
91:17	144:7	116:18 120:21	purchased	98:18,23,24
previous 7:3	product 61:16	125:16,20,23	85:13,16,25	99:17 100:21
previously 46:7	production	127:7,11 128:7	86:16 87:17	102:21 106:24
pre-arranged	92:21	132:17 133:16	88:8,13 89:6	107:11 111:10
19:8	profession 20:2	135:13	89:13,20	112:19 114:9
price 59:16 61:4	profit 37:22	prostate 17:25	purchases 86:22	114:24 115:19
79:17,25 80:4	project 48:7,9	141:15 142:3	purpose 13:23	119:9 123:25
81:6,15,16,24	51:12 61:23	protection 31:6	36:19	134:21 136:4

137:7	85:2 108:23	17:19 25:1	record 4:11	relating 96:16
questioning	117:5 120:15	44:8 67:19	16:18 17:2	relationship
53:9	142:13,13,14	71:25 84:3	19:15 39:16	32:18 47:3,10
questions 6:20	reads 79:6 83:14	102:11,19	45:17 48:3	65:7 136:7
13:19,25 17:7	85:11 96:15	108:17 112:12	63:21 69:19	relative 43:16
38:16 61:9	97:19 98:25	121:3 123:1	78:18 89:16	146:15,17
62:20 78:12	ready 26:25	135:23 145:2	90:13 94:14	relatively 14:11
89:25 91:17	48:10,11,12,13	reasonable 99:3	120:2 136:17	relevance 34:15
93:19 110:12	91:11 141:22	99:11	136:20,22	120:24
112:8 118:2,3	real 3:9,11,12	reasonably	137:8,13	relevant 23:13
118:5 121:19	3:17 7:25 8:1	96:16 97:9	141:23 143:15	35:20
127:12 140:14	8:5,9,10,11,12	reasons 139:20	recorded 107:9	remaining
142:18,19	8:13,20,23 9:6	recall 26:18	128:3	79:24 92:16,19
143:6,7	22:9,10,15,17	39:23 46:24	recorder's	remains 66:24
quick 37:6	23:1,6 24:2,18	49:19 91:25	90:14	97:20
quit 22:1 29:6,7	25:2 28:9	132:9,12,15	records 54:16	remember 9:21
140:17	42:20 50:19	receive 57:22	54:19 57:18	13:5 15:18
quite 16:3 76:23	53:14 54:11	67:23 110:8	recover 102:9	25:9,9 26:11
77:20	56:10,14 64:8	113:7	refer 50:5	30:2 31:24
	73:16 74:11,18	received 9:2,7	reference 45:18	34:24 37:5
R	76:6,12 77:3	58:3 67:3	45:21 50:6	38:18,21 39:3
R 7:7	77:10 115:11	68:10,11,18	64:7,10 73:5	39:21 42:18
radiation 18:3	115:17 139:10	69:2,9 70:16	73:15,18 74:20	46:14,16,22,23
raised 20:14	realignment	70:17 94:22,24	75:12 80:11	49:7 51:4,18
Rancho 25:19	126:12,13,15	95:3 98:10	92:12 93:3	56:3,18,18
25:19,20	126:20,25	103:8 107:4,12	104:19 110:11	57:25 58:5,10
Rarely 5:19	realize 139:21	109:9 111:1,12	113:22 114:20	58:17 64:1,2
rate 25:16 33:22	really 22:1	111:23 112:4	115:1 117:3,4	65:4 70:24
97:21	23:12 26:11	119:7 126:15	referenced	71:2 74:3
rates 34:13,14	36:8 46:14,16	128:19 132:5	117:7	75:23 78:3
34:22	51:11,12 53:3	132:18,20	referencing	84:8 108:25
read 12:13 48:4	54:12,24 55:25	136:11 143:23	83:18,19	111:15 112:9
65:3,15 73:22	56:11 68:7	receiving	referral 32:20	114:17 118:25
75:17,24 77:11	69:14 86:6	110:14 129:16	referred 92:24	119:21,23
79:7,21 80:2	102:22 108:19	132:9,12,15	referring 43:8	126:8 129:7,10
81:21 83:13	121:4 126:15	recollect 104:22	43:10 45:18,22	129:13 131:7
85:18 92:11	129:7,9,13	130:21	60:17 73:19	131:24 132:8
94:13,20 96:21	131:24	recollection	87:8,10 127:10	143:2
96:23 97:24	realty 8:5,8,11	5:10 7:20 23:5	reflect 115:2	remembering
99:5 106:24	8:14,16,20 9:3	25:6 30:13,16	refresh 38:10	53:1
107:1 108:23	24:25 25:10,13	38:23 49:8	53:18,22 64:19	remind 122:25
109:14,19	25:14,16,24	50:17 51:8	74:4	Reno 131:20
111:25 120:2	26:1 30:19	53:18,22 64:20	regular 4:20	repeat 17:10
121:23 138:4	63:5,9 73:1	74:5 132:14	Reid 31:13,14	rephrase 17:10
142:10 145:19	110:6,7	reconfiguration	related 127:21	reported 1:24
reading 79:7	reason 6:19	126:25	132:1	132:21 146:6

reporter 2:4	108:12 109:10	117:2,8,12	saw 28:20 40:24	78:24 80:8,15
6:14 14:4	109:18 112:6	118:1,9 119:6	66:13 70:14	80:19,21 81:5
143:13,15	143:11	120:18 122:19	105:4 138:6	81:12 82:10,20
146:1	rid 5:20 6:7	123:12 124:7	saying 6:1 43:20	83:18,19 84:1
reporter's 16:2	23:15 40:25	125:3,12,21	56:23 60:10,12	85:20 86:7,18
represent 82:17	right 6:13 8:1,6	127:2 128:22	75:24 82:21	88:10 92:4,17
114:18	8:18 9:1,13,21	130:22 131:10	83:1 84:22,24	93:3 96:19
representation	10:1,7 15:16	134:14 135:10	87:4 96:11	97:2 100:23
93:13	15:24 16:22	137:4,18	105:23 124:22	102:5 106:21
representatives	18:12 21:1	138:21 139:8	124:23,23	107:6 113:13
51:1,2 58:7,13	22:24 23:23	139:10 140:2	128:4 131:19	113:17,24
93:17 129:1	24:4,10 26:9	rights 45:3,4,6	138:22 143:2	114:25 115:8
represented	27:17 30:17,23	45:13 49:14	says 32:4 48:22	115:24 116:3
59:21	31:9 33:23	99:2	52:13 66:24	116:15 117:2,6
representing	34:11 36:9	right-hand	67:9,13,15	117:19 119:6
32:3	38:9,22 41:16	49:21 101:1	73:8 75:1,12	119:11 123:3
Republic 39:5	43:3,16 49:12	121:22 122:6	79:23 83:12	123:16 124:14
39:24 41:20	50:3,10 55:23	124:16 129:25	87:15 106:17	124:19 136:23
request 62:11	57:4 59:2,25	road 127:9,10	120:1 123:2	137:5 138:23
requested 107:1	61:11,21,23	room 16:4	130:7 136:11	139:16
required 97:1	62:5,9 63:5,10	rough 28:2,17	140:7	seeing 104:22
requirements	63:13 64:18	RPR 1:24	schedule 81:19	seeking 102:9
24:13	65:16 67:2,15	146:25	scheduled 94:19	seen 90:16
research 90:25	68:13,16 69:1	run 38:12,25	school 20:12,19	sees 138:23
residence	69:6 71:8 72:1	98:21 105:17	science 21:8,10	sell 7:25 8:1,4
125:14	72:14,23 73:3	105:21 106:1,2	search 38:12,25	22:9 24:2 46:5
residential	73:7,15,22,24	135:21 136:2	53:24	46:8 54:11
92:21 126:19	74:9 76:23	runs 98:6,7,17	second 13:23	125:7,13
resolution 62:16	78:9 79:8,20	R-E 73:8	19:16 39:20	selling 28:8
resort 5:2	80:23 81:12		78:24 83:2,3,6	send 34:2 57:21
respect 85:11	82:4,8 83:2,9	S	94:12 96:14	59:17 95:10
87:16	83:10 84:10	Sahara 2:2,15	98:25 107:14	sending 71:4,5
responsible 26:2	85:6,10,20	36:21,21,23	116:24	118:24
rest 142:14	86:7,25 88:3	37:14 40:5	secondary 21:13	sense 95:7 98:14
restated 3:16	93:6,13,21	sake 95:20	secret 139:3,6	sent 30:7 42:17
115:10,16	94:10 95:20	96:11	Secretary 38:13	55:11 61:24
117:10,19	96:14 97:7,12	sale 47:24 48:10	section 66:16,23	66:4 70:13
result 132:21	97:17 98:5	48:11 120:4	97:19	105:6 106:22
retain 32:2	99:7,10 102:7	sales 46:7 61:4	see 6:19 11:14	119:3 124:2
retention 33:1	104:11 106:10	120:5 137:12	26:11,20 31:19	143:10
retire 54:3	106:12 108:1,2	San 131:6,6	37:13 42:4	sentence 96:14
retired 5:15,20	108:11,21,22	sanction 15:21	46:13 64:10,19	98:25
6:8,24 7:24	109:2,7,11,18	sanctions 15:14	65:4 69:18	separate 92:23
52:16,17 54:1	109:22 111:8	Sandy 44:24	73:8 74:4,20	September 3:8
54:4,6,15	113:21 114:1,8	45:2	75:17 76:3,14	10:6,8,9,12,19
review 14:7	115:4,8 116:6	sat 45:16 48:20	76:18 77:18	11:8 64:3,14

72:17,20,23	side 49:18 63:23	sits 37:17	37:25 70:1	staying 41:1
74:1 76:25	sight 30:4	sitting 18:7	splitting 35:10	step 50:19
77:22 78:1,4,8	sign 60:11	133:8	36:12	Stewart 128:23
84:5,9 107:20	signalled 124:19	situation 139:23	spoke 137:18	129:2,13,17,21
110:21 116:8	signals 124:24	141:7	spoken 131:11	stick 88:3 96:3
series 100:13	signator 122:8	six 28:18,19	spouse's 7:6	storage 36:22,25
served 24:23	signature 62:25	119:12	Springs 43:5	57:15,17,20
Services 38:20	63:3,4 72:19	Sixth 2:11	44:12 45:7,8	storages 36:20
set 40:20 69:11	118:18 124:3	slim 5:23	47:7 50:2	37:18 40:12
75:15 93:1	145:20	slush 67:20	54:13 55:7,10	41:16
116:15 129:9	signed 40:15	small 22:5 43:19	56:6,15 57:3	store 22:5,6,15
146:20	60:11 84:4	43:20,20,21	73:20 75:3	22:17,19 28:10
sets 79:3,12	127:5	55:1,19	76:21 77:16	straight 59:16
setting 14:9	signers 122:16	smart 45:9	115:22	straightened
seven 54:4	signing 63:8	social 6:22	SS 146:2	45:13
shake 16:24	73:1 84:10	sold 12:1 28:10	stack 74:7	Street 2:11
shakes 16:23	122:11	37:21,22 46:11	standpoint 11:8	Stringer 67:14
share 35:17	similar 124:20	solemnness 15:4	18:23 116:21	67:14,18
138:13 139:3	124:22,24	somebody 12:25	118:4	111:21 112:8
140:4	simpler 90:25	32:20 35:7	start 18:7 52:6	112:10,12
shared 44:4,7	single 56:24	123:4 127:25	62:23 72:16	120:12 133:19
140:1	126:3,5	141:3	73:5 81:2	134:3,20,22
sharing 138:20	single-family	someday 45:8	86:12 108:22	Stringer's 134:4
Sharon 7:7	92:20 125:14	45:10	133:13 140:9	strong 40:6,9
she'll 14:6	126:19	someone's 133:5	started 11:20	41:19
SHIPLEY 2:15	sir 5:18,24 7:1	Sonia 7:18	22:14 25:13,14	studied 42:22
shopping 37:17	14:16 16:17	son-in-law 8:11	25:16 26:23	stuff 6:25 22:14
40:5	36:3 38:25	soon 143:25	27:1 29:11	43:7 44:9 53:1
short 71:10	42:2 52:10	sorry 87:8 94:25	34:24 35:1	54:8 56:19,20
141:18	54:1 63:3	134:20 137:21	59:15 125:22	56:23 58:4
shorthand	65:19 78:22	sought 138:19	126:6 127:10	68:20 69:12
73:19 146:11	81:21 86:5	sounds 23:18	starting 16:8	106:23 108:24
146:14	93:22 96:21	33:21 78:11	starts 81:14	109:6,14 133:7
shots 18:2,8,15	100:23 101:16	123:4	92:15	subject 73:6
show 22:21	101:19 102:8	South 2:11	state 2:5 4:10	submission
64:18 87:8	110:4 115:15	southeast 49:18	5:3 23:22	143:11
90:2 92:3	115:21 117:16	Sovereignty 38:6	24:24 28:16,22	subsection
103:25 124:6	118:20 119:16	39:16,21	38:13 146:2,5	83:14 116:15
showed 117:11	121:15 122:3	speak 4:18	146:21	substantively
shown 37:10	124:11 136:14	71:16 72:3	Stateline 45:5	15:2
117:22	140:5,14	specifics 72:7	statement 34:2	sudden 22:13
shrink 18:2,3	sister 29:1	spelling 39:17	34:4 40:9	sued 30:14
shut 26:24,25	sit 21:5 36:5	spend 74:15	statements 40:6	suggest 14:25
sick 138:5	93:25 98:1	82:16 112:2	112:7 132:13	94:1
sicknesses	142:25	spent 90:16	stay 140:2	suggesting
140:10	Site 92:19	split 35:14,14,16	stayed 22:17	30:11 51:22

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No.: 72371

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PARDEE HOMES OF NEVADA

Appellant,

v.

JAMES WOLFRAM and WALT WILKES, et al.

Respondents.

Appeal Regarding Judgment and Post-Judgment Orders
Eighth Judicial District Court
District Court Case No.: A-10-632338-C

JOINT APPENDIX – VOLUME 3 OF 88

McDONALD CARANO LLP
Pat Lundvall (NSBN 3761)
lundvall@mcdonaldcarano.com
Rory T. Kay (NSBN 12416)
rkay@mcdonaldcarano.com
2300 W. Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966

Attorneys for Appellant

Chronological Index to Joint Appendix

Date	Document Description	Volume	Labeled
12/29/2010	Complaint	1	JA000001- JA000006
01/14/2011	Amended Complaint	1	JA000007- JA000012
02/11/2011	Amended Summons	1	JA000013- JA000016
03/02/2011	Answer to Amended Complaint	1	JA000017- JA000023
10/25/2011	Transcript re Discovery Conference	1	JA000024- JA000027
11/08/2011	Scheduling Order	1	JA000028- JA000030
11/29/2011	Order Setting Civil Non-Jury Trial	1	JA000031- JA000032
12/15/2011	Stipulated Confidentiality Agreement and Protective Order	1	JA000033- JA000039
12/16/2011	Notice of Entry of Stipulated Confidentiality Agreement and Protective Order	1	JA000040- JA000048
08/27/2012	Transcript re Hearing	1	JA000049- JA000050
08/29/2012	Stipulation and Order to Extend Discovery Deadlines (First Request)	1	JA000051- JA000054
08/30/2012	Notice of Entry of Stipulation and Order to Extend Discovery Deadlines (First Request)	1	JA000055- JA000060
09/21/2012	Amended Order Setting Civil Non-Jury Trial	1	JA000061- JA000062

Date	Document Description	Volume	Labeled
10/24/2012	Defendant's Motion for Summary Judgment	1	JA000063- JA000082
10/24/2012	Appendix of Exhibits in Support of Defendant's Motion for Summary Judgment	1	JA000083- JA000206
10/24/2012	Declaration of Aaron D. Shipley in Support of Defendant's Motion for Summary Judgment	1	JA000207- JA000211
10/25/2012	Appendix of Exhibits in Support of Defendant's Motion for Summary Judgment – filed under seal	2	JA000212- JA000321
11/07/2012	Opposition to Defendant's Motion for Summary Judgment and Plaintiffs' Counter Motion for Partial Summary Judgment	2	JA000322- JA000351
11/09/2012	Appendix of Exhibits to Plaintiffs' Memorandum of Points and Authorities in Opposition to Defendant's Motion for Summary Judgment and in Support of Plaintiffs' Counter Motion for Summary Judgment – sections filed under seal	3-6	JA000352- JA001332
11/13/2012	Appendix of Exhibits to Plaintiffs' Memorandum of Points and Authorities in Opposition to Defendant's Motion for Summary Judgment and in Support of Plaintiffs' Counter Motion for Summary Judgment	7-12	JA001333- JA002053
11/29/2012	Defendant's Opposition to Plaintiff's Counter Motion for Partial Summary Judgment Re: Real Parties in Interest	13	JA002054- JA002065
12/06/2012	Transcript re Status Check	13	JA002066- JA002080
01/07/2013	Reply Brief in Support of Defendant's Motion for Summary Judgment	13	JA002081- JA002101

Date	Document Description	Volume	Labeled
01/17/2013	Plaintiffs' Reply in Further Support of Their Counter Motion for Partial Summary Judgment	13	JA002102- JA002144
03/01/2013	Defendant's Motion in Limine to Exclude Plaintiffs' Claim for Attorneys' Fees as an Element of Damages (MIL #1)	13	JA002145- JA002175
03/01/2013	Defendant's Motion in Limine to Exclude Plaintiffs' Claim for Damages in the Form of Compensation for Time (MIL #2)	13	JA002176- JA002210
03/05/2013	Transcript of Proceedings - March 5, 2013	14	JA002211- JA002350
03/14/2013	Order re Order Granting Plaintiffs Countermotion for Summary Judgment	14	JA002351- JA002353
03/15/2013	Notice of Entry of Order re Order Granting Plaintiffs Countermotion for Summary Judgment	14	JA002354- JA002358
03/20/2013	Plaintiffs Opposition to Defendant's Motion in Limine to Exclude Plaintiffs Claim for Attorney's Fees as an Element of Damages MIL 1	15	JA002359- JA002408
03/20/2013	Plaintiffs Opposition to Defendants Motion in Limine to Plaintiffs Claim for Damages in the form of compensation for time MIL 2	15	JA002409- JA002433
03/21/2013	Motion to File Second Amended Complaint	15	JA002434- JA002461
04/02/2013	Order re Order Denying Defendants Motion for Summary Judgment	16	JA002462- JA002464
04/03/2013	Notice of Entry of Order re Order Denying Defendants Motion for Summary Judgment	16	JA002465- JA002470

Date	Document Description	Volume	Labeled
04/08/2013	Defendant's Opposition to Plaintiffs' Motion for Leave to File a Second Amended Complaint	16	JA002471- JA002500
04/17/2013	Second Amended Order Setting Civil Non-Jury Trial	16	JA002501- JA002502
04/23/2013	Plaintiffs Reply in Further Support of Motion for Leave to File Second Amended Complaint	16	JA002503- JA002526
04/26/2013	Transcript re Hearing	16	JA002527- JA002626
05/10/2013	Plaintiffs Supplement to Motion for Leave to File a Second Amended Complaint Pursuant to the Courts order on Hearing on April 26, 2013	16	JA002627- JA002651
05/10/2013	Defendant's Supplemental Brief in Support of Its Opposition to Plaintiffs' Motion for Leave to File a Second Amended Complaint	16	JA002652- JA002658
05/30/2013	Order Granting Plaintiffs Motion for Leave to File a Second Amended Complaint	16	JA002659- JA002661
06/05/2013	Order Granting Plaintiffs Motion for Leave to File a Second Amended Complaint	16	JA002662- JA002664
06/05/2013	Notice of Entry of Order Granting Plaintiffs Motion for Leave to File a Second Amended Complaint	16	JA002665- JA002669
06/06/2013	Second Amended Complaint	16	JA002670- JA002677
07/03/2013	Answer to Second Amended Complaint and Counterclaim	16	JA002678- JA002687
07/09/2013	Transcript re Hearing	17	JA002688- JA002723

Date	Document Description	Volume	Labeled
07/15/2013	Plaintiffs Reply to Defendants Counterclaim	17	JA002724- JA002731
07/18/2013	Plaintiffs' Motion in Limine To Permit James J. Jimmerson, Esq. To Testify Concerning Plaintiffs' Attorney's Fees and Costs (MIL #25)	17	JA002732- JA002771
07/22/2013	Defendant's Motion for Partial Summary Judgment	17	JA002772- JA002786
07/22/2013	Plaintiffs Supplemental Opposition to Defendants Motion in Limine to Plaintiffs Claim for Damages in the Form of Compensation for Time MIL 2	17	JA002787- JA002808
07/23/2013	Transcript re Status Check	17	JA002809- JA002814
08/05/2013	Defendant Pardee Homes of Nevada's Response to Plaintiffs' Motions in Limine #1-5; And #20-25	17	JA002815- JA002829
08/06/2013	Plaintiffs Opposition to Defendants Motion for Partial Summary Judgment	17	JA002830- JA002857
09/16/2013	Reply in Support of Defendant's Motion for Partial Summary Judgment	17	JA002858- JA002864
09/16/2013	Reply in Support of Defendant's Motion in Limine to Exclude Plaintiff's Claim for Attorney's Fees As An Element of Damages	17	JA002865- JA002869
09/16/2013	Reply in Support of Defendant's Motion in Limine to Exclude Plaintiffs' Claim For Damages in the Form of Compensation for Time	17	JA002870- JA002874
09/23/2013	Transcript re Hearing	18	JA002875- JA002987

Date	Document Description	Volume	Labeled
09/27/2013	Plaintiffs Supplement to Their Opposition to Defendants Motion for Partial Summary Judgment	19-21	JA002988- JA003203
09/27/2013	Supplemental Brief in Support of Defendant's Motion for Partial Summary Judgment	21	JA003204- JA003209
10/23/2013	Order Denying Motion for Partial Summary Judgment	21	JA003210- JA003212
10/23/2013	Transcript re Trial	22	JA003213- JA003403
10/23/2013	Trial Exhibit A	23	JA003404- JA003544
10/23/2013	Trial Exhibit B – filed under seal	23	JA003545- JA003625
10/23/2013	Trial Exhibit C	23	JA003626- JA003628
10/23/2013	Trial Exhibit D	23	JA003629- JA003631
10/23/2013	Trial Exhibit E – filed under seal	23	JA003632- JA003634
10/23/2013	Trial Exhibit F	23	JA003635- JA003637
10/23/2013	Trial Exhibit G	23	JA003638
10/23/2013	Trial Exhibit H	23	JA003639- JA003640
10/23/2013	Trial Exhibit I	23	JA003641- JA003643

Date	Document Description	Volume	Labeled
10/23/2013	Trial Exhibit J – filed under seal	24	JA003644- JA003669
10/23/2013	Trial Exhibit K	24	JA003670- JA003674
10/23/2013	Trial Exhibit L	24	JA003675- JA003678
10/23/2013	Trial Exhibit M	24	JA003679- JA003680
10/23/2013	Trial Exhibit N	24	JA003681- JA003683
10/23/2013	Trial Exhibit O – filed under seal	25-26	JA003684- JA004083
10/23/2013	Trial Exhibit P	27	JA004084
10/23/2013	Trial Exhibit Q	27	JA004085
10/23/2013	Trial Exhibit R	27	JA004086- JA004089
10/23/2013	Trial Exhibit S	27	JA004090
10/23/2013	Trial Exhibit T	27	JA004091- JA004092
10/23/2013	Trial Exhibit U	27	JA004093
10/23/2013	Trial Exhibit V	27	JA004094
10/23/2013	Trial Exhibit W	27	JA004095- JA004096

Date	Document Description	Volume	Labeled
10/23/2013	Trial Exhibit X	27	JA004097
10/23/2013	Trial Exhibit Y	27	JA004098
10/23/2013	Trial Exhibit Z	27	JA004099- JA004100
10/23/2013	Trial Exhibit AA	27	JA004101- JA004102
10/23/2013	Trial Exhibit BB	27	JA004103
10/23/2013	Trial Exhibit CC	27	JA004104
10/23/2013	Trial Exhibit DD	27	JA004105
10/23/2013	Trial Exhibit EE	27	JA004106- JA004113
10/23/2013	Trial Exhibit FF	27	JA004114- JA004118
10/23/2013	Trial Exhibit GG	27	JA004119- JA004122
10/23/2013	Trial Exhibit HH	27	JA004123
10/23/2013	Trial Exhibit II	27	JA004124
10/23/2013	Trial Exhibit JJ	27	JA004125
10/23/2013	Trial Exhibit KK	27	JA004126- JA004167

Date	Document Description	Volume	Labeled
10/23/2013	Trial Exhibit LL	27	JA004168
10/23/2013	Trial Exhibit MM	27	JA004169
10/23/2013	Trial Exhibit NN	27	JA004170- JA004174
10/23/2013	Trial Exhibit OO	27	JA004175- JA004183
10/23/2013	Trial Exhibit PP	27	JA004184- JA004240
10/23/2013	Trial Exhibit QQ	27	JA004241- JA004243
10/23/2013	Trial Exhibit RR	27	JA004244- JA004248
10/23/2013	Trial Exhibit SS	27	JA004249- JA004255
10/23/2013	Trial Exhibit TT	27	JA004256- JA004262
10/23/2013	Trial Exhibit UU	27	JA004263- JA004288
10/23/2013	Trial Exhibit 1	27	JA004289- JA004292
10/23/2013	Trial Exhibit 6 – filed under seal	27	JA004293- JA004307
10/23/2013	Trial Exhibit 7 – filed under seal	27	JA004308- JA004310
10/23/2013	Trial Exhibit 8 – filed under seal	27	JA004311- JA004312

Date	Document Description	Volume	Labeled
10/23/2013	Trial Exhibit 9 – filed under seal	27	JA004313- JA004319
10/23/2013	Trial Exhibit 10 – filed under seal	27	JA004320- JA004329
10/23/2013	Trial Exhibit 11 – filed under seal	28	JA004330- JA004340
10/23/2013	Trial Exhibit 12 – filed under seal	28	JA004341- JA004360
10/23/2013	Trial Exhibit 13 – filed under seal	28	JA004361- JA004453
10/23/2013	Trial Exhibit 21	28	JA004454
10/23/2013	Trial Exhibit 25	28	JA004455- JA004462
10/24/2013	Transcript re Trial	29-30	JA004463- JA004790
10/24/2013	Trial Exhibit VV	31	JA004791
10/24/2013	Trial Exhibit 26	31	JA004792- JA004804
10/24/2013	Trial Exhibit 30	31	JA004805- JA004811
10/25/2013	Notice of Entry of Order Denying Motion for Partial Summary Judgment	31	JA004812- JA004817
10/25/2013	Plaintiffs Trial Brief Pursuant to EDCR 7.27	31	JA004818- JA004847
10/28/2013	Transcript re Trial – filed under seal	32-33	JA004848- JA005227

Date	Document Description	Volume	Labeled
10/28/2013	Trial Exhibit 15	34	JA005228- JA005232
10/28/2013	Trial Exhibit 18	34	JA005233- JA005235
10/28/2013	Trial Exhibit 19	34	JA005236- JA005237
10/28/2013	Trial Exhibit 20	34	JA005238- JA005254
10/28/2013	Trial Exhibit 23	34	JA005255- JA005260
10/28/2013	Trial Exhibit 24	34	JA005261- JA005263
10/29/2013	Transcript re Trial – filed under seal	35	JA005264- JA005493
10/29/2013	Trial Exhibit 28	36	JA005494- JA005497
10/29/2013	Trial Exhibit 29	36	JA005498- JA005511
10/30/2013	Transcript re Trial	37-38	JA005512- JA005815
10/30/2013	Trial Exhibit 23a	39	JA005816- JA005817
10/30/2013	Trial Exhibit 27	39	JA005818- JA005820
12/09/2013	Transcript re Trial – filed under seal	40-41	JA005821- JA006192
12/10/2013	Transcript re Trial	42-43	JA006193- JA006530

Date	Document Description	Volume	Labeled
12/10/2013	Trial Exhibit WW	43	JA006531- JA006532
12/12/2013	Transcript re Trial – filed under seal	44-45	JA006533- JA006878
12/12/2013	Trial Exhibit XX	46	JA006879- JA006935
12/12/2013	Trial Exhibit 39	46	JA006936- JA006948
12/12/2013	Trial Exhibit 40	46	JA006949- JA006950
12/12/2013	Trial Exhibit 41	46	JA006951- JA006952
12/13/2013	Transcript re Trial - Part 1	46	JA006953- JA007107
12/13/2013	Transcript re Trial - Part 2	47-48	JA007108- JA007384
12/13/2013	Trial Exhibit 31a	48	JA007385- JA007410
06/24/2014	Pardee's Motion to Expunge Lis Pendens – section filed under seal	48	JA007411- JA007456
06/25/2014	Findings of Fact, Conclusions of Law and Order	48	JA007457- JA007474
06/27/2014	Notice of Entry of Findings of Fact, Conclusions of Law and Order	48	JA007475- JA007494
07/14/2014	Opposition to Pardee's Motion to Expunge Lis Pendens	48	JA007495- JA007559
07/15/2014	Reply in Support of Pardee's Motion to Expunge Lis Pendens	48	JA007560- JA007570

Date	Document Description	Volume	Labeled
07/24/2014	Order Granting Motion to Expunge Lis Pendens	48	JA007571- JA007573
07/25/2014	Notice of Entry of Order Granting Motion to Expunge Lis Pendens	48	JA007574- JA007578
07/17/2014	Transcript re Hearing	49	JA007579- JA007629
07/31/2014	Transcript re Hearing	49	JA007630- JA007646
08/25/2014	Plaintiff's Accounting Brief Pursuant to the court's Order Entered on June 25, 2014	49	JA007647- JA007698
08/25/2014	Pardee Homes of Nevada's Supplemental Brief Regarding Future Accounting	49	JA007699- JA007707
05/13/2015	Findings of Fact and Conclusions of Law and Supplemental Briefing re Future Accounting	49	JA007708- JA007711
05/13/2015	Notice of Entry of Order on Findings of Fact and Conclusions of Law and Supplemental Briefing re Future Accounting	49	JA007712- JA007717
05/28/2015	Pardee's Motion for Attorney's Fees and Costs	49	JA007718- JA007734
05/28/2015	Appendix of Exhibits to Pardee's Motion for Attorney's Fees and Costs	50-51	JA007735- JA008150
06/15/2015	Judgment	52	JA008151- JA008153
06/15/2015	Notice of Entry of Judgment	52	JA008154- JA008158
06/19/2015	Plaintiffs, James Wolfram and Walt Wilkes' Memorandum of Costs and Disbursements	52	JA008159- JA008191

Date	Document Description	Volume	Labeled
06/24/2015	Pardee's Motion to Retax Plaintiffs' Memorandum of Costs Filed June 19, 2015	52	JA008192-JA008215
06/29/2015	Plaintiffs' Motion for Attorney's Fees and Costs	52-53	JA008216-JA008327
06/29/2015	Motion to Strike "Judgment", Entered June 15, 2015 Pursuant To NRCP. 52 (B) And N.R.C.P. 59, As Unnecessary and Duplicative Orders Of Final Orders Entered on June 25, 2014 and May 13, 2015, and as Such, is a Fugitive Document	53	JA008328-JA008394
06/29/2015	Plaintiffs' Motion Pursuant to NRCP 52(b) and 59 to Amend The Court's Judgment Entered on June 15, 2015, to Amend the Findings of Fact/conclusions of Law and Judgment Contained Therein, Specifically Referred to in the Language Included in the Judgment at Page 2, Lines 8 Through 13 and the Judgment At Page 2, Lines 18 Through 23 to Delete the Same or Amend The Same to Reflect the True Fact That Plaintiff Prevailed On Their Entitlement to the First Claim for Relief For an Accounting, and Damages for Their Second Claim for Relief of Breach of Contract, and Their Third Claim for Relief for Breach of the Implied Covenant for Good Faith and Fair Dealing and That Defendant Never Received a Judgment in its Form and Against Plaintiffs Whatsoever as Mistakenly Stated Within the Court's Latest "Judgment – sections filed under seal	54-56	JA008395-JA008922
06/30/2015	Plaintiffs' Opposition to Pardee's Motion for Attorney's Fees and Costs	57-58	JA008923-JA009109

Date	Document Description	Volume	Labeled
06/30/2015	Supplement to Plaintiffs' Pending Motion for Attorney's Fees and Costs, Motion to Strike Judgment, Motion Pursuant to NRCP 52(b) and NRCP 59 to Amend the Court's Judgment, and Plaintiffs' Opposition to Pardee's Motion for Attorney's Fees and Costs	59	JA009110- JA009206
07/02/2015	Pardee Homes of Nevada's Motion to Amend Judgment	59	JA009207- JA009283
07/08/2015	Plaintiffs' Opposition to Pardee's Motion to Retax Costs	60-61	JA009284- JA009644
07/08/2015	Errata to Motion to Strike "Judgment", Entered June 15, 2015 Pursuant to NRCP 52(b) and NRCP 59, as Unnecessary and Duplicative Orders of Final Orders Entered on June 25, 2014 and May 13, 2015, and as such, is a Fugitive Document	62	JA009645- JA009652

Date	Document Description	Volume	Labeled
07/08/2015	Errata to Plaintiffs' Motion Pursuant to NRCF 52(b) and 59 to Amend the Court's Judgment Entered on June 15, 2015, to Amend the Findings of Fact/Conclusions of Law and Judgment Contained Therein, Specifically Referred to in the Language Included in the Judgment at Page, 2, Lines 8 through 13 and the Judgment at Page 2, Lines 18 through 23 to Delete the Same or Amend the Same to Reflect the True Fact that Plaintiff Prevailed on their Entitlement to the First Claim for Relief for an Accounting, and Damages for their Second Claim for Relief of Breach of Contract, and Their Third Claim for Relief for Breach of the Implied Covenant for Good Faith and Fair Dealing and that Defendant Never Received a Judgment in its form and Against Plaintiffs Whatsoever as Mistakenly Stated Within the Court's Latest "Judgment"	62	JA009653- JA009662
07/08/2015	Pardee's Emergency Motion to Stay Execution of Judgment: and Ex Parte Order Shortening Time	62	JA009663- JA009710
07/08/2015	Pardee's Supplemental Briefing in Support of its Emergency Motion to Stay Execution of Judgment	62	JA009711- JA009733
07/10/2015	Transcript re Hearing	62	JA009734- JA009752
07/10/2015	Order on Pardee's Emergency Motion to Stay Execution of Judgment; and Ex Parte Order Shortening Time	62	JA009753- JA009754

Date	Document Description	Volume	Labeled
07/10/2015	Notice of Entry of Order on Pardee's Emergency Motion to Stay Execution of Judgment; and Ex Parte Order Shortening Time	62	JA009755- JA009758
07/15/2015	Pardee Homes of Nevada's Opposition to Plaintiff's Motion for Attorney's Fees and Costs	62	JA009759- JA009771
07/15/2015	Appendix of Exhibits to Pardee Homes of Nevada's Opposition to Plaintiffs' Motion for Attorney's Fees and Costs	63	JA009772- JA009918
07/15/2015	Pardee Homes of Nevada's Consolidated Opposition To: (1) Plaintiff's Motion to Strike Judgment Entered on June 15, 2015 Pursuant to NRCP 52(b) and NRCP 59; and (2) Plaintiffs' Motion Pursuant to NRCP 52(b) and 59 to Amend the Court's Judgment Entered on June 15, 2015	63	JA009919- JA009943
07/15/2015	Appendix of Exhibits to Pardee Homes of Nevada's Consolidated Opposition to: (1) Plaintiff's Motion to Strike Judgment Entered on June 15, 2015 Pursuant to NRCP 52(b) and NRCP 59; and Plaintiffs' Motion Pursuant to NRCP 52(b) and 59 to Amend the Court's Judgment Entered on June 15, 2015	64	JA009944- JA010185
07/16/2015	Errata to Pardee Homes of Nevada's Opposition to Plaintiffs' Motion for Attorney's Fees and Costs	65	JA010186- JA010202
07/17/2015	Plaintiffs' Opposition to Pardee Homes of Nevada's Motion to Amend Judgment and Countermotion for Attorney's Fees	65-67	JA010203- JA010481

Date	Document Description	Volume	Labeled
07/24/2015	Plaintiffs' Motion for Reconsideration, Ex Parte (With Notice) of Application for Order Shortening Time Regarding Stay of Execution and Order Shortening Time Regarding Stay of Execution	67	JA010482- JA010522
07/24/2015	Declaration of John W. Muije, Esq. In Support of Motion for Reconsideration	67	JA010523- JA010581
08/10/2015	Pardee Homes of Nevada's Opposition to Plaintiffs' Motion for Reconsideration of the Order on Pardee's Emergency Motion to Stay Execution of Judgment	67	JA010582- JA010669
08/17/2015	Reply Points and Authorities in Support of Motion for Reconsideration	67	JA010670- JA010678
08/24/2015	Minute Order Denying Plaintiff's Motion for Reconsideration, Ex Parte (With Notice) of Application for Order Shortening Time Regarding Stay of Execution and Order Shortening Time Regarding Stay of Execution	67	JA010679
09/11/2015	Plaintiffs' Reply to Defendant's Opposition to Plaintiff's Motion for Attorney's Fees and Costs	68	JA010680- JA010722
09/11/2015	Plaintiffs' Reply to Defendant's Opposition to Plaintiff's Motion to Strike "Judgment" Entered June 15, 2015 Pursuant to NRCP 52(b) and NRCP 59	68	JA010723- JA010767
09/11/2015	Plaintiffs' Reply to Defendant's Opposition to Plaintiff's Motion Pursuant to NRCP 52(b) and NRCP 59 to Amend the Court's Judgment Entered on June 15, 2015	68	JA010768- JA010811

Date	Document Description	Volume	Labeled
09/12/2015	Pardee Homes of Nevada's Consolidated Reply in Support of (1) Motion to Retax Plaintiffs' Memorandum of Costs Filed June 19, 2015; and (2) Motion for Attorney's Fees and Costs	68	JA010812- JA010865
12/08/2015	Plaintiffs' Supplement to Plaintiffs' Opposition to Pardee's Motion for Attorney's Fees and Costs	68	JA010866- JA010895
12/08/2015	Notice of Defendant Pardee Homes of Nevada's Non-Reply and Non-Opposition to "Plaintiff's Opposition to Pardee Homes of Nevada's Motion to Amend Judgment and Countermotion for Attorney's Fees"	69	JA010896- JA010945
12/30/2015	Pardee Homes of Nevada's Consolidated Response to: (1) Plaintiffs' Notice of Non-Reply and Non-Opposition to Plaintiffs' Opposition to Pardee's Motion to Amend Judgment and Countermotion for Attorney's Fees; and (2) Plaintiffs' Supplement to Plaintiffs' Opposition to Pardee's Motion for Attorney's Fees and Costs	69	JA010946- JA010953
01/11/2016	Plaintiffs' Reply to Defendants Consolidated Response to (1) Plaintiffs' Notice of Non-Reply and Non-Opposition to Plaintiff's Opposition to Pardee's Motion to Amend Judgment and Countermotion for Attorney's Fees And (2) Plaintiffs' Supplement to Plaintiffs' Opposition to Pardee's Motion for Attorney's Fees and Costs	69	JA010954- JA010961
01/15/2016	Transcript re Hearing	70	JA010962- JA011167

Date	Document Description	Volume	Labeled
03/14/2016	Plaintiffs' Motion to Settle Two (2) Competing Judgments and Orders	70	JA011168- JA011210
03/16/2016	Release of Judgment	71	JA011211- JA011213
03/23/2016	Pardee Homes of Nevada's Response to Plaintiffs' Motion to Settle Two (2) Sets of Competing Judgments and Orders	71	JA011214- JA011270
04/20/2016	Plaintiffs' Reply to Defendant's Response and Supplement to Plaintiffs' Motion to Settle Two (2) Sets of Competing Judgments and Orders	71	JA011271- JA011384
04/26/2016	Order from January 15, 2016 Hearings	71	JA011385- JA011388
05/16/2016	Judgment	71	JA011389- JA011391
05/17/2016	Notice of Entry of Judgment	71	JA011392- JA011396
05/23/2016	Plaintiffs' Memorandum of Costs and Disbursements	71	JA011397- JA011441
05/31/2016	Pardee's Motion to Retax Plaintiffs' Memorandum of Costs Filed May 23, 2016	71	JA011442- JA011454
06/01/2016	Pardee Homes of Nevada's Motion to Amend Judgment	72	JA011455- JA011589
06/06/2016	Pardee's Motion for Attorney's Fees and Costs	72	JA011590- JA011614
06/06/2016	Appendix of Exhibits to Pardee Homes Motion for Attorney Fees and Costs - Volume 1	73-74	JA011615- JA011866

Date	Document Description	Volume	Labeled
06/06/2016	Appendix of Exhibits to Pardee Homes Motion for Attorney Fees and Costs - Volume 2	75-76	JA011867- JA012114
06/08/2016	Plaintiffs' Motion for Attorney's Fees and Costs	77	JA012115- JA012182
06/20/2016	Plaintiffs' Opposition to Pardee's Motion to Retax Plaintiffs' Memorandum of Costs Filed May 23, 2016	77-79	JA012183- JA012624
06/21/2016	Plaintiffs' Opposition to Pardee's Motion for Attorney's Fees and Costs	80	JA012625- JA012812
06/21/2016	Plaintiffs' Opposition to Defendant, Pardee Homes of Nevada's, Motion to Amend Judgment and Plaintiffs' Countermotion for Attorneys' Fees and Costs Pursuant to NRS 18.010 and EDCR 7.60	81	JA012813- JA013024
06/27/2016	Pardee Homes of Nevada's Opposition to Plaintiffs' Motion for Attorney's Fees and Costs	82	JA013025- JA013170
06/30/2016	Pardee Homes of Nevada's Reply in Support of Motion for Attorney's Fees and Costs	82	JA013171- JA013182
06/30/2016	Pardee Homes of Nevada's Reply in Support of Motion to Amend Judgment; and Opposition to Plaintiffs' Countermotion for Attorney's Fees	82	JA013183- JA013196
07/01/2016	Pardee Homes of Nevada's Reply in Support of Motion to Retax Plaintiffs' Memorandum of Costs Filed May 23, 2016	82	JA013197- JA013204
08/02/2016	Plaintiffs' Reply in Support of Motion for Attorney's Fees and Costs	83-84	JA013205- JA013357

Date	Document Description	Volume	Labeled
08/02/2016	Plaintiffs' Reply in Support of Countermotion for Attorney's Fees and Costs	84-85	JA013358-JA013444
08/15/2016	Transcript re Hearing - August 15, 2016	86	JA013445-JA013565
09/12/2016	Plaintiffs' Brief on Interest Pursuant to the Court's Order Entered on August 15, 2016	86	JA013566-JA013590
10/17/2016	Pardee's Supplemental Brief Regarding Pre- and Post-Judgment Interest Pursuant to the Court's Order	86	JA013591-JA013602
11/04/2016	Plaintiffs' Reply Brief in Support of Brief on Interest Pursuant to the Court's Order Entered on August 15, 2016	86	JA013603-JA013612
01/09/2017	Order and Judgment from August 15, 2016 Hearings Regarding Defendants Motion to Amend Judgment	86	JA013613-JA013615
01/09/2017	Order and Judgment from August 15, 2016 Hearings Regarding Plaintiff's Motion for Attorney's Fees and Costs	86	JA013616-JA013618
01/09/2017	Order and Judgment from August 15, 2016 Hearings Regarding Defendant's Motion for Attorney's Fees and Costs	86	JA013619-JA013621
01/10/2017	Notice of Entry of Order and Judgment from August 15, 2016 Hearings Regarding Plaintiff's Motion for Attorney's Fees and Costs	86	JA013622-JA013628
01/10/2017	Notice of Entry of Order and Judgment from August 15, 2016 Hearings Regarding Defendant's Motion for Attorney's Fees and Costs	86	JA013629-JA013635

Date	Document Description	Volume	Labeled
01/10/2017	Notice of Entry of Order and Judgment from August 15, 2016 Hearings Regarding Defendant's Motion to Amend Judgment	86	JA013636- JA016342
01/12/2017	Order on Plaintiffs' Countermotion for Attorney's Fees and Costs Pursuant to NRS 18.010 and EDCR 7.60	86	JA013643- JA013644
01/12/2017	Notice of Entry of Order on Plaintiffs' Countermotion for Attorney's Fees and Costs Pursuant to NRS 18.010 and EDCR 7.60	86	JA013645- JA013648
01/12/2017	Order on Defendant's Motion to Retax Plaintiffs' Memorandum of Costs Filed May 23, 2016	86	JA013649- JA013651
01/13/2017	Notice of Entry of Order on Defendant's Motion to Retax Plaintiffs' Memorandum of Costs Filed May 23, 2016	86	JA013652- JA013656
02/08/2017	Pardee Notice of Appeal	86	JA013657- JA013659
04/07/2017	Pardee's Motion to Stay Execution of Judgment and Post-Judgment Orders	86	JA013660- JA013668
04/07/2017	Appendix of Exhibits in Support of Pardee's Motion to Stay Execution of Judgment and Post-Judgment Orders, [Volume I]	87	JA013669- JA013914
04/07/2017	Appendix of Exhibits in Support of Pardee's Motion to Stay Execution of Judgment and Post-Judgment Orders, [Volume II]	88	JA013915- JA014065
04/27/2017	Plaintiffs' Response to Pardee's Motion to Stay Execution of Judgment and Post-Judgment Orders	88	JA014066- JA014068

Date	Document Description	Volume	Labeled
05/10/2017	Pardee's Reply in Support of Motion to Stay Execution of Judgment and Post-Judgment Orders	88	JA014069- JA014071
05/12/2017	Plaintiffs' Opposition to Pardee's Motion Stay Execution of Judgment and Post-Judgment Orders	88	JA014072- JA014105
07/12/2007	Supplemental Order Regarding Plaintiffs' Entitlement to, and Calculation of, Prejudgment Interest	88	JA014106- JA014110
07/14/2017	Notice of Entry of Supplemental Order Regarding Plaintiffs' Entitlement to, and Calculation of, Prejudgment Interest	88	JA014111- JA014117
10/12/2017	Amended Judgment	88	JA014118- JA014129
10/13/2017	Notice of Entry of Amended Judgment	88	JA014130- JA014143
10/12/2017	Order Re: Defendant Pardee Homes of Nevada's Motion to Stay Execution of Judgment and Post-Judgment Orders	88	JA014144- JA014146
10/13/2017	Notice of Entry of Order Re: Defendant Pardee Homes of Nevada's Motion to Stay Execution of Judgment and Post-Judgment Orders	88	JA014147- JA014151
11/02/2017	Pardee Amended Notice of Appeal	88	JA014152- JA014154

Alphabetical Index to Joint Appendix

Date	Document Description	Volume	Labeled
01/14/2011	Amended Complaint	1	JA000007- JA000012
10/12/2017	Amended Judgment	88	JA014118- JA014129
09/21/2012	Amended Order Setting Civil Non-Jury Trial	1	JA000061- JA000062
02/11/2011	Amended Summons	1	JA000013- JA000016
03/02/2011	Answer to Amended Complaint	1	JA000017- JA000023
07/03/2013	Answer to Second Amended Complaint and Counterclaim	16	JA002678- JA002687
10/24/2012	Appendix of Exhibits in Support of Defendant's Motion for Summary Judgment	1	JA000083- JA000206
10/25/2012	Appendix of Exhibits in Support of Defendant's Motion for Summary Judgment – filed under seal	2	JA000212- JA000321
04/07/2017	Appendix of Exhibits in Support of Pardee's Motion to Stay Execution of Judgment and Post-Judgment Orders, [Volume I]	87	JA013669- JA013914
04/07/2017	Appendix of Exhibits in Support of Pardee's Motion to Stay Execution of Judgment and Post-Judgment Orders, [Volume II]	88	JA013915- JA014065
06/06/2016	Appendix of Exhibits to Pardee Homes Motion for Attorney Fees and Costs - Volume 1	73-74	JA011615- JA011866

Date	Document Description	Volume	Labeled
06/06/2016	Appendix of Exhibits to Pardee Homes Motion for Attorney Fees and Costs - Volume 2	75-76	JA011867- JA012114
07/15/2015	Appendix of Exhibits to Pardee Homes of Nevada's Consolidated Opposition to: (1) Plaintiff's Motion to Strike Judgment Entered on June 15, 2015 Pursuant to NRCP 52(b) and NRCP 59; and Plaintiffs' Motion Pursuant to NRCP 52(b) and 59 to Amend the Court's Judgment Entered on June 15, 2015	64	JA009944- JA010185
07/15/2015	Appendix of Exhibits to Pardee Homes of Nevada's Opposition to Plaintiffs' Motion for Attorney's Fees and Costs	63	JA009772- JA009918
05/28/2015	Appendix of Exhibits to Pardee's Motion for Attorney's Fees and Costs	50-51	JA007735- JA008150
11/09/2012	Appendix of Exhibits to Plaintiffs' Memorandum of Points and Authorities in Opposition to Defendant's Motion for Summary Judgment and in Support of Plaintiffs' Counter Motion for Summary Judgment – sections filed under seal	3-6	JA000352- JA001332
11/13/2012	Appendix of Exhibits to Plaintiffs' Memorandum of Points and Authorities in Opposition to Defendant's Motion for Summary Judgment and in Support of Plaintiffs' Counter Motion for Summary Judgment	7-12	JA001333- JA002053
12/29/2010	Complaint	1	JA000001- JA000006
10/24/2012	Declaration of Aaron D. Shipley in Support of Defendant's Motion for Summary Judgment	1	JA000207- JA000211

Date	Document Description	Volume	Labeled
07/24/2015	Declaration of John W. Muije, Esq. In Support of Motion for Reconsideration	67	JA010523- JA010581
08/05/2013	Defendant Pardee Homes of Nevada's Response to Plaintiffs' Motions in Limine #1-5; And #20-25	17	JA002815- JA002829
07/22/2013	Defendant's Motion for Partial Summary Judgment	17	JA002772- JA002786
10/24/2012	Defendant's Motion for Summary Judgment	1	JA000063- JA000082
03/01/2013	Defendant's Motion in Limine to Exclude Plaintiffs' Claim for Attorneys' Fees as an Element of Damages (MIL #1)	13	JA002145- JA002175
03/01/2013	Defendant's Motion in Limine to Exclude Plaintiffs' Claim for Damages in the Form of Compensation for Time (MIL #2)	13	JA002176- JA002210
11/29/2012	Defendant's Opposition to Plaintiff's Counter Motion for Partial Summary Judgment Re: Real Parties in Interest	13	JA002054- JA002065
04/08/2013	Defendant's Opposition to Plaintiffs' Motion for Leave to File a Second Amended Complaint	16	JA002471- JA002500
05/10/2013	Defendant's Supplemental Brief in Support of Its Opposition to Plaintiffs' Motion for Leave to File a Second Amended Complaint	16	JA002652- JA002658
07/08/2015	Errata to Motion to Strike "Judgment", Entered June 15, 2015 Pursuant to NRCP 52(b) and NRCP 59, as Unnecessary and Duplicative Orders of Final Orders Entered on June 25, 2014 and May 13, 2015, and as such, is a Fugitive Document	62	JA009645- JA009652

Date	Document Description	Volume	Labeled
07/16/2015	Errata to Pardee Homes of Nevada's Opposition to Plaintiffs' Motion for Attorney's Fees and Costs	65	JA010186- JA010202
07/08/2015	Errata to Plaintiffs' Motion Pursuant to NRCP 52(b) and 59 to Amend the Court's Judgment Entered on June 15, 2015, to Amend the Findings of Fact/Conclusions of Law and Judgment Contained Therein, Specifically Referred to in the Language Included in the Judgment at Page, 2, Lines 8 through 13 and the Judgment at Page 2, Lines 18 through 23 to Delete the Same or Amend the Same to Reflect the True Fact that Plaintiff Prevailed on their Entitlement to the First Claim for Relief for an Accounting, and Damages for their Second Claim for Relief of Breach of Contract, and Their Third Claim for Relief for Breach of the Implied Covenant for Good Faith and Fair Dealing and that Defendant Never Received a Judgment in its form and Against Plaintiffs Whatsoever as Mistakenly Stated Within the Court's Latest "Judgment"	62	JA009653- JA009662
05/13/2015	Findings of Fact and Conclusions of Law and Supplemental Briefing re Future Accounting	49	JA007708- JA007711
06/25/2014	Findings of Fact, Conclusions of Law and Order	48	JA007457- JA007474
06/15/2015	Judgment	52	JA008151- JA008153
05/16/2016	Judgment	71	JA011389- JA011391

Date	Document Description	Volume	Labeled
08/24/2015	Minute Order Denying Plaintiff's Motion for Reconsideration, Ex Parte (With Notice) of Application for Order Shortening Time Regarding Stay of Execution and Order Shortening Time Regarding Stay of Execution	67	JA010679
03/21/2013	Motion to File Second Amended Complaint	15	JA002434- JA002461
06/29/2015	Motion to Strike "Judgment", Entered June 15, 2015 Pursuant to N.R.C.P. 52 (B) And N.R.C.P. 59, As Unnecessary and Duplicative Orders of Final Orders Entered on June 25, 2014 And May 13, 2015, And as Such, Is A Fugitive Document	53	JA008328- JA008394
12/08/2015	Notice of Defendant Pardee Homes of Nevada's Non-Reply and Non-Opposition to "Plaintiff's Opposition to Pardee Homes of Nevada's Motion to Amend Judgment and Countermotion for Attorney's Fees"	69	JA010896- JA010945
10/13/2017	Notice of Entry of Amended Judgment	88	JA014130- JA014143
06/27/2014	Notice of Entry of Findings of Fact, Conclusions of Law and Order	48	JA007475- JA007494
06/15/2015	Notice of Entry of Judgment	52	JA008154- JA008158
05/17/2016	Notice of Entry of Judgment	71	JA011392- JA011396
01/10/2017	Notice of Entry of Order and Judgment from August 15, 2016 Hearings Regarding Defendant's Motion for Attorney's Fees and Costs	86	JA013629- JA013635

Date	Document Description	Volume	Labeled
01/10/2017	Notice of Entry of Order and Judgment from August 15, 2016 Hearings Regarding Defendant's Motion to Amend Judgment	86	JA013636- JA016342
01/10/2017	Notice of Entry of Order and Judgment from August 15, 2016 Hearings Regarding Plaintiff's Motion for Attorney's Fees and Costs	86	JA013622- JA013628
10/25/2013	Notice of Entry of Order Denying Motion for Partial Summary Judgment	31	JA004812- JA004817
07/25/2014	Notice of Entry of Order Granting Motion to Expunge Lis Pendens	48	JA007574- JA007578
06/05/2013	Notice of Entry of Order Granting Plaintiffs Motion for Leave to File a Second Amended Complaint	16	JA002665- JA002669
01/13/2017	Notice of Entry of Order on Defendant's Motion to Retax Plaintiffs' Memorandum of Costs Filed May 23, 2016	86	JA013652- JA013656
05/13/2015	Notice of Entry of Order on Findings of Fact and Conclusions of Law and Supplemental Briefing re Future Accounting	49	JA007712- JA007717
07/10/2015	Notice of Entry of Order on Pardee's Emergency Motion to Stay Execution of Judgment; and Ex Parte Order Shortening Time	62	JA009755- JA009758
01/12/2017	Notice of Entry of Order on Plaintiffs' Countermotion for Attorney's Fees and Costs Pursuant to NRS 18.010 and EDCR 7.60	86	JA013645- JA013648
04/03/2013	Notice of Entry of Order re Order Denying Defendants Motion for Summary Judgment	16	JA002465- JA002470

Date	Document Description	Volume	Labeled
03/15/2013	Notice of Entry of Order re Order Granting Plaintiffs Countermotion for Summary Judgment	14	JA002354-JA002358
10/13/2017	Notice of Entry of Order Re: Defendant Pardee Homes of Nevada's Motion to Stay Execution of Judgment and Post-Judgment Orders	88	JA014147-JA014151
12/16/2011	Notice of Entry of Stipulated Confidentiality Agreement and Protective Order	1	JA000040-JA000048
08/30/2012	Notice of Entry of Stipulation and Order to Extend Discovery Deadlines (First Request)	1	JA000055-JA000060
07/14/2017	Notice of Entry of Supplemental Order Regarding Plaintiffs' Entitlement to, and Calculation of, Prejudgment Interest	88	JA014111-JA014117
11/07/2012	Opposition to Defendant's Motion for Summary Judgment and Plaintiffs' Counter Motion for Partial Summary Judgment	2	JA000322-JA000351
07/14/2014	Opposition to Pardee's Motion to Expunge Lis Pendens	48	JA007495-JA007559
01/09/2017	Order and Judgment from August 15, 2016 Hearings Regarding Defendant's Motion for Attorney's Fees and Costs	86	JA013619-JA013621
01/09/2017	Order and Judgment from August 15, 2016 Hearings Regarding Defendants Motion to Amend Judgment	86	JA013613-JA013615
01/09/2017	Order and Judgment from August 15, 2016 Hearings Regarding Plaintiff's Motion for Attorney's Fees and Costs	86	JA013616-JA013618
10/23/2013	Order Denying Motion for Partial Summary Judgment	21	JA003210-JA003212

Date	Document Description	Volume	Labeled
04/26/2016	Order from January 15, 2016 Hearings	71	JA011385- JA011388
07/24/2014	Order Granting Motion to Expunge Lis Pendens	48	JA007571- JA007573
05/30/2013	Order Granting Plaintiffs Motion for Leave to File a Second Amended Complaint	16	JA002659- JA002661
06/05/2013	Order Granting Plaintiffs Motion for Leave to File a Second Amended Complaint	16	JA002662- JA002664
01/12/2017	Order on Defendant's Motion to Retax Plaintiffs' Memorandum of Costs Filed May 23, 2016	86	JA013649- JA013651
07/10/2015	Order on Pardee's Emergency Motion to Stay Execution of Judgment; and Ex Parte Order Shortening Time	62	JA009753- JA009754
01/12/2017	Order on Plaintiffs' Countermotion for Attorney's Fees and Costs Pursuant to NRS 18.010 and EDCR 7.60	86	JA013643- JA013644
04/02/2013	Order re Order Denying Defendants Motion for Summary Judgment	16	JA002462- JA002464
03/14/2013	Order re Order Granting Plaintiffs Countermotion for Summary Judgment	14	JA002351- JA002353
10/12/2017	Order Re: Defendant Pardee Homes of Nevada's Motion to Stay Execution of Judgment and Post-Judgment Orders	88	JA014144- JA014146
11/29/2011	Order Setting Civil Non-Jury Trial	1	JA000031- JA000032
11/02/2017	Pardee Amended Notice of Appeal	88	JA014152- JA014154

Date	Document Description	Volume	Labeled
07/15/2015	Pardee Homes of Nevada's Consolidated Opposition To: (1) Plaintiff's Motion to Strike Judgment Entered on June 15, 2015 Pursuant to NRCP 52(b) and NRCP 59; and (2) Plaintiffs' Motion Pursuant to NRCP 52(b) and 59 to Amend the Court's Judgment Entered on June 15, 2015	63	JA009919- JA009943
09/12/2015	Pardee Homes of Nevada's Consolidated Reply in Support of (1) Motion to Retax Plaintiffs' Memorandum of Costs Filed June 19, 2015; and (2) Motion for Attorney's Fees and Costs	68	JA010812- JA010865
12/30/2015	Pardee Homes of Nevada's Consolidated Response to: (1) Plaintiffs' Notice of Non-Reply and Non-Opposition to Plaintiffs' Opposition to Pardee's Motion to Amend Judgment and Countermotion for Attorney's Fees; and (2) Plaintiffs' Supplement to Plaintiffs' Opposition to Pardee's Motion for Attorney's Fees and Costs	69	JA010946- JA010953
06/01/2016	Pardee Homes of Nevada's Motion to Amend Judgment	72	JA011455- JA011589
07/02/2015	Pardee Homes of Nevada's Motion to Amend Judgment	59	JA009207- JA009283
06/27/2016	Pardee Homes of Nevada's Opposition to Plaintiffs' Motion for Attorney's Fees and Costs	82	JA013025- JA013170
07/15/2015	Pardee Homes of Nevada's Opposition to Plaintiff's Motion for Attorney's Fees and Costs	62	JA009759- JA009771

Date	Document Description	Volume	Labeled
08/10/2015	Pardee Homes of Nevada's Opposition to Plaintiffs' Motion for Reconsideration of the Order on Pardee's Emergency Motion to Stay Execution of Judgment	67	JA010582-JA010669
06/30/2016	Pardee Homes of Nevada's Reply in Support of Motion for Attorney's Fees and Costs	82	JA013171-JA013182
06/30/2016	Pardee Homes of Nevada's Reply in Support of Motion to Amend Judgment; and Opposition to Plaintiffs' Countermotion for Attorney's Fees	82	JA013183-JA013196
07/01/2016	Pardee Homes of Nevada's Reply in Support of Motion to Retax Plaintiffs' Memorandum of Costs Filed May 23, 2016	82	JA013197-JA013204
03/23/2016	Pardee Homes of Nevada's Response to Plaintiffs' Motion to Settle Two (2) Sets of Competing Judgments and Orders	71	JA011214-JA011270
08/25/2014	Pardee Homes of Nevada's Supplemental Brief Regarding Future Accounting	49	JA007699-JA007707
02/08/2017	Pardee Notice of Appeal	86	JA013657-JA013659
07/08/2015	Pardee's Emergency Motion to Stay Execution of Judgment: and Ex Parte Order Shortening Time	62	JA009663-JA009710
06/06/2016	Pardee's Motion for Attorney's Fees and Costs	72	JA011590-JA011614
05/28/2015	Pardee's Motion for Attorney's Fees and Costs	49	JA007718-JA007734
06/24/2014	Pardee's Motion to Expunge Lis Pendens – section filed under seal	48	JA007411-JA007456

Date	Document Description	Volume	Labeled
06/24/2015	Pardee's Motion to Retax Plaintiffs' Memorandum of Costs Filed June 19, 2015	52	JA008192- JA008215
05/31/2016	Pardee's Motion to Retax Plaintiffs' Memorandum of Costs Filed May 23, 2016	71	JA011442- JA011454
04/07/2017	Pardee's Motion to Stay Execution of Judgment and Post-Judgment Orders	86	JA013660- JA013668
05/10/2017	Pardee's Reply in Support of Motion to Stay Execution of Judgment and Post-Judgment Orders	88	JA014069- JA014071
10/17/2016	Pardee's Supplemental Brief Regarding Pre- and Post-Judgment Interest Pursuant to the Court's Order	86	JA013591- JA013602
07/08/2015	Pardee's Supplemental Briefing in Support of its Emergency Motion to Stay Execution of Judgment	62	JA009711- JA009733
08/25/2014	Plaintiff's Accounting Brief Pursuant to the court's Order Entered on June 25, 2014	49	JA007647- JA007698
09/12/2016	Plaintiffs' Brief on Interest Pursuant to the Court's Order Entered on August 15, 2016	86	JA013566- JA013590
05/23/2016	Plaintiffs' Memorandum of Costs and Disbursements	71	JA011397- JA011441
06/08/2016	Plaintiffs' Motion for Attorney's Fees and Costs	77	JA012115- JA012182
06/29/2015	Plaintiffs' Motion for Attorney's Fees and Costs	52-53	JA008216- JA008327
07/24/2015	Plaintiffs' Motion for Reconsideration, Ex Parte (With Notice) of Application for Order Shortening Time Regarding Stay of Execution and Order Shortening Time Regarding Stay of Execution	67	JA010482- JA010522

Date	Document Description	Volume	Labeled
07/18/2013	Plaintiffs' Motion in Limine To Permit James J. Jimmerson, Esq. To Testify Concerning Plaintiffs' Attorney's Fees and Costs (MIL #25)	17	JA002732- JA002771
06/29/2015	Plaintiffs' Motion Pursuant to NRCp 52(b) and 59 to Amend The Court's Judgment Entered on June 15, 2015, to Amend the Findings of Fact/conclusions of Law and Judgment Contained Therein, Specifically Referred to in the Language Included in the Judgment at Page 2, Lines 8 Through 13 and the Judgment At Page 2, Lines 18 Through 23 to Delete the Same or Amend The Same to Reflect the True Fact That Plaintiff Prevailed On Their Entitlement to the First Claim for Relief For an Accounting, and Damages for Their Second Claim for Relief of Breach of Contract, and Their Third Claim for Relief for Breach of the Implied Covenant for Good Faith and Fair Dealing and That Defendant Never Received a Judgment in its Form and Against Plaintiffs Whatsoever as Mistakenly Stated Within the Court's Latest "Judgment – sections filed under seal	54-56	JA008395- JA008922
03/14/2016	Plaintiffs' Motion to Settle Two (2) Competing Judgments and Orders	70	JA011168- JA011210
06/21/2016	Plaintiffs' Opposition to Defendant, Pardee Homes of Nevada's, Motion to Amend Judgment and Plaintiffs' Countermotion for Attorneys' Fees and Costs Pursuant to NRS 18.010 and EDCR 7.60	81	JA012813- JA013024
08/06/2013	Plaintiffs Opposition to Defendants Motion for Partial Summary Judgment	17	JA002830- JA002857

Date	Document Description	Volume	Labeled
03/20/2013	Plaintiffs Opposition to Defendant's Motion in Limine to Exclude Plaintiffs Claim for Attorney's Fees as an Element of Damages MIL 1	15	JA002359- JA002408
03/20/2013	Plaintiffs Opposition to Defendants Motion in Limine to Plaintiffs Claim for Damages in the form of compensation for time MIL 2	15	JA002409- JA002433
07/17/2015	Plaintiffs' Opposition to Pardee Homes of Nevada's Motion to Amend Judgment and Countermotion for Attorney's Fees	65-67	JA010203- JA010481
06/30/2015	Plaintiffs' Opposition to Pardee's Motion for Attorney's Fees and Costs	57-58	JA008923- JA009109
06/21/2016	Plaintiffs' Opposition to Pardee's Motion for Attorney's Fees and Costs	80	JA012625- JA012812
05/12/2017	Plaintiffs' Opposition to Pardee's Motion Stay Execution of Judgment and Post-Judgment Orders	88	JA014072- JA014105
07/08/2015	Plaintiffs' Opposition to Pardee's Motion to Retax Costs	60-61	JA009284- JA009644
06/20/2016	Plaintiffs' Opposition to Pardee's Motion to Retax Plaintiffs' Memorandum of Costs Filed May 23, 2016	77-79	JA012183- JA012624
11/04/2016	Plaintiffs' Reply Brief in Support of Brief on Interest Pursuant to the Court's Order Entered on August 15, 2016	86	JA013603- JA013612
04/23/2013	Plaintiffs Reply in Further Support of Motion for Leave to File Second Amended Complaint	16	JA002503- JA002526

Date	Document Description	Volume	Labeled
01/17/2013	Plaintiffs' Reply in Further Support of Their Counter Motion for Partial Summary Judgment	13	JA002102- JA002144
08/02/2016	Plaintiffs' Reply in Support of Countermotion for Attorney's Fees and Costs	84-85	JA013358- JA013444
08/02/2016	Plaintiffs' Reply in Support of Motion for Attorney's Fees and Costs	83-84	JA013205- JA013357
01/11/2016	Plaintiffs' Reply to Defendants Consolidated Response to (1) Plaintiffs' Notice of Non-Reply and Non-Opposition to Plaintiff's Opposition to Pardee's Motion to Amend Judgment and Countermotion for Attorney's Fees And (2) Plaintiffs' Supplement to Plaintiffs' Opposition to Pardee's Motion for Attorney's Fees and Costs	69	JA010954- JA010961
07/15/2013	Plaintiffs Reply to Defendants Counterclaim	17	JA002724- JA002731
09/11/2015	Plaintiffs' Reply to Defendant's Opposition to Plaintiff's Motion for Attorney's Fees and Costs	68	JA010680- JA010722
09/11/2015	Plaintiffs' Reply to Defendant's Opposition to Plaintiff's Motion Pursuant to NRCP 52(b) and NRCP 59 to Amend the Court's Judgment Entered on June 15, 2015	68	JA010768- JA010811
09/11/2015	Plaintiffs' Reply to Defendant's Opposition to Plaintiff's Motion to Strike "Judgment" Entered June 15, 2015 Pursuant to NRCP 52(b) and NRCP 59	68	JA010723- JA010767
04/20/2016	Plaintiffs' Reply to Defendant's Response and Supplement to Plaintiffs' Motion to Settle Two (2) Sets of Competing Judgments and Orders	71	JA011271- JA011384

Date	Document Description	Volume	Labeled
04/27/2017	Plaintiffs' Response to Pardee's Motion to Stay Execution of Judgment and Post-Judgment Orders	88	JA014066- JA014068
05/10/2013	Plaintiffs Supplement to Motion for Leave to File a Second Amended Complaint Pursuant to the Courts order on Hearing on April 26, 2013	16	JA002627- JA002651
12/08/2015	Plaintiffs' Supplement to Plaintiffs' Opposition to Pardee's Motion for Attorney's Fees and Costs	68	JA010866- JA010895
09/27/2013	Plaintiffs Supplement to Their Opposition to Defendants Motion for Partial Summary Judgment	19-21	JA002988- JA003203
07/22/2013	Plaintiffs Supplemental Opposition to Defendants Motion in Limine to Plaintiffs Claim for Damages in the Form of Compensation for Time MIL 2	17	JA002787- JA002808
10/25/2013	Plaintiffs Trial Brief Pursuant to EDCR 7.27	31	JA004818- JA004847
06/19/2015	Plaintiffs, James Wolfram and Walt Wilkes' Memorandum of Costs and Disbursements	52	JA008159- JA008191
03/16/2016	Release of Judgment	71	JA011211- JA011213
01/07/2013	Reply Brief in Support of Defendant's Motion for Summary Judgment	13	JA002081- JA002101
09/16/2013	Reply in Support of Defendant's Motion for Partial Summary Judgment	17	JA002858- JA002864
09/16/2013	Reply in Support of Defendant's Motion in Limine to Exclude Plaintiff's Claim for Attorney's Fees as An Element of Damages	17	JA002865- JA002869

Date	Document Description	Volume	Labeled
09/16/2013	Reply in Support of Defendant's Motion in Limine to Exclude Plaintiffs' Claim for Damages in the Form of Compensation for Time	17	JA002870- JA002874
07/15/2014	Reply in Support of Pardee's Motion to Expunge Lis Pendens	48	JA007560- JA007570
08/17/2015	Reply Points and Authorities in Support of Motion for Reconsideration	67	JA010670- JA010678
11/08/2011	Scheduling Order	1	JA000028- JA000030
06/06/2013	Second Amended Complaint	16	JA002670- JA002677
04/17/2013	Second Amended Order Setting Civil Non-Jury Trial	16	JA002501- JA002502
12/15/2011	Stipulated Confidentiality Agreement and Protective Order	1	JA000033- JA000039
08/29/2012	Stipulation and Order to Extend Discovery Deadlines (First Request)	1	JA000051- JA000054
06/30/2015	Supplement to Plaintiffs' Pending Motion for Attorney's Fees and Costs, Motion to Strike Judgment, Motion Pursuant to NRCP 52(b) and NRCP 59 to Amend the Court's Judgment, and Plaintiffs' Opposition to Pardee's Motion for Attorney's Fees and Costs	59	JA009110- JA009206
09/27/2013	Supplemental Brief in Support of Defendant's Motion for Partial Summary Judgment	21	JA003204- JA003209
07/12/2007	Supplemental Order Regarding Plaintiffs' Entitlement to, and Calculation of, Prejudgment Interest	88	JA014106- JA014110

Date	Document Description	Volume	Labeled
03/05/2013	Transcript of Proceedings - March 5, 2013	14	JA002211- JA002350
10/25/2011	Transcript re Discovery Conference	1	JA000024- JA000027
08/27/2012	Transcript re Hearing	1	JA000049- JA000050
04/26/2013	Transcript re Hearing	16	JA002527- JA002626
07/09/2013	Transcript re Hearing	17	JA002688- JA002723
09/23/2013	Transcript re Hearing	18	JA002875- JA002987
07/17/2014	Transcript re Hearing	49	JA007579- JA007629
07/31/2014	Transcript re Hearing	49	JA007630- JA007646
07/10/2015	Transcript re Hearing	62	JA009734- JA009752
01/15/2016	Transcript re Hearing	70	JA010962- JA011167
08/15/2016	Transcript re Hearing - August 15, 2016	86	JA013445- JA013565
12/06/2012	Transcript re Status Check	13	JA002066- JA002080
07/23/2013	Transcript re Status Check	17	JA002809- JA002814
10/23/2013	Transcript re Trial	22	JA003213- JA003403

Date	Document Description	Volume	Labeled
10/24/2013	Transcript re Trial	29-30	JA004463- JA004790
10/28/2013	Transcript re Trial – filed under seal	32-33	JA004848- JA005227
10/29/2013	Transcript re Trial – filed under seal	35	JA005264- JA005493
10/30/2013	Transcript re Trial	37-38	JA005512- JA005815
12/09/2013	Transcript re Trial – filed under seal	40-41	JA005821- JA006192
12/10/2013	Transcript re Trial	42-43	JA006193- JA006530
12/12/2013	Transcript re Trial – filed under seal	44-45	JA006533- JA006878
12/13/2013	Transcript re Trial - Part 1	46	JA006953- JA007107
12/13/2013	Transcript re Trial - Part 2	47-48	JA007108- JA007384
10/23/2013	Trial Exhibit A	23	JA003404- JA003544
10/23/2013	Trial Exhibit B – filed under seal	23	JA003545- JA003625
10/23/2013	Trial Exhibit C	23	JA003626- JA003628
10/23/2013	Trial Exhibit D	23	JA003629- JA003631
10/23/2013	Trial Exhibit E – filed under seal	23	JA003632- JA003634

Date	Document Description	Volume	Labeled
10/23/2013	Trial Exhibit F	23	JA003635- JA003637
10/23/2013	Trial Exhibit G	23	JA003638
10/23/2013	Trial Exhibit H	23	JA003639- JA003640
10/23/2013	Trial Exhibit I	23	JA003641- JA003643
10/23/2013	Trial Exhibit J – filed under seal	24	JA003644- JA003669
10/23/2013	Trial Exhibit K	24	JA003670- JA003674
10/23/2013	Trial Exhibit L	24	JA003675- JA003678
10/23/2013	Trial Exhibit M	24	JA003679- JA003680
10/23/2013	Trial Exhibit N	24	JA003681- JA003683
10/23/2013	Trial Exhibit O – filed under seal	25-26	JA003684- JA004083
10/23/2013	Trial Exhibit P	27	JA004084
10/23/2013	Trial Exhibit Q	27	JA004085
10/23/2013	Trial Exhibit R	27	JA004086- JA004089
10/23/2013	Trial Exhibit S	27	JA004090

Date	Document Description	Volume	Labeled
10/23/2013	Trial Exhibit T	27	JA004091- JA004092
10/23/2013	Trial Exhibit U	27	JA004093
10/23/2013	Trial Exhibit V	27	JA004094
10/23/2013	Trial Exhibit W	27	JA004095- JA004096
10/23/2013	Trial Exhibit X	27	JA004097
10/23/2013	Trial Exhibit Y	27	JA004098
10/23/2013	Trial Exhibit Z	27	JA004099- JA004100
10/23/2013	Trial Exhibit 1	27	JA004289- JA004292
10/23/2013	Trial Exhibit 10 – filed under seal	27	JA004320- JA004329
10/23/2013	Trial Exhibit 11 – filed under seal	28	JA004330- JA004340
10/23/2013	Trial Exhibit 12 – filed under seal	28	JA004341- JA004360
10/23/2013	Trial Exhibit 13 – filed under seal	28	JA004361- JA004453
10/28/2013	Trial Exhibit 15	34	JA005228- JA005232
10/28/2013	Trial Exhibit 18	34	JA005233- JA005235

Date	Document Description	Volume	Labeled
10/28/2013	Trial Exhibit 19	34	JA005236- JA005237
10/28/2013	Trial Exhibit 20	34	JA005238- JA005254
10/23/2013	Trial Exhibit 21	28	JA004454
10/28/2013	Trial Exhibit 23	34	JA005255- JA005260
10/30/2013	Trial Exhibit 23a	39	JA005816- JA005817
10/28/2013	Trial Exhibit 24	34	JA005261- JA005263
10/23/2013	Trial Exhibit 25	28	JA004455- JA004462
10/24/2013	Trial Exhibit 26	31	JA004792- JA004804
10/30/2013	Trial Exhibit 27	39	JA005818- JA005820
10/29/2013	Trial Exhibit 28	36	JA005494- JA005497
10/29/2013	Trial Exhibit 29	36	JA005498- JA005511
10/24/2013	Trial Exhibit 30	31	JA004805- JA004811
12/13/2013	Trial Exhibit 31a	48	JA007385- JA007410
12/12/2013	Trial Exhibit 39	46	JA006936- JA006948

Date	Document Description	Volume	Labeled
12/12/2013	Trial Exhibit 40	46	JA006949- JA006950
12/12/2013	Trial Exhibit 41	46	JA006951- JA006952
10/23/2013	Trial Exhibit 6 – filed under seal	27	JA004293- JA004307
10/23/2013	Trial Exhibit 7 – filed under seal	27	JA004308- JA004310
10/23/2013	Trial Exhibit 8 – filed under seal	27	JA004311- JA004312
10/23/2013	Trial Exhibit 9 – filed under seal	27	JA004313- JA004319
10/23/2013	Trial Exhibit AA	27	JA004101- JA004102
10/23/2013	Trial Exhibit BB	27	JA004103
10/23/2013	Trial Exhibit CC	27	JA004104
10/23/2013	Trial Exhibit DD	27	JA004105
10/23/2013	Trial Exhibit EE	27	JA004106- JA004113
10/23/2013	Trial Exhibit FF	27	JA004114- JA004118
10/23/2013	Trial Exhibit GG	27	JA004119- JA004122
10/23/2013	Trial Exhibit HH	27	JA004123

Date	Document Description	Volume	Labeled
10/23/2013	Trial Exhibit II	27	JA004124
10/23/2013	Trial Exhibit JJ	27	JA004125
10/23/2013	Trial Exhibit KK	27	JA004126- JA004167
10/23/2013	Trial Exhibit LL	27	JA004168
10/23/2013	Trial Exhibit MM	27	JA004169
10/23/2013	Trial Exhibit NN	27	JA004170- JA004174
10/23/2013	Trial Exhibit OO	27	JA004175- JA004183
10/23/2013	Trial Exhibit PP	27	JA004184- JA004240
10/23/2013	Trial Exhibit QQ	27	JA004241- JA004243
10/23/2013	Trial Exhibit RR	27	JA004244- JA004248
10/23/2013	Trial Exhibit SS	27	JA004249- JA004255
10/23/2013	Trial Exhibit TT	27	JA004256- JA004262
10/23/2013	Trial Exhibit UU	27	JA004263- JA004288
10/24/2013	Trial Exhibit VV	31	JA004791

Date	Document Description	Volume	Labeled
12/10/2013	Trial Exhibit WW	43	JA006531- JA006532
12/12/2013	Trial Exhibit XX	46	JA006879- JA006935

Dated this 28th day of February, 2018.

McDONALD CARANO LLP

By: /s/ Rory T. Kay
 Pat Lundvall (NSBN 3761)
 Rory T. Kay (NSBN 12416)
 2300 W. Sahara Ave., 12th Floor
 Las Vegas, Nevada 89102
 Telephone: (702) 873-4100
 Facsimile: (702) 873-9966
lundvall@mcdonaldcarano.com
rkay@mcdonaldcarano.com

Attorneys for Appellant

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of McDonald Carano LLP, and on the 28th day of February, 2018, a true and correct copy of the foregoing document was e-filed and e-served on all registered parties to the Supreme Court's electronic filing system:

/s/ Beau Nelson
An Employee of McDonald Carano LLP

11/5/12

SUPP

JAMES J. JIMMERSON, ESQ.
Nevada Bar No.: 00264
LYNN M. HANSEN, ESQ.
Nevada Bar No.: 00244
JAMES M. JIMMERSON, ESQ.
Nevada Bar No.: 12599
JIMMERSON HANSEN, P.C.
415 South 6th Street, Suite 100
Las Vegas, Nevada 89101
Tel No.: (702) 388-7171; Fax No.: (702) 388-6406
jmh@jimmersonhansen.com
jmj@jimmersonhansen.com
Attorneys for Plaintiffs

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JAMES WOLFRAM and)	
WALT WILKES,)	CASE NO.: A-10-632338-C
)	DEPT. NO.: IV
Plaintiffs,)	
)	
vs.)	
)	
PARDEE HOMES OF NEVADA,)	
)	
Defendant.)	

**APPENDIX OF EXHIBITS TO PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT AND IN SUPPORT OF
PLAINTIFFS' COUNTER MOTION FOR SUMMARY JUDGMENT**

TABLE OF CONTENTS

Exhibit No.	Document
1	Deposition transcript of James Wolfram
2	Deposition transcript of Walt Wilkes
3	Certified deposition transcript of Jon Lash – Filed Under Seal
4	Certified deposition transcript of Harvey Whittemore
5.	Option Agreement For The Purchase Of Real Property– Filed Under Seal

- 1 And Joint Escrow Instructions – May, 2004
- 2 6. Map of Parcel 1 consolidated from Parcel Map 98-57
- 3 Recorded July 21, 2000
- 4 7. Amendment to Option Agreement For the Purchase of Real Property and
- 5 Joint Escrow Instructions– **Filed Under Seal**
- 6 8. Amendment No. 2 to Option Agreement for the Purchase of Real Property
- 7 and Joint Escrow Instructions – **Filed Under Seal**
- 8 9. Option Agreement Exhibit B, the map of the Purchase Property– **Filed**
- 9 **Under Seal**
- 10 10. Option Agreement Exhibit C-2, the map of the Option Property after the
- 11 contemplated BLM Reconfiguration – **Filed Under Seal**
- 12 11. September 1, 2004 Commission Letter Agreement
- 13 12. Amended and Restated Option Agreement for the Purchase of Real
- 14 Property and Joint Escrow Instructions– **Filed Under Seal**
- 15 13. Amendment No. 1 to Amended and Restated Option Agreement for the
- 16 Purchase of Real Property and Joint Escrow Instructions dated July 28,
- 17 2006– **Filed Under Seal**
- 18 14. Amendment No. 2 to Amended and Restated Option Agreement for the
- 19 Purchase of Real Property and Joint Escrow Instructions dated September
- 20 30, 2006– **Filed Under Seal**
- 21 15. Amendment No. 3 to Amended and Restated Option Agreement for the
- 22 Purchase of Real Property and Joint Escrow Instructions on November 22,
- 23 2006 – **Filed Under Seal**
- 24 16. Amendment No. 4 to Amended and Restated Option Agreement for the
- 25 Purchase of Real Property and Joint Escrow Instructions on December 20,
- 26 2007 – **Filed Under Seal**
- 27 17. Amendment No. 5 to Amended and Restated Option Agreement for the
- 28 Purchase of Real Property and Escrow Instructions on May 12, 2008
Filed Under Seal
18. Amendment No. 6 to Amended and Restated Option Agreement for the
- purchase of Real Property and Joint Escrow Instructions on January 30,
- 2009 – **Filed Under Seal**
19. Amendment No. 7 to Amended and Restated Option Agreement for the
- Purchase of Real Property and Joint Escrow instructions on April 24, 2009
Filed Under Seal

20. Amendment No. 8 to Amended and Restated Option Agreement for the Purchase of Real Property and Joint Escrow Instructions on June 18, 2009 **Filed Under Seal**
21. Map of Pardee's purchases of land at Coyote Springs, (see Lash Dep. (Exhibit 3) at 92:19-25)
22. Memorandum from Frances Dunlap at Chicago Title dated January 15, 2009I
23. April 6, 2009 letter from Jim Stringer Jr. to Jim Wolfram containing 3 closing statements – **Filed Under Seal**
24. November 24, 2009 letter from Jon Lash to Jim Wolfram containing the referenced Map
25. Collection of Wire Transfer Orders stating that Plaintiffs have been paid \$2,630,000.00– **Filed Under Seal**.
26. Transparency of Exhibit 6 showing that Pardee Purchased land outside of Parcel 1 and that the purchase must have been for Option Property
27. August 23, 2007 letter from Mr. Lash to Walt Wilkes and Jim Wolfram
28. March 14, 2008 letter from Jon Lash to Jim Wolfram and Walt Wilkes
29. Redacted attorney billing records for Plaintiffs
30. Two May 5, 2005 letters from Jerry Masini to Linda Jones at Stewart Title
31. May 3, 2005 letter from Peter Dingerson to Ms. Jones
32. Assignment by Jerry Masini dated December 20, 2010
33. Affidavit dated October 26, 2012 of Jerry Masini
34. Affidavit dated October 26, 2012 of Mr. Dingerson
35. January 3, 2006 Assignment of Real Estate Commission and Person Certification Agreement Between Mr. Wilkes and General
36. Assignment by Mr. Dana dated January 11, 2011
37. Mr. Wilkes' Verification dated November 6, 2012

JIMMERSON HANSEN, P.C.
415 South Sixth Street, Suite 100, Las Vegas, Nevada 89101
Telephone (702) 388-7171 - Facsimile (702) 387-1167

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Dated this 8th day of November, 2012

JIMMERSON HANSEN, P.C.


JAMES J. JIMMERSON, ESQ.

Nevada Bar No.: 0264

LYNN M. HANSEN, ESQ.

Nevada Bar No.: 0244

JAMES M. JIMMERSON, ESQ.

Nevada Bar No.: 12599

415 South Sixth Street, Suite 100

Las Vegas, NV 89101

Attorneys for Plaintiffs

EXHIBIT “1”



EXHIBIT “1”



**CERTIFIED
COPY**

Las Vegas
Reno
Carson City

DISTRICT COURT
CLARK COUNTY, NEVADA

JAMES WOLFRAM,)	
WALT WILKES,)	
)	
Plaintiffs,)	
)	
vs.)	CASE NO.: A-10-632338-C
)	DEPT. NO.: IV
PARDEE HOMES OF NEVADA,)	
)	
Defendant.)	
)	

DEPOSITION OF JAMES WOLFRAM
LAS VEGAS, NEVADA
TUESDAY, NOVEMBER 8, 2011

REPORTED BY: JACKIE JENNELLE, RPR, CCR #809
LST JOB NO. 145442

t 702.314.7200
f 702.631.7351

www.litigation-services.com

3770 Howard Hughes Pkwy, Suite 300
Las Vegas, Nevada 89169

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

1 DEPOSITION OF JAMES WOLFRAM, taken at 2300
2 West Sahara Avenue, Suite 1000, Las Vegas, Nevada on
3 TUESDAY, NOVEMBER 8, 2011 at 10:00 a.m., before
4 Jackie Jennelle, Certified Court Reporter, in and
5 for the State of Nevada.
6
7

8 APPEARANCES:

9 For the Plaintiff:

10 JIMMERSON HANSEN
11 BY: LYNN HANSEN, ESQ.
12 BY: AMANDA BROOKHYSER, ESQ.
13 415 South Sixth Street, Suite 100
14 Las Vegas, Nevada 89101
15 (702) 388-7171

16 For the Defendants:

17 McDONALD CARANO WILSON, LLP
18 BY: PAT LUNDVALL, ESQ.
19 BY: AARON D. SHIPLEY, ESQ.
20 2300 West Sahara Avenue, Suite 1000
21 Las Vegas, Nevada 89102
22 (702) 873-4100
23
24
25

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I N D E X

WITNESS: JAMES WOLFRAM

EXAMINATION

BY MS. LUNDVALL

PAGE
4

EXHIBITS MARKED

EXHIBIT

PAGE

- | | | |
|-----|--|-----|
| 1, | Commission Letter Dated
September 1, 2004 | 10 |
| 2, | Option Agreement For the Purchase
of Real Property and Joint Escrow
Instructions | 74 |
| 3, | Amendment to Option Agreement For
the Purchase of Real Property and
Joint Escrow Instructions | 76 |
| 4, | Amendment No. 2 to Option
Agreement For the Purchase of Real
Property and Joint Escrow
Instructions | 77 |
| 5, | Amended Complaint | 100 |
| 6, | Certified Letter Dated August 23,
2007 | 109 |
| 7, | Letter Dated April 6, 2009 | 111 |
| 8 | Letter Dated November 24, 2009 | 112 |
| 9, | Amended and Restated Option
Agreement For the Purchase of Real
Property and Joint Escrow
Instructions | 115 |
| 10, | Handwritten Letter Bates No. PLTF
0151 | 118 |
| 11, | Letter to Jon Lash With
Handwritten Note | 121 |
| 12, | Plaintiff's NRCP 16.1 Disclosure
of Witnesses and Documents | 124 |

1 LAS VEGAS, NEVADA

2 TUESDAY, NOVEMBER 8, 2011; 10:00 a.m.

3 -o0o-

4 Thereupon--

5 JAMES WOLFRAM,

6 was called as a witness, and having been first duly
7 sworn, was examined and testified as follows:

8 EXAMINATION

9 BY MS. LUNDVALL:

10 Q. Mr. Wolfram, could you state your full name
11 for the record for me, please?

12 A. James Frederick Wolfram.

13 Q. If I talk in this loud voice, are you able
14 to hear me across the course of the day?

15 A. I have a little hearing problem, but I
16 think I can handle that.

17 Q. Today I have a little bit of a cold, so if
18 I need to speak up or clarify --

19 A. It would just be the echo, not your voice.
20 These things don't work as well as regular ears.

21 Q. Can you give me a business address for
22 yourself?

23 A. 212 Canyon Drive, 89107, Las Vegas.

24 Q. Is that the same as your home address?

25 A. It is.

1 Q. Do you have any of type of a vacation or
2 resort home?

3 A. You mean in this state or anywhere?

4 Q. Anywhere.

5 A. Well, I do, but I don't know what that
6 would that have to do with what I'm doing here.

7 Q. Can you give me the address for that,
8 please?

9 A. Yes. HC78 Arlington, West Virginia.

10 Q. Do you have a recollection of what the zip
11 code is there?

12 A. No, I don't.

13 Q. Do you have a business phone?

14 A. I just use my home phone now. I'm more or
15 less retired.

16 Q. What is that phone number?

17 A. (702) 258-0880.

18 Q. Do you carry a cell phone, sir?

19 A. Rarely any more. Once in a while just
20 family, but when I retired, I got rid of that thing.

21 Q. So at least --

22 A. I can give it to you, but your chances of
23 getting me on it or slim and none.

24 Q. So what you're telling me, sir, is your use
25 of your phone is primarily private, is that what

1 **you're saying?**

2 A. I just don't take a lot of business calls
3 and things any more. I just use it for personal
4 use.

5 **Q. Do you have an e-mail address?**

6 A. Well, I use my wife's once in a while, but
7 I had one and I got rid of my e-mail address now
8 that I'm retired.

9 **Q. Can you tell me what your wife's e-mail**
10 **address is?**

11 A. She just changed it. I can get it for you
12 later. She changed who she was using and I don't
13 know what it is right now.

14 **Q. So if I ask the court reporter to leave a**
15 **blank in your deposition transcript, you could fill**
16 **that in for me?**

17 A. I could.

18 **Q. Are you willing to do so?**

19 A. I don't see any reason not to.

20 **Q. The next couple questions may seem a little**
21 **bit odd: Do you have like a Twitter account or some**
22 **type of social website account that you use for**
23 **communication?**

24 A. No. Like I say, I'm retired. I just don't
25 do that stuff any more.

1 Q. What's your date of birth, sir?

2 A. 1/7/38.

3 Q. And from your previous answers, it's my
4 understanding you're married?

5 A. Yes.

6 Q. And what's your spouse's name?

7 A. Sharon R. Wolfram.

8 Q. What's the number of times you've been
9 married?

10 A. I've been married one time, 44 years.

11 Q. Congratulations on that. That's an
12 accomplishment in and of itself.

13 Can you give me the name -- and it's likely
14 to be your wife, but I just want to ask you the name
15 of someone who is going know your whereabouts at
16 least across the next let's say year to 18 months?

17 A. My daughter I guess would be: Nicole
18 Wolfram, 3101 Sonia, S-O-N-I-A, Las Vegas, Nevada
19 89107.

20 Q. Do you have a recollection of what her
21 phone number is?

22 A. Yes. (702) 395-5513.

23 Q. Mr. Wolfram, when you described that you're
24 retired now, it's my understanding that you used to
25 sell real estate, is that correct?

1 A. Yes, I did sell real estate, right. I'm
2 not active more. My license is still active, but
3 I'm not active.

4 Q. There was a period of time you used to sell
5 real estate for a brokerage called Award Realty, is
6 that right?

7 A. Yes.

8 Q. And it's my understanding that Award Realty
9 then changed its name to D&W Real Estate?

10 A. No. I went to D&W Real Estate from Award
11 Realty after I was -- it's my son-in-law is D&W Real
12 Estate, and when I wasn't doing a lot of real estate
13 any more, I went to D&W Real Estate.

14 Q. Okay. So, in other words, Award Realty
15 then continued to be --

16 A. Award Realty.

17 Q. -- a company? No name change, is that
18 right?

19 A. No name change. I changed companies.

20 Q. You went from Award Realty then to D&W Real
21 Estate?

22 A. That's correct.

23 Q. And did you move then to any other real
24 estate brokerage company after D&W?

25 A. No.

1 Q. All right. In this litigation, have you
2 received any assignments to bring claims on behalf
3 of Award Realty?

4 A. I don't think so. I believe, I don't think
5 so.

6 Q. What about on behalf of D&W Real Estate,
7 have you received any assignments to bring claims on
8 their behalf?

9 A. What do you mean by claims? Give me an
10 example of what you're talking about.

11 Q. Typically, an assignment is a contractual a
12 document where it's in writing where a company will
13 assign to you the right to bring claims or bring
14 litigation to assert causes of action on their
15 behalf.

16 A. No.

17 Q. So you don't have anything like that?

18 A. No.

19 Q. From either D&W or from Award, is that
20 correct?

21 A. That's right. As far as I can remember.

22 Q. Okay. In this case, it's my understanding
23 that your primary dispute with Pardee Homes, which
24 is my client, concerns what you believe is a breach
25 of contract.

1 Pardee Homes of Nevada, did you ever have another
2 written agreement with Pardee after you entered into
3 the one --

4 A. After this agreement?

5 Q. Yes.

6 A. No.

7 Q. Okay. So what we're talking about from a
8 contractual standpoint then is this September 1,
9 2004 commission letter, correct?

10 A. Yes.

11 Q. Can you tell me generally what prompted you
12 to file this lawsuit?

13 A. I have no information on anything. As you
14 can see in here, it calls -- they're supposed to
15 keep me informed as to what's happening.

16 I have no maps, I have no parcel numbers,
17 I've got no things from escrow, information from
18 escrow. I have no clue as to how to track any of
19 this.

20 And that's how it all started. I can't
21 track a thing.

22 Q. Okay. What is it that you hope to gain out
23 of this litigation?

24 A. I hope to gain maps, parcel numbers, things
25 that I can understand to track what land is being

1 sold, what the commissions are being paid.

2 If something should happen to me or my
3 partner, my wife wouldn't have any kind of an idea
4 how to track anything.

5 **Q. So that's what you hope to gain off this**
6 **litigation?**

7 A. That's one of the things. I want to be
8 fair and balanced, but I have no way of knowing
9 what's going on and, without getting into any
10 discussions, if I call, they say take our word for
11 it.

12 And if you -- even when I got Mr. Jimmerson
13 my attorney, if I'm sure you've read the letters.
14 They don't even tell him what's going on.

15 **Q. Anything else that you hope to gain out of**
16 **this litigation?**

17 A. Offhand, I can't think.

18 **Q. Okay. Have you ever been deposed before?**

19 A. One time.

20 **Q. How long ago was that?**

21 A. This is a guess, eight years.

22 **Q. Okay. What was the nature of that**
23 **litigation?**

24 A. William Lyon Homes was having problems with
25 somebody, and I knew some of the information and

1 they wanted me to come and take a deposition so I
2 could help out there a little bit.

3 Q. Were you a party to that litigation or were
4 you a witness to the litigation?

5 A. I don't remember.

6 Q. Have you had the opportunity to meet with
7 your counsel to discuss what your obligations are
8 during this deposition today?

9 A. Yes.

10 Q. And do you have an understanding then of
11 what your obligations are after having an
12 opportunity to meet with counsel?

13 A. I believe I do.

14 Q. Okay. Let me go over some general
15 instructions with you and make sure you and I are on
16 the same page. Okay?

17 There's two purposes to a deposition: No.
18 1, it's an opportunity for me to ask you some
19 questions to be able get some information what the
20 nature of the litigation is, about evidence, what
21 facts you have may have in support of your
22 allegations.

23 The second purpose of the deposition is to
24 memorialize your testimony. What that means is
25 this: All the questions I'm going to ask of you,

1 all the answers you're going to give to me as well
2 as anything else that may go on during the course of
3 this deposition is being taken down by the court
4 reporter.

5 At the conclusion of your deposition,
6 she'll prepare a deposition transcript. You get the
7 opportunity to review that transcript, make changes
8 corrections, things of that nature.

9 Because we're here in a setting in which
10 you have been placed under oath, even though it's
11 relatively informal, even though you have a little
12 bit of hard hearing and I have a cold today, it's
13 still a pretty important proceeding. Okay?

14 A. I understand.

15 Q. And I want to make sure that you have that
16 understanding, sir.

17 Do you have that understanding?

18 A. Yes.

19 Q. The testimony that you give here today is
20 no different than testimony you would give if this
21 case were to go to trial.

22 If you testify differently at the time of
23 trial than you've testified here today, particularly
24 on a material issue, I can use your deposition then
25 to impeach you to suggest that somehow you've been

1 less than candid or less than truthful. I can also
2 use the deposition transcript substantively.

3 So, therefore, I want to make sure you
4 understand the solemnness and the importance of the
5 proceeding here today.

6 A. I do.

7 Q. Do you have that understanding?

8 A. I do.

9 Q. Okay. You know that the oath you took at
10 the beginning of the deposition was an oath to tell
11 the truth?

12 A. I do.

13 Q. And if, in fact, that oath is violated,
14 there are criminal penalties or criminal sanctions
15 that can append to an intentional violation?

16 A. Intentional violation, right. I wouldn't
17 intentionally violate, but there could be something
18 I couldn't remember.

19 Q. Absolutely. That's why I underscored or at
20 least tried to emphasize an intentional violation
21 could lead to some type of a criminal sanction.

22 Do you understand that?

23 A. Um-hmm.

24 Q. All right. That gets to my next general
25 instructions. They in large part help you and I

1 communicate across the course of the day, but they
2 also make sure that the court reporter's job is as
3 easy as possible because, quite candidly, I think
4 she has the toughest job in this room.

5 She can only take down one person at a
6 time. Thus far, you and I have been doing pretty
7 good. I would ask for you to wait for my question
8 to finish before starting your answer, and I'll try
9 to be equally polite and wait for you to finish your
10 answer before asking my next question.

11 Do you understand that?

12 A. I do.

13 Q. She has a difficult time taking down uh-uhs
14 and hu-uhs, and, therefore, if you use those
15 terms -- it happens -- if I ask you, does that mean
16 yes or does that mean no, I intend no disrespect to
17 you, sir. I'm just trying to make sure that I get
18 my record clean and that I know what your answer is
19 to my question.

20 Do you understand that?

21 A. Yes, I do.

22 Q. All right. The other things she has a
23 difficult time doing is taking down shakes of the
24 head. So if I ask a question and you shake your
25 head, if I ask you, does that mean yes, does that

1 mean no, once again, no intention to disrespect you.
2 I'm just trying to get a clean record. Okay?

3 A. Okay.

4 Q. The last instruction I think is helpful for
5 you and also helpful for the two of us is to make
6 sure that you and I understand each other. I'll
7 butcher some of my questions across the course of
8 the day. I know that. It happens.

9 If you don't understand my question or if
10 you need me to rephrase it or repeat it or to
11 clarify it in some fashion, please ask me to do so.

12 I want to make sure that you have a full
13 opportunity for which to do so.

14 If, in fact, you don't, then I'm entitled
15 to assume that you understood my question and you've
16 given me a full and complete answer to my question.

17 Do you understand that instruction?

18 A. Yes.

19 Q. Okay. Is there any reason that would
20 prevent your deposition from going forward here
21 today?

22 A. No.

23 May I mention one thing?

24 Q. Sure.

25 A. I've got prostate cancer, and I'm going to

1 beat that, I'm not even worried about it. But
2 they've given me hormone shots to shrink the cancer
3 cells and then they do radiation after they shrink
4 them.

5 I don't know when it happens and it's just
6 like a woman going through menopause, I can be
7 sitting here and I might start to sweat, but that's
8 from the hormone shots and I can't control that. It
9 just happens. I don't know when it's going to
10 happen.

11 MS. HANSEN: It's not an index of guilty,
12 right?

13 THE WITNESS: No, it's not that. I just
14 wanted you to know that I can't control it because
15 of the shots.

16 MS. HANSEN: That's fine.

17 BY MS. LUNDVALL:

18 Q. Mr. Wolfram, depositions are not a marathon
19 and they're not designed to physically exhaust you.
20 Should there be need for you to either take a break
21 across the course of the day or if you tell me at
22 some point across the day, I've had enough from a
23 physical standpoint, I'd like to continue to another
24 day, I'm happy to do so. Okay?

25 A. Okay.

1 Q. I'm going to leave that to your discretion
2 and let you tell me when, in fact, we may need to do
3 so.

4 Are you okay with that?

5 A. I'm fine.

6 MS. HANSEN: Counsel, I just want you to
7 know that I have to depart at 11:30 to make a
8 pre-arranged meeting. That's why I brought
9 Ms. Brookhyser. I was in court this morning. I
10 apologize for being late. She can just continue to
11 you're going to break.

12 Do you have any idea how long you're going
13 to take a break so I know how fast to get back here
14 from my meeting?

15 MS. LUNDVALL: Let's go off the record for
16 a second.

17 (Thereupon, an off-the-record discussion was had.)

18 BY MS. LUNDVALL:

19 Q. Mr. Wolfram, you indicated that you have
20 children, is that correct?

21 A. I do.

22 Q. How many?

23 A. Three.

24 Q. Adult children?

25 A. Adults.

1 Q. Any of them work within your trade or your
2 profession?

3 A. Not my children.

4 Q. Okay. Do you have grandchildren?

5 A. I do.

6 Q. Are any of your grandchildren adults?

7 A. No. They're all little.

8 Q. Good for you.

9 While this may take you back just a little
10 bit, can you give me your educational background,
11 please?

12 A. High school, college and bachelor's degree
13 in industrial forestry, and that's basically it.

14 Q. Where were you born and raised?

15 A. Weston, West Virginia.

16 Q. How long was it before you came out here to
17 Las Vegas?

18 A. 1973.

19 Q. Now, you say you went to high school.

20 I take it that was back in West Virginia,
21 is that correct?

22 A. I did.

23 Q. You went to college where?

24 A. I went to college at West Virginia
25 University.

1 Q. All right. And you got a degree then in
2 forestry, is that correct?

3 A. Industrial forestry.

4 Q. What does that mean?

5 A. I didn't sit in a tower out in some forest
6 somewhere. I was working for industry. I worked
7 for a paper mill, a large paper mill.

8 Q. Is that a bachelor's of science or
9 bachelor's of arts degree?

10 A. Science.

11 Q. What year was that?

12 A. I graduated 1964.

13 Q. Okay. Did you do any post secondary
14 education after that?

15 A. No.

16 Q. Can you trace then what your employment
17 history has been?

18 A. My employment?

19 Q. Yes.

20 A. You want to trace that from when I got
21 here?

22 Q. Some people finds it easier to pick a time
23 and move forward. Other people find it easier to
24 pick a time and move back. Your choice.

25 A. When I first got here, I didn't know what I

1 was going to do. I had quit a really good job at
2 Western Paper Company because of the climate out
3 here and what have you.

4 We got here and I didn't have anything to
5 do. I opened up a clothing store, men's and small
6 boys's clothing store. Basically, that helped me
7 for several years.

8 Then my wife and I went -- we didn't intend
9 to sell real estate, but we went and got our license
10 so if I bought some real estate I could cut the
11 commissions and get it cheaper.

12 After I got my license, you know how the
13 city was moving so fast, all of a sudden, people
14 started asking me to do stuff, and I was making more
15 in real estate than my clothing store was making.

16 So eventually I just dropped the clothing
17 store and stayed in real estate.

18 **Q. Okay. What was name of your clothing**
19 **store?**

20 A. The Jabberwocky.

21 **Q. Just like the show that's now playing at**
22 **the Monte Carlo?**

23 A. Yes.

24 **Q. All right. How long was it open?**

25 A. I'd say eight, I think about eight years.

1 Q. When did you first get your real estate
2 license?

3 A. I think that must have been 1974 I think.
4 That's close.

5 Q. Do you have a recollection of what it took
6 to obtain your real estate license?

7 A. Yeah. I had to go to class and pass the
8 test like everybody else.

9 Q. So, in other words, you took some classroom
10 instruction --

11 A. I took classroom instruction. They had
12 really made it hard to get licensed. I don't know
13 if this is relevant or not. I think 212 people took
14 the test and I think 14 of us passed it.

15 Eventually they got rid of that company.
16 That was back in '74, but I had to take classes to
17 figure out what to do to pass the test.

18 Q. So it sounds like you passed the classroom
19 portion of it, correct?

20 A. Oh, yeah, I did that, yeah.

21 Q. Then you took the exam that was
22 administered by the State of Nevada?

23 A. Right.

24 Q. And you passed that exam, as well?

25 A. Yeah, I passed that exam.

1 Q. Then from 1974 to present, have you always
2 had a real estate license to sell?

3 A. I have.

4 Q. All right. Have you ever had a broker's
5 license?

6 A. No.

7 Q. So it's my general understanding that you
8 have to do some type of continuing education to
9 maintain your license on an annual basis, is that
10 right?

11 A. That's correct.

12 Q. And each year from '74 forward have you
13 done at least the minimum requirements of continuing
14 education?

15 A. I have.

16 Q. Have there been any type of complaints that
17 have ever been lodged against you during your tenure
18 then as a licensed real estate agent?

19 A. Never.

20 Q. Okay. So there's been no disciplinary
21 action that's ever been taken against you?

22 A. Never.

23 Q. Have you ever served in any type of an
24 officer's capacity for like the State Board of
25 Realty, anything of that nature?

1 A. No. That's the reason I never got my
2 broker's license. I knew how to do real estate, I
3 didn't need it, and I was just there to make money.

4 **Q. Nothing wrong with that, especially not in**
5 **this town.**

6 Do you have a recollection of the different
7 brokers then that you worked with from '74 forward?

8 A. I can come pretty close here. I can't
9 remember the first one. I can't remember his name.
10 It was Globe Realty. The office was up on West
11 Charleston.

12 And I wasn't there too long and several of
13 us pulled out and started Award Realty.

14 And when we started Award Realty, I believe
15 the broker's name there when we pulled away was
16 Wayne -- but at any rate, we started Award Realty.

17 But I was just an associate there. I
18 wasn't at broker or anything like that. We were on
19 Rancho, 801 Rancho, and then we moved from 801
20 Rancho to the present office over on Jones.

21 **Q. Now, when you indicated that you were an**
22 **associate with Award, were you an employee of Award**
23 **or were you an independent contractor working with**
24 **Award Realty?**

25 A. Well, I was -- an associate means that I

1 was under the heading of Award Realty. If something
2 happened, they would be responsible for me is
3 basically what it was.

4 I was never in a position of being a broker
5 or take care of the company. I just worked on my
6 own.

7 Q. Then at some point in time, you left Award
8 and you went to D&W, correct?

9 A. Yes, that's right.

10 Q. Okay. And when was that?

11 A. Let me see. I don't really remember. I
12 think it's about five years ago, but that's a guess.

13 Q. So what we're looking at is sometime 2005,
14 2006, sometime in there?

15 A. Yes, sometime in there.

16 Q. Were you an associate with D&W as well?

17 A. Yes, same thing.

18 Q. Do you recall approximately when you went
19 to work from Award from Globe?

20 A. Let me see. I was at Globe I believe in
21 '74. I may have been -- wait. You know what, I
22 told you wrong.

23 I started out with Jack Matthews on
24 Fairfield, but they shut that office down or were
25 getting ready to shut it down and then I went to

1 Globe. One of the brokers there went up and started
2 Globe and I went from Globe to Award to D&W.

3 Q. Okay.

4 A. But when I was at Globe, I think I was
5 there almost a couple years I guess. I'm guessing
6 on that now. I don't have an exact date on it.

7 Q. How long were you with Jack Matthews?

8 A. Not very long. About a year or less. I
9 got my training there.

10 Then when they opened that new office, he
11 was going to close that one down, I went with the
12 other broker.

13 Q. So if I was going to summarize, you were
14 about a year with Jack Matthews?

15 A. Yes.

16 Q. That's beginning in about 1974, is that
17 right?

18 A. Yes, 1974 Jack Matthews and then couple
19 years probably up at Globe.

20 Q. And then after Globe, then you went to
21 Award?

22 A. Award.

23 Q. And then maybe 2005, 2006, then you went to
24 D&W?

25 A. Yes.

1 Q. Okay.

2 A. Those are rough numbers.

3 Q. I understand that.

4 A. Okay.

5 Q. At each one of these places then you were
6 an associate working for the broker, correct?

7 A. Correct.

8 Q. During the time then that you were selling
9 real estate and after that you either closed down or
10 sold your clothing store, did you have any other
11 employment here in the community?

12 A. No.

13 Q. From West Virginia, did you move to Las
14 Vegas?

15 A. No. I graduated West Virginia University.
16 I got my first job with the State of Indiana. And I
17 worked for them -- this is rough again. I worked
18 for them I think probably six years maybe, if it was
19 that much, six years.

20 Then this corporation saw some of the work
21 I was doing. They came after me, and I left the
22 State of Indiana and went with Western Paper
23 Manufacturing Company.

24 Q. How is it that you went from working for
25 the paper company then here to Las Vegas?

1 A. My sister and brother-in-law were out here.
2 They were in the entertainment business. It was the
3 International. Joe was the entertainment director
4 over there.

5 We came out to visit. Took me three years
6 to get up enough nerve to quit that job. I was
7 going to quit, but the fringe benefits kill you.
8 They got a hold on you and you couldn't get away
9 from them.

10 Finally, the third time, we said the heck
11 with fringe benefits, let's just go, and we started
12 over.

13 Q. Are you happy with that decision?

14 A. Oh, yes.

15 Q. Good for you.

16 Let me ask you then have you got any type
17 of litigation history?

18 Have you ever brought a lawsuit against
19 anybody?

20 A. No.

21 Q. Has anybody ever brought a lawsuit against
22 you?

23 A. No.

24 Q. During the time of your employment, did
25 anybody ever bring any claims or lodge any

1 **complaints?**

2 A. There was a time -- I don't remember what
3 it was because I wasn't involved in it -- but they
4 named everybody in sight on a lawsuit, and myself
5 and another guy were named, and the judge said they
6 have no business keeping us there, we had nothing to
7 do with anything and sent us home.

8 Q. Okay. When was that?

9 A. Oh --

10 Q. Was that a long time ago, is what you're
11 suggesting?

12 A. It's been 25 years maybe. I don't know.

13 Q. So to the best of your recollection then,
14 you've never been sued other than that one case, but
15 you got dismissed out of it?

16 A. To the best of my recollection, that's
17 right.

18 Q. Okay. During the course of your working
19 with any of the realty companies, anybody ever bring
20 any complaints against you?

21 A. Never.

22 Q. Nothing like what Mr. Cain's going through
23 right now from a public perspective?

24 A. Who is going through?

25 Q. Our presidential hopeful, Mr. Cain?

1 A. Nothing, nothing like that. I've never had
2 a complaint to the board in all the years I've been
3 here.

4 Q. Good deal.

5 Have you ever filed for bankruptcy
6 protection?

7 A. No.

8 Q. You indicated that you had your deposition
9 taken once before, is that right?

10 A. Yes.

11 Q. Did you have counsel for that?

12 A. Yes. I think -- I think it was a gentleman
13 by the name -- boy, that was a long time, Mr. Reid.
14 I think there was an attorney by the name of Reid
15 that was the counsel for that. I believe.

16 Q. Did you keep a copy of that deposition
17 transcript?

18 A. No.

19 Q. Did you see any need to have a copy of it?

20 A. I just never thought I'd ever use it.

21 Q. Have you ever been a witness before,
22 whether it be at trial, in a hearing, anything of
23 that nature?

24 A. I don't think so. Not that I can remember.

25 Q. How is it that you came to employ

1 **Mr. Jimmerson's firm?**

2 **How is you came to retain the attorneys**
3 **representing you in this litigation?**

4 A. Well, I have my commission letter. It says
5 in there they were to keep me informed. I wasn't
6 getting informed at all period. I had no clue and
7 still have no clue as to what went on there.

8 And since I couldn't get an answer from
9 anybody and everybody always telling me, you have to
10 trust us, I got an attorney thinking maybe
11 Mr. Jimmerson could find out.

12 **Q. So how is it that you came to employ his**
13 **firm?**

14 A. That's how I came to employ his firm. I
15 couldn't do anything on my own. I was getting
16 nowhere, nothing.

17 **Q. Did you go to the Yellow Pages?**

18 **Did you have a personal relationship with**
19 **any of them?**

20 **Did somebody make a referral?**

21 A. I went to Mr. Jimmerson because if he isn't
22 one of the best attorneys in town, in my opinion, he
23 is the best attorney in town. He's a good one.

24 **Q. Good deal.**

25 **What are the terms of your arrangement**

1 **concerning the retention of Mr. Jimmerson's firm?**

2 A. The terms what?

3 **Q. Tell me what the terms of your engagement**
4 **of Mr. Jimmerson's firm are.**

5 A. I asked Mr. Jimmerson, I explained to
6 Mr. Jimmerson --

7 MS. HANSEN: I don't want you to talk about
8 anything you talked about. If you don't understand
9 the question, just tell her you don't understand.
10 But you can't talk about anything you talked about
11 to me, Amanda or Jim.

12 THE WITNESS: I can't?

13 MS. HANSEN: No. It's attorney/client
14 privilege. I don't want you to talk about that.

15 A. Well, then I can't talk about that.

16 **Q. Well, tell me, are they on a contingent**
17 **basis with the law firm?**

18 THE WITNESS: Am I allowed to answer that?

19 MS. HANSEN: Yes, you can.

20 A. Yes. I just pay for it as I go along.

21 **Q. Okay. So, in other words, it sounds like**
22 **they have an hourly rate that you pay the attorneys**
23 **at the law firm, is that right?**

24 A. Um-hmm.

25 **Q. Is that yes?**

1 A. Yes.

2 Q. They send you a billing statement?

3 A. Yes.

4 Q. On that billing statement it identifies
5 then the amount of time the attorneys have worked on
6 your behalf?

7 A. Yes.

8 Q. And then you pay that on a monthly basis?

9 A. Whenever the bill comes.

10 Q. Or at least they hope you pay that, is that
11 right?

12 A. Yes.

13 Q. Can you tell me what the rates are for the
14 attorneys, what the hourly rates are?

15 MS. HANSEN: What is the relevance of that,
16 counsel?

17 MS. LUNDVALL: You've asked for attorneys'
18 fees in the complaint. There's a provision as far
19 as within the commission letter for attorneys' fees
20 and so you've placed it at issue.

21 MS. HANSEN: Okay. Do you know what the
22 rates are?

23 THE WITNESS: I think they went up from
24 when I started, but I don't remember what it is now,
25 but I think they did go up from when I first

1 started.

2 BY MS. LUNDVALL:

3 Q. Give me some ballparks. Okay?

4 THE WITNESS: Is it okay?

5 MS. HANSEN: Yes, you can.

6 A. I think Jim is \$550 an hour, and I think
7 somebody is \$450 an hour. And beyond that, I don't
8 know. I just -- I don't even care. I just pay it
9 when it comes in.

10 Q. Are you splitting the attorneys' fees with
11 Mr. Wilkes in this case?

12 A. I am.

13 Q. Okay. Do you get one bill and the two of
14 you split, or is that split already done by the law
15 firm?

16 A. It's generally one bill, but I split it and
17 Walt and I pay our share.

18 Q. Approximately how much have you paid thus
19 far to the law firm?

20 THE WITNESS: Is that relevant?

21 MS. HANSEN: Yes, you can answer.

22 A. I don't even know.

23 MS. HANSEN: Don't guess. Only if you
24 know.

25 THE WITNESS: Well, I don't know then. If

1 I can't guess, I don't know.

2 BY MS. LUNDVALL:

3 Q. I'm looking for some ballparks, sir.

4 A. For me, what \$10,000? I don't know.
5 \$8,000, \$10,000. That's ballpark. I'd have to sit
6 down and figure it out.

7 Let's just go with that. You're asking me
8 something I really don't know.

9 Q. All right. And then would it be fair for
10 me to understand then that Mr. Wilkes, too, has paid
11 somewhere around \$8,000 to \$10,000 if the two of you
12 are splitting?

13 A. He's paid the same as I paid.

14 Q. Are you familiar with a company called
15 Wolfram & Pezzano, LLC?

16 A. Yes.

17 Q. Is that still an active company?

18 A. No.

19 Q. What was its purpose when it was active?

20 A. I built some mini storages up on West
21 Sahara and that was our company, West Sahara Mini
22 Storage. I had a little over a thousand units at
23 Torrey Pines and West Sahara.

24 Q. So the company, Wolfram & Pezzano, then
25 owned the storage unit?

1 A. Yeah. We put it under a -- what do you
2 call it?

3 **Q. Limited liability company?**

4 A. Yes, that's what I was trying to think of.
5 You've got to remember I'm going on 74
6 here. It doesn't come quick sometimes.

7 Go ahead.

8 **Q. Who was Pezzano?**

9 A. He was a gentleman I met here one time. He
10 had some land. I had taken him out and shown him
11 some property, what have you, and I liked Joe.

12 We got together and figured that we'd like
13 to do a transaction together, see what we could do.
14 So we bought ten acres at the corner of West Sahara
15 and Torrey Pines.

16 On the front of that ten acres we put the
17 shopping center that sits there today, and on the
18 back five of that ten, we put the mini storages.

19 **Q. Now, you indicated it's no longer an active**
20 **company, is that correct?**

21 A. No. I've sold. Everything is done.

22 **Q. When you sold it, did you turn a profit on**
23 **that transaction?**

24 A. Yes.

25 **Q. What was the percentage split between you**

1 and Mr. Pezzano?

2 A. Equal.

3 Q. 50/50?

4 A. 50/50.

5 Q. Okay. Are you familiar with a company
6 called Soveignty Investment?

7 A. What is it?

8 Q. S-O-V-E-I-G-N-T-Y.

9 A. I don't have a clue what that is right now.
10 Can you refresh my memory on something
11 there?

12 Q. If I run a public search through the
13 Secretary of State website, it identifies different
14 companies that you've had prior affiliation with,
15 and that's one of the companies that comes up, so
16 that's why I was asking you some questions about
17 that.

18 A. I don't remember that.

19 Q. Okay. What about Maverick Financial
20 Services?

21 A. I don't remember that either.

22 Q. All right. So you don't have any
23 recollection --

24 A. These came up in my name?

25 Q. Yes, sir. Feel free to run your own search

1 **and cross-validate the information.**

2 A. It must not have been important because I
3 don't remember.

4 Q. It also came up, there's a UCC filing in
5 favor of First Republic Mortgage against you and
6 multiple assets you owned.

7 Can you tell me what that's about?

8 A. Let me think what you're -- let's go back
9 to that, what was the first one you asked me?

10 Q. You want me to write it down?

11 A. No, no.

12 Q. The first one I asked you about was
13 Wolfram & Pezzano?

14 A. Okay. I got that.

15 MS. LUNDVALL: And then, for purposes of
16 the record, I wrote the name of Soveignty Investment
17 proper spelling and I placed that in front of
18 Mr. Wolfram.

19 BY MS. LUNDVALL:

20 Q. That was the second one I asked you about.

21 A. I don't remember Soveignty Investment. If
22 I was involved, it has to have another name. I
23 don't recall what that is.

24 Q. Back to my question about First Republic
25 Mortgage, can you tell me why they have a UCC filing

1 **against you and various of your assets?**

2 A. Tell you what that is, we finally got out
3 from under that. There was gentleman by the name of
4 Greg Parker who came in with Pezzano and I on the
5 shopping center on the ten acres up on West Sahara.

6 He had strong financial statements or what
7 have you -- or we thought that he did, but we made a
8 mistake. He had a partner at the time and his
9 partner was the strong financial statement.

10 We got in there with him, and he is the one
11 that was developing the center and the mini
12 storages, and he was going to take a portion. He
13 came up with the money. He had to put the loan on
14 the property. He had to do everything.

15 When we signed a contract with that guy,
16 his partner -- and I forget what his partner's name
17 was -- was out of it, and we noticed that he was out
18 of it and Greg's, his financials weren't that --
19 well, he had some money. He went to Germany and
20 lost a whole bunch of money. He tried to set up a
21 couple businesses over in Germany. He lost
22 everything and he came back.

23 This guy was the biggest headache to us
24 getting a loan that you ever saw in your life. We
25 finally got rid of him.

1 But it was his job, if he was staying
2 involved, to put the financing on the property and
3 do that, but headache.

4 Q. When you say you finally got out from
5 underneath that, how did you do that?

6 A. We told him we were going to take him to
7 court, he may as well leave on his own because we
8 were going to take him to court.

9 He wasn't paying people. We didn't even
10 know it. He was getting all of the documentation.

11 We went over and I guess you might say kind
12 of threatened him a little bit, we're going to court
13 if you don't get out.

14 He walked away from it and we took it over
15 ourselves and completed the center and the mini
16 storages and everything worked out all right after
17 we got him out of there. But he went through
18 numerous financial institutions, I don't even know
19 how many, but he wasn't strong enough to get a loan.

20 Q. Are you aware that First Republic Mortgage
21 still has a UCC filing against you and various
22 assets?

23 A. No.

24 Q. Maybe having the deposition might help you
25 clear some of that up a little bit?

1 A. Yeah.

2 Q. Sir, what preparation have you done for
3 purposes of the deposition today?

4 A. I've tried to see what information I have,
5 but to be honest with you, I don't have very much
6 information. Nobody ever would give me anything.
7 I'd call and ask. But I don't have much.

8 BY MS. LUNDVALL:

9 Q. Tell me what you did take a look at.

10 A. Commission letter. I have -- you know, we
11 dickered back and forth and finally ended up with
12 this commission letter. That's what we ended up
13 with.

14 Q. Okay. Anything else you took a look at to
15 prepare yourself for the deposition?

16 A. Well, whatever papers I did have, I have
17 some letters that Mr. Jimmerson sent. I have a few,
18 you know, documents. I don't remember which ones
19 they all are. I just went to my file. It's not a
20 real big file but --

21 Q. Big is kind of a --

22 A. I studied what I had like anybody else
23 would. That's what I did.

24 Q. Okay. So you went to the documents you did
25 have, and you indicated that was found in a file I

1 take it?

2 A. You take what?

3 Q. It was found in a file, is that right?

4 A. Yeah, I had a file on this and what we were
5 trying to do. I don't have files on Coyote Springs
6 between Harvey and Jon. I don't have very much
7 stuff from them at all period.

8 Q. You're referring to Harvey Whitemore?

9 A. Yes.

10 Q. Referring to Jon Lash?

11 A. Yes.

12 Q. Okay. These documents that you went to
13 take a look at, do you have them as far as at your
14 home?

15 A. Yes.

16 Q. All right. Tell me -- big is a relative
17 term. Okay?

18 Tell me how fat your file is.

19 A. It's not very fat. Very small. If you're
20 saying big as compared to small, it's small.

21 Q. Okay. Well, tell me how small it is then.

22 Is it an inch? Is it a couple inches?

23 Does it take up a whole file drawer?

24 Tell me what you got.

25 A. It's not an inch.

1 Q. It's not an inch?

2 A. No.

3 Q. And those materials that you have in your
4 file, have you shared those with your attorneys?

5 A. Yes.

6 Q. Everything that's in your file have you
7 shared with your attorneys?

8 A. I had to. That's the reason I got
9 Mr. Jimmerson. I had to give him that stuff so he
10 could help me out.

11 Q. How is it you came to be involved with
12 Coyote Springs Investment, LLC?

13 A. Jon Lash was looking for a large property.
14 They were looking for a large property to develop.
15 He asked us -- when I say "us," Walt Wilkes and
16 myself -- if we could find something.

17 We knew of a few properties. We went over
18 to White Hills across the dam, across Boulder Dam.
19 We had that in escrow. It didn't work out between
20 Leonard Mardian, the owner, and Jon Lash. They got
21 to the point where they just couldn't work together
22 any more and that one went down.

23 So then Jon asked us, said, what else you
24 got? We went to Sandy Valley and did extensive work
25 on all of the private ownership up there.

1 We could come up with a bunch of land like
2 he wanted in Sandy Valley, but there was a water
3 rights issue. And that one went down because I
4 guess the Petersons were buying up all water rights
5 and taking them up to Stateline up in that area. So
6 we left that one because of a water rights issue.

7 Coyote Springs, I'd been calling Harvey on
8 Coyote Springs. I knew someday that was going to be
9 available. Harvey is a very smart man. I knew he
10 was going to get his water someday, and I would call
11 and I said, I told Jon we have another one.

12 I called Harvey. He said, yeah, we have
13 our water rights more or less straightened out now.
14 I told him I had a buyer. He said fine. I told him
15 Pardee. I went to Jon. Jon -- we put them
16 together, sat down and had a mutual agreement.

17 **Q. And for purposes of my record today, when**
18 **you make reference to Jon, you're referring to Jon**
19 **Lash, correct?**

20 A. I am.

21 **Q. And when you make reference to Harvey,**
22 **you're referring to Harvey Whitmore?**

23 A. Harvey Whitmore.

24 **Q. How is it that you knew Mr. Lash?**

25 A. We've done -- Pardee owns a lot of land in

1 Las Vegas, and Walt and I were in the land business.
2 We had talked to him on different parcels of land
3 and property, you know, trying to bind some land for
4 him or from him if he had lots that he wanted to
5 sell, that type of thing.

6 Q. Now, you and Mr. Wilkes, then had you
7 previously done sales either to or from Pardee?

8 A. Did we sell any of his property, do you
9 mean?

10 Q. Yes.

11 A. I don't think we sold any of his.

12 Q. How about acquiring property for Pardee?

13 A. Let me see if we acquired. I'm not certain
14 if for this one. I really don't remember on that.
15 I'm not certain if for this one we acquired any land
16 for him or not. I really don't remember.

17 Q. I guess what I'm getting to, did you have
18 any other kind of commission letters with Pardee
19 Homes of Nevada?

20 A. It was verbal. We just talked with Jon.
21 He'd come over and we'd meet with Jon, but it wasn't
22 anything done that I can remember offhand in
23 writing. If there was, I don't remember.

24 Q. I take it then also you wouldn't recall
25 whether or not there was any disputes then over any

1 prior commissions concerning the other transactions?

2 A. No, no disputes.

3 Q. You had a good working relationship with
4 Mr. Lash?

5 A. Certainly did.

6 Q. Okay. And then describe for me how --

7 A. Before, before Coyote Springs was
8 consummated. I couldn't get any information after
9 it was consummated. It just kind of just went away,
10 the relationship, as far as doing things.

11 Q. Turning your attention then to
12 Mr. Whitmore, how is it that you came to know
13 Mr. Whitmore?

14 A. What, please?

15 Q. How is it that you came to know
16 Mr. Whitmore?

17 A. That parcel of land, I watched that parcel
18 of land he had. He had partners in it. I watched
19 him buying them out.

20 I just kept track of what was going on over
21 the years because I knew that thing was going to
22 come up some day, and I felt that water basin up
23 there had all the water, never been tapped, I knew
24 it was going to come up for sale and I just kept
25 following it.

1 Q. When you say that you kept following it,
2 are you talking about through the newspaper as well
3 as the public record?

4 A. You read things in the newspaper, but
5 mostly I'd just call Harvey. It's been several
6 times I called him.

7 Q. Harvey liked to talk about his project,
8 didn't he?

9 A. I just talked about his project: Do you
10 have water yet? Is it ready for sale?

11 He'd just say, no, it's not ready for sale
12 because it wasn't ready. But this time when I
13 called him, it was ready.

14 Q. So I take it somewhere along line then you
15 put Mr. Lash and Mr. Whitemore together?

16 A. Yes.

17 Q. Okay. And tell me what you did then after
18 you put the two of them together.

19 A. Well, we put them together, and Walt and I
20 sat in early on, but then Jon Lash said they didn't
21 want Harvey to think we're ganging up on him.

22 He asked us, says, I'm bringing a bunch of
23 attorneys and what have you, and I'd prefer that he
24 doesn't feel like he's getting ganged up. Our
25 attorneys are probably going to take over from here

1 anyway. We would prefer maybe that you don't come
2 to the meetings.

3 That's basically what happened.

4 **Q. Why don't you describe at least the first**
5 **meeting when you put Mr. Lash and Mr. Whitemore**
6 **together?**

7 A. Well, I can't remember everything, but to
8 the best of my recollection, they went in, they
9 talked about the water, they talked about the
10 acreage.

11 There was going to be a land swap because
12 there was public land right in the middle of the
13 original tract. They talked about that.

14 They talked about water rights and those
15 types of things.

16 **Q. Where was the meeting held?**

17 A. At Pardee offices out off of -- their
18 offices over on the southeast side.

19 **Q. Okay. And who do you recall being in**
20 **attendance at those meetings?**

21 A. Cliff Andrews, who is Jon Lash's right-hand
22 man over here, Harvey and Walt and myself.

23 **Q. Did the Pardee folks seem to get along well**
24 **with the CSI folks?**

25 A. Oh, yeah.

1 Q. Okay. At that point in time, Harvey,
2 Mr. Whitmore had formed Coyote Springs Investment,
3 LLC, is that right?

4 A. Yes.

5 Q. Okay. And so if I refer to CSI, you know
6 that I'm making reference to that limited liability
7 company?

8 A. Yes.

9 Q. The Pardee folks seemed to hit it off with
10 the CSI folks, is that right?

11 A. I didn't understand you.

12 Q. I said the Pardee folks seemed to hit it
13 off with the CSI folks at that first meeting?

14 A. Yes.

15 Q. Okay. And after that first meeting, did
16 you or Mr. Wilkes attend any meetings thereafter?

17 A. Not to my recollection.

18 Q. Mr. Lash informed you that, in fact, his
19 real estate attorneys were likely to step in at that
20 point?

21 A. Yes. They would put something together
22 because of their development wanting to develop
23 everything, which Walt and I didn't know.

24 Q. Okay. And, thereafter, were you or
25 Mr. Wilkes involved in any of the contractual

1 negotiations between the Pardee representatives and
2 the CSI representatives?

3 A. To my understanding, no, from what I
4 remember.

5 Q. If I asked this question I apologize, but
6 did you ever attend any of the meetings after that
7 first one?

8 A. To my recollection, we didn't.

9 Q. Okay.

10 A. We asked to go to the meetings. We wanted
11 to go to the meetings because we really felt this
12 was exciting. It was really a big project and
13 wanted to do it and we've been doing land, but they
14 wanted their attorneys in there and what have you.

15 Q. Okay. I would take it this must have been
16 sometime in 2003 or 2004?

17 A. It took a long time to put that thing
18 together. I don't remember the dates, but I know
19 ballpark -- and this is ballpark -- I bet it took
20 two years to put the whole transaction together.

21 That's a ballpark. I don't know exactly.

22 Q. So what you're suggesting is the very first
23 meeting may have happened sometime as early as 2002?

24 A. Could be. I'm not for certain. Could be.

25 Q. Do you keep any type of a calendar or

1 Daytimer or something that would track the meetings
2 that you had?

3 MS. HANSEN: Are you talking about back in
4 2002 or 2004?

5 BY MS. LUNDVALL:

6 Q. Well, let's start there.

7 A. No.

8 Q. At present do you?

9 A. The meetings that I have with who?

10 Q. From a business perspective, sir, is what
11 I'm interested in.

12 For example, if you pull up, as far as my
13 iPad, you can push a button that says My Calendar
14 and it tells you what I'm doing, where I'm at and
15 where I'm going.

16 A. Not now that I'm retired.

17 Q. Okay. What about before you were retired,
18 did you keep some type of a calendar or Daytimer or
19 agenda?

20 A. When I was doing business, I kept track of
21 what I was doing. As long as I was still active, I
22 knew what I was doing, but most people know that.

23 Q. Okay. Did you put it on paper like the
24 meetings that you had?

25 A. Well, yeah, but I didn't keep all that

1 stuff. I mean, I have no way of remembering all of
2 the transactions I had and putting down on paper
3 what -- I really don't understand where you're
4 coming from there because those transactions,
5 different transactions were long ago, and at the
6 time I certainly knew what I was doing or wouldn't
7 have been doing them.

8 Q. Let me tell you where I'm coming from so
9 you understand my line of questioning.

10 A. Okay.

11 Q. You indicated maybe this first meeting
12 between Mr. Lash and Mr. Whitmore that you and
13 Mr. Wilkes were involved in may have been sometime
14 in 2002, but you're not real sure, correct?

15 A. That's correct.

16 Q. So a classic attorney question: Maybe
17 there's a piece of paper out there that might
18 refresh your recollection.

19 So I'm interested in trying to figure out
20 if there's a calendar or some type of a Daytimer
21 that you may have kept that you could take look at
22 and refresh your recollection?

23 A. No. There may be. If there is, I'd
24 probably have to -- I don't know where I'd search to
25 find it to be honest with you.

1 Q. Tell me what year you retired, sir.

2 A. What?

3 Q. What year did you retire?

4 A. I think I've been retired seven years I
5 guess give or take a year.

6 Q. When you retired, did you like physically
7 move out of an office so that you had to make a
8 decision to keep some stuff but discard other
9 things?

10 A. I was in my house. I had an office in my
11 house. I didn't buy or sell any real estate through
12 that period. The only thing I really kept the best
13 I could track was Coyote Springs because it was an
14 ongoing thing.

15 Q. Okay. When you retired, any of the
16 documents or the records that you had in your office
17 in your home at that point in time did you discard
18 anything?

19 A. What I have in my records are probably what
20 I have. I didn't throw it away. I don't have very
21 much. You asked me how thick that file was.

22 The title companies would give me nothing.
23 They'd say we have to talk to Jon Lash. If I call
24 over there, they say, trust me. So I don't really
25 have a lot of letters and what you might be looking

1 for. I don't have that. Just a small file.

2 Q. I'm interested as to the type of documents
3 you may have in your home office. Why don't I
4 approach this in a little bit different way.

5 Tell me about the type of documents you do
6 keep in your home office.

7 A. On Coyote Springs?

8 Q. On anything.

9 A. I don't have anything else going except
10 Coyote Springs, and the documents that I keep is
11 whatever -- if Jon has sent me a letter, I kept the
12 letter.

13 If I got something from the title company,
14 went down and tried to find something, met with them
15 and I took notes, you know, I put them in my file.

16 Q. Do you have documents?

17 A. The letters, the commission agreement, that
18 type of thing, you know, the dickering back and
19 forth, I would have a small file on that, but that's
20 all I got.

21 Q. But if you went to the title company and
22 they gave you information, you might make a note of
23 that, is that right?

24 A. I didn't get any information from the title
25 company. They really wouldn't give it to me.

1 Q. So did you make any notes after going to
2 the title company?

3 A. I don't remember.

4 Q. Okay. Now, back to my question as to what
5 documents and what paperwork outside of Coyote
6 Springs that you have in your home office, tell me
7 what you have.

8 A. I have files on my house in West Virginia.
9 I have files with the power company, you know, just
10 not real estate files.

11 I mean, I don't really have all those old
12 transactions and things that I used to do. I didn't
13 think I'd ever need them again.

14 Q. So the only real estate file you have in
15 your office deals with Coyote Springs, correct?

16 A. Basically. And when I say that, if there
17 is -- I'm not trying to get around it. I just can't
18 remember. I don't remember.

19 I have a file drawer and there's stuff in
20 there, probably stuff that I haven't looked at in
21 years, in one file drawer. I'm not trying to hedge
22 here. I just don't know.

23 Q. So what you're saying is any of the stuff
24 you do have it's in a single file drawer, correct?

25 A. Yes.

1 Q. What kind of dimensions are we looking at
2 on the file drawer?

3 A. Okay. But this isn't Coyote Springs.
4 You understand that, right?

5 Q. I understand that.

6 A. I'd say about that much. And that is all
7 the building in West Virginia, that's all the work
8 I've done on my house, you know, all those types of
9 things.

10 Q. What you just did, I'm going to say that's
11 about 18 inches?

12 A. Just a normal file, yeah, a normal file, my
13 desk file drawer.

14 Q. Okay. Do you have any type of off-site
15 storage for documents?

16 A. No.

17 Q. Like there's no storage center or anything
18 like that that you keep files or records in?

19 A. No.

20 Q. What about electronic storage?

21 Did you send e-mails to anybody?

22 Did you receive e-mails from anybody during
23 the time?

24 A. Probably in the past, you know. Then
25 again, I don't know. I don't remember. There's

1 probably been an e-mail or two.

2 Well, from my attorneys there's an e-mail
3 or two that I've received, but for all of the other
4 stuff you're talking about way back in the past, I
5 don't remember.

6 Q. Did you ever exchange any e-mails or
7 electronic communications with representatives of
8 Pardee?

9 A. I think if it came to e-mails, it would
10 probably have been my partner. I don't remember.
11 He was the one that handled the computer more.

12 Q. Same question for any of the
13 representatives of CSI?

14 A. Did I get e-mails from CSI?

15 BY MS. LUNDVALL:

16 Q. Yes.

17 A. Not that I can remember.

18 Q. Okay. So I take it that at some point in
19 time you attend this first meeting with Mr. Lash and
20 Mr. Whitmore and then the attorneys basically took
21 over from there?

22 A. Basically.

23 Q. Did you have any involvement whatsoever in
24 the option agreement or in the agreements that were
25 put together for purposes of Pardee and CSI?

1 A. You're talking about the commission letter
2 here, right?

3 Q. I'm not talking about the commission letter
4 I'm talking actually about any of the agreements
5 themselves between Pardee and CSI.

6 Did you have any involvement in those?

7 A. No. They did all that.

8 Q. Okay. Did you have any involvement in any
9 of the amendments to those agreements?

10 A. I didn't even know there were amendments.

11 Q. Turning your attention then to the
12 commission letter, how is it that that commission
13 letter came about?

14 A. Just dickering back and forth to where we
15 came to something that we could agree upon. Started
16 out maybe on a straight price, and then it, you
17 know, Jon might not want something and he'd send
18 something, and basically we ended up with this. I
19 went to Mr. Jimmerson, and this is what ended up
20 with.

21 Q. Okay. Mr. Jimmerson represented you in the
22 negotiations then with Pardee that led to the
23 commission letter?

24 A. Yes.

25 Q. All right. When you say you dickered back

1 **and forth, who did you dicker back and forth with?**

2 A. Jon. We just talked, trying to come up
3 with something that would work.

4 In all truthfulness, Jon told us he was
5 going to give us a commission letter. We trusted
6 Jon because we went through another transaction with
7 him, what have you. He was going to give us a
8 commission letter before everything went down. He
9 didn't give it to us.

10 We kept saying, Jon, we need this before we
11 go in and sign this thing off. Once it's signed
12 off -- he kept saying, trust me, trust me, trust me,
13 I'll get you one.

14 This went on for a long time. And,
15 finally, after everything was said and done, we came
16 up with this.

17 **Q. Okay. And "this" that you're referring to**
18 **then is Exhibit 1 that's in front of you, correct?**

19 A. Is what?

20 **Q. Is the exhibit that's in front of you?**

21 A. Yes.

22 **Q. I want to go back to --**

23 A. One thing though. In this agreement we
24 came up with this. In Mardian's property, it was a
25 four percent commission on the whole thing. He

1 wanted us to ask Mardian if he'd pay it instead of
2 him. He told us he'd pay the four percent, but he'd
3 like to work out the four percent with Mardian in
4 the sales price.

5 So finally Mardian agreed to it, and
6 Mardian was going to pay the four percent instead of
7 Jon Lash, but he actually was giving us four percent
8 on that property over there.

9 Q. Now, what I want to do now, my questions
10 are going to be focused on the Pardee CSI
11 transaction. All right?

12 A. Yes.

13 Q. Were there any type of letters that were
14 exchanged back and forth with Mr. Lash, any drafts
15 of this commission letter that were exchanged back
16 and forth with him before the final product that was
17 arrived at?

18 A. Yes.

19 Q. Okay. Did you keep those copies?

20 A. Yes.

21 Q. All right. So all of those are contained
22 in the file that you have dealing basically with
23 this project at your house, is that right?

24 A. The copies I have are the ones they sent
25 over that are black-lined -- if that's what you call

1 black-lined -- and went back and forth and
2 Mr. Jimmerson did the same and we finally came up
3 with this.

4 Q. Okay. And you kept copies of all those
5 black lines, is that right?

6 A. Yes.

7 Q. And those still exist, is that correct?

8 A. Yes, they do.

9 Q. All right. I want to make sure that you
10 don't do anything to destroy those black lines
11 because I'm going to make a request of your counsel
12 for those documents. Okay?

13 A. I won't destroy anything.

14 Q. So you black-line back and forth various
15 drafts.

16 Then ultimately you came to a resolution on
17 the commission letter, which is Exhibit 1 in front
18 of you, correct?

19 A. Yes.

20 Q. Let me ask you a couple questions
21 concerning that.

22 A. Okay.

23 Q. Let's start with the easy ones.

24 On the last page --

25 A. The last page is the signature page.

1 Q. Keep going one more to the last page of
2 Exhibit 1.

3 Is that your signature, sir?

4 A. That's my signature.

5 Q. All right. And Award Realty Group was the
6 group you were working with at the time, correct?

7 A. Yes.

8 Q. And you were signing this commission letter
9 then on behalf of Award Realty Group?

10 A. Right.

11 Q. This is the contractual arrangement with
12 Pardee that you contend they have breached, is that
13 right?

14 A. Yes.

15 Q. Did you have any type of a contractual
16 arrangement with CSI?

17 A. No.

18 Q. So there was no agreement with CSI for them
19 to pay you anything out of this deal?

20 A. No.

21 Q. Let me make sure my record is clean on that
22 because that may be a double negative.

23 You didn't have a side deal then with CSI
24 concerning the transaction between CSI and Pardee,
25 correct?

1 A. No, not that I can remember. If it was
2 money, I'm sure I'd remember.

3 Q. Exhibit 1 then has the date of September 1
4 of 2004?

5 A. Yes.

6 Q. Now, under the "re" line, it makes
7 reference to the Option Agreement For the Purchase
8 of Real Property and Joint Escrow Instructions dated
9 June 1, 2004 as amended.

10 Do you see where I'm making reference?

11 A. Yes, I do now.

12 Q. Now, you're aware that there were two
13 amendments then to that option agreement prior to
14 September 1 of 2004?

15 A. There were two what?

16 Q. Two amendments.

17 A. Never knew it.

18 Q. All right. I'll show you some documents
19 that we provided to you, see if we can refresh your
20 recollection.

21 A. Okay.

22 Q. Why don't we do this a little bit easier.
23 I'm going to hand you a highlighter. What I want
24 you to do is go through and for you to highlight the
25 portions of this that you believe that Pardee has

1 breached or the obligation that Pardee had that you
2 believe they have not lived up to, please.

3 A. Okay. Let me read here.

4 I might not remember everything, but I see
5 two areas there.

6 Q. Now, you understand your contractual
7 relationship with Pardee was dictated by the terms
8 of this commission letter, is that correct?

9 A. Yes.

10 Q. They had to live up to these terms.

11 You understood that?

12 A. Yes. And I did, too.

13 Q. And, equally, you did, too?

14 A. Yes.

15 Q. And you've read this a few times before, is
16 that right?

17 A. Yes.

18 Q. Do you mind if I take a look at what you've
19 marked on here, sir?

20 Anything on page one?

21 A. Well, you know, maybe because I don't know
22 how to say that. I know what I want to say.

23 I don't completely agree on the way we've
24 been paid. We've been paid. We got our full two
25 million four hundred from the 50 million, the first,

1 and then, you know, on the 16. But I didn't know
2 about this. This \$84 million thing is a complete
3 surprise to me.

4 Jon Lash sent me a letter in November of
5 2009 and that changed things a little bit on how I
6 view this thing was to be done. I didn't know about
7 that.

8 MS. HANSEN: Why don't you yellow those?

9 MS. LUNDVALL: Hold on. Counsel, I'm going
10 to ask you not to give instruction to your witness
11 during the course of the deposition, please.

12 A. I was already telling you that I didn't
13 agree with the way this went down after I saw the
14 \$84 million.

15 Q. Now, I want to go back to -- so on page
16 one, which is highlighted, is the section which is
17 (i) and (ii), is that correct?

18 A. Yes.

19 Q. On page two then you've highlighted the
20 paragraph that begins "Pardee shall provide to each
21 of you," that paragraph. Okay?

22 A. Yes.

23 Q. Then you've highlighted the section that
24 says "in the event any sum of money remains due,"
25 the interest provision, is that correct?

1 A. That's correct.

2 **Q. All right. How much in total have you**
3 **received in commissions under the commission letter?**

4 A. The original -- we've been paid four
5 percent on the \$50 million, one and a half percent
6 on the \$16 million.

7 But I have no idea why the payments kept
8 coming in, and I was honest. I called Pardee. I
9 says, hey, you guys are still making payments of
10 \$11,200 and why.

11 They said, we don't know. Don't worry
12 about it, we'll take care of it.

13 I called Jon again. Jon says, go to an
14 attorney, get Mr. Stringer. Called Mr. Stringer
15 says, we're getting paid, and the original right
16 here was done.

17 I couldn't -- well, no one would tell me
18 what it was for. Mr. Stringer actually said, well,
19 the reason this is getting paid is we have something
20 like a slush fund. We just throw a bunch of money
21 into it, and there's a little bit of land
22 transferred back and forth out of it, and if
23 something happens, you'll receive some money.

24 And I'm asking what, give me some maps,
25 give me some parcel numbers. I don't even know what

1 the original 1,950 acres was. He said, no, you'll
2 just have to take our word for it.

3 They kept paying, and they paid us an
4 amount over \$232,500, and to this day with all I've
5 tried, I've never found out what that was for. I
6 have no idea. It probably -- I don't know. I
7 really don't know.

8 Q. Mr. Wolfram, what I'm interested in
9 learning is what is the total amount that you've
10 received from Pardee?

11 A. I received the original amount of -- what
12 was it? -- two million four hundred. I think that's
13 what it was. The original amount on this right here
14 was two million four hundred. We got a \$400,000
15 down payment, and then we went through these figures
16 right here, and it came to two million four I think,
17 something like that.

18 Then we received an additional 200 -- as I
19 can figure it because no one would give me the
20 figures. I had to go to the bank and pull stuff
21 from the bank. And I think I've been paid \$232,500
22 more than what my original contract on the \$50
23 million and the \$16 million. But I have no idea
24 what it's for. No one would tell me. I just had to
25 go along with everything.

1 Q. All right. So I want to clarify. You have
2 received at least \$2.4 million in commission?

3 A. I think that's what it came out to.

4 MS. HANSEN: You and Walt.

5 A. Yeah, Walt and myself. But I think it was
6 two million four if you paid it off like this right
7 here.

8 Q. Okay. And then there was an additional
9 \$232,000 that you and Mr. Wilkes received as well?

10 A. But that's what my figures are. I went to
11 the bank, set down in the archives, did all kinds of
12 stuff to try to figure out what the overpayment was
13 for.

14 I really don't know if that's the exact
15 correct figure because nobody would tell me. I
16 couldn't even find -- I couldn't tell you. They
17 wouldn't tell me what it was for.

18 Q. Okay. So let me see if you and I can
19 create a little bit of a cleaner record.

20 A. Okay.

21 Q. If I take the 2.4 million and I add 232,000
22 to it, I end up with \$2,632,000.

23 Is my math okay?

24 A. Yeah, if that's what the math adds up to.

25 Q. Okay. And that \$2,632,000, then that was

1 split between you and Mr. Wilkes, correct?

2 A. It was.

3 And I thought it might be for the extra
4 acreage up to the 2,112 acres, but they say no
5 because this \$84 million thing came up and said
6 you're paid out \$84 million and you get nothing on
7 that, you know, so -- because I knew it wouldn't
8 come out to exactly 1,950 acres.

9 Q. Okay. So --

10 A. And I didn't know that, again, until
11 November of 2009.

12 I tried to find out what that was all
13 about, but when Jon Lash sent me that letter in
14 November 2009, then I finally saw a figure,
15 2,112 acres.

16 Q. Those monies that you have received along
17 with Mr. Wilkes, those have been received directly
18 from the escrow company, correct?

19 A. Yes.

20 Q. There has not been any checks that have
21 been issued to you from Pardee Homes of Nevada?

22 A. No.

23 Q. Or any other Pardee company?

24 A. Not that I can remember.

25 Q. And none of the checks have come to you

1 from CSI or any CSI affiliate?

2 A. Not that I can remember.

3 Q. So, in other words, it's the escrow agent
4 sending you a commission check along with your
5 understanding sending a commission check to
6 Mr. Wilkes as well, correct?

7 A. Yes.

8 MS. LUNDVALL: All right. We've been going
9 about an hour, almost an hour and a half. I'm going
10 to take a short break here if that's okay and come
11 back in about ten minutes.

12 (Thereupon, a break was taken.)

13 A. I don't know where I am on the money, so
14 I'm going to yellow that one, also.

15 Q. Okay. So after the break and having an
16 opportunity to speak with your counsel, then
17 you're --

18 A. No.

19 Q. Let me finish my question.

20 -- adding some additional highlight, is
21 that correct?

22 A. Okay. But when we were in here, I told you
23 I didn't know where I was with the money. It was a
24 complete mystery to me where some of that money
25 went. So that's the reason I probably should have

1 done that one right here.

2 Q. Okay. During the break, did you have an
3 opportunity to speak with your counsel?

4 A. Yes.

5 Q. Was highlighting one of the topics of
6 discussion?

7 I don't want to know what the specifics
8 are. I just want to know generally if it was one of
9 the topics of discussion?

10 MS. BROOKHYSER: I've going to object to
11 that as attorney/client privilege and instruct you
12 not to answer.

13 BY MS. LUNDVALL:

14 Q. All right. Let's walk through this
15 agreement if we could a little bit. I'm going to
16 start at the top.

17 September 1 of 2004 is the date on this?

18 A. Yes.

19 Q. And it looks like your signature was
20 notarized on the 6th of September, is that correct?

21 A. That's what it was.

22 Q. And it looks like Mr. Wilkes' was notarized
23 on the 4th of September, is that right?

24 A. Yes.

25 Q. And did you understand Mr. Wilkes to be

1 signing on behalf of General Realty Group, Inc. at
2 the time?

3 A. That's where he was, right.

4 Q. Okay. Taking your attention back to page
5 one, it makes reference as we start, there's a "re"
6 line or a subject line to this commission agreement?

7 A. This right here?

8 Q. See where it says R-E?

9 A. Oh, yes.

10 Q. Your counsel has now pointed out to you --
11 and I know that she's trying to be helpful, but I'm
12 going to hopefully try to help you do so so she
13 doesn't have to. Okay?

14 A. Okay.

15 Q. All right. It makes reference to an Option
16 Agreement For the Purchase of Real Property and
17 Joint Escrow Instructions dated as of June 1 of 2004
18 as amended. And then it makes reference to the
19 option agreement as a shorthand way of referring to
20 it between Coyote Springs Investment, LLC, Coyote
21 and Pardee Homes of Nevada, Pardee.

22 Did I read that right?

23 A. Yes.

24 Q. All right. Now, you indicated to me that
25 you weren't aware of which amendments had been

1 entered into as of September 1 of 2004, is that
2 correct?

3 A. Yeah, I don't remember those amendments.

4 Q. Let's see if I can help refresh your
5 recollection.

6 What I want you to do is to make sure you
7 put this page here back in the stack there that's
8 Exhibit 1.

9 A. All right.

10 (Exhibit No. 2, Option Agreement For the Purchase of
11 Real Property and Joint Escrow Instructions marked.)
12 BY MS. LUNDVALL:

13 Q. Now, Mr. Wolfram, I'm going to hand you
14 what's been marked Exhibit 2 to your deposition.
15 Feel free to spend as much time with that as you'd
16 like.

17 But the title of this document is Option
18 Agreement For the Purchase of Real Property and
19 Joint Escrow Instructions.

20 Do you see where I'm making reference?

21 A. Yes, at the top.

22 Q. At the top on Exhibit 2?

23 A. Yes.

24 Q. And this particular option agreement then
25 bears a date of May of 2004, correct?

1 A. Yes, that's what it says.

2 Q. And this is the option agreement then May
3 of 2004 between Coyote Springs Investment, LLC and
4 Pardee Homes of Nevada as the buyer, correct?

5 A. Yes.

6 Q. Okay. Now, I'm going to go back and forth
7 between a couple of these documents and I want to
8 make sure you and I follow along and we're on the
9 same page.

10 If you go back to Exhibit No. 1, which is
11 your commission letter, that very first paragraph it
12 makes reference that, it says: Except as otherwise
13 defined herein, the capitalized words used in this
14 agreement -- meaning the commission letter -- shall
15 have the meanings as set forth in the option
16 agreement.

17 Do you see where I read?

18 A. I do.

19 Q. And you understood that, if there was some
20 capitalized words in your commission letter, that
21 they have the same meaning then as in the option
22 agreement, correct?

23 A. Yeah, I didn't remember that, but -- well,
24 I read it. I understand what you're saying there.
25 If there's capitalized words, they have the same

1 meaning as the option agreement.

2 Q. Okay. And let me mark a couple of
3 additional exhibits, see if I can help you out here
4 a little bit.

5 (Exhibit No. 3, Amendment to Option Agreement For
6 the Purchase of Real Property and Joint Escrow
7 Instructions, marked.)

8 BY MS. LUNDVALL:

9 Q. Mr. Wolfram, I'm going to hand you what's
10 been marked Exhibit 3 to your deposition. Exhibit 3
11 is a document that's captioned Amendment to Option
12 Agreement For the Purchase of Real Property and
13 Joint Escrow Instructions.

14 Do you see that at the top of the page?

15 A. I do.

16 Q. And this particular amendment has the date
17 of July 28th of 2004.

18 Do you see that?

19 A. Yes.

20 Q. And this is an amendment then between
21 Coyote Springs and Pardee Homes, correct?

22 A. Correct.

23 Q. All right. And, quite obviously, the date
24 of July 28th of 2004 is before your commission
25 letter that's dated September 1 of 2004, correct?

1 A. Yes.

2 (Exhibit No. 4, Amendment No. 2 to Option Agreement
3 For the Purchase of Real Property and Joint Escrow
4 Instructions, marked.)

5 BY MS. LUNDVALL:

6 Q. Let me hand you one more then. Now,
7 handing you what's been marked as Exhibit 4 to your
8 deposition, Exhibit 4 to your deposition is titled
9 Amendment No. 2 to Option Agreement For the Purchase
10 of Real Property and Joint Escrow Instructions.

11 Did I read that correctly?

12 A. Yes.

13 Q. This bears the date of the 31st of
14 August 2004, correct?

15 A. It is it.

16 Q. This is between Coyote Springs Investment,
17 LLC and Pardee Homes of Nevada.

18 Do you see that?

19 A. Yes.

20 Q. And, once again, quite obviously, the date
21 of August 31st, 2004 is before your commission
22 letter then dated September 1 of 2004, correct?

23 A. You know, I don't know if that's correct.

24 Q. Well, your calendar I'm hoping is the same
25 as mine.

1 August 31st comes before September 1st,
2 doesn't it?

3 A. In the back of my mind, I remember
4 something in the latter part of September and I
5 can't think of -- go ahead. In the back of my
6 mind -- go ahead. It will come to me I think.

7 Q. Well, I just want to clarify one thing
8 though: August 31st comes before September 1st,
9 right?

10 A. Yes.

11 Q. I know that sounds foolish, but sometimes
12 attorneys have to ask foolish questions.

13 A. There's --

14 MS. BROOKHYSER: There's no question
15 pending.

16 THE WITNESS: What?

17 MS. BROOKHYSER: Everything you say is
18 taken down on the record. So there's no question
19 pending. Wait until a question is pending.

20 BY MS. LUNDVALL:

21 Q. Now, I want to go back to Exhibit 1 if I
22 could, sir.

23 A. Okay.

24 Q. See the beginning of the second full
25 paragraph? It begins "In the event Pardee approves

1 the transaction during the contingency period."

2 A. Yes.

3 Q. Okay. That paragraph sets out what your
4 commission payments were going to be, correct?

5 A. Yes, it appears.

6 Q. Okay. It reads -- and I'm just going to
7 read it out loud and you tell me if I'm reading it
8 right. "In the event Pardee approves the
9 transaction during the Contingency Period, Pardee
10 shall pay to you (one-half to each) a broker
11 commission equal to the following amounts.

12 And then it sets out (i), (ii) and (iii).
13 Correct?

14 A. Correct.

15 Q. I want to focus on (i) and (ii) to begin
16 with. Pardee was going to pay four percent of the
17 purchase property price payments made by Pardee
18 pursuant to paragraph one of the option agreement up
19 to a maximum of \$50 million?

20 A. Right.

21 Q. Did I read that correctly?

22 A. Yes.

23 Q. (ii) It then says "Pardee shall pay one and
24 one-half percent of the remaining purchase property
25 price payments made by Pardee pursuant to paragraph

1 one of the Option Agreement."

2 Did I read that correctly?

3 A. Yes.

4 Q. Okay. Now, purchase property price is
5 capitalized, correct?

6 A. Yes.

7 Q. So that would tell me that we have to go to
8 the option agreement then to look to see what that
9 means, correct?

10 A. I guess so, yes.

11 Q. Okay. And it goes on to reference
12 paragraph one of the option agreement, correct?

13 A. Okay.

14 Q. Okay. So what I want you to do now is pick
15 up Exhibit No. 2 and let's see if we can find then
16 what that definition is from the option agreement.

17 In Exhibit 2, if you go to page three, I'm
18 going to make this suggestion so it makes it a
19 little bit easier for you: You see at the very
20 bottom of the page there's these Bates numbers? You
21 see these numbers here at the PLTF?

22 A. Yes.

23 Q. All right. Those are numbers that
24 attorneys put on there so it's easier to track the
25 pages on documents. Okay?

1 A. Okay.

2 Q. I want you to start at page two, PLTF 2,
3 and now we're under the first paragraph. Okay?

4 A. Yes.

5 Q. In the first paragraph you're going to see
6 the definition of purchase property price on page
7 three.

8 Go to paragraph (b).

9 A. Paragraph (b)?

10 Q. Yes.

11 A. Okay.

12 Q. All right. You see where I'm at there?

13 A. Yes.

14 Q. Okay. Paragraph (b) starts out "The
15 purchase price of the Purchase Property -- which is
16 capitalized -- (the "Purchase Property Price") --
17 and that's all in caps -- shall be \$66 million,
18 which shall be payable as follows.

19 And then there's a whole big long schedule
20 below it.

21 Did I read that accurately, sir?

22 A. Yes.

23 Q. So in the original option agreement, the
24 purchase property price was supposed to be
25 \$66 million, correct?

1 A. Yes.

2 Q. Okay. And that is the amount under -- go
3 back to Exhibit 1, that you were going to be paid
4 under (i) and (ii), is that right?

5 A. Yes.

6 Q. And you got four percent on a portion of it
7 and you got one and one-half percent on another
8 portion, right?

9 A. Correct.

10 Q. Let's look to the amendments to see if
11 there were any changes to the purchase property
12 price. Okay?

13 A. Okay.

14 Q. So I want you now to go to Exhibit No. 3,
15 which is the first amendment.

16 Feel free to spend as much time as you want
17 to on there, but I will represent to you that I
18 can't find any changes in the purchase property
19 price in that first amendment, but feel free to take
20 a look and see if I'm wrong.

21 A. What you're saying is the purchase property
22 price is \$66 million?

23 Q. When they did their first amendment on
24 July 28, 2004, it didn't change. It was still \$66
25 million?

1 A. That's what you were saying.

2 Q. All right. Let's go to the second
3 amendment though. The second amendment is found in
4 Exhibit 4.

5 A. Exhibit 4. Okay. I got it.

6 Q. Okay. Exhibit 4 then is a second
7 amendment. It bears the date of August 31st of
8 2004?

9 A. Right.

10 Q. All right. I want you to go to page two of
11 that exhibit, and if you take a look at the very
12 top, it says "Paragraph 1(b) of the Agreement is
13 hereby amended to read in its entirety as follows:"

14 Subsection (b) reads: The purchase price
15 of the Purchase Property (the "Purchase Property
16 Price") shall \$84 million, which shall be payable as
17 follows:"

18 Do you see where I'm referencing?

19 A. I see what you're referencing.

20 Q. Okay. So you were to be paid then under
21 (i) and (ii) certain percentages based upon that
22 purchase property price under the option agreement
23 as amended and that amount then was \$84 million?

24 A. Yes.

25 Q. You understood that that --

1 A. I see that.

2 But there's something still in my mind.
3 That's the reason I'm not going to answer. I think
4 this -- there was something signed in the middle of
5 September and I don't know if it was on the
6 \$84 million or what it was.

7 It was August 31st, and I found something
8 that went back -- and I can't remember -- to the
9 middle of September, and it was a conflict of when
10 this August 31st signing was right here.

11 I just can't come up with it, but I found a
12 conflict in that.

13 Q. Let me ask you this: The purchase property
14 price went up across time?

15 A. Yes.

16 Q. And your percentage of commission was based
17 upon that purchase property price?

18 A. Yes.

19 Q. So if the purchase property price went up,
20 the amount of your commissions went up as well.

21 You understood, correct?

22 A. I understand what you're saying.

23 Q. You understood that concept, correct?

24 A. Yes. But what you're saying is -- what
25 you're boiling it down to is we're paid off out of

1 the \$84 million, not on acres.

2 Q. All I'm reading is the contractual
3 provisions that are found in the commission letter.
4 Okay?

5 A. Okay.

6 Q. All right. What I want to do then is to
7 turn your attention to the (iii) if we could. Okay?

8 A. Okay.

9 Q. Going back to Exhibit No. 1 --

10 A. All right.

11 Q. -- (iii) reads "Then, with respect to any
12 portion of the Option Property -- which is
13 capitalized -- purchased by Pardee pursuant to
14 paragraph two of the Option Agreement, Pardee shall
15 pay one and one-half percent of the amount derived
16 by multiplying the number of acres purchased by
17 Pardee by \$40,000."

18 Did I read that correctly?

19 A. Yes.

20 Q. All right. Let's go back then to see if we
21 can find some of the definitions then of option
22 property under paragraph two.

23 Let me ask you this though: You understood
24 that (iii) dealt only with any of the properties
25 that were purchased pursuant to paragraph two?

1 A. Pursuant to paragraph two?

2 Q. Of the option agreement.

3 A. Of the option agreement?

4 Q. Look at the commission letter you've got in
5 front of you, sir.

6 A. Okay. I'm not really following you.

7 Q. All right. Let me see if I can do a better
8 job. My apologies.

9 It may be getting close to lunch, and both
10 you and I may need to have a little lunch. Okay?

11 A. Okay.

12 Q. Let's start at (iii) on Exhibit Number 1.

13 A. I understand (iii).

14 Q. okay. (iii) gives you additional
15 commission on any portion of the option property
16 purchased by Pardee pursuant to paragraph two of the
17 option agreement.

18 Do you see that?

19 A. Um-hmm.

20 Q. Is that a yes?

21 A. Yes.

22 Q. Okay. So if, in fact, Pardee purchases
23 option property from paragraph two under the option
24 agreement, then you're going to get a piece of that
25 action, right?