

aside 58:12	22:15 30:19	back 7:7 10:16	basis 31:2	119:24 121:1,2
asked 10:2	32:10 52:5	16:1 17:6 20:9	basketball	121:4,5 131:7
16:13 20:16	73:1 74:20,20	21:15 23:2	133:19	131:24 132:21
22:19,19,20,21	79:6 90:4,7	36:5 46:14	bear 102:11	139:3
22:22 29:13	99:16,17 104:5	52:22 53:14	bears 67:10	bet 109:14
32:5 49:19	110:8 111:12	54:9 56:16	79:24 107:13	better 30:7 72:3
53:2,5 58:9	111:12 134:23	59:5 62:18	113:15 122:13	129:2 130:9
71:2,3 103:8	141:16,17	66:25 72:9,10	123:21	136:19
104:24 105:2,4	attorneys 78:24	75:13 78:6	beautiful 17:11	Betty 131:17
105:6 108:19	102:24 103:4,6	82:8 90:9	began 38:4	big 18:16 37:3,5
118:20,21	129:9	91:14 93:19,22	119:20 135:21	biggest 49:22
120:2,15	attorney-client	96:13 101:24	beginning 36:4	bill 31:2,9
126:14 132:11	15:2	104:16 118:15	49:11 99:17	birth 8:24
137:3,5,6	audible 45:21	121:22 124:18	begun 116:21	bit 27:8 28:2
139:1	48:13 128:12	126:8 129:17	behalf 31:5 37:8	34:24 35:25
asking 28:9	August 4:15	131:11 134:24	37:19 72:16	47:6 59:9
44:21 56:25	79:25 80:4,6	135:5,11	103:20 104:6	60:14 84:22
88:6 107:17	80:19 116:10	136:16,20	121:13	136:8
127:1 138:9,11	authenticity	137:17,19	belief 126:15	blank 10:18
asserted 25:8	123:5,13	139:11	believe 16:12	12:23 32:6
assessor's 101:5	124:15	background	18:10,11 33:17	BLM 93:15
121:7	available 16:14	127:19,22	34:18,21 35:8	bomb 66:1,1,1
assign 44:6	Avenue 2:14	131:9,10	37:10,15,15,15	Bonanza 133:10
assigned 42:2	avoid 35:16	backup 115:4,9	37:24 39:11	bond 39:7
44:16,17 45:3	award 39:11	backwards	41:14 44:20	bones 36:6
assignment 5:7	103:4	131:13	46:20 47:19,20	book 63:20
41:22,24 42:3	awarded 102:24	bad 127:8	55:2,9 56:21	bookkeeper
42:5 44:14,24	aware 74:15	balance 54:5	57:13 63:14	32:4
45:2,12 123:22	89:2 93:14	108:20	67:11 71:18	books 76:19,19
assignments	94:17 95:17	ball 128:15,23	72:24 89:15,18	born 128:1,3
44:3,4	105:2,8,11,13	ballpark 31:18	89:21 109:11	bottom 69:20
assistants 120:1	105:15,20	Bank 134:14	116:15 127:3,8	75:21 91:19,20
assume 28:20	117:5 138:12	135:2	128:4 129:15	91:23 110:14
31:9 90:3	138:15	bankruptcy	138:16 139:1	111:15
106:20 108:23	awful 99:25	135:7,8,10,13	believed 55:13	bought 53:10
attached 138:4	101:10	based 19:10,11	belonged 100:13	117:7
attend 51:1,17	A-10-632338-C	19:15,15 23:2	benefit 80:24	brain 136:25
attention 46:14	1:7	33:1 56:1 81:3	81:4,6	breach 20:22
69:19 96:2	a.m 2:3 6:2	100:3,4 102:15	best 8:7 13:17	22:25 26:16
97:18 100:19	141:8	125:20	21:21 24:23	breached 97:5
101:24 110:13		basic 14:9 24:18	30:21 40:1,24	break 42:18
110:14 111:14	B	24:21	53:10 55:21	66:24 84:6
113:23 116:5	b 4:5 5:5 87:21	basically 13:12	64:8 68:17	125:3
137:18,25	91:21	20:5 30:1,1	70:10 73:5	breaks 86:18
attorney 13:11	baby-sitter	32:19 46:3	77:11 81:16	breathing 29:21
15:4,7,17	137:21	106:23	104:4,7 106:12	29:22,25

breezed 129:20	C	136:20	children 11:14	commercial
briefly 19:1,1	CA 1:23	caution 26:2	11:15	41:13
109:4	calculations	CCR 1:23 4:4	City 130:17,21	commission 4:7
bring 7:7 51:9	55:25	5:4 141:25	claim 20:21	5:7 14:1,2
59:18 134:4	calendar 80:15	cell 7:24	80:24 81:4,6	15:25 16:22
bringing 118:9	California 6:18	Center 4:24	claims 44:6	17:3,20,23
118:11 119:4,6	12:2 82:3	41:16,17 42:25	45:16	19:10,11,14,16
brings 102:22	110:8 128:4	43:3,19,20	clarify 28:12,20	20:25 21:2,17
broaden 115:12	call 10:11,12	44:25 45:2,4	58:20 126:15	23:13 33:1,4,6
broker 4:24	34:12 83:9	45:11,17,18	clarity 74:22	33:16 34:1,10
122:15 129:24	101:16 107:1	122:14	Clark 1:2 11:11	34:20 35:2,10
129:25	108:14	certain 35:2	11:12 82:17	35:16 36:21
brokerage	called 16:7,13	78:2,12 82:16	92:25 99:24	37:14 44:7
130:3	16:16,25 20:3	134:25 135:12	100:8 101:3	49:15,16,17
brokers 58:13	20:3 36:13,13	135:15	121:8 141:3,5	50:2,4 51:25
99:16	47:19,20 51:16	certainly 56:15	141:21	52:17,21,25
broker's 129:23	51:22 77:5	102:16,16	class 129:20	54:24 56:1,5
130:7	108:16,17	CERTIFICA...	classes 128:20	59:4,16,19
broker-sales	calling 38:10	140:1 141:1	128:21,24	60:1 62:8,11
129:21,24	calls 17:5	Certification	Claudette 10:5	67:11 68:6,24
brother 42:8	candid 26:6	5:7 123:23	clean 27:12	69:5,10,11,15
brothers 117:7	candy 98:24	Certified 2:4	clicked 66:20	70:13 71:16
117:8,24	capacity 132:20	certify 140:18	client 48:5	72:22,25 73:13
brought 17:14	capitalized	141:6,15	close 42:1 62:4	73:19,21,21
37:8,10 44:11	83:20,25 84:2	change 79:9	closed 37:16	74:4 75:1,2
63:4 134:7	84:24 85:4,7,8	140:2	closing 97:13,25	76:14 77:2,6
Brown 10:8	85:19 86:10,12	changed 65:6,8	108:20	79:3 80:23
buddies 47:12	capitals 87:10	changes 25:25	closings 111:15	81:3,9 82:10
Buddy 43:9	caps 87:24	26:3,3 79:2	111:19	83:16,18 84:3
builders 47:15	car 128:6 132:8	88:11	code 8:1,14	84:10,19,22
51:8 59:17	132:9	Chapelle 43:9,9	coded 112:18	85:1,5 86:2,4
building 17:12	CARANO 2:13	43:10 131:17	college 129:6,7	86:14,18,20
built 25:3	care 36:22	131:17,21	color 112:18	89:13 90:10
bulldog 24:9,11	132:13	Charleston 7:14	color-coded	91:3 94:13,17
business 6:21,24	career 74:2	chase 118:11	110:19	94:25 95:24
7:7,8 12:1,9,11	Carmen 4:23	cheats 42:6	combine 112:4	96:16,17 97:4
38:16 73:20	122:14	check 118:22	come 10:16,16	97:16 105:25
78:17 128:14	Carre 1:23 2:4	120:3 130:13	45:5 53:2	106:3,6,9
130:15,18,22	4:4 5:4 141:4	checks 96:6	118:22	107:5 108:13
131:2,6	141:25	105:25 106:3,6	comes 51:24	114:11 115:16
Butler 118:6	case 1:7 26:4	106:9 118:17	coming 14:16	123:22 124:2
119:21,22,25	35:19 64:23	Chicago 105:12	18:25 111:11	125:17,19
buyer 16:19	118:10 134:3	105:20 106:7	137:7	134:4,5
94:24	134:13	118:6 119:4,8	commencing	commissioned
buyers 91:23	caused 73:3	119:9,19	141:7	141:4
		120:21	comment 26:4	commissions

19:11 33:14	129:12	67:18 68:3	90:7 91:4,8	46:21 47:20
36:22 44:14,24	computer 38:7	70:12,16 73:23	94:15,18,22	73:7
45:4,5,10,16	64:10,21	117:16 125:9	95:3,19,22	course 24:19
45:19 49:25	computers 65:7	control 81:24	97:1,2 99:13	25:4,15 38:19
89:3,5 115:16	concerning	85:5 86:14	101:12,22	48:7 51:18
120:24 126:16	69:23 70:25	88:15	107:18 108:22	55:11 60:13
commitment	82:15 106:10	controls 86:2	111:20 113:20	72:21 81:13
59:8,13,25	107:1 108:15	conversation	121:17 124:2,3	124:8 127:7
60:4	112:15,18,23	15:4,17 49:9	125:21 130:5,9	132:18
common 73:20	117:11 121:10	50:13 118:24	132:17 136:7	court 1:1 2:4
communicate	127:18	conversations	corrected	10:17,25 12:22
8:22	concluded	116:20,24	140:19	13:1 23:14
communicated	139:17	119:18,25	correctly 25:24	24:7 25:12
15:12	conclusion	copies 46:7	69:21 70:5	26:20 31:7
communicating	25:18	67:14 75:15	82:19 83:22	32:5,11 71:25
83:1	condensed	76:11 78:19,20	98:2 102:25	72:4 93:21,24
communication	139:16	81:14,19 93:1	corresponding	141:5
12:2 137:17	condition 29:3	121:21,24	110:19	courtesy 27:19
communicatio...	conducting 6:24	122:20	cortisone	71:12
12:3 48:2	confirm 67:16	copy 18:22 19:2	136:23,24	cover 134:4
companies	82:14	23:22 62:12	Cost 134:10	covered 100:1
105:15,21	confusing 94:10	65:8 68:12	costs 31:5	Coyote 16:18
company 18:16	confusion 73:3	97:9,22 103:17	102:24 103:5	21:24 33:14
39:8 42:15	consider 125:23	106:17,18	counsel 14:5	37:5,20,21,24
50:16 94:15,18	considerably	108:25 109:3	24:17 46:11,12	38:21 44:8
94:19 95:1,3	100:25	110:1 122:6,8	54:21 61:25	50:17 51:14
95:11,14,21	contact 112:22	122:13,19,25	64:7,11,13,17	76:5 77:10,23
105:3,4 106:10	contacted 50:8	123:21 139:15	64:23 65:12,16	80:10 82:16
118:7 119:4	contained 72:25	correct 9:3	75:14 81:18,25	92:18 95:9
120:8,21,22	contend 68:19	14:13 15:11	93:11 94:2	104:15,16
123:25 130:3	102:13 125:7	18:23 24:19	105:8,11	108:4 113:19
company's	contingency	31:3,6 32:21	106:24 123:3	117:25
94:21	85:10,12,17,22	44:15 46:18	124:9,12	co-counsel
compensation	continues 114:1	48:9,16 49:6	125:16,20,24	64:19 65:20
133:2	continuing	50:2 52:4,13	125:25 139:10	crack 78:24
complaint 4:14	40:18	54:21 55:10	139:13 141:16	crime 26:17
103:17,18	continuously	58:15 64:7	141:18	crossed 54:8
complaints	40:8	65:25 67:19	counties 82:17	crosswalk
40:23 132:19	contract 20:8,22	68:4,10,11,14	county 1:2	133:11
132:23	20:24 21:16,22	68:20 70:13	11:11,12 92:25	CSI 19:20 20:11
complete 13:18	67:21 68:10,12	73:24 80:21,25	93:1 99:24	20:15 21:22,24
28:16,22 104:6	68:18 70:19	81:5,23 82:24	100:8,13,22	22:23 36:2
141:13	82:9	83:13,16 84:3	101:3,3 121:8	46:15 49:4
completing	contracts 68:16	85:6,19 86:3,8	121:8 141:3,5	57:25 58:11,22
131:5	contractual	86:15,20,24	141:21	59:12 60:5
completion	50:5 57:7	87:10,14 89:20	couple 37:11	63:8,16 64:6

68:3 74:17	44:10 51:22	77:16 79:16	directed 107:20	46:9 92:20
76:18 88:21	dealing 63:16	103:13 106:16	109:24	96:7 104:13,24
95:9,14 98:7	64:6 134:13	107:11 109:21	Directing	105:3,6 138:19
99:23 104:19	deals 35:14	113:8 114:16	100:19 101:24	documents
105:16,21	dealt 74:1	114:18 116:1,2	110:13 111:14	13:10,13,25
108:11,21	debts 135:12	116:3 123:10	directly 94:14	33:17,20 34:19
114:9 116:22	December 98:16	123:20 135:21	95:6,9	34:22 35:9
117:3,5 118:3	decided 34:9,11	139:9,17	disappointed	63:11,16 64:5
120:10,25	116:14,16	140:18,20	51:18	65:21 73:24
121:11 137:14	129:1 133:9	141:7,13	disbursing	78:21 79:16
138:14	declare 140:18	depositions	118:17	81:14 105:9,12
CSI's 117:11,15	deed 92:23	136:25	disc 139:16	doing 7:5 34:23
CSR 1:23	deeds 20:14	deposits 112:1	discern 27:3	60:20 69:14
culminated	93:1 100:10	138:6	Discharged	93:15
129:13	121:9,21,24	DEPT 1:8	135:12	dollars 44:11
Curtis 21:8 24:2	122:2	describe 13:7	disciplinary	51:25 85:8
24:12	Defendant 1:10	19:4 52:15,19	40:22,23	Doyle 6:14
	2:12	127:21	discrimination	draft 62:8
D	define 28:12	described 33:8	132:23,24	drafts 62:17
D 2:14 3:1 6:12	defined 83:19	34:19 35:9	discs 136:20	draw 52:11
6:13 134:18	definition 82:22	111:4	discuss 19:9	drive 6:17 47:14
dash 9:11	85:22 86:1,2	description	38:15	65:1
date 8:24 67:10	86:13 87:12	110:18,21,22	discussed 18:18	dropped 40:15
75:19 77:20	89:19 91:12	110:23,24	22:7 49:25	due 97:15 102:3
79:24 80:1,1,4	92:2	descriptive	51:6,7,7,11	102:10,14
92:16 97:13	definitions	35:25 36:4	discussing 67:12	duly 6:6 141:4
98:1 102:12	86:14 92:9	deserved 111:6	discussions	141:10
107:13 111:15	delay 111:8	desire 78:11	14:19	D-O-Y-L-E
113:15 119:7	delete 64:21	destroy 65:3	dispute 22:16	6:14
140:22	65:3	destruction 65:4	disrespect 26:24	
dated 17:21	delivered 62:8	detail 98:22	27:14	E
74:10 75:21	62:12	determine 57:5	DISTRICT 1:1	E 3:1 4:5 5:5
78:3 106:20	delivery 54:9	127:5	divorce 11:8	earlier 24:16
111:5	depo 55:7	dictates 50:5	134:8	48:17 78:6
dates 97:15	deponent 140:1	died 11:17	document 70:9	107:16
111:17	140:17,22	different 15:21	84:14 88:7,15	early 42:13 43:5
Davis 10:7	deposition 1:14	34:25 37:4	103:19 104:6	43:17
day 25:4 40:9	2:1 10:18	38:9 60:12	113:10 114:12	earn 132:16
58:1,7 61:24	12:23 13:8	77:3,4,5,7	116:6 122:7,13	earned 33:3,5
77:21 79:25	18:22,25 23:4	134:1	123:5,13,15,21	59:19
136:20 139:12	23:7,10,20,22	difficult 27:3,16	124:5,16,24	earning 33:6
141:22	24:19 25:3,5	diploma 129:4,8	125:1	easier 26:20
days 16:8 29:23	25:10,16 29:17	diplomas 129:6	documentation	education 40:18
60:25 61:2,3,8	32:6 48:7 55:6	direct 69:19	22:18 33:13	educational
61:11 102:11	63:23 64:1	113:22 137:18	34:2 38:2	127:22
deal 30:15 42:9	67:9 75:10	137:25	44:19,22 46:4	EEOC 133:2

effect 46:5 120:22	89:21,21 103:4 127:3	exception 70:20 70:20 86:5	extension 12:8 extent 27:10	110:4 113:3 133:14 136:19
effectuate 105:16,22	envelope 40:14 escrow 4:8,11	100:20,20 exchange 27:20	39:25 94:25 extremely 50:23	fees 31:7 102:24 103:5,6
effort 13:21	4:13,20 74:10 77:20 79:21	95:13 excited 51:23	e-mail 8:15 66:3	felt 22:24 100:13
eight 43:12 61:6 61:8,14,23	94:7,9,15,18 94:19,21,22	excuse 53:18 56:14 58:4	F	Fifth 9:22 fight 52:3
either 26:7 37:7 88:13 102:21	95:1,2,14,21 95:22,25	execution 62:7 exercise 97:10	fabulous 42:3 Facebook 8:19	figure 44:22 55:2 87:12
114:12 120:7 120:12,13,21	104:21 113:12 119:12	97:22 98:5,6 99:9,22	fact 19:19 20:10 20:12 22:17	file 33:9 65:11 66:20 103:20
121:6,7	119:12	Exhibit 67:6,9 68:12 69:17	25:25 28:19 56:7,20 57:6	104:5 122:20 filed 34:16
electronic 12:2 64:9,16,17,25	especially 20:4 93:4,5,6 94:23	75:7,10,11,12 77:13,16,18	64:19 71:21 77:9 81:2 86:5	135:6,8,9 files 63:7 64:9
electronically 64:13	ESQ 2:9,13,14 estate 5:7	78:6 79:12,15 79:19 82:8	89:4 90:24 91:11 92:23	64:16,17,18,19 64:24,25 65:9
elevator 14:16 14:19,21,22	123:22 127:25 128:7,14 129:1	84:19 87:16,18 88:3,17,21	93:14 96:25 97:3 99:8	65:24 66:18 122:23 124:19
15:4	129:25 130:20 132:4	90:10 91:14 92:13 96:13,15	103:2 109:14 111:3 114:19	filing 22:2 fill 10:19 12:24
else's 130:7	estimate 38:22 estimating 43:16	101:24 103:10 103:13 106:13	115:15 122:25 124:23 138:17	32:7 filled 131:4
eminent 136:5 employed 7:2,4	estimation 41:10 event 102:3,10	106:16 107:8 107:11 109:18	facts 20:9 25:7 35:20,22 99:21	final 62:8,12 finally 21:11
7:4 42:19 129:25	102:21 eventually 54:1	109:21 110:15 110:16 113:1,8	101:1,21 114:7 factual 99:19	59:2 108:17 financially
employee 125:11,14	78:22 128:7 evidence 19:19	114:13,16 115:23 116:1	failed 129:16,19 fair 57:2,4,14,19	141:19 find 20:6,6 25:6
141:16,17	20:10 25:7 35:20,22 77:8	122:4 123:17 123:20 137:19	57:20 59:24 80:16	60:10 88:11 91:12 121:25
employment 131:8,10	77:8 101:1,6 101:21 114:7	137:19 exhibits 64:1,2	95:19 103:16 fairness 57:8	fine 66:25 83:11 finish 57:17
132:18	exact 43:12 45:14	138:4 exist 33:17	faith 127:9,14 familiar 73:24	66:13 96:3 finished 107:6
enclosed 112:18	exactly 46:2 96:10 115:18	existed 122:2 experiences	far 60:3 116:5 126:8 135:12	128:25 firm 22:8 31:12
enforce 102:22	exam 129:13,15 EXAMINATI...	127:20 expire 40:12	138:11 fashion 7:2	38:9 first 6:6 9:18,20
engagement 30:24	3:3 6:8 examined 6:7	92:15 explain 115:4,8	fast 76:15 Federal 54:10	10:5 16:13 21:6 24:3
enter 39:4 54:24 139:8	141:9 example 15:23	133:14 137:16 explained	feel 30:13,14 74:25 76:15	30:13 36:3 41:12,12 48:24
entered 70:9 74:16 80:22	15:24,24 68:24 98:16	115:13 Express 54:10	79:16 88:10 93:19 103:23	53:1,19,20 54:3 58:2,4
81:3 88:20 124:1 125:19				
entire 69:23 74:1				
entitled 28:20 34:18,21 35:3				
35:9 56:8,22 69:5 89:15,18				

62:16 72:20	112:24 128:24	82:13	86:17 87:14	42:9 47:11,11
75:6,24 79:1	129:2	getting 10:9	88:3,17 91:11	53:23 60:15
79:10 80:2	four 110:23	31:9 36:24	91:14 92:13	69:11 89:10,25
81:17 82:13	115:7 136:18	46:25 62:14	93:19 96:3	96:12 127:14
84:23 88:4,12	fourth 10:9,10	89:9,14 119:13	98:20 100:8	128:17 135:1,2
97:19,21 99:1	four-wheel	132:2 137:11	104:1 110:21	135:23
99:2,2 105:23	47:13	138:23	128:8 129:1	Gotcha 73:18
106:1 110:16	frame 40:21	girls 10:14	131:14 133:14	76:1
113:16 129:15	Frances 118:6	give 10:3 12:5,7	133:17 134:24	grab-them-by...
129:16 131:16	119:21,22	12:13 13:18	136:15,15	24:5
fit 116:17	free 74:25 79:17	15:23 20:17	137:17,19	grand 23:15
five 9:23 92:15	88:10 93:19	22:5,17,24	God 23:12	58:19
115:3,7,8	103:23 110:4	25:2 28:7,15	goes 26:4 126:25	Grant 92:14
flesh 36:6	133:14	31:15,16,18	going 12:24 16:8	grants 93:16
flew 53:3	frequent 73:19	33:23 34:2	25:12,13 26:23	graveyard
focus 68:8 97:18	fresh 129:18,22	35:24 40:1	27:5,12,17	128:23
98:23 110:14	friend 42:1	51:24 53:7,8	29:8,18 30:4	gray 73:15
116:5	friends 125:15	53:12 54:2,3	34:3 36:17	82:25 83:3
follow 90:4	front 68:13 72:5	57:4,11 63:10	38:22 49:3,13	great 16:2,10
following 90:6	126:2	68:25 78:19	49:14,16,20	30:14 36:8
92:16	full 6:10 13:18	79:5 82:6	51:2,17 53:1	Group 41:6,9
follows 6:7	27:22,23 28:16	105:5,7 120:16	53:16 58:18	72:13,17
89:23 93:24	28:21 37:18,24	126:18 127:2,4	59:4 62:5	124:20,25
football 128:16	86:17 115:16	127:5	65:18 67:8	guess 12:17 18:4
133:19	fund 18:14,15	given 25:22	71:10,11,22,23	18:4 42:12
foregoing	18:15 138:7	28:21 33:24	72:3 75:13	62:5 64:20
140:18	further 141:15	57:20 64:7,11	77:15 82:6	89:23 106:19
forever 93:3	future 127:14	64:13 97:10,23	86:19,22 87:4	115:21,21
forget 53:19	136:9,13	111:9 119:24	88:17 91:2,3,6	136:20
119:21		120:8,23	93:15 96:8	guessing 24:13
forgot 135:4	G	137:18	97:21 98:7,11	guy 36:14 42:8
forgotten	gather 61:9,24	gives 111:15,17	98:13,15,21	guys 47:11
131:24	Gee 58:1	111:18	103:12,24	51:17
form 131:4,5	gender 132:23	glad 30:9 42:4	104:23 109:20	
formal 39:3	general 39:14	105:10,13	111:10 113:5	H
123:16 124:14	41:5,6,8,11,13	glanced 106:23	115:25 116:5,7	H 4:5 5:5
forth 52:22	41:14,15,16,22	glaring 23:6	122:6 123:4,19	half 58:1,7
62:18 75:13	42:11,21,25	go 9:19 16:10	125:17 129:7	halfway 72:11
83:21	43:6,14 44:2,3	21:15 23:2	130:10 131:10	114:5 138:3
fortune 134:10	44:17,23 45:1	25:3,15 30:16	136:21,22	hand 67:8 75:9
forward 30:16	45:17 72:13,16	30:16 32:4	138:18,22	77:15 79:14
66:18 67:4	73:14 76:17	36:5 37:12	golf 42:2	103:12 106:15
131:12,13	123:24,25	42:12 45:6,6,8	golly 43:11	107:10 109:20
found 30:21	124:20,25	46:23,25 49:12	good 30:5,6,12	114:15 115:25
47:24 59:2	131:22	53:23 63:24	30:13,14,15,18	122:6 123:19
89:20 92:25	Gentlemen	67:3 75:13	40:20 42:4,6,8	141:20

handed 78:6 113:7	hated 29:23 head 26:22 27:2 129:19	69:19 holding 121:9 121:22	important 26:10 26:11 28:6 85:14	informed 97:14 initial 51:15 58:15,16,23
handling 82:4 handshake 39:6	health 29:15 136:4	home 6:15 7:19 8:10 9:7 12:12	improperly 101:3	59:11,14,25 110:16,20
handwriting 114:20,22,25 116:6,8	healthy 30:5,11 hear 11:18 42:4	Homes 1:9 4:15 16:21 17:2	inaccuracies 23:6	inquired 119:10 inquiries 118:2
handwritten 4:21 114:19	heard 30:20,20 47:18 50:22 135:25	36:13 50:18 76:5 77:24 80:10 107:21 116:9	incidental 132:15	118:5 120:14 121:3
hang 10:9 22:4 104:1	hearing 133:2,3 heart 29:18	honest 26:6 39:7 131:5	income 32:17,24 increase 89:16 89:19	inquiry 120:22 121:6
hanging 7:6 hangs 7:12	held 40:8 hell 17:22 18:15	hope 30:2,4 33:10 127:14 136:12	incur 31:5 indicate 35:12 75:14 99:21	instructed 120:8 instruction 28:7 instructions 4:9 4:11,13,20 25:2 74:10 77:20 79:21 94:7,9 95:22 95:25 113:12 120:9,23
HANSEN 2:9,9 10:23 14:20,24 17:8 22:6 24:7 57:17 61:25 63:25 66:12,15 66:24 67:14 75:16 83:4 88:6 96:3,22 101:13 102:7 107:6 109:16 110:9 122:8,10 123:7,11,14 126:10 132:11 133:12,17 137:21 139:7 139:14	helper 90:11 helping 136:22 hereof 69:24 141:20 hereto 78:11 hereunto 141:20 Hertz 128:6 132:7,9 hey 51:22 120:8 hiatus 42:14,17 high 127:23 128:5,8,10,25 129:4 131:11 132:10 133:10	hourly 30:25 31:2 hours 40:16,18 60:23,23 61:24 130:13 house 38:14 houses 134:22 huh-uh 27:4,7 hunch 113:5 hundred 23:15 31:21 44:10 51:24 58:19	indicated 14:4 14:12 30:17 32:20 36:8 38:3 41:4 46:16 49:3 107:16 114:18 116:7 132:7 indicates 56:20 86:22 89:13 indication 108:10 111:2 individual 107:17 infection 29:22 136:11 influenced 101:3 information 5:10 11:2 13:3 21:7 22:18 32:13 35:3,23 50:19 57:21 61:4,9,24 96:19 97:11,24 102:15 104:8 104:11 107:25 109:10 110:7 111:2,8 112:10 112:11,24 115:5,9 121:14 121:16	intend 26:24 27:13 29:14 40:13 intended 82:14 intent 59:3 intentionally 26:16 interest 36:16 50:20 53:15 interested 16:9 50:16,23 60:13 60:16 141:19 interfere 29:8 internally 132:22 interpretation 85:5 invested 58:17 60:4 investigation 117:14 investment 58:15,21 77:10
happen 59:22 happened 50:24 51:5 53:25 54:6,14,15 76:23	highlight 70:18 71:17 84:13,18 85:13,14 96:25 97:8	I idea 16:10 31:24 31:25 33:23 102:20		
happens 27:4 happy 12:20 hard 21:7 65:1 71:11 98:24	highlighted 65:19,22 66:5 88:24 96:22	ideas 82:6 identified 112:14 identifies 35:2 identify 102:18 ii 87:4 iii 90:17,19,24 imagine 61:8 135:25		
harmed 111:8 Harvey 16:4,13 16:20,25 17:1 17:14 46:21 47:20,21 48:8 48:9 50:8 51:4 76:23,25 77:1 77:2 116:14,24	highlighter 70:19 highlights 65:24 hire 22:14 hired 30:17 hiring 50:19 hit 133:8 Hold 22:13			

117:25	121:25 126:22	judgment	35:11 38:1	L
Investments	137:9,11	134:20	39:11,23 41:11	L 11:16
21:25	138:21	judgments	41:18 42:17	land 22:23 38:8
involved 19:23	Jimmerson 2:9	134:25 135:1,1	43:16 48:21	49:22 53:10
36:1 46:15	21:7 23:1 24:4	Judy 10:5,10,10	50:21 51:2,8	93:16 95:13
51:13 58:10	24:8,10 30:18	10:13,15	51:25 53:18	101:17 108:4
59:21 95:14	46:12 52:11	Judys 10:10	56:4,6,24 60:9	110:18 115:10
97:12,25	54:7,24 62:9	Judy-two's	60:22,24 61:14	landline 8:9
141:18	62:12,19,20,25	10:11	61:19 62:14,15	language 98:23
IRS 135:15	63:5,10 66:22	July 77:21 80:16	65:17,22 66:7	large 59:25
issue 20:24 21:3	74:21 76:10,12	80:18 116:10	66:17,20 68:24	101:17
52:12 56:17	78:23 82:5	134:20	69:21 76:21,21	Las 1:15 2:2,10
68:19 82:9	90:1 93:12	jumped 23:7	76:24,25 79:1	2:15 4:23 6:1
83:13,14,16	94:6,11 104:7	June 74:10,17	79:6 81:18	7:15,24 41:16
136:5	108:16 109:6	78:3 130:17	83:6 89:25	41:17 42:25
Issued 130:17	109:13,15	juror 133:6,7	98:15 101:18	43:2,19,20
item 19:16,17	Jimmerson's	jury 133:5	103:21 104:23	44:18,18,24
IV 1:8	30:24 31:11		105:10,23,24	45:2,3,7,11,17
I's 54:8	Jim's 20:5,12	K	108:23 109:15	45:18 48:20
J	33:21 63:18,20	keep 23:22	110:3,8,9,10	53:11 122:14
J 11:16	69:3	44:12 63:8	110:11 111:5	122:20 127:21
Jack 41:13,21	job 1:25 25:23	64:9 72:5	112:7 114:10	128:2,10
41:23 42:1,11	36:12,15 60:15	75:11,12 97:13	115:18,21	130:17,22
42:20 131:21	jobs 128:7 132:1	98:12,18,21	119:12 120:18	131:23 134:14
James 1:5 2:18	132:15	126:25	121:13 127:1	135:2
Jim 4:16,18	John 16:17	kept 21:10	131:20 133:23	Lash 16:3,9,16
13:11 15:25	53:22	38:10 116:15	134:22 135:5	17:14 36:9,11
16:2,4,6,7,10	join 42:11	119:6	136:4 137:5,13	37:2 38:11
17:5,13 18:4,4	joined 45:5	kills 126:8	138:8	47:3,6,10,15
18:8,9 19:21	joint 4:8,10,13	kind 7:5,11 24:4	knowing 92:21	48:15,19 49:4
20:3 32:4	4:20 74:10	53:7,8 59:8	knowledge	49:9,19 50:1
36:25,25 38:3	77:20 79:21	74:20 94:6	21:21 24:24	51:4,16,21
38:10,12 39:10	113:12	115:12	40:24 46:16	53:4,17 58:9
46:12,20,23	jointly 15:9	kinds 51:7	55:21 64:8	60:1 69:7
47:11,12,13,17	Jon 16:3,9,16	Klif 17:14 48:17	68:17 70:10	107:1,3 109:24
47:18 48:11,12	17:14 18:9	48:18 51:3	73:5 77:11	112:23 126:22
49:23 51:3,8	36:9 37:1	Klif's 48:21	81:16 82:3	137:9 138:21
52:23 53:3	38:11 47:3,11	knee 126:8	92:17 95:25	late 42:13 43:5
56:13 63:3,3	47:15 48:14,15	knew 18:14 38:7	99:8 104:4,18	law 26:15
69:7,12,13	48:19 51:4,16	38:8	104:22 106:12	lawsuit 22:2
71:22 82:3,4	51:21 53:4,16	know 6:19 9:20	121:1,2,5	33:9,11 34:17
99:24 100:12	54:1,9 59:15	12:14 18:16	131:7 132:21	118:13 119:10
107:4,21	59:16 61:7	19:25 21:24	139:3	120:11
108:16 109:13	69:7 109:24	22:4 23:12	known 24:4	lawsuits 134:7
110:6 121:14	126:22 137:8	24:6 29:7	77:2	lawyer 15:15
	138:21	31:20 34:10,22	K-L-I-F 48:21	

21:8,8 24:5	108:15,22	Listed 110:17	80:9 99:24	123:12,18
lawyers 59:21	109:23 110:1	listen 51:16 71:7	117:18 133:25	124:12,17
78:23	111:1,4,5	listening 22:3	looking 20:5	125:4,6 126:13
lawyer's 21:6	112:24 115:16	litigation 20:21	30:8 39:25	132:14 133:13
leader 17:23	124:22 125:17	23:19 52:13	47:12,14 55:18	134:2 137:24
lease 6:10	125:19 136:6	68:19 78:20,22	84:15	139:5,8,15
leave 10:18 32:6	138:13	81:13 103:18	looks 100:5	lundvall@mc...
139:4	letters 20:4 21:4	116:21 119:5,6	Los 53:3	2:16
leaves 12:23	52:24 73:19,21	119:20,22	lost 65:7,9 133:9	LYNN 2:9
led 17:4 52:16	75:2	134:8 137:4	133:9	
52:20 58:10	let's 10:3 13:13	139:2	lot 19:8,22,22	M
left 42:10 44:2	30:16 38:21	little 25:3 27:8	37:1,2,3,3 38:7	mackerel 10:6
45:11 53:13	39:10 42:12	28:1 34:24	38:8 58:16	main 8:5
65:13 113:3	46:23 74:22	36:6 47:6	60:11 65:9	maintain 12:3
leg 133:22	75:22 87:16	58:14,21 59:9	99:25 100:5,15	making 17:4
legal 22:15 57:1	88:3 91:11	74:22 84:22	101:10 129:18	48:15 58:18
94:5 99:15	113:3 115:3	86:22 87:4,21	131:18	60:16 72:2
legally 79:6	134:13 135:9	98:22	lots 37:10	76:8 80:13
lesser 52:25	137:17	live 70:12,16	loud 26:21	108:6 110:25
letter 4:7,15,16	Lewis 1:23 2:4	lived 71:15,18	116:7	120:22 124:13
4:18,22 14:1,2	4:4 5:4 141:4	lives 9:12	love 10:2 36:18	man 41:10
17:20 19:10,11	141:25	living 132:16	loved 42:8 47:25	48:19
19:14,16 20:25	License 7:5,11	LLC 21:25	lowballed 52:1	manner 123:16
21:2,12,18	39:18 40:6,9	77:10	lowest 53:5	map 20:5,19
29:7,16 34:1	40:11 41:18	LLP 2:13	LST 1:25	33:21 69:3
34:20 35:2,10	129:21,23	located 82:16	LUNDVALL	110:19 112:18
50:2,5 52:17	130:8,11,15,18	location 11:10	2:13 3:4 6:9	121:18
52:21 53:16,16	130:20,22,24	lodged 40:23	10:25 11:6	maps 19:21
53:20 54:1,7	131:2,6,14	132:19	13:1,6 14:22	20:12 22:19
54:10,18,24	licensed 38:18	long 9:14 17:25	15:6 17:17	34:2 60:7 96:7
56:1 62:8,11	39:16 129:25	23:18 34:16	22:10 24:15	99:24 100:3,4
67:10,11 70:13	141:4	39:16,20 41:2	32:11,16 57:22	100:9,16,24
71:16 72:22,25	liens 135:15	41:8 106:18	62:3 64:3	101:23 102:15
73:13 74:5	life 19:7 24:13	111:6 136:21	66:16,25 67:3	104:13 115:4,9
79:3 80:23	75:3	longer 120:9,23	67:7,15 75:8	127:6 138:18
81:3 82:14,24	Limbecker 9:11	126:4	75:14,18 77:14	marathon 40:3
83:16,19 84:3	Lincoln 82:17	Lonny 11:16	79:13 83:7	March 113:16
84:19,22 85:1	92:25 101:3	look 13:9,25	84:6,8 88:9	mark 4:23 24:7
85:6 86:2,4,14	121:8	25:21 30:5,7	93:21 94:12	113:3 122:14
86:18 89:13	line 5:11 73:12	30:11 32:1,3	96:9,24 101:20	marked 67:6,9
90:10 94:17	73:13,15,16,16	65:11 75:22	102:8 103:11	75:7,9 77:13
95:1,24 96:16	81:4 82:23,25	88:6 90:2 92:4	106:14 107:9	77:16 79:12,15
96:18 97:4	83:2,2,3,3,9,12	99:11 108:24	109:19 110:12	103:10,13
106:17,18,22	83:14,18	109:2 110:4	113:2 114:14	106:13,15
106:25 107:13	135:25 140:2	135:9,22	115:24 122:5,9	107:8,10
107:20 108:1,3	lines 115:3,7	looked 66:19	122:11 123:3,9	109:18,21

113:1,7 114:13	84:3	114:9 126:20	117:25	60:11 100:24
114:15 115:23	means 25:12	138:6	narrative	nicest 125:14
116:1 122:4	92:1	mind 129:22	110:18	night 30:14
123:17,20	media 8:20	mine 44:9	nature 19:4	note 40:11
marriage 9:18	medical 29:3,6	minus 40:7	132:24 133:3	130:14
9:21,22	medications	minute 69:1	near 108:18	notes 4:21
marriages 9:19	29:25 136:14	118:15	necessity 29:14	141:11,14
11:7	meet 14:5 24:17	minutes 79:5	neck 27:2	notice 97:22
married 9:2,14	36:11	missed 42:7	128:17	98:5,6
9:16,23 135:24	meeting 14:8	modified 70:3	need 26:1 27:10	November 1:16
material 26:3	15:14 16:21	Monday 1:16	39:6 66:12	2:3 4:3,18 5:3
materials 63:4	17:5,13,13,16	2:3 4:3 5:3 6:1	84:6 87:13	6:1 111:6
math 129:19,20	48:1 49:18,20	141:8	88:16 115:10	141:8,22
matter 69:23	49:21 50:22,25	money 18:3 20:2	122:8 123:16	number 4:6 5:6
73:17 82:23	51:1,4,5,15	33:16 53:7,8	137:22	7:22 8:13 12:5
96:25 100:6,12	53:4 57:24	56:16 102:3,10	needed 34:2	12:7,14 16:15
100:16 101:4	58:2,4,15,16	102:13 132:4,6	negotiated 50:2	16:16 32:7
matters 97:14	58:23 59:11,14	137:7,13,15	negotiating	56:10 69:6,7
97:15	59:25 60:3	138:13	52:22 60:1	71:7,10 73:15
Matthews 41:13	110:7	monies 45:7,19	negotiation 52:4	84:9 91:7 92:4
41:21,23 42:11	meetings 51:13	56:9 95:13	52:6,7	97:12,25
42:20 131:21	51:18,20 82:5	month 40:12	negotiations	119:12 120:3
ma'am 8:23	98:20	44:11 129:21	52:16,20 54:20	126:18 127:2,5
12:25 26:13	memorialize	135:4	58:10 69:25	numbers 8:3
27:21 33:2	25:11 39:3	monthly 32:23	116:22	20:6 22:20
40:10 41:7	memory 39:23	months 12:16	Nevada 1:2,9,15	55:5 93:5
48:10 67:13,20	46:2	21:10,11,11,11	2:2,5,10,15 6:1	100:4,6,11,12
68:21 70:17	men 39:7	59:1 111:13	49:23 76:6	138:19
76:9 77:17	mention 138:18	136:18	77:24 80:11	NV 1:23
80:7 84:11	merged 69:25	moo 44:23	82:17 127:24	
86:21 96:15	message 8:7	morning 18:21	141:2,5,22	O
102:1 107:12	met 10:13 19:3	63:21	never 17:24	oath 30:10
107:15 113:24	38:8,14,14	move 30:16	18:6,9 20:3,7	object 123:4,14
McDONALD	125:14	131:12,13	20:16,17 31:8	objecting
2:13	Michael 10:2	Mulligan 42:7	33:5 34:4	123:13 124:15
mean 26:23 27:1	midnight 113:6	multiplied 91:7	35:23 37:4	obligation 24:22
27:5,5 31:1	million 17:24		67:24 68:6	26:14,15,16
33:23 44:17	53:21 54:2,3,4	N	75:3 81:7,8	57:8,13,18
53:8 58:2,4,18	54:11 55:2,3	N 3:1	96:6 98:6	70:12,16 96:18
71:5 73:15	55:13,19 56:1	name 6:10 9:4	111:11 125:11	obligations 14:9
77:12 82:25	68:6 77:9 85:8	10:11,12,19	125:13 129:24	24:18 71:16
83:24 92:5	85:9 86:6,6,7,7	12:13 24:1,3	130:2 137:10	94:21
93:2,6 117:20	87:1,6,25 88:1	24:11,12 39:8	new 17:12 47:12	occurred 112:15
126:1 137:16	88:23 89:3,5	48:21	93:5,6 100:9	offense 30:4
138:20	108:5,11,13	names 9:25 10:3	100:10	offered 123:7
meanings 83:21	112:1,7 114:1	10:15 48:24,25	newspaper	offhand 14:3

office 7:9,10,11	126:11,21,23	98:15,17 99:3	138:1,3 140:2	17:2,6 19:20
17:6,12 21:6	128:5 129:11	99:9,10 112:1	paid 17:24	20:10,15,25
30:24 38:13,14	129:16 130:21	113:11 138:6	31:11,19 36:22	21:3,17 22:16
121:7,7 141:21	133:21 134:19	options 20:2	37:16,17,24	22:23 25:9
offices 48:2	134:22 137:22	99:22 100:1	44:10 53:10	33:7,13 34:19
57:24 59:12	138:2,24	oral 69:24	55:1,10,14,15	35:15,15,23
officially 7:6	once 25:21	order 44:7	58:18 70:22	36:2,13 37:7
oh 9:15 10:11	27:13,17 42:2	orders 105:5	77:9 86:6,20	37:19 38:4
38:19 41:10	51:9 56:3	original 76:4	89:2,5,14 91:3	46:15 47:25,25
55:11 96:12	82:12 109:23	124:24 139:9	91:9 102:12	48:4,5,20
102:6,20 114:6	113:19,25	originally 19:24	108:11,13	49:14 50:6,9
115:3,8 134:22	115:3,8,13	38:8	111:19 114:9	50:18,23 51:14
okay 10:1,7,8	124:12	originals 63:10	119:13 120:10	53:3 56:8,21
12:13 15:3	ones 13:14,16	64:6	120:24 126:20	57:2,14,24,25
16:21,22,24	37:5 64:21	Outside 37:20	127:10,12	58:11,22,25
23:16 25:17	65:13,15 84:20	37:21 86:7	134:9,9 135:17	59:12 60:5,13
27:9,15 28:4,5	124:11	119:13	135:18,20	60:16 62:18
28:17 29:7,10	online 117:19	out-of-pocket	137:10 138:23	63:8,17 64:6
29:20,25 30:1	oOo 6:3 139:18	31:5	Pamela 10:7	66:7,17,20
34:5,13 35:1	open 65:10	overpaid 18:5	paper 16:6	67:19,22 68:3
37:16 39:22	opening 94:21	18:10 56:8,9	47:17 63:16	68:10,15 70:11
43:24 49:1,2	operative	56:11,13,14,21	papers 46:19	71:15 74:17
49:12 51:11	103:18	56:23 57:3	paragraph	76:5,18 77:9
52:22 56:4	opinion 97:3	overpay 18:6	69:20,22 80:2	77:24 80:10
58:3,6 59:2,22	opportunity	overpayment	84:9,23 85:11	82:15 88:20
64:22 66:11	14:5 24:17	56:5	86:18 90:21	90:21,22,25
68:9 69:1,14	25:20,22 28:8	owe 33:15 56:15	91:1 92:14,18	91:8 92:17,23
69:15 71:9,13	92:8 93:9,25	57:6	92:24 96:17,20	94:19 95:6,14
72:7 75:17	103:19	owed 126:15	97:10,23 98:8	97:5,9,13 98:6
78:9 79:11	option 4:8,10,12	owner 41:17	99:3,9,11,14	99:9,22 100:14
80:3,12 85:16	4:19 19:17,20	oxygen 29:24	102:2,6,9	100:21 101:2
86:11,16 87:17	20:11,14 34:12		113:17 114:6	103:3 104:9,12
88:5,8,25	74:5,8,12 75:4	P	paragraphs	104:15,15,19
90:11,13,14	75:4 76:4,11	page 3:3 4:6 5:6	86:19	105:5,16,21
91:23,25 92:11	77:18 78:2	5:11 48:24	parcel 20:6	107:17,21
96:16,23 97:7	79:20 80:9	69:17,20 72:9	22:19,19 33:21	108:4,10,21
97:20 99:5,20	82:18,22 83:21	72:10,11 73:10	49:22 93:5	111:25 112:11
100:2,3 103:25	83:25 84:24	75:25 78:1	96:7 100:3,6,9	113:20 114:9
104:1,1 107:7	85:21 86:1,13	87:18,21 88:21	100:11,12,16	115:14 116:9
107:22 109:17	87:14 90:19,22	90:16,17 91:16	101:23 104:13	116:16,23
109:22,25	90:25 91:1,12	91:17,18,20,23	138:19	117:12,16
111:21 112:9	91:13,20,24	92:13 96:21	parcels 33:21	118:4 119:8
113:24 114:2,6	92:2,10,14,22	102:5 103:14	101:17 112:19	120:8,10,24
114:21 116:2,4	92:23 93:1,10	110:16,21	Pardee 1:9 4:2	121:11 124:2
117:24 122:16	94:1 97:10,11	111:15 113:23	4:15,16,18,22	125:8,12,25
124:22,23	97:22,23 98:5	113:25 114:5	5:2 16:3,21	127:8 137:6,13

138:5	payment 108:4	physician 136:3	postpone 29:17	109:13 119:21
Pardee's 48:2	payments 86:24	pick 9:6 131:12	power 100:22	139:4
59:11 96:18	94:13 95:2,6,8	131:13	practice 99:18	problem 29:11
paren 87:24	95:10 97:16	picked 9:10	preparation	problems 29:6
part 23:19 34:4	127:15	24:10 46:20	13:7,21 23:3	proceeding 26:7
46:22,23 60:1	penalty 140:19	piece 133:22	prepare 13:17	26:11 133:2,15
94:21 95:24	pending 82:15	pieces 35:3	prepares 25:19	process 26:10
Partial 112:13	126:10 133:12	place 43:10	25:21	produce 38:1
particular 46:17	135:16	131:16,19,20	present 2:17	profession
60:3,5 70:8	people 8:22	Plaintiff 2:8	15:5,7,18	11:23
71:16,17 72:19	27:17 30:20	Plaintiffs 1:7	36:19 39:19	professional
74:4 75:19	49:1 53:9 90:3	plans 98:13	40:9,21 42:16	74:2 127:20
82:23 103:14	138:8	play 42:2 128:15	47:15 57:25	132:19
122:22 123:5	percent 16:22	128:23	60:8 108:12	program 65:5
124:5,15	36:22 44:12	player 133:19	presented 47:3	promised 34:1,3
135:19	49:15,17 53:6	133:20	47:23 49:10	prompted 22:2
particularly	53:10,12,17,19	please 7:23 8:17	president 36:12	22:11,14 33:8
110:14	53:20,23,24	30:24 32:12	pressing 39:23	proof 56:17,20
parties 78:11	54:3,12 86:23	66:11 72:6	pretty 30:5,5,6	126:25 137:6
141:17	87:5 90:23	73:8,10 96:14	30:11,13 36:3	proper 57:20
partner 13:11	91:6 102:12	101:25 110:15	97:8 128:17	properties
14:13 19:6,7	percentage 89:9	139:16	135:22	16:23 36:19
69:7	91:2	PLTF0146 4:22	prevailing	37:3,4 38:5
partners 19:7	period 41:5 49:5	PLTF0151 4:21	102:23 103:3	59:1 70:21
37:1 38:4,6,11	61:12,13,16,20	plus 40:7 55:3	prevent 28:24	82:21 93:4
38:12,24	61:23 85:10,12	55:14 138:20	29:4	98:8 115:18
partnership	85:17,22	point 6:25 7:3	previous 9:1,5	118:4
39:4	102:11 139:12	15:16 18:7,9	11:7	property 4:8,10
party 98:18	perjury 26:17	24:8 31:12	price 19:12 56:2	4:12,20 16:4
102:22,23	140:19	32:18 35:12	79:3,9 86:23	16:10,14,18
103:3	person 141:18	36:24 37:23	87:5,9,13,24	17:4 19:8,12
Pass 139:5	personal 5:7	38:17 39:17	88:12,23 89:8	19:17,20,22,22
passed 40:19	6:15 123:23	47:1 51:19	89:9,12,15,22	19:25 20:11,14
PAT 2:13	126:15	63:7,13,15	114:1,8	34:12 36:16,19
pay 18:2 34:13	personally	76:10 83:2	prices 111:19	36:25 37:1,7,8
35:16 36:20	119:18	92:9 95:5	112:5,15	46:15,17,22
44:10 49:14,16	perspective	112:22 118:9	primary 20:21	47:3,13,15,21
58:19 59:4	117:15	118:18 125:10	25:5	47:23,25 49:4
70:22 77:6	phases 92:5	131:12,13	prior 45:5,10	49:12,21 50:17
90:22 132:2,5	phone 7:22 8:3	polite 27:18	62:7,10,11	50:20,21 51:6
137:7	8:6,13 12:5,7	portion 53:23	119:9,10 141:9	51:10,12 56:2
payable 89:22	12:14 15:19,20	55:7 97:1,4	privileged 15:2	56:11 57:10,21
paying 17:2	111:12	114:19 129:19	probably 18:20	58:25 59:19
18:11,13 20:2	photocopies	pose 109:9	28:6 43:15,23	60:9,14,16
56:11 95:21	31:7	posed 109:6,12	43:24 66:22	74:9 75:5 77:5
135:3	physical 29:3	possible 118:16	76:12 81:20	77:6,7,19 79:2

79:9,21 82:16
 86:23 87:9,13
 87:23 88:12,23
 89:14 90:20,25
 91:13,20 92:2
 92:10,18,23,24
 93:1 99:25
 100:5 101:10
 102:17,17
 108:11 113:12
 114:1,8 116:9
 117:22 121:19
 proud 49:20,23
 provide 12:21
 20:8 22:21,22
 96:18 97:9
 98:9 124:11
 provided 20:7
 92:21 93:11
 94:2 95:1
 96:25 124:9
 139:10
 pry 29:14
 public 33:18
 40:12 100:6,16
 pull 76:15
 purchase 4:8,10
 4:12,20 19:12
 56:2 74:9
 77:19 79:2,9
 79:20 82:15
 86:23 87:5,9
 87:13,23 88:12
 88:23 89:8,9
 89:12,14,22
 90:21 91:3
 111:18 112:5
 113:11,25
 purchased 37:9
 90:25 91:8
 92:17 114:8
 Pure 101:8,12
 purely 41:10
 purpose 25:5,10
 131:1
 purposes 84:25

134:4
 pursuant 82:17
 90:21 91:1
 92:18,24 95:22
 97:10,23 98:8
 pushed 37:1
 put 29:20,22
 36:5 41:18
 58:22 59:12
 68:25 103:20
 134:24 137:1
 putting 60:5
 61:3
 p.m. 139:17

Q
 quantify 60:19
 quarrel 59:6
 question 10:2
 20:9 21:15
 23:2 27:22
 28:2,11,16,21
 33:9 34:24
 42:24 43:2
 44:5 52:18
 58:20 59:9
 62:21 66:15
 68:7 71:8,19
 73:14 74:24
 76:17 92:6
 93:18,20,22
 98:4 99:15,19
 103:16 109:12
 115:12,13
 122:12 124:18
 126:10 132:12
 133:12
 questions 13:18
 17:9 24:23
 25:6,13,24
 26:21 28:25
 29:5,13 30:3
 73:7 79:18
 92:8 101:15
 103:25 107:1
 107:17 108:15

109:5,9 112:23
 120:16 127:18
 129:10 137:2
 139:1,7
 quick 23:5 97:9
 quicker 90:12
 quite 41:15
 60:14 135:11

R
 racial 132:23
 racked 128:17
 raise 101:13
 raised 128:1
 ran 20:15 56:3
 rate 102:11
 reach 8:5
 reached 8:4
 52:8,9
 read 69:21 70:5
 72:20 73:2
 82:19 83:22
 93:22,23 97:6
 97:8 98:2
 102:25 103:15
 106:22,24
 116:7 140:19
 reading 47:18
 138:13
 reads 69:21 70:2
 82:13 102:21
 ready 30:16
 46:25 67:3,5
 real 4:8,10,12
 4:20 5:7 71:10
 74:9 77:19
 79:20 82:16
 113:11 123:22
 127:24 128:7
 128:14 129:1
 129:25 130:19
 132:4
 really 52:1
 59:18 60:13
 89:25
 Realtor 38:18

39:16 128:19
 128:21 129:13
 130:11,24
 Realtor's 40:6,8
 realty 4:24 7:5,9
 32:21 38:9
 39:8,14 41:5,6
 41:8,11,16,16
 41:17,23 42:11
 42:15,25 43:2
 43:9,10,19,20
 44:17,18,18,25
 45:2,4,8,11,17
 45:18 72:13,17
 122:14,21
 123:24,25,25
 124:20,25
 129:12 131:17
 131:21,22,22
 131:23,24
 reason 26:22
 28:10,24
 138:16 140:2
 reasonable
 102:24 103:4
 reasonably
 97:14
 recall 7:17
 10:20 18:20
 35:6 42:10
 50:13 55:7
 receive 32:23
 37:14 95:5,8
 105:25 106:16
 received 40:5
 76:11 78:20
 81:14,19 92:25
 94:14,14 95:2
 106:3,6,10
 108:25 109:3
 115:15
 receiving
 106:25 109:10
 recital 78:8,10
 Recitals 78:1
 recognize

114:22,24
 recollection
 8:12 12:18
 13:24 32:2
 40:5 41:1,2
 49:8 52:15,19
 55:12 110:5
 118:21 119:14
 119:25 131:25
 reconfigurati...
 93:15
 record 6:11
 27:12 67:2
 84:7 93:23
 100:7,12,17
 101:5 123:8,9
 123:12 125:5
 recorded 101:4
 121:10,23
 recorder's
 121:7
 recordings 93:3
 records 33:19
 40:13 124:19
 recover 33:10
 refer 138:8
 reference 9:7
 48:8,11,14,15
 48:17 74:5,8
 74:12 76:8
 78:2 79:19
 80:13 83:12,15
 90:19 91:19
 92:22 99:3
 108:6 110:25
 138:4
 referenced 79:3
 82:18,21
 references
 108:3
 referencing
 74:13 78:5
 referring 48:8
 48:12,18 63:1
 68:2,5 83:5
 119:15

LITIGATION SERVICES & TECHNOLOGIES - (702) 648-2595

JA001824

reflecting 138:4	109:11,15	request 123:4	112:12,16,20	17:4 19:16
refresh 32:1	111:1 119:1,7	123:15 124:13	112:21 113:22	36:14,17,18,20
110:5	126:19 134:12	124:14	120:19 125:17	36:21,21 38:10
regarding 83:9	134:13 136:8	requested 22:18	126:2,3,16	49:13 69:12,13
83:12,14	renew 40:13	required 130:23	128:20 129:14	78:10 82:12
116:22	130:10	resort 7:19	132:16 138:3	83:19 84:23
regular 136:14	rent 128:6 132:3	respects 78:12	rights 102:22	85:8 87:4
reimbursed	132:7,9	responsible 31:4	right-hand	90:24 97:21
57:2	rental 132:10	130:3	48:19	111:24 115:2
reimbursement	rep 132:10	Restated 4:19	Rubicon 7:4,9	138:11
56:22	repeat 28:2,11	113:11	32:21 33:4	scheduled 40:11
relate 131:8	28:19 52:18	result 14:8	41:17 43:3	97:12,25 136:9
related 63:8	rephrase 28:11	retired 6:22,22	44:1,19 45:13	136:13
relates 130:22	93:18	return 56:8	45:18,19	scholarship
relating 97:15	reported 1:23	review 10:20	122:21 131:23	133:21,22,24
relationship	141:6	18:24 23:6,7	run 16:9,17 49:4	school 127:23
16:3 19:5 21:3	reporter 2:4	25:22 62:9,13	55:25 57:9	127:25 128:5,8
36:9,17 47:5,6	10:18,25 12:22	93:9,13,25	72:4	128:25 129:1,4
47:10 50:6	13:1 24:8	139:11	runs 57:8	129:12 131:11
125:8,9	25:12 26:20	reviewed 13:14	R-E 73:16 83:4	132:10 133:10
relationships	31:7 32:5,12	23:4		
117:16	71:25 72:4	reviewing 32:7	S	
relative 31:17	93:22,24 141:1	right 12:19 14:6	S 4:5 5:5	
141:15,17	141:5	15:10 16:11,24	sabbatical 42:22	
relatively 135:7	represent 16:19	18:22 20:22	Sahara 2:2,14	
relax 137:11	16:21 49:13	22:5 25:23	sale 22:23	
138:22	50:18 79:8	26:1 27:24	117:19	
relevant 137:3	representation	28:18 30:19	sales 34:8	
139:2	126:21	32:10 34:14	104:15 129:15	
relying 54:23	representations	35:5,8 36:9	salesman 4:24	
remain 135:15	69:24	37:25 41:6	122:15 130:1,7	
remaining 87:5	representative	43:6 44:25	salesmen 130:4	
remains 102:10	101:2 118:3	45:9,20 47:7	salutation 82:12	
remember 9:9	119:3,19	50:10 51:3	Sandy 37:3	
9:15,25 10:14	120:20	55:16,20,23	sat 51:4,8	
10:14 12:12	representatives	58:11 60:17	save 62:17,21	
14:3 15:21	51:14 57:24	63:5 65:8,12	saved 62:24,24	
16:12 18:17	117:2	68:25 74:7,14	saw 16:5,6	
23:17 24:3	represented	76:7 80:18	20:18 21:6	
31:8 39:13	23:24 48:5	84:16 86:25	23:1 67:24,24	
41:20 43:11	54:21 125:16	87:2,19 88:2	68:6 106:18,19	
58:24 61:15,19	representing	88:19 89:10,16	106:20 136:6	
61:21 62:1,2,6	17:2 49:21	89:24 90:4,15	saying 21:12	
62:14,15 66:6	50:9 94:23	92:12 97:5	50:9 63:23	
82:7 94:3,4	represents 15:9	99:1,14 101:9	says 16:10,16,17	
106:2 108:23	69:22	102:7 111:18	16:20,22,23	
				78:14 79:22,25

80:1,4,13	separate 86:19	shown 33:21	slip 17:22	spent 58:1,6
81:11 83:4	92:5	shows 33:13	slipped 89:7	59:1 60:20
84:12 85:1,11	September 4:7	38:2	slow 28:1	61:1 128:11
85:12,17 87:6	17:21,21 18:1	sic 55:3	100:25	split 55:15,22
87:20,23 88:1	21:17 52:16,20	sign 44:8 45:4	slush 18:14,15	spoke 14:12
88:18,22 89:5	67:10,22 68:15	68:16	18:15 138:7	spoken 117:10
91:12,19 92:2	80:16,18,19	signature 72:12	smoother 25:4	118:6
92:13 99:6	serves 55:12	72:14 140:19	social 8:20	Springs 16:18
101:17 103:19	set 16:21 17:12	signed 21:19,20	32:19	17:7,11 21:24
107:23 108:5,9	17:13 48:1	44:18 45:14	sold 22:23 37:7	33:14 37:5,20
110:4,25 111:1	49:18 50:25	54:18 67:25	49:23 59:1,2	37:21,25 38:21
111:22,24	76:19,19 83:21	68:10 70:4,8	118:4	44:9 50:17
112:1 113:12	141:20	72:19 75:23	somebody 50:8	51:15 76:5
113:15,16	setting 17:5	76:14 89:6	134:15	77:10,23 80:10
114:3 115:3,6	settled 23:14	122:7,17,25	son 12:17 133:8	92:19 95:9
116:17,18	134:8	124:4,11,14,24	sorry 11:18	104:15,16
117:19,21	settlement	significant	18:20 31:20	113:19 117:25
119:11 134:13	92:16	31:16,17	43:16 61:21	SS 141:2
seeing 69:3	shake 26:22	121:19	63:19 65:17	stalling 21:10
seek 22:11,14	27:1	signing 62:11	88:8 105:1	stand 6:13 126:6
104:9,10,11	share 26:9 82:2	72:16	119:2 126:11	standpoint 57:1
112:11	107:25 110:1	similar 25:19	134:12 135:4	start 13:13
seen 19:21 29:7	shared 46:11	simple 103:16	135:24	43:19 73:10,12
29:16 76:13	121:16	simply 60:4	sofio 91:24	87:16 91:17
81:8,17,22	shares 81:25	sir 8:24 23:10	92:15	started 36:24
103:21 104:2	shark 24:5	70:14 71:20	sounds 8:9 9:1	43:5,8,13,18
114:12 124:7	Sherry 10:8	79:8,16 82:11	12:9 47:4	43:20,23
138:20	SHIPLEY 2:14	88:11 91:17	58:14 60:15	starts 102:3
Scene 117:10	short 129:18	98:4 102:5	128:1 136:23	115:3
sell 116:14,16	shorthand	103:23 110:5	sources 32:17	state 2:5 6:10
132:4	141:11,14	112:10 113:7	South 2:10	117:18 141:2,5
seller 37:16	shortly 54:10	114:15 116:3	Southern	141:21
send 31:2 65:4	132:9	sit 38:15 50:21	127:24	statement 45:4
65:12	shot 42:7	74:15 79:4	space 7:9	80:17 82:1
sent 21:12 53:16	shots 136:16,17	85:3	spasms 136:20	138:17
53:16 54:8	136:22	site 8:20	speak 119:3	statements
64:18,22 65:15	show 34:9 93:4	situation 129:2	120:20	69:24 108:21
65:20,22 66:2	100:21,23,24	Sixth 2:10	speaks 96:18	stating 53:17
66:21 98:6	115:17,22	Sixty 7:14	speculating	54:1
118:22	117:24	Six-four 126:7	35:19	stayed 48:6
sentence 70:2	showed 19:21	size 49:22 93:5	speculation	steel 133:23
82:13 84:23	19:22 37:2	sized 69:11	101:8,12,16	step 58:12
97:19,21 99:1	46:20 99:25	skin 13:16 94:9	spelled 48:21	Stewart 10:13
99:2,2 102:21	116:9 121:18	skimmed 94:4	spend 57:23	104:25 105:3,4
115:2	121:18	skip 96:12	59:3 79:17	105:9,18,19
sentences 70:5	showing 38:4	slept 30:14	88:10 103:23	106:4 120:21

stick 59:9 75:24	supplied 5:10	53:17,18,18,22	15:19,19 16:23	84:24,25 85:4
84:21 86:9	11:2 13:3	65:10,11 66:24	17:20,22 18:2	85:7 86:10,12
stop 28:1	32:13 94:18	68:23 69:13	18:3,4,8,9,9	test 40:3
stored 64:10,12	support 25:8	70:21 71:22,23	46:21 47:20	testified 6:7
street 2:10	35:20 101:21	75:22 81:9	49:16 59:15,15	55:6 133:25
133:10	supposed 35:24	82:8 84:6	107:3 117:8	testify 6:6
strictly 33:1	70:23 84:15	88:13,16,21	118:16	133:18,20
97:19	98:12,18	90:9 91:14	talking 19:13	141:10
Stringer 21:8	126:24 127:11	93:3,7 96:13	49:1 61:11	testimony 25:11
78:25 107:21	sure 10:22 16:12	98:7,11,15,16	63:25 69:13	35:17 55:13
108:14 109:6,9	25:22,23 26:25	108:24 109:2	91:21 100:9	63:18,20
111:13 138:10	27:10 28:3	110:4 112:4,8	107:4 120:17	Thank 36:7
study 79:4 90:1	29:7,16 32:8	118:15 125:3	120:17 123:11	122:9
128:13	39:14 47:22	127:11 128:24	talks 110:20	thanks 67:14
stuff 20:17	48:23,25 54:8	131:15 132:1	tall 126:6	122:10
21:13 34:2,7	58:17,18 72:2	134:18 136:22	taught 99:16	thing 9:15 17:23
34:15 51:2,7	74:19 101:18	138:21,22	131:18	20:18 32:4
60:8 62:24	101:18 105:24	takedown 95:13	team 128:16	38:12 45:14,15
64:22 66:22	111:6 117:19	110:16,20,22	telephone 52:23	46:22 51:23
81:7,8 82:4,7	119:13 131:19	110:22,23,23	52:23	52:25 53:1,11
89:6 94:5	136:6 137:8	110:24	tell 7:22 10:17	53:15 59:17
127:4 129:18	Surely 10:24	takedowns	13:14,15 14:18	63:22 66:2
136:7	surgery 136:21	33:18 57:20	15:12 16:20	67:24 71:6
stupid 129:10	suspicion 35:21	68:23 69:4	20:13 26:14	72:3 89:10
subject 69:23	suspicious	100:14 110:18	29:12 30:7,23	103:15 135:19
73:13,17 74:4	101:22	111:3,16	32:17 43:13	things 13:10
81:4 82:23	suspicious 34:14	112:14 115:14	45:24 46:1	15:21 18:12
83:2 104:20	34:16 35:18	taken 2:2 19:20	47:9 49:13,14	51:10 60:12
submit 139:11	76:22 121:20	19:23 23:11,20	49:15,17 51:5	93:13 100:10
subpoenaed	swaps 35:14	33:6,13 57:10	65:15 71:22	104:22 127:7
105:9,12	switched 77:3	71:25 76:24	101:1 127:20	131:18 132:2,8
subsequent	sworn 6:6	101:18 112:19	130:10	think 7:14 10:15
68:16	141:10	115:10 117:5	telling 44:23	16:1,14 17:10
sudden 38:10	systems 12:2	126:23,24	45:1 52:24	17:15 20:1
77:4		127:6,13 137:9	65:1 101:8	21:5,9 23:12
sued 23:12		takes 43:22	ten 16:8 31:21	24:1 25:25
suggest 26:5	T 4:5 5:5	105:5	43:12 61:14,23	28:6 30:11
104:19 112:10	take 9:12 11:21	talk 13:10 15:1	67:1	33:15 35:13
114:8	13:25 16:17	17:3,18 18:8	ten-hour 61:8	39:13,18 40:24
suggesting	25:13,14,20	22:6 27:17,18	term 31:17	41:5,11 42:3
81:21	27:16 29:25	27:24 50:22	38:25	45:3 48:22
Suite 2:10,14	30:4,19 31:1	66:11 71:11	terms 30:23	53:1 54:3 55:3
sum 90:24 102:3	32:1,3 34:11	96:11 106:24	50:5 68:18	55:3 56:7,10
102:10,13	36:22 38:17	109:7 118:19	70:12,16,19	56:11,14,15,15
118:24	42:6,21,21	talked 13:11	71:6,17 73:7	57:1,4,7,9,10
superseded 70:1	50:19 52:25	14:17,25,25	83:10,25 84:2	57:11 58:1,6

62:20 63:25	41:3,5 42:7,21	Todd 12:17	transcript 10:19	59:7,12,16
65:18 68:1	47:2 48:20	told 14:18 17:1	10:21,22 12:23	61:9 76:15
69:4,5 71:15	53:6 57:16,23	18:5,13 20:3	18:24 23:5,8	92:9 128:23,24
76:13,18 81:8	58:14,17,21	24:16 49:11,12	25:19,19,21	132:15
89:4 98:14	59:3,7,13,21	51:3 52:3 53:4	32:6 63:23	tube 29:21,22
100:14 102:16	59:24 60:4,14	53:9 69:7	123:10 139:10	tuition 132:5
103:21 104:2	60:19 61:12,13	93:13 101:6	141:12	turn 57:19
105:18 109:1	61:16,20,23	127:7 134:3	transcription	69:17 72:3,8
109:12 114:11	62:10 63:7,13	136:16 137:9	140:18 141:14	87:18 96:2
115:11,20,20	63:15 75:6	137:11 138:21	transferred	Turning 46:14
118:21 121:4	76:10 79:17	Tommy 117:10	119:9 124:21	Twitter 8:19
126:20 129:9	81:17 84:12	top 27:18 28:3	transpired	two 10:10,11,23
129:16 133:4	88:10 95:5,8	66:11 69:15	117:19	11:15,15 15:9
136:25 137:3	95:12 97:6	71:11 77:21	treatment	16:16 27:17
138:25 139:3,4	99:17 103:23	topic 14:18	136:23	29:23 55:9,15
thinking 22:4	108:12,24	137:2 138:25	treatments	61:20,22 69:7
22:15 135:5	109:2,24	total 31:13,14	136:13	70:5 71:10
third 10:8 72:8	116:10 118:9	55:1 57:16,23	tremendous	74:16 80:22,24
72:10 87:20	118:18 121:25	108:5 118:24	100:22 133:19	81:2 85:10
131:20	124:1 127:24	totaled 55:18	trial 26:4,8	87:4 90:6
thirty-four	129:17,17,18	tough 39:10	133:3,5	105:22 110:22
124:14	133:7 134:25	town 19:8 47:14	tried 13:9,16	115:7
Thomas 11:16	139:6,12	104:7 128:9	15:20,20,20	twofold 25:6
11:19	times 9:23 37:11	track 22:23	21:7	two-sentence
thought 18:5,6	46:21 47:20	33:14,18 34:8	trigger 39:12	102:2
30:18 36:3	59:15,16 65:7	104:14,17	trouble 99:18	two-thousand
43:8 56:13	108:16,17	tracking 16:4	true 19:14 30:22	18:1
93:17 125:15	121:15 125:15	46:17	141:13	type 7:19 8:20
thousand 31:21	timewise 129:3	trade 34:9	trust 18:7 57:12	22:15 29:22
31:22 51:25	title 10:13 79:22	trades 35:14	134:17	32:23 39:4
three 29:23	95:11 104:25	104:16	trusted 104:5	41:22 42:14
43:21 65:7	105:3,4,9,12	transaction	truth 6:7 26:15	44:13 45:12
86:19 110:23	105:15,18,19	23:25 36:2	141:10	61:4 77:4,5,7
115:7	105:20,20	44:9 58:11	truthful 26:6	95:13 112:10
throat 29:21,23	106:7,10 118:7	60:6 95:15	truthfully 24:25	132:23 133:1
time 6:25 7:3	119:4,8,9,19	106:11 120:3	25:1 28:25	136:4
10:13 16:3	120:7,21,21	125:24	29:5	typed 46:13
18:6 21:6	122:13 123:22	transactions	try 13:20,22	types 73:23
23:12 24:2	titles 65:21,25	37:6,12,18	27:18 28:7	120:14 121:3
26:7 29:19	66:1,4	104:20 105:17	71:10 132:2	122:1 132:8
30:13 31:23	today 13:8,19	105:22 116:23	136:7	typewriting
32:18 33:3	14:10 19:5	117:11,15	trying 20:6,6	141:12
34:16 35:13	29:1 40:15	120:10,24	26:24 28:2	typewritten
36:10 37:23	74:15 85:3	121:10	34:5,7 39:12	141:12
38:17 39:9,13	130:12,13	transcribed	44:21 47:21	typical 94:20
39:20 40:21	135:23	141:11	58:17,22 59:6	95:19

T's 54:8	V	140:17,22	87:20 92:20	wholly 10:6
U	vacation 7:19	141:7	104:22 128:22	wife 9:8,11,15
uh-huh 27:4,7	16:1,2,7 42:23	want 9:19,20	130:9 131:11	wife's 9:4
108:7 116:19	46:24,25 47:1	15:1 16:18,22	133:24	Wilkes 1:6,14
underneath	47:2 49:5	19:25 21:15	ways 57:8,9,12	2:1 3:2 4:1,15
130:4	Valley 37:3	22:4,6 23:2	135:11	4:24 5:1 6:5
understand	128:2	36:18 48:23,25	week 16:8 42:2	6:12 9:11 10:5
23:5 26:18	Vegas 1:15 2:2	50:21 51:19	61:22	11:16,17 12:17
28:8,10,15,21	2:10,15 4:24	53:12 58:13	weekend 64:20	20:20 59:6
28:22 39:21	6:1 7:15,24	59:18,20 71:5	65:16	67:3,16 69:16
40:2,4 44:5	41:16,17 42:25	71:7 73:12	weeks 10:23	75:9 77:15
50:4 59:7 64:4	43:2,19,20	75:12 77:1	61:20,23	103:12 106:15
66:14 70:11,15	44:18,18,24	79:4 84:21	week's 61:12,12	107:10 109:20
72:22 73:4	45:2,3,7,11,17	85:13,15 86:9	61:16	115:25 122:6
78:5 84:4,5	45:18 48:20	88:11 90:9	went 13:15	122:15 123:19
85:25 92:1,7	53:11 122:14	92:12 93:18	15:21 16:6	124:18 125:7
94:5 103:2	122:20 127:21	96:2,13 97:18	17:6,16,23	134:17,18
106:21 112:9	128:2,10	98:23 100:21	22:25 29:24	135:21 138:9
137:8	130:17,22	100:22,23	38:7 41:12,14	139:10 140:17
understanding	131:23 134:14	101:13,17	41:14,15,16,21	140:22 141:7
14:9 17:1	135:2	103:14 104:23	42:20,24 43:25	willing 32:9
20:20 24:18,21	vehicle 47:14	110:13 113:22	45:17 46:2	115:15 139:8
26:10,12 37:2	Ventura 6:17	120:18 123:15	51:20,20 53:2	WILSON 2:13
50:1 58:8	8:6,10 12:1	123:15 124:10	53:4 59:5	witness 3:2
69:23 82:14	verbal 127:7	126:14 137:8	62:15,17 68:6	10:24 11:5
85:4,23 98:10	versa 92:8	137:18,25	74:20 88:23	15:3 17:10
103:7,8 135:6	version 124:4,14	wanted 47:22	89:8,12 121:14	22:9 24:9
understood	vested 26:15	58:12 60:12	128:5,16,19,25	57:18 62:2
83:24	vice 36:12 92:8	96:10 112:11	129:19,21	64:2 66:14
unemployment	voce 91:24	119:11,12	131:16,19,21	67:5 75:17
133:2	92:15	133:18,20	131:21,22,22	83:6 88:8 94:3
University	voice 101:14	wants 51:24	weren't 42:15	96:5,23 101:14
127:24	vs 1:8 4:2 5:2	Warm 17:7,11	135:1	101:16 107:7
UNLV 127:23	W	wasn't 21:14	West 2:2,14	109:17 110:11
128:11,21	wait 66:12	46:22 53:21	7:14	125:3 126:11
unpaid 102:11	118:15	78:16 79:9	whatsoever	132:13 133:1,6
unsigned 122:12	waiting 106:24	93:7 101:11	63:16 117:14	133:7,15,16,18
123:6,21	walk 28:3 73:6	105:13 120:1	whereabouts	137:20,22
unusual 78:16	81:11 126:7,7	128:3	12:15	139:5 141:7,9
upset 107:5	133:10 136:17	water 47:22,23	Whitemore 16:5	141:20
upside 134:23	Walt 1:6 4:15	47:24 51:7	17:14 34:10	wives 134:9
use 7:24 39:12	4:24 122:15	60:10	35:15 47:5	Wolfram 1:5
51:9 83:10,11	Walter 1:14 2:1	way 6:17 14:19	48:3,9 50:8,14	2:18 4:2,17,18
133:11	3:2 4:1 5:1 6:5	26:22 27:22	50:15,18	5:2 13:11
	6:12 134:17,17	34:12 54:12	116:21,24	14:13 15:13,17
		59:23 77:1,2,3	117:6	17:18 18:19

19:5,9 25:20	34:13 81:9	24:13 38:9	1-1/2 54:4,5,12	2
38:5,24 46:16	120:16	43:11,12,21	87:5 91:6	2 4:8,12 5:12
47:4 48:12	wound 131:23	61:14,15 92:15	1-3/4 53:17,24	53:6,12 69:17
49:5 55:6,23	writes 110:17	107:4 133:5,8	1/2 90:22	69:20 75:7,10
58:9 63:3 69:8	written 46:4,9	135:5	10 2:14 4:21	78:6 79:20
69:13 103:5	70:3,7,25	yellow 84:13	36:22 53:10	87:16,18 88:21
107:16,21,25	97:10,22 98:5	Yep 113:21	102:12 114:13	90:21 91:1,15
109:24 110:1	120:9	yesterday 14:17	114:16	91:16 92:13,14
114:18 116:7	wrong 18:14	14:20 15:13	10,000 103:9	92:18 96:21
119:16,17	45:25 46:1	19:3	100 2:10 44:12	97:11,23 98:8
121:3	47:9 115:20		1000 2:14	99:3,9,11,14
Wolfram's	137:7	Z	101 12:8	102:5 110:21
18:22 23:4	wrote 20:4	zip 6:19 7:17	103 4:14	111:15 138:1
114:22,25	52:24		106 4:15	2,4 55:19
woman 131:18	WW5@ATT....	\$	107 4:16	20 60:23 79:5
wonder 101:19	8:18	\$100,000 23:13	109 4:18	2000 38:23 39:1
wonderful	W-I-L-K-E-S	\$116,000 111:25	11 4:22 5:12	2002 16:1 38:21
131:18	6:12	138:5	9:16 115:23	2003 116:10
word 72:1 88:13		\$2,632,000	116:1	2004 4:7 17:21
88:16 112:8	X	55:19 56:4	11/28/11 75:21	18:1 21:17
116:16	X 3:1 4:5 5:5	\$2.4 55:13	113 4:19	52:16,20 67:10
words 12:22		\$30,000 138:20	114 4:21	67:22 68:15
25:11 28:12,13	Y	\$40,000 91:8	115 4:22	74:10,17 75:22
37:17 44:13	yeah 9:13 11:22	\$50 87:1	116 112:4	75:23 76:2
64:10 74:11	15:8 19:13	\$50,000 134:20	12 4:23 122:4	77:21 78:3
83:20 85:10	41:12 43:24	\$66 88:1	12:00 139:17	79:25 80:6
87:23 98:6	44:16 45:14	\$84 56:1 77:9	1215 6:17	2005 113:16
125:11 130:2	50:3 55:17	88:23 89:3	122 4:23	2007 4:15 68:1
130:21	56:3,19 61:5	108:5,11 112:1	123 5:7	106:19,20,25
work 11:23 31:1	72:13 73:21	112:7 114:1,9	13 5:7,13,13	2008 43:22,24
131:16	78:22 91:24		123:17,20	2009 4:16,18
worked 24:2,2	92:4 107:19	I	13337 1:23	107:14 111:6
38:12 58:25	114:17 122:16	1 4:7,7 17:21	147 4:22	2011 1:16 2:3
128:6 132:7,9	132:9 135:11	18:1 21:17	147615 1:25	4:3 5:3 6:1
working 32:20	136:6,15	52:16,20 55:2	15 9:17	130:17 141:8
36:14 39:9,10	year 11:17	55:3 67:6,9,10	16 54:4 85:9	141:22
39:14 41:4	12:15 38:11,20	67:22 68:12,15	86:6 87:6	2112 19:24
42:15 61:7,9	38:25 43:25	69:17 73:10	18 12:15 86:7	23 4:15
61:23 128:22	69:8,14 70:23	74:10,17 75:11	1950 19:24	2300 2:2,14
128:23 130:7	71:23,24	75:12 78:1,3	1960 128:5	232,000 55:4,14
workplace	126:24 127:12	80:16,18,19	1970 39:20 40:6	55:19
132:22	127:23 128:11	82:8 84:9,19	40:21 42:15	24 4:18 111:6
worry 36:21	129:7 134:21	90:10,16,17,22	1980 39:18,19	240 55:3
69:12,12	137:10,12	91:17,18 96:13	39:20	25 23:13 24:13
111:11	138:23	96:15 101:25	1998 135:10	28 1:16 2:3 4:3
wouldn't 22:17	years 9:16 23:13	1st 98:16		

5:3 6:1 77:21	50/50 55:16,22			
80:16,18	52,000 116:12			
113:16 141:8	116:13,15			
29-year-old				
30:6	6			
3	63:4 4:15,16			
34:10 5:13	106:13,16			
19:16,17 77:13	107:14			
77:16,18 87:18	6/16/41 8:25			
88:3 113:23,25	644-9525 12:8			
3023:13 24:13	650-6145 8:14			
102:11 139:12	6500 7:14			
301b 141:22	66 54:5 86:6			
300 69:9,14	87:25			
70:22,23 71:22	67 4:7			
71:24 126:22	7			
126:23 127:11	74:16 107:8,11			
137:9,11,12	70s 42:13 43:5			
138:21,22	702 2:11,15 8:1			
31 80:6,19	75 4:8			
31st 79:24	77 4:10			
32 5:13	79 4:12			
388-7171 2:11	8			
4	84:18 109:18,21			
44:12 16:22	110:15,16			
17:21 49:15,17	137:19,19,23			
53:9,19,20,23	80s 42:13 43:5			
54:3,12 79:12	43:16,17,18			
79:15,19 86:23	805 8:14 12:7			
88:17,21	84 17:23 68:6			
40 60:23	86:7 89:5,22			
415 2:10	108:13 126:20			
497 1:23 4:4 5:4	138:6			
141:25	873-4100 2:15			
497-7700 7:25	8910-something			
5	7:18			
54:14 92:13	89101 2:10			
103:10,13	89102 2:15			
110:24	9			
5,200 116:11	94:19 113:1,8			
50 53:21 54:2,3	9:00 2:3 6:2			
54:11 85:8	141:8			
50,000 135:2	93001 6:20			

EXHIBIT "4"

EXHIBIT "4"

1 in this letter with you?

2 A. Yes.

3 Q. In this letter it makes references that
4 Pardee made its last land payment to Coyote for a
5 total amount of \$84 million. Do you see where I'm
6 making reference?

7 A. Uh-huh.

8 Q. Is that a yes?

9 A. Yes, I see that.

10 Q. Do you have any indication that Pardee has
11 paid more than \$84 million to CSI for the property?

12 A. Not at the present time, but we should be
13 being paid for the 84 million on commission.

14 Q. Did you ever call Mr. Stringer and ask him
15 any questions concerning this letter?

16 A. Jim called several times, Mr. Jimmerson
17 called several times, and finally we got something
18 like this out of them, which was nowhere near what
19 everything we asked for.

20 Q. They gave you the balance of the closing
21 statements between Pardee and CSI that were appended
22 to this letter, correct?

23 A. You know, I assume so. I don't remember.

24 Q. Did you take a look at those at the time
25 that you received a copy?

1 A. I don't think --

2 Q. Did you take a look at those at the time
3 you received a copy of them?

4 A. Briefly.

5 Q. And any questions that you had then, you
6 posed those to Mr. Jimmerson or to Mr. Stringer?

7 A. Absolutely not. I didn't even talk to
8 them.

9 Q. Did you pose any questions to Mr. Stringer
10 after receiving this information?

11 A. I don't believe I did. I can't remember,
12 but I think if anybody would have posed a question,
13 it would have been Jim or probably Mr. Jimmerson.
14 In fact, I would bet it would have been
15 Mr. Jimmerson. I don't remember. You know --

16 MS. HANSEN: You have answered.

17 THE WITNESS: Okay.

18 (Exhibit 8 marked.)

19 BY MS. LUNDVALL:

20 Q. Mr. Wilkes, I'm now going to hand you
21 what's been marked as Exhibit 8 to your deposition.

22 A. Okay.

23 Q. Once again, this is a letter that was
24 directed to Mr. Wolfram, this time from Jon Lash.

25 A. Okay.

1 Q. Did Mr. Wolfram share a copy of this letter
2 with you?

3 A. I don't know.

4 Q. Feel free to take a look at it, see if it
5 will refresh your recollection, sir.

6 A. I can't answer that. Jim was the one that
7 took all of the information. He was meeting with
8 the attorney. I was in California. You know, I --

9 MS. HANSEN: If you don't know, answer you
10 don't know.

11 THE WITNESS: No, I don't know.

12 BY MS. LUNDVALL:

13 Q. Directing your attention, then, I want to
14 focus your attention particularly to the bottom of
15 Exhibit 8, please.

16 A. First page, Exhibit 8, initial takedown.

17 Q. He writes on here "Listed below is a
18 narrative description of the land takedowns, as well
19 as a corresponding color-coded map."

20 Then it talks about the initial takedown.
21 If you go to Page 2 there is a description of
22 takedown one, a takedown two, a description of
23 takedown three, a description of takedown four and a
24 description of takedown 5.

25 Do you see where I'm making reference to?

1 A. I see that. I do not remember this letter.

2 Q. Do you have any indication or information
3 that, in fact, that there was more takedowns rather
4 than what was described in this letter?

5 A. Well, you know, this letter is dated
6 November 24, 2009. We sure deserved them long
7 before that.

8 Q. Were you harmed by any delay in information
9 being given to you?

10 A. Just that we were going to get them, don't
11 worry, it's coming and it never did, not even to the
12 attorney. The attorney was on the phone with
13 Mr. Stringer for months.

14 Q. Directing your attention, then, to the
15 bottom Page 2, it gives you the date of the closings
16 on the takedowns as well, does it not?

17 A. It gives dates, yes.

18 Q. All right. And it gives you the purchase
19 prices that were paid for each one of the closings,
20 correct?

21 A. Okay.

22 Q. Do you see where I'm at?

23 A. I do.

24 Q. And you also can see where it says that
25 Pardee still has over \$116,000 on account from the

1 \$84 million option agreement deposits. Do you see
2 where I'm at?

3 A. I do.

4 Q. If you take that 116, combine it then with
5 all of the purchase prices, -- have you done that?

6 A. No.

7 Q. Do you know that you get \$84 million?

8 A. I will take your word for it.

9 Q. Okay. From what I understand you to
10 suggest, sir, is that this information is the type
11 of information that you wanted to seek from Pardee;
12 is that right?

13 A. Partial.

14 Q. It had identified all of the takedowns,
15 when they occurred, what the prices were concerning
16 that; is that right?

17 A. Yes.

18 Q. And enclosed a color coded map concerning
19 the parcels that have been taken down; is that
20 right?

21 A. Right.

22 Q. At any point after this did you contact
23 Mr. Lash and ask him any questions concerning the
24 information found within this letter?

25 A. No.

1 (Exhibit 9 marked.)

2 BY MS. LUNDVALL:

3 Q. So you don't feel left out, let's mark this
4 one. How about that.

5 A. I have a hunch we are going to be here
6 until midnight.

7 Q. Sir, I have handed you what's been marked
8 Exhibit 9 to your deposition.

9 A. Yes.

10 Q. This is a document that's the Amended and
11 Restated Option Agreement For the Purchase of Real
12 Property and Joint Escrow Instructions. Do you see
13 that?

14 A. Yes.

15 Q. I also see that this bears the date of
16 March 28 of 2005. Do you see that in the very first
17 paragraph?

18 A. Yes.

19 Q. Once again, this is between Coyote Springs
20 and Pardee, correct?

21 A. Yep.

22 Q. All right. What I want to do is to direct
23 your attention to Page 3.

24 A. Yes, ma'am. Okay.

25 Q. Once again, at Page 3, the purchase

1 property price continues to be \$84 million?

2 A. Okay.

3 Q. Do you see where I'm at?

4 A. No.

5 Q. About halfway down the page.

6 A. Oh, there it is, second paragraph. Okay.

7 Q. Do you have any facts or evidence to
8 suggest that the purchased property price that was
9 paid by Pardee to CSI was more than \$84 million?

10 A. No, but I would like to know where our
11 commission is on it. And I don't think I have ever
12 seen this document either.

13 (Exhibit 10 marked.)

14 BY MS. LUNDVALL:

15 Q. Sir, I hand you what's been marked as
16 Exhibit 10 to your deposition.

17 A. Yeah.

18 Q. Mr. Wolfram indicated during his deposition
19 that in fact the handwritten portion of this is in
20 his handwriting.

21 A. Okay.

22 Q. Do you recognize Mr. Wolfram's handwriting?

23 A. Yes.

24 Q. And do you recognize this to be
25 Mr. Wolfram's handwriting?

1 A. Yes.

2 Q. There is a sentence that says -- it's about
3 oh, let's see, five lines down, it starts "Once they
4 explain all of this to us with maps and backup
5 information, we could agree."

6 Do you see where I'm at?

7 A. Five lines down, one, two, three, four,
8 five. Oh, "Once they explain all of this to us with
9 maps and backup information, we could agree. We
10 still need an accounting of how the land is taken
11 down. I think it is additional acreage."

12 Q. So my question to you is kind of a broader
13 question. Once it is explained to you as to the
14 takedowns that have been made by Pardee, are you
15 willing to agree that, in fact, you have received
16 the full commissions under your commission letter?

17 A. No, not until they -- not until they show
18 me, you know, exactly which -- all of the properties
19 are that they took, if they can do all that. And if
20 I think I'm wrong, I think I would admit it. But I
21 don't know that I -- I guess I would agree. I guess
22 I would agree, yes. They have to show it to me.

23 (Exhibit 11 marked.)

24 BY MS. LUNDVALL:

25 Q. Mr. Wilkes, I'm going to hand you what's

1 been marked as Exhibit 11 to your deposition.

2 A. Okay. To my deposition?

3 Q. This is your deposition, sir.

4 A. Okay.

5 Q. I'm going to focus your attention as far as
6 on the handwriting that's on this document. I'm
7 going to read this out loud. Mr. Wolfram indicated
8 this was his handwriting.

9 "We showed the property to Pardee Homes
10 around July or August of 2003. At that time there
11 was about 5,200 acres."

12 A. 52,000?

13 Q. 52,000 acres.

14 "Harvey decided not to sell the whole
15 52,000. He kept acreage for himself. We believe he
16 has decided to sell more to Pardee. Word this as
17 you see fit."

18 Did he see where I'm at?

19 A. Uh-huh.

20 Q. Have you had any conversations with
21 Mr. Whitmore since this litigation has begun
22 regarding what CSI has done in its negotiations or
23 its transactions with Pardee?

24 A. Conversations with Harvey Whitmore?

25 Q. Yes.

1 A. No.

2 Q. What about with any other representatives
3 of CSI?

4 A. No.

5 Q. Are you aware that CSI has now been taken
6 over from Mr. Whitmore?

7 A. Yes, some brothers or something bought it?

8 Q. Have you talked to the brothers?

9 A. No.

10 Q. Albert and Tommy Seeno, you have spoken to
11 them concerning what CSI's transactions have been
12 with Pardee?

13 A. No.

14 Q. You have made no investigation whatsoever
15 from CSI's perspective as to what its transactions
16 or contractual relationships have been with Pardee;
17 is that accurate?

18 A. I looked up on the secretary of state
19 online to see for sure if the sale had transpired.

20 Q. What do you mean by that?

21 A. Well, to see if they had acquired the
22 property.

23 Q. Who?

24 A. The brothers. Okay. And it did show their
25 names on the Coyote Springs Investment. That's all

1 I did.

2 Q. Other than that, no inquiries made of any
3 representative of CSI as to whether or not they had
4 sold any additional properties to Pardee?

5 A. I made no inquiries to them.

6 Q. Have you spoken Frances Butler with Chicago
7 Title Company?

8 A. Recently?

9 Q. At any point in time before bringing this
10 case.

11 A. Before bringing this chase?

12 Q. Yes.

13 A. Not before the lawsuit.

14 Q. What about after?

15 A. No, wait a minute, I take it back. We
16 might have -- it's possible I could have talked to
17 her about it because she was disbursing checks out
18 to us at one point in time.

19 Q. What did you talk to her about?

20 A. I just asked her about -- to my
21 recollection, I think I asked her what the -- if the
22 check was sent out or come out, something like that.
23 That's all.

24 Q. That was the sum total of your conversation
25 with her?

1 A. I don't remember any more than that, I'm
2 sorry.

3 Q. Did you speak with any representative of
4 Chicago Title Company before bringing this
5 litigation?

6 A. Before bringing this litigation. I kept --
7 I don't remember what date we took this over to
8 Chicago Title or they took it over. Pardee
9 transferred it to Chicago Title. Prior to that,
10 prior to our lawsuit, we may have inquired about it
11 to see that they had it. And we would have wanted
12 to know if the escrow number -- we would have wanted
13 to make sure we were getting paid. Outside of that,
14 I have no recollection of that.

15 Q. When you say "we," are you referring to
16 Mr. Wolfram and yourself?

17 A. Mr. Wolfram and myself.

18 Q. Did you personally have any conversations
19 with any representative of Chicago Title before this
20 litigation began?

21 A. Probably Frances Butler and I forget -- no,
22 that's after litigation. No, Frances Butler is the
23 only one.

24 Q. You have given me, to the best of your
25 recollection, your conversations with Ms. Butler?

1 A. Or her assistants. If she wasn't there,
2 I -- if I asked something about maybe what the
3 transaction number was or have they got a check yet.
4 That's all.

5 Q. But nothing else?

6 A. No.

7 Q. Did you ask anybody at either title
8 company, hey, has Pardee instructed you or given you
9 written instructions that we are no longer to be
10 paid on their transactions between Pardee and CSI?

11 A. That's after the lawsuit?

12 Q. Either before or after.

13 A. Either before or after?

14 Q. Make those types of inquiries?

15 A. I don't -- I didn't ask them, but we asked
16 questions and they wouldn't give us answers.

17 Q. I'm talking about you. I'm not talking
18 about "we." I want to know what you did. All
19 right?

20 Did you speak to any representative of
21 either Stewart Title company or Chicago Title
22 Company making an inquiry to the effect of have you
23 been given instructions that I am no longer to be
24 paid commissions on the transactions between Pardee
25 and CSI?

1 A. Not to the best of my knowledge, no.

2 Q. To the best of your knowledge, did
3 Mr. Wolfram make any of those types of inquiries?

4 A. Not to the best -- I think -- not to the
5 best of my knowledge, no.

6 Q. Did you make any inquiry to either the
7 assessor's office, the recorder's office of either
8 Lincoln County or Clark County as to whether or not
9 there were deeds that they were holding that had not
10 yet been recorded concerning transactions between
11 CSI and Pardee?

12 A. No, I didn't. No.

13 Q. Do you know if someone did on your behalf?

14 A. Jim went down to get the information, as I
15 said several times before.

16 Q. Whatever he did, he shared that information
17 with you; is that correct?

18 A. Well, he showed me a map and showed
19 significant more property, and that's why we were
20 suspicious of them taking down more.

21 Q. But you don't have any copies of any deeds
22 that they were holding back that had not been
23 recorded?

24 A. They didn't have any copies of deeds at
25 that time. Jim couldn't find any.

1 Q. Nor did they say that any of those types of
2 deeds existed, did they?

3 A. I couldn't answer that.
4 (Exhibit 12 marked.)

5 BY MS. LUNDVALL:

6 Q. Mr. Wilkes, I'm going to hand you a copy of
7 a document. It's not signed.

8 MS. HANSEN: I need a copy of that one.

9 MS. LUNDVALL: Thank you.

10 MS. HANSEN: Thanks.

11 BY MS. LUNDVALL:

12 Q. My question to you is, this is an unsigned
13 copy of a document that bears the title agreement
14 between Mark Carmen and Las Vegas Realty Center and
15 Walt Wilkes, broker salesman.

16 A. Yeah. Okay.

17 Q. Was this signed?

18 A. Absolutely.

19 Q. Do you have a copy?

20 A. I have got copies in the file of Las Vegas
21 Realty and Rubicon.

22 Q. Then you have access to those particular
23 files, do you not?

24 A. Yes.

25 Q. So if in fact there is a signed copy, you

1 could get access to it, couldn't you?

2 A. Yes.

3 MS. LUNDVALL: Counsel, we will make a
4 request for that. And I'm going to object to the
5 authenticity of this particular document because it
6 is unsigned.

7 MS. HANSEN: You are the one that offered
8 it into the record.

9 MS. LUNDVALL: There is no record here
10 other than the deposition transcript.

11 MS. HANSEN: That's what I'm talking about.

12 MS. LUNDVALL: So on the record I'm
13 objecting to the authenticity of this document.

14 MS. HANSEN: You can object to anything you
15 want, but if you want to request the document, you
16 need to do it in a formal manner.

17 (Exhibit 13 marked.)

18 BY MS. LUNDVALL:

19 Q. Mr. Wilkes, I'm going to hand you what's
20 been marked as Exhibit 13 to your deposition. This
21 too is an unsigned copy of a document that bears a
22 title "Assignment of Real Estate Commission and
23 Personal Certification Agreement."

24 A. From General Realty, yes.

25 Q. And General Realty was the realty company

1 that you were with at the time that you entered into
2 the commission agreement with Pardee, correct?

3 A. Correct.

4 Q. Is there a signed version of this
5 particular document somewhere?

6 A. Yes.

7 Q. Have you seen it?

8 A. Of course.

9 Q. Have you provided it to your counsel?

10 A. I did, but apparently he didn't want to
11 provide the signed ones to you.

12 MS. LUNDVALL: Once again, Counsel, we will
13 be making a request for this, and we will do it in a
14 formal thirty-four request for a signed version, and
15 I'm objecting to the authenticity of this particular
16 document as well.

17 BY MS. LUNDVALL:

18 Q. Mr. Wilkes, back to my question to you.

19 Do you have access to the files and records
20 then of General Realty Group?

21 A. Just somewhere I transferred out of there
22 and on this letter. Okay.

23 Q. Okay. And so if, in fact, that there was
24 an original of this document that had been signed by
25 both yourself as well as General Realty Group, you

1 would have had access, then, to that document?

2 A. I have access to it, yes.

3 THE WITNESS: Could we take a break?

4 MS. LUNDVALL: Absolutely.

5 (Off the record.)

6 BY MS. LUNDVALL:

7 Q. Mr. Wilkes, do you contend that your
8 relationship with Pardee is anything other than a
9 contractual relationship?

10 A. Not at this point, no.

11 Q. In other words, you were never an employee
12 of Pardee?

13 A. No. But we -- no, we never were an
14 employee of them, but we met and have the nicest
15 times and all friends, I thought.

16 Q. You were represented by counsel, then,
17 going into the commission letter; is that right?

18 A. Yes.

19 Q. And you entered into the commission letter,
20 then, based upon the advice of counsel; is that
21 correct?

22 A. Yes.

23 Q. Would you consider that to have been an
24 arms-length transaction between your counsel and
25 counsel for Pardee?

1 A. Yes. When you say arms-length, you mean up
2 front, right?

3 Q. That's right.

4 A. My arm is longer than --

5 Q. That it is.

6 How tall are you when you stand?

7 A. Six-four. I can walk but can't walk very
8 far, my back kills me and my knee and everything
9 else, and arthritis.

10 MS. HANSEN: There is no question pending.

11 THE WITNESS: Okay, sorry. Can't help it.
12 I like her.

13 BY MS. LUNDVALL:

14 Q. I asked you this, but I just want to
15 clarify, it's your personal belief that you are owed
16 some additional commissions; is that right?

17 A. Yes.

18 Q. But you don't have a number to give me?

19 A. Well, you got to remember. We got -- I
20 think we should be paid for the 84 million, like I
21 said. Okay. And also the representation was made
22 to Jim by Jon Lash that we had 300 more acres to be
23 taken down. Okay. And also there was 300 more
24 acres per year that were supposed to be taken down.
25 So that goes along with the proof that you keep

1 asking for, you know.

2 Q. But you don't have a number to give me as
3 to how much you believe that you are entitled to?

4 A. Not until -- they won't give us the stuff.
5 We can't give you that number until we determine
6 what they have taken down and with the maps and, of
7 course, the verbal things that he told you.

8 Q. Do you believe that Pardee has acted in bad
9 faith toward you?

10 A. Well, very haven't been paid on that --
11 they were supposed to take down 300 acres. We
12 haven't been paid on it this year. And seems like
13 they should have taken it down by now. And also
14 the -- I hope they act in good faith on the future
15 payments.

16 Q. Other than that?

17 A. Other than that . . .

18 Q. Let me ask you some questions concerning
19 your background.

20 Tell me about your professional experiences
21 here in Las Vegas. Can you describe for me what
22 your educational background is?

23 A. High school. A year at UNLV, or at that
24 time, Southern Nevada University then, and real
25 estate school.

1 Q. Sounds like you were born and raised here
2 in the Las Vegas Valley?

3 A. No, I wasn't. Actually, I was born in
4 California but I came down here in -- I believe it
5 was in 1960. Okay. And I went to high school and
6 then I worked at Hertz rent a car, did some other
7 jobs and eventually got into real estate.

8 Q. Which high school did you go to here in
9 town?

10 A. Las Vegas High.

11 Q. And then you spent a year at UNLV?

12 A. (No audible answer.)

13 Q. What did you study there?

14 A. Real estate, business.

15 Q. Play ball when you were there?

16 A. I did. I went out for the football team
17 and did pretty good, but I racked up my neck and
18 so . . .

19 Q. Then you went and took your Realtor
20 classes; is that right?

21 A. I took my Realtor classes after UNLV
22 because I was working my way through everything. I
23 was working graveyard, trying to play ball and
24 trying to take my classes. And I found out that --
25 I went ahead and finished my high school and then I

1 decided I would just go to the real estate school.
2 And I found out that was a better situation for me
3 timewise.

4 Q. Do you have a high school diploma?

5 A. Yes.

6 Q. Any college diplomas?

7 A. No. One year in college, how are you going
8 to get a diploma.

9 Q. I didn't think so, but sometimes attorneys
10 have to ask stupid questions.

11 A. Okay.

12 Q. The completion, then, of your realty school
13 culminated with you taking the Realtor exam; is that
14 right?

15 A. I believe I took the sales exam first
16 and -- okay, and -- I think I failed it the first
17 time. And I came back next time, which was a very
18 short time. A lot of the stuff was fresh in my
19 head. I failed the math portion and I went and took
20 a math class. Then I breezed through it. And a
21 month after that, I went for my broker-sales license
22 because everything was still fresh in my mind.

23 Q. Did you get your broker's license then?

24 A. Broker-sales. I have never been a broker.
25 I'm a licensed real estate broker, employed as a

1 salesman.

2 Q. So in other words, you have never had a
3 brokerage company whereby you have been responsible
4 for other salesmen underneath you?

5 A. That's correct.

6 Q. And you have always then acted as a
7 salesman working under someone else's broker's
8 license?

9 A. That's correct. Better that way.

10 Q. You tell me that you are going to renew
11 your Realtor license then?

12 A. If I get out of here today, I will do it
13 today. I have my hours and my check down there.

14 Q. I note that you just took out a recent
15 business license.

16 A. I did?

17 Q. Issued June of 2011, City of Las Vegas
18 business license.

19 A. Well, you have to have that for your real
20 estate license now.

21 Q. Okay. So in other words, your City of
22 Las Vegas business license then relates to --

23 A. It's required now.

24 Q. -- your Realtor license?

25 A. Yes.

1 Q. That was the purpose, then, of taking out
2 that business license?

3 A. Yes, absolutely.

4 Q. When you filled out that form, were you
5 honest and accurate in completing the form for the
6 business license?

7 A. Yes, to the best of my knowledge.

8 Q. Can you relate to me what your employment
9 background has been?

10 A. My employment background going all of the
11 way back to high school?

12 Q. Well, you can pick a point forward and move
13 forward or pick a point and move backwards.

14 A. How about we go to when I got my license?

15 Q. I will take that.

16 A. The first place I went to work for was for
17 Betty Chapelle at Chapelle Realty. She is a
18 wonderful woman. She taught me a lot of things.

19 The second place I went to -- I'm not sure
20 between the second and third place, but I do know I
21 went to Chapelle Realty. I went to Jack Matthews
22 realty. I went to General Realty. I went to
23 Las Vegas Realty and now I wound up a Rubicon
24 Realty. I may have forgotten one. That's the best
25 I can do in my recollection.

1 Q. I take it that the jobs that you had before
2 that were things just getting by to try to pay the
3 rent?

4 A. Sell real estate, make money.

5 Q. Pay your tuition?

6 A. Make money.

7 Q. You indicated that you worked at Hertz rent
8 a car, those types of things?

9 A. Yeah. I worked at Hertz rent a car shortly
10 out of high school. I was a rental rep.

11 MS. HANSEN: She has not asked you a
12 question.

13 THE WITNESS: You don't care about that.
14 BY MS. LUNDVALL:

15 Q. Those jobs were incidental, just trying to
16 earn a living; is that right?

17 A. That's correct.

18 Q. During the course of your employment, any
19 complaints lodged against you in a professional
20 capacity?

21 A. Not to the best of my knowledge.

22 Q. What about internally in the workplace, any
23 type of complaints on gender discrimination, racial
24 discrimination, anything of that nature?

25 A. No.

1 Q. Ever been a witness in any type of a
2 proceeding, unemployment compensation hearing, EEOC
3 hearing, a trial, anything of that nature?

4 A. I can't think of -- seems like it was a
5 jury trial. Been so many years ago.

6 Q. Were you a juror or a witness?

7 A. A juror. I was a witness one time for my
8 son many years ago. He was hit, the one that I
9 lost. That's not when I lost him. He decided to
10 walk across the street at Bonanza High School but he
11 didn't use the crosswalk.

12 MS. HANSEN: There is no question pending.

13 BY MS. LUNDVALL:

14 Q. Feel free to go ahead and explain to me the
15 proceeding in which you were a witness.

16 A. I was a witness.

17 MS. HANSEN: Go ahead. Now you can.

18 THE WITNESS: They wanted me to testify.
19 He was a tremendous football player and basketball
20 player and they wanted me to testify how it would
21 affect his scholarship. Okay. How it would affect
22 his scholarship because his leg, he had a piece of
23 steel in there now and it might have -- you know,
24 how it would affect his scholarship in any way. And
25 I testified that, yes, he was being looked at by

1 different schools.

2 BY MS. LUNDVALL:

3 Q. You told me about a case in which you had
4 to bring for purposes of a commission, to cover a
5 commission.

6 A. Yes.

7 Q. Anybody brought any lawsuits against you?

8 A. Divorce litigation, which is all settled
9 and paid. I paid everything. All of the wives.
10 Cost me a fortune.

11 Q. Any others?

12 A. I'm sorry, I can't remember any.

13 Q. Let's see. Do you remember a case dealing
14 with Bank of Las Vegas?

15 A. Who was -- was there somebody else on there
16 with me?

17 Q. Walter and Angela Wilkes Trust and Walter
18 D. Wilkes, that would be you, I take it?

19 A. Okay. And what was that for.

20 Q. A \$50,000 judgment against you in July of
21 this year.

22 A. Oh, okay. You know what, the houses are
23 upside down here. So my attorney advised me to just
24 let them go back, and I did. So they put the
25 judgments on them, but after a certain time, those

1 judgments weren't any good. So all of the judgments
2 are good except for the 50,000 for Las Vegas Bank.
3 We made an agreement. I'm paying them so much a
4 month. I'm sorry, I forgot about all those. I'm
5 thinking back years, you know.

6 Q. My understanding is that you filed for
7 bankruptcy relatively recently?

8 A. I filed for bankruptcy for --

9 Q. Let's look at this. You filed for
10 bankruptcy in 1998, did you not?

11 A. Yeah, that's quite a ways back.

12 Q. Discharged as far as certain debts after
13 the bankruptcy?

14 A. Yes.

15 Q. And certain of the IRS liens then remain
16 pending?

17 A. Those have all been paid.

18 Q. And now they have all been paid?

19 A. For that particular thing, it has been
20 paid.

21 Q. Mr. Wilkes, we began this deposition by at
22 least you and I acknowledging that you look pretty
23 good today. Has any --

24 A. I'm sorry, I'm married.

25 Q. I would imagine you have heard that line

1 before, too.

2 A. Sometimes.

3 Q. But has any physician advised you that
4 somehow, you know, that your health has some type of
5 an eminent issue in it?

6 A. Yeah. You saw the letter, I'm sure. All
7 that stuff in there is correct. Don't make me try
8 to remember it all. You've got every bit of it.

9 Q. Are you scheduled for any future
10 hospitalization?

11 A. No, not unless I get that infection again.
12 I hope not.

13 Q. Are you scheduled for any future treatments
14 other than your regular medications?

15 A. Yeah, I have to go in for -- I have to go
16 in and get shots for my back. As I told you, I
17 can't walk that much, but I get those shots and they
18 last for a while, like four months or something,
19 make it feel better anyway. Other than I get those
20 back spasms caused from discs. And I guess some day
21 I'm going to have to have surgery, but as long as
22 those shots are helping, I'm going to take that.

23 Q. Sounds like a cortisone treatment?

24 A. And I get cortisone in my arm sometimes --
25 and in my brain to make me think for depositions.

1 You don't have to put that down.

2 Q. Are there any questions or topic areas that
3 I haven't asked you upon that you think are relevant
4 to this litigation?

5 A. You asked me, and I know it's down, but you
6 asked me if I had any proof that Pardee did anything
7 wrong and did not pay or we had any money coming.
8 And I want to make sure that you understand that Jon
9 Lash told Jim that we had 300 acres to be taken down
10 this year and we never got paid on that. We should
11 be getting 300 acres. Told Jim to relax, we should
12 be taking 300 acres down every year.

13 Q. You know that Pardee had money on account
14 with CSI?

15 A. They had money on account with them, what
16 do you mean? Explain that.

17 Q. Let's go back to the communication that was
18 given to you. I want to direct your attention to
19 Exhibit 8. Go back to Exhibit 8.

20 THE WITNESS: Got my secretary here.

21 MS. HANSEN: More like a baby-sitter.

22 THE WITNESS: Well, I need one. Okay, got
23 No. 8. Where?

24 BY MS. LUNDVALL:

25 Q. I want to direct your attention, then, to

1 Page 2.

2 A. Okay.

3 Q. All right. About halfway down the page, it
4 makes reference to the attached exhibits reflecting
5 that Pardee still has over \$116,000 on account from
6 the 84 million option agreement deposits.

7 A. What is that, a slush fund?

8 Q. I don't know how people refer to it,
9 Mr. Wilkes. I'm asking you --

10 A. That's what Mr. Stringer said it was.

11 Q. I'm asking you as far as what it says on
12 here and whether or not you were aware, after
13 reading this letter, that there was still money that
14 was on it account with CSI?

15 A. Yes, I am aware of that.

16 Q. Do you have any reason to believe that, in
17 fact, that's not an accurate statement?

18 A. Again I'm going to mention the maps, the
19 parcel numbers and any documentation that we have
20 not seen yet to do that, plus the \$30,000 -- I mean
21 300 acres that Jon Lash told Jim to take down, to
22 relax, and that they were going to take 300 acres
23 down per year so we would be getting paid on it.
24 Okay. That's all I have got.

25 Q. Any other topic area that you don't think I

1 have asked you questions upon that you believe is
2 relevant to this litigation?

3 A. I don't think so, best of my knowledge.
4 Probably think of some when I leave.

5 MS. LUNDVALL: Pass the witness at this
6 time.

7 MS. HANSEN: I have no questions.

8 MS. LUNDVALL: I'm willing to enter into an
9 agreement to allow the original of the deposition
10 transcript to be provided for counsel for Mr. Wilkes
11 to allow him to review it and submit it back within
12 the 30 day period of time.

13 Is that acceptable to you, Counsel?

14 MS. HANSEN: Yes.

15 MS. LUNDVALL: I would like to have a copy,
16 a condensed, and ASCII disc, please.

17 (Deposition concluded at 12:00 p.m.)

18 -oOo-

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25

CERTIFICATE OF DEPONENT

PAGE	LINE	CHANGE	REASON
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* * * * *

I, Walter Wilkes, 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.

Walter Wilkes, Deponent

Date

1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)
3) SS:
COUNTY OF CLARK)

4 I, Carre Lewis, a duly commissioned and licensed
5 Court Reporter, Clark County, State of Nevada, do
6 hereby certify: That I reported the taking of the
7 deposition of the witness, Walter Wilkes, commencing
8 on Monday, November 28, 2011, at 9:00 a.m.

9 That prior to being examined, the witness was,
10 by me, duly sworn to testify to the truth. That I
11 thereafter transcribed my said shorthand notes into
12 typewriting and that the typewritten transcript of
13 said deposition is a complete, true and accurate
14 transcription of said shorthand notes.

15 I further certify that I am not a relative or
16 employee of an attorney or counsel of any of the
17 parties, nor a relative or employee of an attorney
18 or counsel involved in said action, nor a person
19 financially interested in the action.

20 IN WITNESS HEREOF, I have hereunto set my hand,
21 in my office, in the County of Clark, State of
22 Nevada, this 30th day of November 2011.

23
24 

25 CARRE LEWIS, CCR NO. 497

A				
AARON 2:14	acted 127:8	67:18 69:22	67:21,23,25	anyway 17:10
able 12:24 28:25	130:6	70:1,2,25	68:2 74:16	21:10 51:11
29:4 65:11	action 26:17	72:19 74:5,9	78:18 80:22,25	66:23 81:7
66:18 80:24	102:22 140:18	74:12,18 75:4	81:2 84:1	136:19
81:6 102:18	141:18,19	75:20 76:4,11	89:13,20 90:1	apologies 83:8
absolutely 10:24	actions 40:22	76:14 77:19	93:10 94:1,8	apologize 10:15
11:5 16:19	add 84:18 85:15	78:2,11 79:20	American	apparently
27:11 33:24	added 84:13	80:9 82:10,18	105:23 106:1	124:10
36:10,17 48:4	addition 97:13	82:22 83:13,15	amount 31:15	appear 72:12,14
55:24 64:15	additional 55:14	83:20,21 84:10	31:16 53:21	APPEARAN...
89:17 94:16	84:18 98:7	84:24 85:21	87:6 91:7	2:7
95:7 104:7	104:8,11	86:1,13 87:14	97:15 108:5	appended
109:7 122:18	115:11 118:4	90:22 91:1,12	amounts 31:18	108:21
125:4 131:3	126:16	92:22 97:11,24	55:10 56:22	apply 84:25
acceptable	address 6:15,16	99:4,10 102:23	57:2	appreciate
139:13	6:21 7:13,20	112:1 113:11	Anchorage 6:17	59:10
access 122:22	8:15 12:5,10	122:13 123:23	Andrews 17:15	approximate
123:1 124:19	12:11,12,13,19	124:2 135:3	48:18 51:3	60:21,25
125:1,2	admit 115:20	138:6 139:9	and/or 62:18	approximately
account 111:25	adult 11:21	agreements	Angela 9:11	16:2 38:20
137:13,15	advantage	73:22 75:2	134:17	39:2 42:10
138:5,14	51:12 81:9	84:1 93:10	Angeles 53:3	43:14 45:23,24
accounting 57:5	advice 54:23	94:1	annum 102:12	55:4 58:6
115:10	90:4,6 125:20	ahead 16:11	answer 8:6 9:5	61:10
accurate 104:6	advised 98:12	51:20 91:14	17:8 22:5,9	April 4:16
117:17 131:5	98:21 134:23	96:3 104:1	24:23 26:21	107:14
138:17 141:13	136:3	128:25 133:14	27:23 28:16,22	area 8:1,14
acknowledging	affect 133:21,21	133:17	28:25 29:4	17:11 93:6
135:22	133:24	Albert 117:10	30:3 36:3 40:1	138:25
acquired 117:21	affix 140:19	alive 11:19	45:21 48:13	areas 137:2
acreage 19:12	aggregate 87:6	allegations 25:8	57:17 65:18	arm 126:4
19:15 37:11	ago 11:17 23:13	allow 139:9,11	73:1 79:5 96:4	136:24
100:15 115:11	23:18 38:9	allows 25:6	99:15 110:6,9	arms-length
116:15	39:20 43:21	ambiguity 72:24	122:3 128:12	125:24 126:1
acres 19:24,24	61:14,15 133:5	amend 78:11	answered 25:24	arrangement
69:9,14 70:22	133:8	amended 4:14	109:16	68:3 94:20
70:23 71:22,24	agree 56:18	4:19 74:11,11	answering 29:9	arthritis 27:2
91:7,10 97:12	81:25 115:5,9	74:14 103:17	101:14 107:6	126:9
97:25 116:11	115:15,21,22	113:10	answers 9:1	article 16:5
116:13 126:22	agreed 17:25	amendment	13:18 25:14	articles 46:19
126:24 127:11	20:8 53:9	4:10,12 68:5	26:1 33:22	47:17 60:11
137:9,11,12	54:11 98:19,20	77:18 78:10	120:16	articulated
138:21,22	agreement 4:8	79:2,10,19	anybody 17:15	101:22
act 127:14	4:10,12,19,23	80:8 88:4,12	109:12 120:7	ASCII 139:16
	5:7 39:5 52:8	88:18,22	134:7	ashipley@mc...
	52:9,10,12	amendments	anymore 59:21	2:16

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 said, Harvey, we want to do it this way and this
2 way. Harvey may not have known about our commission
3 and done it a different way and switched it and then
4 it all of a sudden they took down a different type
5 of property. They called it a different type of
6 property and they didn't have to pay us a commission
7 on a different type of property.

8 Q. Do you have any evidence, any evidence that
9 in fact that Pardee has paid more than \$84 million
10 to Coyote Springs Investment, LLC?

11 A. Not to the best of my knowledge. That
12 doesn't mean they didn't.

13 (Exhibit 3 marked.)

14 BY MS. LUNDVALL:

15 Q. Mr. Wilkes, I'm going to hand you what's
16 been marked as Exhibit 3 to your deposition.

17 A. Yes, ma'am.

18 Q. The Exhibit 3 is an "Amendment to Option
19 Agreement For the Purchase of Real Property and
20 Joint Escrow Instructions." The date on this is the
21 28 day of July of 2004. Do you see that at the top?

22 A. I do.

23 Q. And this is between Coyote Springs and
24 Pardee Homes of Nevada?

25 A. I do.

1 Q. And under the "Recitals," Page 1, makes
2 reference to that certain option agreement that was
3 dated June 1 of 2004. Do you see where I'm at?

4 A. Yes.

5 Q. Then you understand that to be referencing
6 back then to Exhibit 2 that I handed you earlier?

7 A. Where is she at.

8 Q. Do you see under the recital?

9 A. Okay. Yes.

10 Q. The second recital says "By this amendment,
11 the parties hereto desire to amend the agreement in
12 certain respects."

13 A. Yes.

14 Q. Do you see where I'm at?

15 A. Yes.

16 Q. And the that wasn't unusual in your
17 business, was it?

18 A. No. They could make amendments and
19 everything but they should give us copies of it.

20 Q. Through this litigation you received copies
21 of these documents, have you not?

22 A. Through this litigation, yeah, eventually,
23 after the lawyers had to -- Mr. Jimmerson had to
24 crack down on the other attorneys that were in it,
25 Stringer and the other one.

1 Q. Do you know whether or not this first
2 amendment made any changes to the property purchase
3 price that's referenced in your commission letter?

4 A. If you want me to sit here and study this
5 for 20 minutes, I can give you an answer. But
6 legally, I don't know. That's what the attorney is
7 for.

8 Q. Sir, I will represent to you that there
9 wasn't any change in the property purchase price in
10 the first amendment.

11 A. Okay.

12 (Exhibit 4 marked.)

13 BY MS. LUNDVALL:

14 Q. What I would like to do, then, is to hand
15 you what's been marked as Exhibit 4 to your
16 deposition. With any of these documents, sir, feel
17 free to spend as much time as you like before I ask
18 any questions to you.

19 Exhibit 4 makes reference to "Amendment
20 No. 2 to Option Agreement For the Purchase of Real
21 Property If and Joint Escrow Instructions." Do you
22 see the title on that?

23 A. Yes, I do.

24 Q. And this bears the date, then, of the 31st
25 day of August of 2004; do you see where I'm at?

1 A. Where is the date? I don't see the date.
2 Q. First paragraph.
3 A. Okay.
4 Q. See the date of August?
5 A. Got it.
6 Q. August 31 of 2004?
7 A. Yes, ma'am.
8 Q. And this is an amendment, then, to the
9 option agreement that we have already looked at, and
10 it is between Coyote Springs and Pardee Homes of
11 Nevada?
12 A. Okay.
13 Q. Do you see where I'm making reference to?
14 A. I do.
15 Q. Now, I'm hoping that on your calendar that
16 July 28 is before September 1. Is that a fair
17 statement?
18 A. July 28 is before September 1, right.
19 Q. And August 31 is before September 1 as
20 well?
21 A. That's correct.
22 Q. So if these two amendments were entered
23 into before your commission letter, then, you would
24 be able to claim the benefit of these two
25 amendments, correct?

1 A. Would you say that again?

2 Q. If in fact these two amendments were
3 entered into before your commission letter, based
4 upon the subject line, you get to claim the benefit
5 then of that, correct?

6 A. No, we should be able to claim the benefit
7 anyway. They never gave us any of this stuff. We
8 never seen any of this stuff. Do you think we
9 wouldn't take advantage of a higher commission if we
10 had got something like this?

11 Q. Let me walk you through it and see whether
12 or not that you have.

13 During the course of this litigation you
14 have received copies of these documents, have you
15 not?

16 A. This is -- to the best of my knowledge,
17 this is the first time I have seen this.

18 Q. Do you know whether or not your counsel has
19 received these copies?

20 A. Probably.

21 Q. But what you are suggesting to me is that
22 you may not have seen these before?

23 A. That's correct.

24 Q. But I don't have any control over what your
25 counsel shares with you. Would you agree with that

1 **statement?**

2 A. Well, yes. And I would also share with you
3 this knowledge. I was in California. Jim was
4 handling most of this stuff, and Jim was the one
5 having the meetings with Mr. Jimmerson and he would
6 give me ideas of what was going on, but I couldn't
7 remember all of that stuff.

8 Q. Let me take you back to Exhibit 1 which is
9 the contract that's at issue.

10 A. The commission agreement?

11 Q. Yes, sir.

12 Once we get past the salutation which says
13 "Gentlemen," the first sentence there reads "This
14 letter is intended to confirm our understanding
15 concerning the pending purchase by Pardee from
16 Coyote of certain real property located in the
17 counties of Clark and Lincoln, Nevada pursuant to
18 the above referenced option agreement."

19 Did I read that correctly?

20 A. Yes, I did.

21 Q. So the properties then that are referenced
22 in the option agreement that has a definition in the
23 "re" line is the subject matter of this particular
24 letter, correct?

25 A. What do you mean "the gray line"?

1 Q. You and I are not communicating on this
2 point. A "re" line to me is a subject line, not a
3 "gray" line, the "re" line.

4 MS. HANSEN: See the R-E, that's what she
5 is referring to.

6 THE WITNESS: I know what that is.

7 BY MS. LUNDVALL:

8 Q. My apologies?

9 A. I call it "regarding" line.

10 Q. I will use your terms.

11 A. No. No, you can use yours. That's fine.

12 Q. The regarding line, then, makes reference
13 to which agreement that's at issue, correct?

14 A. The regarding line makes -- makes issue --

15 Q. Makes reference to the agreement that is at
16 issue under your commission letter, correct?

17 A. Yes.

18 Q. The second line under your commission
19 letter says "Except as otherwise defined herein, the
20 capitalized words used in this agreement shall have
21 the meanings as set forth in the option agreement."

22 Did I read that correctly?

23 A. Yes.

24 Q. And you understood that to mean that if
25 there were capitalized terms in the option

1 agreements and in the amendments, that those
2 capitalized terms, then, would have those same
3 meanings for your commission letter, correct?

4 A. I didn't understand that before but I
5 understand it now.

6 MS. LUNDVALL: I need to take a break.

7 (Off the record.)

8 BY MS. LUNDVALL:

9 Q. We are on paragraph number 1 on the
10 commission agreement.

11 A. Yes, ma'am.

12 Q. I can see during the time that I was gone
13 that you added some yellow highlight to that
14 document?

15 A. You are not supposed to be looking.

16 Q. Is that right?

17 A. Yes.

18 Q. Did you add any additional highlight to
19 Exhibit No. 1, which was the commission letter?

20 A. No, just the same ones.

21 Q. What I want to do is stick with the
22 commission letter for a little bit. We were on the
23 last sentence of that first paragraph that says that
24 the capitalized terms in the option agreement are
25 the same terms, then, that would apply for purposes

1 of your commission letter. Do you see that?

2 A. Yes.

3 Q. As you sit here today, you now have an
4 understanding that those capitalized terms then
5 control the interpretation of your commission
6 letter, correct?

7 A. When you say the "capitalized terms," where
8 it says 50 million dollars that's capitalized and
9 the 16 million that's --

10 Q. There are two words, "contingency period."
11 Do you see in the second paragraph?

12 A. I see the "contingency period."

13 Q. I don't want you to highlight anything.
14 The highlight is very important to me and I don't
15 want to add unless I ask you to.

16 A. Okay.

17 Q. You see "contingency period"?

18 A. Yes.

19 Q. That's capitalized, correct?

20 A. Yes.

21 Q. In the option agreement, there is a
22 definition of contingency period; do you now have
23 that understanding?

24 A. Yes.

25 Q. You now understand that whatever that

1 definition is in the option agreement is the same
2 definition that controls for your commission letter,
3 correct?

4 A. According to the commission letter, with
5 the exception of the fact that this should -- we
6 should have been paid for 66 million, 16 million and
7 another 18 million, which is 84 million. Outside of
8 that, yes, that's correct.

9 Q. What I want to do is just stick, then, to
10 the capitalized terms.

11 A. Okay.

12 Q. Those capitalized terms, if there is
13 definition in the option agreement, those
14 definitions control for your commission letter,
15 correct?

16 A. Okay. Yes.

17 Q. If we go then down to the second full
18 paragraph on your commission letter, it breaks out
19 into three separate paragraphs how you are going to
20 be paid on your commission. Correct?

21 A. Yes, ma'am.

22 Q. One little "i" indicates that you are going
23 to get 4 percent of the purchase property price
24 payments, correct?

25 A. Right.

1 Q. Up to \$50 million?

2 A. Right.

3 Q. And.

4 Two little "ii" says you are going to get
5 1-1/2 percent of the remaining purchase price in the
6 aggregate amount of 16 million. Do you see where
7 I'm at?

8 A. I do.

9 Q. And purchase property price is all in
10 capitals, correct?

11 A. Yes.

12 Q. So to figure out what the definition, then,
13 of the purchase property price is, what we need to
14 do is go to the option agreement, correct?

15 A. If you say so.

16 Q. Let's start with Exhibit No. 2.

17 A. Okay. We are there.

18 Q. Exhibit No. 2, if you turn to Page 3 --

19 A. All right.

20 Q. -- do you see about the a third of the way
21 down the page there is a little "b"?

22 A. Yes.

23 Q. And you see the words "PURCHASE PROPERTY
24 PRICE" that's in caps and paren there?

25 A. It 66 million.

1 Q. \$66 million, do you see that?

2 A. Right.

3 Q. Let's go now to Exhibit No. 3, which was
4 the first amendment.

5 A. Okay.

6 MS. HANSEN: She is asking you to look at
7 another document.

8 THE WITNESS: Sorry. Okay.

9 BY MS. LUNDVALL:

10 Q. Feel free to spend as much time with this
11 as you want, sir, but I cannot find any changes to
12 the purchase property price in this first amendment.

13 A. I cannot either, but I will take your word
14 for it.

15 Q. And the document will control. You won't
16 need to take my word for it.

17 Go to Exhibit No. 4. What you are going to
18 see is the second amendment.

19 A. Right.

20 Q. That was entered into between Pardee and
21 CSI. If I can take you to Page 2 of Exhibit 4,
22 which was the second amendment, do you see that the
23 purchase property price now went up to \$84 million?

24 A. That's what I highlighted.

25 Q. Okay.

1 A. Yes.

2 Q. Are you aware that you have been paid
3 commissions on \$84 million?

4 A. No, I'm not. In fact, I think we should be
5 paid commissions on 84 million. We didn't see any
6 of this stuff until after we signed the other. It's
7 like they slipped it in on us.

8 Q. If the purchase price went up and you were
9 getting a percentage, then, of the purchase price,
10 that would be a good thing for you, right?

11 A. Say that again.

12 Q. If the purchase price went up under these
13 amendments and, as your commission letter indicates
14 you were getting paid on the purchase property
15 price, you believe you are entitled to that
16 increase, right?

17 A. Absolutely.

18 Q. And you believe that you should be entitled
19 to the increase up to whatever the definition is
20 found within these amendments, correct?

21 A. I believe I'm entitled -- we are entitled
22 to the purchase price of 84, which should be payable
23 as follows, I guess.

24 Q. All right.

25 A. You know, I'm not really good in these

1 amendments. I didn't study them. I let Jimmerson
2 look into them.

3 Q. You would assume that most people would
4 follow the advice of their attorney, right?

5 A. Yes.

6 Q. And you two were following the advice of
7 your attorney, correct?

8 A. Yes.

9 Q. What I want to do is take you then back to
10 Exhibit 1, which is your commission letter.

11 A. Okay. I've got a helper here. Make it
12 quicker for you.

13 Q. Okay.

14 A. Okay. I'm there.

15 Q. All right.

16 A. Page 1.

17 Q. Page 1 at "iii"?

18 A. Yes.

19 Q. At "iii," it makes reference to the option
20 property.

21 A. Purchase by Pardee pursuant to paragraph 2
22 of the option agreement. Pardee shall pay 1 and 1/2
23 percent -- yes.

24 Q. So iii, in sum, then says if in fact there
25 is option property that's purchased by Pardee

1 pursuant to paragraph 2 of the option agreement,
2 then you are going to get a percentage, then you are
3 going to get paid a commission on that purchase,
4 correct?

5 A. Yes.

6 Q. You are going to get 1-1/2 percent of any
7 amount that's multiplied by the number of acres,
8 purchased by Pardee by \$40,000, correct?

9 A. Yes, because this is where we are paid by
10 acres.

11 Q. So if in fact -- well, let's go to the
12 option agreement, see if we can find a definition
13 for you, then, of option property.

14 I'll go ahead and take you back to Exhibit
15 No. 2 again.

16 A. Page 2.

17 Q. Start on Page 1, sir.

18 A. Page 1.

19 Q. See at the very bottom there is a reference
20 to option property, very bottom of the page?

21 A. Talking about B?

22 Q. Yes.

23 A. Okay. The very bottom of the page, buyers
24 option -- (sotto voce). Yeah.

25 Q. Okay.

1 A. I don't understand what that means though.

2 Q. You do see a definition of option property
3 here?

4 A. Yeah. Let me look at it again. Number of
5 separate phases, what does that mean? That was a
6 question.

7 Q. I understand that, but this is my
8 opportunity to ask you questions, not vice versa.
9 Just trying to point you to the definitions of
10 option property.

11 A. Okay.

12 Q. All right. Then what I want you to do is
13 to go to Page 5 of Exhibit 2 and you will see
14 paragraph 2, "Grant of Option"?

15 A. Yes. (Sotto voce) -- expire five years
16 following the settlement date.

17 Q. To your knowledge, has Pardee purchased any
18 property pursuant to paragraph 2 from Coyote
19 Springs?

20 A. I have no documentation. I have no way of
21 knowing that. They have not provided us anything.

22 Q. The option agreement makes reference to an
23 option property deed, if in fact that Pardee took a
24 property pursuant to that paragraph. Have you
25 received or found in Lincoln County or in Clark

1 **County copies of any option property deeds?**

2 A. No, but that doesn't mean there has not
3 been any because sometimes recordings take forever
4 before they show up, especially on properties of
5 this size, especially with new parcel numbers,
6 especially with a new area. That doesn't mean there
7 wasn't -- that they didn't take anything down.

8 **Q. Let me ask you this.**

9 Have you had the opportunity to review any
10 of these option agreements or their amendments that
11 have been provided to your counsel?

12 A. No. We gave them to Mr. Jimmerson, let him
13 review the things, and we did what he told us.

14 **Q. Were you aware, then, of in fact that the**
15 **BLM was going to be doing reconfigurations of the**
16 **land grants?**

17 A. I just thought of something on the last
18 question. Do you want me to rephrase that?

19 **Q. Feel free to go back to it and then I will**
20 **ask my next question.**

21 MS. LUNDVALL: We will have the court
22 reporter read back the second-to-last question.

23 (Thereupon, the record was read by the
24 court reporter as follows: "Q. Have you
25 had the opportunity to review any of these

1 option agreements or their amendments that
2 have been provided to your counsel?")

3 THE WITNESS: I do remember that we -- I do
4 remember that we skimmed through them, but we did
5 not understand all the legal stuff on them so we
6 took them to Jimmerson. So we did kind of -- when
7 we got the escrow instructions, we did -- and the --
8 and the -- we didn't get any amendments, but we got
9 the escrow instructions. We did skim through those,
10 and it was too confusing for us so we took them to
11 Jimmerson.

12 BY MS. LUNDVALL:

13 Q. Any of the commission payments that you
14 received, you received those directly from the
15 escrow company, correct?

16 A. Absolutely.

17 Q. You are aware that your commission letter
18 had been supplied to the escrow company, correct?

19 A. From Pardee to the escrow company, yes.

20 Q. And that's a fairly typical arrangement as
21 part of an escrow company's obligations in opening
22 an escrow, correct?

23 A. Yes, especially if you are representing the
24 buyer.

25 Q. So to the extent that your commission

1 letter was provided, then, to the escrow company,
2 your payments then were received from the escrow
3 company, correct?

4 A. Yes.

5 Q. At no point in time did you receive any
6 payments directly from Pardee?

7 A. Absolutely not.

8 Q. At no time did you receive payments
9 directly from CSI, Coyote Springs?

10 A. No, the only payments came through the
11 title company.

12 Q. So each time, then, that there was some
13 type of land takedown, an exchange of monies between
14 Pardee and CSI, the escrow company was involved in
15 that transaction --

16 A. Yes.

17 Q. -- were you aware of that?

18 A. Yes.

19 Q. That's fairly typical, correct?

20 A. Yes.

21 Q. And the escrow company then was paying
22 pursuant to escrow instructions, correct?

23 A. Yes.

24 Q. And your commission letter then was part of
25 those escrow instructions, to your knowledge?

1 A. Yes. However --

2 Q. I want to turn your attention to --

3 MS. HANSEN: Go ahead and finish your
4 answer.

5 THE WITNESS: I said yes, however, all we
6 got was checks. We still never got any
7 documentation or maps or anything as to which parcel
8 was going down.

9 BY MS. LUNDVALL:

10 Q. That's exactly the next section I wanted to
11 talk to you about.

12 A. Oh, good. We can skip it now.

13 Q. I want to take you back to Exhibit No. 1,
14 please.

15 A. Yes, ma'am. Exhibit 1, which would be the
16 commission letter. Okay.

17 Q. There is a paragraph in the commission
18 letter that speaks to Pardee's obligation to provide
19 information to you, is there not?

20 A. Where is that paragraph at?

21 Q. It's on Page 2.

22 MS. HANSEN: The one you highlighted.

23 THE WITNESS: Okay. Yes.

24 BY MS. LUNDVALL:

25 Q. As a matter of fact, you provided highlight

1 to that portion, correct?

2 A. That's correct.

3 Q. And it's your opinion, in fact, that this
4 portion of the commission letter may have been
5 breached by Pardee; is that right?

6 A. Well, let me read it one more time.

7 Q. Okay.

8 A. You had me highlight it. I read it pretty
9 quick. "Pardee shall provide to you a copy of each
10 written option exercise given pursuant to paragraph
11 2 of the option agreement, together with information
12 as to the number of acres involved in the scheduled
13 closing date. In addition, Pardee shall keep each
14 of you reasonably informed as to all matters. All
15 matters relating to the amount and due dates of your
16 commission payments."

17 Which they did not do.

18 Q. What I want to do is focus your attention
19 strictly on the first sentence.

20 A. Okay.

21 Q. First sentence says that you are going to
22 get "a copy of each written option exercise notice
23 given pursuant to paragraph 2 of the option
24 agreement, together with information as to the
25 number of acres involved and the scheduled closing

1 **date."**

2 **Did I read that correctly?**

3 A. Yes.

4 **Q. My question to you, sir, is that if there**
5 **has been no written option exercise notice, in other**
6 **words, if Pardee has never sent an exercise notice**
7 **to CSI that we are going to take down additional**
8 **properties pursuant to paragraph 2, then there was**
9 **nothing that they could provide to you. Do you have**
10 **that understanding?**

11 A. They were not going to take down anything,
12 but they were supposed to keep us advised what they
13 were going to do, what their plans were and
14 everything. So no, I think they should have let us
15 know we are not going to take this option down to --
16 example, December 1st, and then we will take this
17 option down.

18 They were supposed to keep us a party to
19 this. That's why we agreed to get out of -- that's
20 why we agreed to let them go on to the meetings
21 without us. They were going to keep us advised of
22 every little detail.

23 **Q. I want you to focus on the language here.**

24 A. Just one second. I got to get a hard candy
25 here.

1 The first sentence, right?

2 Q. On this first sentence, this first sentence
3 only makes reference to paragraph 2 of the option
4 agreement --

5 A. Okay.

6 Q. -- do you see that?

7 A. Yes.

8 Q. Do you have any knowledge, in fact, that
9 Pardee did exercise an option under paragraph 2 of
10 their option agreement?

11 A. Which was paragraph 2? Let me look at it.
12 This one?

13 Q. Yes, that's correct.

14 A. Paragraph 2 is up here. Right. That's a
15 legal question. I can't answer that. I'm not an
16 attorney. Brokers have been taught from the
17 beginning of time, you are not an attorney, do not
18 practice, you will get in trouble.

19 Q. Let me ask you a factual question.

20 A. Okay.

21 Q. Do you have any facts to indicate that
22 there has been any exercise of options by Pardee
23 from CSI?

24 A. Well, the Clark County maps that Jim looked
25 at showed an awful lot more property than what these

1 options covered, so yes, I do.

2 **Q. Okay.**

3 A. Based on the maps, okay, without parcel
4 numbers, without everything, but based on the maps,
5 looks like they took down a lot more property.

6 **Q. Parcel numbers are a matter of public**
7 **record, are they not?**

8 A. Well, when you go down to Clark County --
9 yes, but when you are talking about new parcel maps
10 and new things, you don't get the deeds or anything
11 until later on. But parcel numbers should be a
12 matter of record. And Jim got some parcel numbers
13 from the county down there which he felt belonged --
14 were takedowns of Pardee, and that's why we think
15 there was a lot more acreage.

16 **Q. Parcel maps are also a matter of public**
17 **record, are they not?**

18 A. Yes.

19 **Q. Directing your attention, then, down to --**

20 A. With the exception -- with the exception of
21 Pardee doesn't want anything to show. They have
22 tremendous power with the county. They don't want
23 anything to show on -- they don't want anything to
24 show on the maps or anything in the newspaper. They
25 slow it up considerably.

1 Q. You tell me what facts and what evidence
2 did you have that any representative of Pardee has
3 improperly influenced Clark County or Lincoln County
4 on what has been recorded or is a matter of
5 assessor's record?

6 A. I have no evidence, except what you told
7 me.

8 Q. Pure speculation is what you are telling
9 me; is that right?

10 A. There's an awful lot of property that
11 wasn't there.

12 Q. Pure speculation; is that correct?

13 MS. HANSEN: I don't want you to raise your
14 voice at my witness. He is answering your
15 questions.

16 THE WITNESS: You can call it speculation
17 if you want, but when you see large parcels of land
18 taken down, it sure makes you -- you know, it sure
19 makes you wonder.

20 BY MS. LUNDVALL:

21 Q. You have no facts or evidence in support of
22 the suspicions that you just articulated, correct?

23 A. Just the parcel maps.

24 Q. Directing your attention back to Exhibit
25 No. 1, please.

1 A. Yes, ma'am.

2 Q. There is a two-sentence paragraph that
3 starts "In the event any sum of money is due."

4 A. Where are you at?

5 Q. I'm on Page 2, sir.

6 A. Oh. Last paragraph.

7 MS. HANSEN: No, right here.

8 BY MS. LUNDVALL:

9 Q. Second to the last paragraph.

10 A. "In the event any sum of money due remains
11 unpaid for a period of 30 days shall bear the rate
12 of 10 percent per annum from the date until paid."

13 Q. Do you contend that there is a sum of money
14 due to you?

15 A. Based on the maps and information we
16 certainly -- we certainly think that there could be.
17 There is more property. There is more property, we
18 haven't been able to identify them.

19 Q. How much?

20 A. Oh, I have no idea.

21 Q. Second sentence reads "In the event either
22 party brings an action to enforce his rights under
23 this agreement, the prevailing party shall be
24 awarded reasonable attorneys fees and costs."

25 Did I read that correctly?

1 A. Yes.

2 Q. Do you understand that if, in fact, that
3 it's Pardee that is the prevailing party, that it
4 will be entitled an award of reasonable attorneys
5 fees and costs against you and Mr. Wolfram?

6 A. How much are there in attorneys fees?

7 Q. Do you have that understanding?

8 A. I have that understanding, but you asked me
9 how much. Is it over 10,000?

10 (Exhibit 5 marked.)

11 BY MS. LUNDVALL:

12 Q. Mr. Wilkes, I'm going to hand you what's
13 been marked as Exhibit 5 to your deposition.

14 A. Any particular page or do you want me to
15 read the whole thing?

16 Q. My question to you is a fairly simple one.
17 This is a copy of the amended complaint
18 which is the operative complaint in this litigation.
19 Did you have an opportunity to see this document
20 before it was put on file on your behalf?

21 A. You know, I don't think I have ever seen
22 this one.

23 Q. Feel free, sir, to spend as much time with
24 it, then, as you like. I'm going to ask you a few
25 questions on it. Okay?

1 A. Okay. Hang on a second. Okay, go ahead.

2 Q. You don't think that you have seen this
3 before?

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

5 Q. But you trusted your attorney to file an
6 accurate and complete document on your behalf?

7 A. Absolutely. Jimmerson is the best in town.

8 Q. What additional information is it that you
9 seek from Pardee?

10 A. What do we seek from them?

11 Q. What additional information do you seek
12 from Pardee?

13 A. Any and all documentation, parcel maps,
14 anything at all that's -- can help us track the
15 sales from Coyote Springs to Pardee or from Pardee
16 back to Coyote Springs on any trades, anything at
17 all that would help us track that.

18 Q. Do you have any knowledge that would
19 suggest that Pardee and CSI have done any
20 transactions that have not been subject of an
21 escrow?

22 A. I don't have knowledge, but the way things
23 are going on, I want to know.

24 Q. You have asked for documentation from
25 Stewart Title --

1 A. Sorry. No, I don't.

2 Q. Are you aware that you have asked for
3 documentation from Stewart Title company?

4 A. We have asked -- Stewart Title company
5 takes their orders from Pardee. They don't give
6 us -- we asked for documentation. They would not
7 give us anything.

8 Q. Are you aware that your counsel has
9 subpoenaed documents from Stewart Title?

10 A. No, I didn't know that. I'm glad he has.

11 Q. Are you aware that your counsel has already
12 subpoenaed documents from Chicago Title?

13 A. I wasn't aware of that, no. I'm glad he
14 has.

15 Q. Are you aware of any other title companies
16 that have been used by Pardee and CSI to effectuate
17 their transactions?

18 A. Stewart Title, I think.

19 Q. Other than Stewart Title and other than
20 Chicago Title, are you aware of any other title
21 companies that have been used by Pardee and CSI to
22 effectuate the transactions between the two?

23 A. You know, First American might have been in
24 there. I don't know. I'm not sure.

25 Q. Did you receive any commission checks from

1 First American?

2 A. I don't remember.

3 Q. You received commission checks, though,
4 from Stewart, did you not?

5 A. Yes.

6 Q. And you received commission checks from
7 Chicago Title, did you not?

8 A. Yes.

9 Q. Any other commission checks from any other
10 title company that you received concerning this
11 transaction?

12 A. To the best of my knowledge, no.
13 (Exhibit 6 marked.)

14 BY MS. LUNDVALL:

15 Q. Mr. Wilkes, I hand you what's been marked
16 as Exhibit 6 to your deposition. Did you receive a
17 copy of this letter?

18 A. I saw a copy of this letter long after --
19 well, I saw it, I guess it must have been 2007 that
20 it's dated here so I would assume I saw it in 2007.
21 I didn't understand it.

22 Q. Did you read the letter?

23 A. Basically I glanced over it. I have not
24 read it. I was waiting to talk to counsel about it.

25 Q. After receiving the letter in 2007, did you

1 call Mr. Lash and ask him any questions concerning
2 it?

3 A. No, I have not talked to Mr. Lash for
4 years. Jim was the one that did the talking to him.
5 I was very upset about the commission.

6 MS. HANSEN: You have finished answering.

7 THE WITNESS: Okay.

8 (Exhibit 7 marked.)

9 BY MS. LUNDVALL:

10 Q. Mr. Wilkes, I hand you what's been marked
11 as Exhibit 7 to your deposition.

12 A. Yes, ma'am.

13 Q. This is a letter that bears the date of
14 April 6 of 2009.

15 A. Yes, ma'am.

16 Q. Earlier you indicated that Mr. Wolfram was
17 the individual who was asking questions of Pardee;
18 is that correct?

19 A. Yeah.

20 Q. And this is a letter that is directed to
21 Mr. Wolfram from Jim Stringer with Pardee Homes?

22 A. Okay.

23 Q. Do you see that?

24 A. Yes.

25 Q. Did Mr. Wolfram then share the information

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No.: 72371

Electronically Filed
~~Feb 28 2018~~ 11:20 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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 10 OF 88

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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 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
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.

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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

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 Whitemore
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. Whitemore?

15 A. I said, Mr. Whitemore, 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. Whitemore, 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?