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IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL PATRICK LATHIGEE,

Appellant,

— vs. —

BRITISH COLUMBIA SECURITIES
COMMISSION,

Appellee.

Civil Appeal No. 78833

Case Below No. A-18-771407-C
Eight Judicial District Court, Dept. 14

**NOTICE OF COMPLETION OF
TRANSCRIPT**

Appellant, Michael Patrick Lathigee ("Lathigee"), hereby gives notice that the singular transcript in this matter has been completed, is attached hereto, and that the fees in full for the transcript have been remitted to the transcriber listed on the first page thereof.

//

Respectfully submitted on the date of electronic filing, by:

/s/ Jay D. Adkisson
Jay D. Adkisson
Counsel for Defendant
Michael Patrick Lathigee

CERTIFICATE OF SERVICE

The following signature certifies that on the date of e-filing, a full, true, and correct copy of the above and foregoing document was served by e-service and also deposited in the U.S. Mail, with correct first-class postage affixed thereto, and address to counsel for the Appellee, British Columbia Securities Commission, to wit:

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/s/ Jay D. Adkisson
Jay D. Adkisson

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

BRITISH COLUMBIA SECURITIES)	
COMMISSION,)	CASE NO. A-18-771407-C
)	
Plaintiff,)	DEPT NO. XIV
)	
vs.)	
)	
MICHAEL PATRICK LATHIGEE,)	
)	
Defendant.)	Transcript of
)	Proceedings

BEFORE THE HONORABLE ADRIANA ESCOBAR, DISTRICT COURT JUDGE

**NOTICE OF HEARING RE: MOTION FOR SUMMARY JUDGMENT BY DEFENDANT
LATHIGEE**

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT AND PLAINTIFF'S COUNTER MOTION FOR SUMMARY JUDGMENT**

TUESDAY, DECEMBER 4, 2018

APPEARANCES:

FOR THE PLAINTIFF: MATTHEW M. PRUITT, ESQ.

FOR THE DEFENDANT: JAY D. ADKISSON, ESQ.

RECORDED BY: SANDRA ANDERSON, COURT RECORDER
TRANSCRIBED BY: JULIE POTTER, TRANSCRIBER

1 LAS VEGAS, NEVADA, TUESDAY, DECEMBER 4, 2018, 10:08 A.M.

2 (Court was called to order)

3 THE COURT: Good morning.

4 MR. ADKISSON: Good morning, Your Honor. Jay Adkisson
5 for defendant Lathigee.

6 THE COURT: Okay.

7 MR. PRUITT: Good morning, Your Honor. Matthew Pruitt
8 on behalf of the plaintiff. With me is a representative of my
9 client, Will Roberts.

10 THE COURT: Good morning. Before we begin, I must
11 tell you that this is a fascinating reading for me, and I --
12 this case is very significant, in my view. And one thing that I
13 thought of, which I rarely do on a -- on this type of a motion,
14 you know, a motion for summary judgment, is ask for findings of
15 fact and conclusions of law. But because it's a dispositive
16 motion, I am going to require that, okay. I just -- I don't
17 want to forget to tell you that.

18 MR. PRUITT: Okay.

19 THE COURT: All right. And then I'd like to go ahead
20 and hear. We have defendant's motion for summary judgment, and
21 plaintiff's motion for summary judgment. Who would like to go
22 first?

23 MR. ADKISSON: I think it was our initial motion, Your
24 Honor.

25 THE COURT: Okay. Very good.

1 MR. PRUITT: That's fine, Your Honor.

2 THE COURT: One moment, please.

3 MR. ADKISSON: Well, if it may please the Court, my
4 argument is almost going to be no argument to the extent that if
5 Your Honor has read this, Your Honor knows this is very
6 complicated material. I'm not sure it lends itself very well to
7 oral argument as opposed to the parties researching, making
8 submissions to the Court, the Court being able to sit down, take
9 a deep breath, and read through it. And so with that --

10 THE COURT: Well, I have read through it, but it's --
11 it's very detailed and I'd like to hear a little bit more about
12 it. With respect to the Kokesch case.

13 MR. ADKISSON: The Kokesch case?

14 THE COURT: Uh-huh.

15 MR. ADKISSON: Oh, certainly. Well, the Kokesch case
16 is a case that was decided in 2017 --

17 THE COURT: Right.

18 MR. ADKISSON: -- by Justice Sotomayor.

19 THE COURT: Uh-huh.

20 MR. ADKISSON: It involved -- it involved disgorgement
21 in the SEC context. It was -- it came up in relation to a
22 statute of limitation, which is a little bit different, but in
23 that Justice Sotomayor goes through these long -- or this fairly
24 substantial analysis and goes through these five or six elements
25 that start ending somewhere about 12 -- on page 12 of her

1 opening brief.

2 And Justice Sotomayor goes out and, bang, bang, bang,
3 disgorgement will be a penalty under U.S. law if such and such
4 is met. We go through those factors in depth. We apply the
5 facts to that.

6 Most important I would direct Your Honor to -- if
7 there's anything that's -- that's salient in this case, I would
8 suggest to Your Honor that it's found in pages 12 to -- I'm
9 sorry, 14 to 16 of her opening brief. Because there it lays out
10 that in the underlying case the court said the purpose of this
11 is to deter future conduct by taking the money away from the
12 wrongdoer.

13 The case went up on appeal. The appeal was known as
14 Punian (phonetic). It's a little bit odd in British Columbia
15 because apparently when they have like cases, they group them
16 all together and they hear the cases at once even though they
17 involve disparate parties.

18 So you have this Punian case that comes up that also
19 involves [indiscernible]. The court in that case comes out and
20 says the purpose of this disgorgement order is to take money
21 away and deter the wrongdoer, keep them from doing something
22 again in the future.

23 Prior to the time we filed out motion for summary
24 judgment there was discovery, and in this discovery -- or,
25 rather, there was an exchange of expert opinions and their

1 expert comes out and says, and it's set forth in our brief, the
2 purpose of this is to deter and to keep the person from -- from
3 running their scheme again. That's the purpose of disgorgement.

4 I would say that's salient because that goes to the
5 heart of the matter, it goes to the heart of the Huntington
6 versus Attrill test, it goes to the City of Oakland, it goes to
7 Kokesch. And so I would merely ask the Court to focus on that.

8 THE COURT: Huntington 1892; right?

9 MR. ADKISSON: Huntington 1892. Yes, Your Honor.

10 THE COURT: Right. And is that still a solid case? I
11 mean, I know it hasn't been overturned, but reading it
12 yesterday, it's really not quite on point.

13 MR. ADKISSON: Well, Huntington -- Huntington is --
14 Huntington is a strange case. It's one of those things that I
15 would say it's on three legs, but not four, to put it. Now, it
16 did involve a security case. It did involve --

17 THE COURT: I know.

18 MR. ADKISSON: -- a case in Maryland.

19 THE COURT: In a different --

20 MR. ADKISSON: I think --

21 THE COURT: It had a slightly different approach.

22 MR. ADKISSON: It did have -- it did have a slightly
23 different approach. I think the importance of Huntington is
24 more that it was a seminal case in the area. And then all these
25 other cases basically took the principle of law that's set forth

1 there, which is you don't -- you don't enforce a judgment that's
2 what's known as jure imperii, the imperial judgment, one in
3 favor of the state. And that, of course, is carried through to
4 its progeny.

5 Now, there have been criticisms on various grounds of
6 Huntington over the years. There's no doubt about that.
7 There's been various law professors have written articles about
8 -- about the case. There have been snide comments by appellate
9 judges over the years, but, nonetheless, it has survived and it
10 has survived here in Nevada in the City of Oakland case.

11 THE COURT: Right. Okay.

12 MR. ADKISSON: So if the Court has -- if the Court has
13 any other questions, I'd be glad to hear them, but I really have
14 no other argument.

15 THE COURT: I do have a question. With respect to --
16 I don't want to -- let's see. I forget the name of the British
17 Columbia Securities. Is it the BCSC?

18 MR. ADKISSON: The BCSC.

19 THE COURT: My understanding is that the difference
20 between our SEC and the British Columbia BCSC is that the SEC
21 doesn't -- is not required to provide the restitution to the
22 victims, it can go to the general fund or some other fund. But
23 the BCSC's judgment, I think we have three different judgments
24 in this case. One is purely for restitution. I forget which --
25 which amount it was, the 20 or 30 million.

1 MR. ADKISSON: No, Your Honor. I think what we're
2 talking about here is we're talking about the 21.7 which is
3 purely disgorgement.

4 THE COURT: And that -- and that is required to go to
5 the victims as -- as restitution; correct?

6 MR. ADKISSON: Well, it works the same -- it works the
7 same to some extent between the securities commissioner and
8 British Columbia and the SEC, and that is when they take in
9 money, what they do is they make it available to victims for
10 people to make a claim. So in both cases that procedure works
11 the same. They say, look, we have a pot of money, you make
12 claims. The difference is where it goes after --

13 THE COURT: To the educational fund.

14 MR. ADKISSON: Right. There's -- in British Columbia
15 it goes -- and not just educational.

16 THE COURT: Or something like that.

17 MR. ADKISSON: There was educational and some other
18 purposes.

19 THE COURT: Right.

20 MR. ADKISSON: In the SEC it does go into -- it does
21 go into a general fund.

22 THE COURT: Okay.

23 MR. ADKISSON: That is correct. That -- that is a
24 difference, but I would suggest to Your Honor that that's a --
25 that's a -- that's a difference that isn't particularly germane

1 to the law because the purpose is -- you don't focus on the
2 compensation so much as you focus on the purpose and the purpose
3 is deterrence. And it's that purpose of deterrence that's
4 critically important in these cases.

5 THE COURT: Understood. But -- but are there any --
6 any type of similar regulations that don't also include
7 deterrence or public policy that would be -- you know, make the
8 victims whole? I mean, I think the entire scheme of our
9 jurisprudence is based on sound public policy. And so I don't
10 know if you can really -- you know, I was thinking about this a
11 lot last evening, and I don't know if you can really -- I must
12 tell you that I used to prosecute securities --

13 MR. ADKISSON: I was aware, Your Honor, yes.

14 THE COURT: Okay. So -- so under -- understanding
15 that, then this -- there is deterrence involved, of course. But
16 what about the issue of remuneration for the victims?

17 MR. ADKISSON: Well, it's clear, Your Honor, under --

18 THE COURT: Making them whole.

19 MR. ADKISSON: Well, that goes to the --

20 THE COURT: Or as whole as possible.

21 MR. ADKISSON: I don't want to speak over him, but --

22 THE COURT: Yeah.

23 MR. ADKISSON: -- it's clear that under the Canadian
24 cases, under both the underlying decision, the court of appeals,
25 other Canadian cases have been cited and their expert witnesses

1 that compensation is not a goal. So what happens is is that
2 there's deterrence. The deterrence has a disgorgement, it takes
3 the money in.

4 Now, once the money is in, what do you do with it?
5 You don't just take it out and throw a big party. You make it
6 available for people. But, again, the important thing is is
7 that the deterrence in this -- there's not a compensatory
8 purpose to the act. Again, all the cases that have been cited
9 by both parties, and most importantly their expert witness that
10 say that compensation is not a purpose of the act.

11 THE COURT: Okay.

12 MR. ADKISSON: And so that has to be taken into
13 account.

14 THE COURT: Okay. Thank you.

15 MR. ADKISSON: Thank you, Your Honor.

16 THE COURT: Counsel.

17 MR. PRUITT: Good morning, Your Honor.

18 THE COURT: Good morning.

19 MR. PRUITT: We're asking the Court to recognize a
20 \$21.7 million judgment against the defendant, which represents
21 the amount that he fraudulently raised from 698 investors. An
22 additional judgment for administrative penalties was assessed
23 for \$15 million, but we're not asking the Court to recognize
24 that judgment at this time.

25 The court of appeals for British Columbia observe that

1 the magnitude of the fraud perpetrated in this particular case
2 is among the largest in British Columbia history. In regards to
3 recognition of this judgment, we're not here to retry this
4 judgment. We're here to have it recognized.

5 THE COURT: Understood.

6 MR. PRUITT: The uniform act, the recognition of
7 foreign country money judgments uniform act under NRS 17.700
8 states that the Nevada courts shall recognize a foreign country
9 judgment to which such statutes apply. Defendant has narrowed
10 this argument for us, kindly, and is focusing only on NRS
11 17.740(2)(b) which states that the uniform act does not apply to
12 a foreign country judgment for a fine or other penalty.

13 This statute means that if the Court decides that the
14 judgment at hand is a penalty, then that would not be the end of
15 the analysis, but instead, according to NRS 17.820, the Court
16 could then look to the principles of comity. But this judgment
17 is not a penalty. It's clear from the papers already provided
18 to the Court that the established law in British Columbia holds
19 that a disgorgement judgment like the one at hand is not a
20 penalty.

21 While British Columbia courts stop short of calling
22 disgorgement compensatory, they definitely hold that it is not
23 punitive. And the Court can read that in the Cosby case that we
24 provided, Section 25. In fact, disgorgement doesn't neatly fit,
25 you know, the penalty or compensatory categories that are

1 inherently brought up in the Huntington case.

2 But its effects are far more compensatory than not,
3 and, in fact, instead of being compensatory or -- or punitive,
4 it's restitutionary in its effects. In fact, the existing law
5 in the United States set forth in Kokesch holds that disgorgement
6 is, and I quote, a form of restitution measured by the
7 defendant's wrongful gain.

8 As discussed previously, the plaintiff's judgment
9 against defendant is for \$21.7 million, which is exactly the
10 amount which defendant has been held to have fraudulently
11 raised. So that judgment is dollar for dollar disgorgement, not
12 for profits, but for the amounts actually fraudulently taken
13 from individual investors.

14 While the Kokesch court found that the SEC judgment or
15 disgorgement is often not compensatory, this finding was based
16 on the fact that the SEC disgorgement judgment is paid to the
17 district court, and then the district court has complete
18 discretion on how that money would be distributed.

19 As Your Honor mentioned earlier, where the difference
20 is with the Canadian law is that -- that the Canadian system
21 doesn't have that amount of discretion. There's a set forth
22 process for handling claims, and if those claims are made, they
23 must be -- those investors must be paid back using this money.
24 Every penny collected from this judgment will be restored to
25 investors.

1 Under the U.S. law, this judgment is certainly
2 restitution and its effects are mandated to be compensatory as
3 opposed to the SEC's disgorgement, which the mandate is not
4 there. It's discretionary. The Fourth Restatement of Foreign
5 Relations states that a judgment in favor of a foreign state
6 awarding restitution for the benefit of private persons is not
7 penal.

8 So because this is under U.S. law, a restitutionary
9 judgment, then under the Fourth Restatement of Foreign
10 Relations, that restitutionary judgment is not penal and the
11 Court must recognize the judgment pursuant to that act as --
12 pursuant to NRS 17.700 et al because it is not penal. But even
13 if this Court holds that it is penal --

14 THE COURT: I'm sorry to interrupt --

15 MR. PRUITT: Yeah.

16 THE COURT: -- but I want to ask you right now before
17 I forget.

18 MR. PRUITT: Sure.

19 THE COURT: So is the distinction -- I've read
20 everything, but I want to really be clear. Is the distinction
21 between penal or not penal, okay, or private versus public, is
22 that how it was -- how the nature of the entire case, if it was
23 a penal case, then I understand the restitution in British
24 Columbia goes straight --

25 MR. PRUITT: Right.

1 THE COURT: -- to the victims, the portion, the 21
2 million.

3 MR. PRUITT: Yeah.

4 THE COURT: But does it make a difference of how the
5 case begins in this instance?

6 MR. PRUITT: It doesn't, Your Honor. In fact, if we
7 look to the Fourth Restatement --

8 THE COURT: I did see that.

9 MR. PRUITT: -- there is a section on it that talks
10 about, you know, criminal cases and how even if the judgment
11 stems from a criminal case, it can still be valid.

12 THE COURT: Thank you.

13 MR. PRUITT: But, Your Honor, even if this were a
14 penal judgment, that does not stop this Court from being able to
15 recognize this judgment under the principles of comity. Under
16 the Third Restatement of Foreign Relations it states that
17 non-recognition of a penalty is, excuse me, permitted, but not
18 required.

19 It is under this Court's discretion to exercise comity
20 as a principle under which it can grant -- give effect to the
21 decisions of a foreign nation out of deference and respect. And
22 for the reasons set forth in our motion, it's crucial that this
23 Court extend comity, not only for the reasons of reciprocity,
24 but also to protect the citizens of Nevada.

25 All ten Canadian provinces and the SEC are waiting to

1 see what this Court does with this case. The effects of this
2 case have potentially wide-reaching effects and this Court's
3 finding can create -- it could potentially create a safe haven
4 for people coming out of Canada who have committed fraud to come
5 and escape to Nevada.

6 Defendant's victims are also waiting to see what will
7 happen here. Many of them are entirely dependent on the BCSC
8 for any hope of recovery of what they've lost. So for all of
9 these reasons we ask that this Honorable Court recognize
10 plaintiff's judgment here in Nevada under the statute, or in the
11 alternative under comity.

12 THE COURT: I have one other question for you.

13 MR. PRUITT: Sure.

14 THE COURT: With respect to the City of Oakland case,
15 the Nevada Supreme Court, this is 2011.

16 MR. PRUITT: Yes.

17 THE COURT: That was essentially -- you know, it
18 looked to the Huntington case.

19 MR. PRUITT: Right.

20 THE COURT: Actually, the dissent discusses -- I'm an
21 underliner --

22 MR. PRUITT: Yeah.

23 THE COURT: -- as you can see. The dissent actually
24 discusses something, and I know -- I mean, it's the dissent, but
25 -- let me find it because I thought -- Justice Pickering wrote

1 this dissent. There is something here that discusses -- just
2 one moment.

3 MR. PRUITT: Sure.

4 MR. ADKISSON: I believe it's the last paragraph, Your
5 Honor, of his dissent.

6 THE COURT: Just a moment. It's essentially talking
7 about sister judgments --

8 MR. PRUITT: Uh-huh.

9 THE COURT: -- for other states.

10 MR. PRUITT: Okay.

11 THE COURT: That area where she discusses that.

12 MR. PRUITT: Sure.

13 THE COURT: And then she says something -- essentially
14 what the dissent says is that while those judgments should be
15 recognized, there -- there still may be -- there may not be an
16 exception for foreign judgments.

17 MR. PRUITT: Okay.

18 THE COURT: And I know it's the dissent, but, I mean,
19 I think it -- I think this is a pretty strong dissent.

20 MR. PRUITT: Well, and that's -- you know, that's
21 offered under the assumption that the judgment you're dealing
22 with is a penalty in the first place.

23 THE COURT: Right.

24 MR. PRUITT: And it's important to understand that in
25 Oakland it dealt with a municipal penalty --

1 THE COURT: Right. It did.

2 MR. PRUITT: -- you know.

3 THE COURT: And the sign; right?

4 MR. PRUITT: Right.

5 THE COURT: This was the -- yes.

6 MR. PRUITT: And there -- arguably, there's no
7 individual people that were hurt by this.

8 THE COURT: Correct.

9 MR. PRUITT: But it was a damage to the state itself,
10 and -- and the money was going to the state itself. And this is
11 very different where we have the money going to individual
12 investors, and -- and it's under U.S. law restitutionary --
13 under Kokesch itself acknowledges that disgorgement is
14 restitution. And if we take the Fourth Restatement as -- as
15 valid, as well, then disgorgement or restitution is not a
16 penalty.

17 THE COURT: Okay. Thank you.

18 MR. PRUITT: Thank you, Your Honor.

19 THE COURT: Counsel.

20 MR. ADKISSON: Yes, Your Honor. I just wanted to
21 address the last point about the Fourth Restatement because that
22 came up in their reply and we didn't have a chance to address
23 it. Basically, what happened is we wrote our opening brief in
24 October. In October, I'm not sure if it was before or after
25 opening brief, the American Law Institute released the

1 Restatement Fourth of Foreign Relations.

2 Now, I've got to be honest with Your Honor. I usually
3 don't look for the Restatement of Foreign Relations to come out
4 in new versions. It's not something I'm looking for. So
5 anyhow, we didn't know it.

6 What happened is that they renumbered Section 483 to
7 Section 489. If the Court decides to adopt the Restatement
8 Fourth, it's very important to realize there was a significant
9 change between 483 and 489. 489, which is the new version,
10 basically says a U.S. court -- U.S. courts do not recognize
11 certain types of foreign judgment, so it gets away from the
12 permissive element that was in 483. So it's a much stronger
13 deal.

14 Now, there is -- there is some commentary in there
15 about restitution that if the Court looks, there's -- there's --
16 the way it works is that the Restatement sets out in the section
17 and there's comment, and the comment is sort of like a law
18 review article, and then there's the reporters notes that
19 basically explain what's in the comments.

20 If the Court looks at that, the Court will see that
21 the -- the statement regarding restitution comes not from any
22 U.S. cases, but it comes from a 2004 Australian case and a 2009
23 case out of Great Britain. So the statement that's in there is
24 not based on U.S. law at all.

25 I would also note that although it's hard to tell, the

1 way that the American Law Institute works, and I've been on
2 uniform law committee so I'm fairly familiar with this, is that
3 they typically do their research before they start drafting, and
4 then they spend a year or so sort of polishing up what they've
5 done.

6 It does not appear that when the court -- when the ALI
7 got around to drafting that that they were aware of the Kokesh
8 decision which I think would have made all the difference in the
9 world. So I would merely urge extreme caution. The parties
10 have well briefed this. I hope the Court takes it under
11 advisement and -- and issues a good order and opinion, as I
12 expect the Court would.

13 I would merely conclude with the Court mentioned
14 earlier that *Huntington v. Attrill* was decided in 1892. The
15 following year the U.S. Supreme Court decided a case called
16 *Hedden versus Nix*. And in *Hedden versus Nix*, it involved
17 tomatoes. And basically what it said was it said a tomato under
18 U.S. law was a vegetable. There had been a big dispute up to
19 that point.

20 Now, that's what U.S. law says. In other countries,
21 tomatoes are considered fruit. In the United States, we have a
22 Supreme Court that says it's a vegetable. At the end of the
23 day, Your Honor, this is a tomato case. Is this -- is this
24 disgorgement, is it considered to be something that furthers the
25 public interest or not under the -- under the *Huntington* test,

1 but it really is a tomato case when you get down to it. So I'll
2 leave the Court with that, Your Honor. Thank you.

3 THE COURT: Okay. Great. Thank you.

4 Anything else, counsel?

5 MR. PRUITT: Yeah, I think it's -- I don't think the
6 people that drafted the Fourth Restatement were ignorant of
7 Kokesch. It came in 2017. The restatement was published this
8 year in 2018. They certainly had access to it and I don't think
9 the Court should make its decision on that basis. The -- even
10 the Third Restatement, though, talks about how it -- principles
11 that are similar and -- and the authors, I think, of the -- of
12 the Third Restatement would also find that it was not -- that
13 disgorgement is not a penalty.

14 But, in fact, I mean, in Kokesch itself cited the Third
15 Restatement in saying that disgorgement was a -- was a
16 restitutionary judgment. It did find that in that particular
17 case, which was about -- not about a foreign judgment but it was
18 about statute of limitations, that for the purpose of the
19 statute of limitations it was --

20 THE COURT: Are you talking about --

21 MR. PRUITT: -- a penalty.

22 THE COURT: -- the Hedden case?

23 MR. PRUITT: I'm talking about the Kokesch case.

24 THE COURT: Oh, okay.

25 MR. PRUITT: So the Court in Kokesch, you know, they

1 found that disgorgement was a penalty for the purposes of that
2 statute of limitations.

3 THE COURT: Right.

4 MR. PRUITT: But I sincerely doubt that they would
5 extend that, especially with their language of calling it a
6 restitution to foreign judgments. So does Your Honor have any
7 other questions?

8 THE COURT: No. Again, I would like findings of fact
9 and conclusions of law in Microsoft Word from the parties. Is
10 two weeks sufficient time?

11 MR. ADKISSON: Yes, Your Honor.

12 MR. PRUITT: Yes, Your Honor.

13 MR. ADKISSON: I do have a question for the Court on
14 that point. What would the Court envision the statement of
15 facts looking like? Because this is a case that arises on a
16 very odd posture.

17 THE COURT: I'm going to leave that to your creativity
18 and imagination. It sounds like you're very well versed in the
19 area. And just --

20 MR. ADKISSON: And does the Court want separate
21 submissions, or does the Court want parties to attempt to agree
22 on them?

23 THE COURT: No, you can find separate -- I'd like them
24 separate, please.

25 MR. PRUITT: Okay.

1 MR. ADKISSON: Okay. Thank you, Your Honor.
2 THE COURT: Thank you.
3 MR. PRUITT: Thank you, Your Honor.
4 THE COURT: So two weeks would be?
5 THE CLERK: December 18th.
6 THE COURT: December 18th. Okay. Thank you.
7 MR. ADKISSON: Thank you, Your Honor.
8 THE COURT: Have a good day.
9 MR. PRUITT: Thank you, Your Honor.
10 MR. ADKISSON: Thank you, Your Honor.
11 THE COURT: It was really well briefed, both parties.
12 (Proceedings concluded at 10:34 a.m.)

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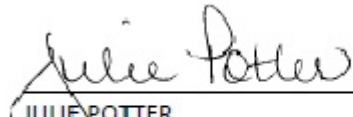
CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

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