

DUPLICATE ORIGINAL

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA
CIVIL DIVISION

CASE NO.: 08 CA 11315
DIVISION: B

MARY LOU SMITH, an individual,
and SHARON DENSON, an individual,

ORIGINAL

Plaintiffs,

vs.

TRAILER ESTATES PARK AND
RECREATION DISTRICT,
an independent special taxing
district, JANET JONES, an
individual, JOHN VANDERMOLEN,
an individual, JOSEPH SALERNO,
an individual, and MARY LOU
MCNULTY, an individual,

Defendants.

CLERK OF CIRCUIT COURT
MANATEE CO., FLORIDA

2011 JAN 28 PM 2:45

FILED FOR RECORD
P.D. SHORE
DS

TRANSCRIPT OF PROCEEDINGS

BEFORE: THE HONORABLE JANETTE DUNNIGAN
DATE TAKEN: February 24, 2010
TIME: 10:40 a.m. to 11:46 a.m.
PLACE: Manatee County Courthouse
1051 Manatee Avenue
Courtroom 6E
Bradenton, Florida 34205
REPORTED BY: Frances Chippendale, CSR
Notary Public
State of Florida at Large

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

On Behalf of the Plaintiff(s):

LEWIS LONGMAN & WALKER, P.A.
1001 Third Avenue West, Suite 670
Bradenton, Florida 34205
(941) 708-4040
khennessy@llw-law.com
BY: KEVIN S. HENNESSY, ESQUIRE
JENNIFER R. COWAN, ESQUIRE

On Behalf of the Defendant, TRAILER ESTATES PARK AND RECREATION DISTRICT:

KIRK PINKERTON, P.A.
50 Central Avenue, Suite 700
Sarasota, Florida 34236
(941) 364-2423
zross@kirkpinkerton.com
BY: ZACHARY L. ROSS, ESQUIRE

On Behalf of the Defendant, JANET JONES:

MATTHEWS, EASTMOORE, HARDY, CRAUWELS & GARCIA, P.A.
1777 Main Street, Suite 500
Sarasota, Florida 34236
(941) 366-8888
HCarroll@matthewseastmoore.com
BY: HUNTER W. CARROLL, ESQUIRE

On Behalf of the Defendant, JOSEPH SALERNO:

ROBERT E. TURFFS, P.A.
1444 First Street, Suite B
Sarasota, Florida 34236
(941) 953-9009
turffs@aol.com
BY: JAMES TURFFS, ESQUIRE

On Behalf of the Defendant, MARY LOU MCNULTY:

DYE, DEITRICH, PETRUFF & ST. PAUL, P.L.
1111 Third Avenue West, Suite 300
Bradenton, Florida 34205
(877) 326-8072
jdye@dyefirm.com
BY: JAMES D. DYE, ESQUIRE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Court proceedings taken before FRANCES
CHIPPENDALE, Certified Court Reporter and Notary Public
in and for the State of Florida at Large in the above
cause.

* * * * *

THE COURT: Good morning. You may be seated.

MR. ROSS: Good morning.

MR. HENNESSY: Good morning, Your Honor.

THE COURT: This is 2008 CA 11315, Smith and
Denson vs. Trailer Estates, et al. And what the clerk
has pulled up for me is Plaintiffs' Supplement to Motion
to Compel Production of Documents in the Privilege Log.

MR. HENNESSY: Yes, Your Honor.

THE COURT: Okay.

MR. HENNESSY: That's exactly what we're here
on. You may remember, we raised this issue on our last
Motion to Compel and Your Honor sent us back to talk.
We have done that, but not revolved the issues, so we
are here on a Motion to Compel under Rule 1.380.

This began with a Deposition Duces Tecum of the
District's representative. Martha Brauer appeared as
the District's representative. Initially, they claimed
to be withholding two documents. We asked for
identification of those documents during the course of
the deposition.

1 Your Honor, I'd like to approach you and
2 provide you with a couple of documents. One is an
3 excerpt from Ms. Brauer's deposition, and the next is a
4 Public Records Request dated February 16, 2010, and an
5 e-mail response from Scott Rudacille of Kirk-Pinkerton,
6 the attorneys for the District.

7 Your Honor, as I indicated, this began with Ms.
8 Brauer's deposition and I would start on Page 196, Line
9 21, question by Mr. Hennessy.

10 "Before we took our break, Ms. Brauer, I had
11 asked you who was the author of the document that was
12 being withheld under a claim of attorney-client or
13 work-product privilege?"

14 Mr. Shults interjected, "And we've had a --
15 I've had an opportunity to find what document we're
16 speaking about and they are Trustee comments requested
17 by Mr. Barnebey to the allegations of the Complaint.
18 That would be both attorney-client and work-product. Do
19 you need to know the dates of those documents?"

20 "No, I do not. But so that I understand it
21 correctly, your attorney correctly, the documents are
22 work created after the District's receipt of the
23 Complaint in this lawsuit?

24 "Yes.

25 "Question: Okay. And these are the only

1 documents that you are aware of that are being withheld
2 as work-product by the District?

3 "Mr. Shults: There are -- there are also --
4 there are some documents that have been withheld as both
5 work-product and attorney-client communications.

6 "Question: "Have you prepared a Privilege Log
7 with regard to that?"

8 Answer by Mr. Shults: "No."

9 "Mr. Hennessy: Can we get such a Privilege Log
10 from you?"

11 "Mr. Shults: I don't think a Privilege Log is
12 required in response to the type of discovery that you
13 had served. In other words, this document that you have
14 marked as an exhibit I don't believe requires the
15 preparation of a Privilege Log in order to exclude
16 documents from the realm. If -- if it does, a Privilege
17 Log will be prepared.

18 "Question: Okay. Are there any documents that
19 are being withheld based on claims that they are exempt
20 under the Public Records Law from disclosure?"

21 Mr. Shults answers that question: "I can tell
22 you the Shade transcript is being declared exempted and
23 we all know that."

24 Continuing on Page 199. "That's all that you
25 or your attorney are aware of I guess being withheld

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

under a claim of exception?

"Answer: Yes."

All right. Your Honor, we followed up ahead of this hearing with a Public Records Request for the documents in the Privilege Log and we received the e-mail response that I provided to you that indicates that they have the documents, they weren't going to produce them on the day -- we gave them a couple of days to respond, they weren't going to produce them on the day we requested, they were looking at the documents for exemptions and they would get back to us.

We have not heard anything further. None of the documents have been produced, despite representations previously that they were not being withheld based on any exemption claim.

Your Honor, the Privilege Log was requested several times by our office, it did not get produced until almost seven months after the deposition and it is attached as an exhibit to our supplemental motion. It lists over 76 documents that are now identified as work-product or attorney-client privilege, to the extent that the privilege is identified.

Rule 1.350 requires the filing of a response where documents are requested. And where they are withheld, Rule 1.280(b)(5) requires that a party produce

1 a Privilege Log that shall describe the nature of the
2 documents not produced sufficient to enable other
3 parties to assess the applicability of the privilege.

4 Your Honor, I would cite to the case of Scholer
5 vs. Zalus. It's actually Kaye Scholer, LLP vs. Zalus,
6 that describes the Privilege Log requirements. In that
7 case, the petitioner was a law firm and an attorney and
8 they sought cert. review of the trial court order
9 denying their Motion to Compel Discovery.

10 The court found that the court's denial of
11 discovery was in error and remanded with instructions to
12 grant the Motion to Compel Productions of Documents.

13 What the -- interestingly, very similar to this
14 case, documents were requested and a very protracted
15 period of time ensued before any response was received.
16 In fact, it indicated that the respondent sought five
17 extensions of time, extensions were granted, but the
18 respondents neither served any responses or objection,
19 nor sought any protective order. That has not occurred
20 here in this case either, no protective order has been
21 sought.

22 In the interim, the petitioner requested a
23 Privilege Document Log pursuant to 1.280(b)(5) and the
24 respondents did not provide one.

25 What the court held in that case, and I'm

1 looking at Page 2 of the -- of the -- I'm sorry,
2 actually Page 3, which cites to Rule 1.280(b)(5),
3 stating, "That when a party withholds information
4 otherwise discoverable under these rules by claiming
5 that it is privileged or subject to protection as trial
6 preparation material, the parties shall make the claim
7 expressly and shall describe the nature of the
8 documents, communications or things not produced or
9 disclosed in a manner that, without revealing
10 information itself privileged or protected, will enable
11 other parties to assess the applicability of the
12 privilege or protection."

13 The rule, the court goes on to state, "That
14 this rule requires the production of a Privilege Log in
15 order to preserve a privilege. The purpose of this
16 requirement is to identify materials which might be
17 subject to privilege or work-product protection so that
18 a court can rule on the applicability of the privilege
19 or protection prior to trial."

20 Now, Your Honor, the case of TGI -- I'm sorry,
21 TIG Insurance Company vs. --

22 THE COURT: Before we leave this case.

23 MR. HENNESSY: Yes, Your Honor.

24 THE COURT: Am I reading this correctly that
25 the Privilege Log was never produced?

1 MR. HENNESSY: Yes, in that case it was never
2 produced.

3 THE COURT: Okay. All right. Thank you.

4 MR. HENNESSY: I'm going to get to that point.

5 THE COURT: Okay.

6 MR. HENNESSY: In TIG Insurance Company of
7 American vs. Johnson, it restates the requirements under
8 1.280(b)(5) and it further describes on Page 2, in the
9 second column, it provides a description of what the
10 Privilege Log should contain.

11 And I'm reading under it, a paragraph that
12 begins parens "a", "For documents, the type of document,
13 the general subject matter of the document, the date of
14 the document, such other information as is sufficient to
15 identify the document for a subpoena duces tecum,
16 including where appropriate the author of the document,
17 the addressee of the document, and where not apparent,
18 the relationship of the author and addressee to each
19 other."

20 Your Honor, the Privilege Log that was finally
21 produced in this case after seven months is woefully
22 below the standard set forth in TIG Insurance
23 Corporation. Specifically, we've identified in our
24 supplement to the motion on Page 3 of our motion, under
25 Paragraph 7, the items where the documents are

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

deficient.

Paragraph A indicates the documents -- that several documents that are listed where attorney-client and/or work-product privilege is claimed, but the Defendant's counsel is not identified as being a party to the communication, thereby raising the question of how, in fact, attorney-client or work-product privilege attaches to the documents, since there is no attachment to the Plaintiffs' counsel -- I'm sorry, to the District counsel.

Paragraph B identifies numerous documents where absolutely no description of any privilege is asserted.

Paragraph C lists several documents where there is no identification of the author, the recipient or the date of the document.

And then, finally, the last one, Item D, indicates several documents where absolutely no identification of the type of document is provided.

Your Honor, we believe that this insufficient, this dilatory production of a Privilege Log, combined with the insufficient response that was ultimately received, constitutes a waiver of any privilege that might exist with these documents.

The Court has broad discretion regarding the scope of discovery where no Privilege Log or an

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

insufficient Privilege Log exists, the Court can consider the privilege waived. And I have several cases, Your Honor, that I would --

THE COURT: Mr. Hennessy, I don't mean to cut you short --

MR. HENNESSY: Yes, Your Honor.

THE COURT: -- but based on what I've read in the cases, these cases that you provided to me and the fact that the Privilege Log has been provided, I am not going to find waiver. So if we can, we can go to the next argument.

MR. HENNESSY: All right, Your Honor.

The -- if not waived, the court must determine whether the District has carried its burden to establish a prima facie case to privilege. And the burden is on the District in not producing these documents to demonstrate that these documents are in some way work-product or attorney-client privilege.

And as indicated, several of these documents do not identify the District attorney as being involved. Items 9, 10, 17 through 20, 23 through 32, 34 through 41, and 67 through 71 do not even indicate -- make reference to the District attorney being involved.

Further, the -- several of the items indicate that they are communications from one Trustee to

1 another. Well, Your Honor, as you know, this is a
2 Public Records and Government Sunshine Law case. Where
3 we have communications between Trustees, that in and of
4 itself is a potential violation of the Sunshine Law for
5 which we are clearly entitled to examine and pursue.

6 And, frankly, it was the main request for the
7 documents to begin with, is looking for these types of
8 communications between Trustees.

9 Further, the -- you know, these documents are
10 clearly in the District's possession, they are public
11 records, they should be obtainable to us, but have been
12 withheld and, as indicated, are otherwise unobtainable,
13 unable to be obtained by my clients. The Court here is
14 obligated to consider the fact that these are, in fact,
15 public records.

16 And I have cited to the Court the case of
17 Lightbourne vs. McCollum, and that case actually dealt
18 with documents that were clearly from an attorney.

19 On Page 7, what is referred to as the Dyehouse
20 memorandum are discussed, and under Headnote 2 it
21 indicates, "Lightbourne next claims error in the trial
22 Court's exclusion of two memorandum dated June 16, 2006
23 and August 15, 2006 and prepared by Sara Dyehouse, an
24 Assistant General Counsel for the Department of
25 Correction. The trial court concluded these memorandum

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

both constituted work-product and were protected by attorney-client privilege."

The exemption, the only exemption available is under 119.071(d)(1) Florida Statutes, which is quoted on Page 7, talking about a public record that was prepared by an agency, including an attorney employed or retained by the agency, or employed or retained by another public office or agency to protect or represent the interests of the agencies having custody of the record.

The court explains that exemption after citing it, stating, "Therefore, the exemption only extends to those records that contain the attorney's mental impressions, litigation strategy or legal theory and are prepared exclusively for litigation or in anticipation of eminent litigation."

The court goes on to say that, "The Public Records Act is to be construed liberally in favor of openness and all exemptions from disclosure are to be construed narrowly and limited to their designated purpose."

"In this case, although the two memorandum were prepared by a DOC attorney, each memorandum appears to be final in form and conveyed specific factual information rather than mental impression or litigation strategies. Accordingly, we conclude that the trial

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

court erred in excluding this memorandum on either basis of work-product or attorney-client privilege."

Your Honor, again here, the burden rests with the District to demonstrate the documents fall within the limited exception. At the deposition, they did not claim any exemption. To date, in response to a formal Public Records Request, they have not stated any exemption.

And I would go specifically to the statutory provisions, which state that -- in 119.07(d) states, "A person who has custody of a public record who asserts that an exemption applies to a part of such record shall redact that portion of the record to which an exemption has been asserted and validly applies and such person shall produce the remainder of such record for inspection and copying." That has not been done.

Parens "e" of the same provision states, "If the person who has custody of a public record contends that all or a part of the record is exempt from inspection and copying, he or she shall state the basis of the exemption that he or she contends is applicable to the record, including in the statutory citation to an exemption created or afforded by statute."

And finally, in "f," "If requested by the person seeking to inspect or copy the record, the

1 custodian of public records shall state in writing and
2 with particularity the reasons for the conclusion that
3 the record is exempt or confidential."

4 You will see in the letter that we've provided
5 to you, to the District, where we've sought these
6 documents, we've requested in writing their
7 identification and the basis for withholding any. No
8 such information has been provided.

9 Your Honor, further, under 119.071(d)(2), it
10 states that, "If a court finds that the document or
11 other record has been improperly withheld under this
12 paragraph, the party seeking access to such document or
13 record shall be awarded reasonable attorney's fees and
14 costs in addition to any other remedies ordered by the
15 court."

16 We have requested in our motion such fees and
17 costs and other relief, wherefore, at this point, Your
18 Honor, we request that the court require production of
19 the documents listed on the Privilege Log or,
20 alternatively, Your Honor, if you feel that it is
21 necessary to review the documents, if you feel that they
22 have demonstrated initially that they may be subject to
23 privilege, we believe that the court should take
24 in-camera the documents for review and make its
25 determination after review of the documents.

1 And we've cited to the Court the case of Jacob
2 vs. Barton, which hopefully we'll be providing you a
3 copy here momentarily, which states that --

4 THE COURT: Well, that was a delay of a whole
5 half a second. You're slipping there, Ms. Cowan.

6 MS. COWAN: I know.

7 MR. HENNESSY: You know, it's this whole
8 six-month pregnant thing, or eight months pregnant,
9 whatever you are.

10 Where the court determined that -- that the
11 documents were --

12 MR. ROSS: Excuse me, Counsel, where are you
13 reading from?

14 MR. HENNESSY: I'm sorry.

15 On Page 3, "Where the court remanded with
16 directions to the circuit court to conduct an in-camera
17 review to determine whether any of the explanatory
18 entries on the bills would be protected under either the
19 lawyer-client privilege or the work-product privilege.
20 If necessary, it may conduct further proceedings to
21 determine whether any exceptions to the lawyer-client
22 privilege exist or whether James can overcome the
23 protection of the Work-Product Doctrine.

24 "Specifically before a party can obtain
25 discovery of work-product material, it must show that it

1 has need for the materials in the preparation of the
2 case and is unable without undue hardship to obtain the
3 substantial equivalent of the materials by other means.
4 If not, the court must redact the privileged information
5 before requiring production of the records."

6 Here, no -- the documents, to my knowledge,
7 have not been turned over to the Court for in-camera
8 inspection, if, in fact, the Court determines that they
9 have satisfied their burden of demonstrating that a
10 attorney-client privilege or work-product privilege
11 does, in fact, exist, which we do not believe that they
12 have demonstrated to the Court in any -- anything that
13 they have produced that such a privilege does -- either
14 of the privileges, in fact, exist.

15 Thank you.

16 THE COURT: Thank you.

17 MR. ROSS: First of all, Your Honor, we're here
18 on a Motion to Compel. The argument by Mr. Hennessy
19 seemed to intertwine the standards between production
20 under a Motion to Compel with the Florida Rules of Civil
21 Procedure and production in response to a Public Records
22 Request under Chapter 119.

23 Those standards are -- differ slightly. The
24 119 standards are more strict, however, the response to
25 the Public Records Request on February 16 is not a claim

1 that's part of this lawsuit and, as I understand, is not
2 of the claim that we're here on today.

3 I can tell you that our office is preparing a
4 response to that. We were trying to get it to Mr.
5 Hennessy by close of business yesterday, however, with
6 some matters coming up, which I -- we will discuss with
7 Your Honor after this hearing, we were unable to
8 complete that. Mr. Hennessy should have our response
9 today, and I can tell you in response to that, there are
10 I believe at least three documents that are on our
11 Privilege Log that we will be delivering to Plaintiffs.

12 THE COURT: Okay. And let me stop for a
13 second. What you're saying is the request -- the
14 request is a 119 request and not pursuant to the Rules
15 of Discovery because it is something that is not related
16 to the issues in this lawsuit?

17 MR. ROSS: Yes. This is a Motion to Compel
18 under the Florida Rules of Civil Procedure. It's not an
19 action for a violation of the Public Records Law under
20 Chapter 119.

21 THE COURT: Well, why am I compelling you to
22 do -- to produce something that is not part of this
23 lawsuit?

24 MR. ROSS: (Gesturing.)

25 THE COURT: I guess maybe I should direct that

1 to you, Mr. Hennessy.

2 MR. HENNESSY: Well, I think that counsel --

3 THE COURT: Under the rules.

4 MR. HENNESSY: Yes. I think counsel is
5 confusing matters. The fact of the matter is --

6 THE COURT: I can tell you now, I'm confused.

7 MR. HENNESSY: The fact of the matter is, yes,
8 we have pursued these documents both under discovery and
9 Public Records Requests. The District, frankly, has a
10 duty beyond a nonpublic party to deal with questions
11 both of production based on the Rules of Civil
12 Procedure, but they also have to know that their
13 privileges are constrained by the Public Records Law.

14 In other words, they can't withhold as
15 privileged documents that the law says are not
16 privileged under the Public Records Act, and that's the
17 position we're taking.

18 So, in fact, their response -- and that is why
19 during the deposition both questions were asked, have
20 you produced these pursuant to your subpoena duces
21 tecum; are you withholding any documents based on a
22 claim of privilege under the -- or an exemption under
23 the Public Records Law. And the indication was, no,
24 there is no claim being made under the Public Records
25 Law, but we believe we have attorney-client privilege --

1 MR. ROSS: Your Honor, may I interject, please?

2 THE COURT: Yes.

3 MR. ROSS: At the deposition, it was a Request
4 for Production under the Florida Rules of Procedure.
5 The Public Records Request didn't come in until a couple
6 of weeks ago and we are preparing a response to that.

7 I admit that they are -- that there is a
8 different standard and, as I said, there are some
9 documents pursuant to the Public Records Request which
10 we are going to be producing, because they are different
11 standards. But today, we're here on a Motion to Compel
12 under the Florida Rules of Civil Procedure, not on an
13 action for a violation of the Public Records Law under
14 Chapter 119, in which we need to state our exemptions.

15 Two weeks ago, that request came in, we will
16 prepare our response, and I'm sure if Mr. Hennessy is
17 not happy with our response, we can argue that point on
18 a different day. But today, the only thing before the
19 Court is the Motion to Compel under the Florida Rules of
20 Civil Procedure.

21 MR. HENNESSY: Your Honor, I would disagree to
22 the extent that, again, they have an obligation both
23 ways. Secondly, the Public Records Request was
24 submitted in an abundance of caution in an effort to
25 also avoid the need for this, because if, in fact, they

1 were claiming -- they were -- they have failed to look
2 at this in the context of these documents being public
3 records and having to be produced, they had an
4 opportunity to correct that.

5 Instead, what we got was an e-mail response
6 saying they're looking into it. They had already
7 produced a Privilege Log, they already had all the
8 documents, why do they need two weeks to try to now
9 produce a response to a Public Records Request for which
10 they initially claim no public record privilege?

11 MR. ROSS: The answer to that question, Your
12 Honor, frankly, I will explain to Your Honor after this
13 hearing off the record, but if Your Honor will note, Mr.
14 Shults is not here today and he is the one that has been
15 normally handling these issues and there is a reason, a
16 very good reason why Mr. Shults is not here today and
17 has not been involved in this case for about a week.

18 THE COURT: Okay. Well --

19 MR. ROSS: So the delay in our response --
20 again, I'm hearing the delay in our response to the
21 Public Records Request, but this is related back to the
22 deposition.

23 THE COURT: Okay. I realize that this is not
24 your only case, so --

25 MR. ROSS: No. No. I understand that.

1 THE COURT: -- I'm not -- I'm not, as an
2 officer -- as the Court, I am not offended by that
3 particular type of delay in the scheme of the complexity
4 and the volume and the amount of paperwork. So I don't
5 think it's necessary to respond to Mr. Hennessy's remark
6 about that.

7 I'm not finding waiver. It is clear that the
8 law tells us that waiver is not favored. As long as I
9 have discretion, I'm not finding waiver, but I'm also
10 terribly concerned that, Mr. Hennessy, in the scheme of
11 this case, you are asking me to do something beyond my
12 power.

13 If my power here is under the Rules of Civil
14 Procedure, then I only want to rule within that power.
15 While you may see the bigger picture, and I'm sure that
16 you do, I am seeing this one half hour hearing at a time
17 for now.

18 So I do -- I am looking at your supplement to
19 the Motion to Compel, it does --

20 MR. HENNESSY: Yes, Your Honor.

21 THE COURT: -- recite only invoking my
22 authority under Rule 1.380.

23 MR. HENNESSY: Yes, Your Honor.

24 THE COURT: And I was trying to find a -- to go
25 to your actual -- the original Motion to Compel just to

1 make sure that that's what authority you are invoking of
2 me today, if that makes sense.

3 And when did you actually file that original
4 Motion to Compel?

5 MS. COWAN: It was in January.

6 THE COURT: January 29?

7 MR. HENNESSY: Yes, Your Honor.

8 THE COURT: Okay, I have it. Thank you.

9 MR. HENNESSY: I would note, though, Your
10 Honor, that the motion and the supplement also do
11 reference Chapter 119 and the public record
12 requirements. Specifically Paragraph 10 of the
13 supplement on Page 4, it discusses the narrowing of any
14 privilege that they could claim under Chapter 119.

15 THE COURT: Okay.

16 MR. ROSS: How would you like me to proceed,
17 underneath -- I can go under either standard.

18 THE COURT: Start with the rule and --

19 MR. ROSS: Okay.

20 THE COURT: -- then --

21 MR. ROSS: I think it's best, Your Honor, if we
22 could just go through the Privilege Log.

23 THE COURT: Okay.

24 MR. ROSS: The first -- now, the numberings I'm
25 going by, the handwritten numbers on the left-hand side,

1 Your Honor, of the Privilege Log in the columns.

2 THE COURT: All right. Go ahead.

3 MR. ROSS: Okay. In regards to Items 1 through
4 7, Your Honor, it's sufficient. Those are the Shade
5 transcripts from the meetings that were done pursuant to
6 the Sunshine Law, Florida Statute 286.011(8), which
7 states the requirements for a Shade meeting, and
8 sub-para 5 states, Your Honor, the transcript is not
9 part of the public record until the conclusion of the
10 litigation.

11 For us to have to disclose to the Plaintiffs
12 our conversations with our client regarding the case
13 will reveal our mental impressions of the case and will
14 provide the -- or allow the Plaintiffs to prepare their
15 case based upon our thoughts and impressions of it. The
16 Florida legislature specifically crafted this exemption
17 so that attorneys could meet in private with their
18 Government clients and have a discussion regarding the
19 litigation.

20 I do acknowledge the fact that once this
21 litigation is over, those transcripts will become a
22 public record, but until that time, Your Honor, they are
23 privileged.

24 THE COURT: Okay. So as to 1 through 7.

25 MR. HENNESSY: Your Honor, if you're not

1 finding any waiver has occurred, then we are not
2 pursuing those.

3 THE COURT: Okay.

4 MR. ROSS: I guess, then, Your Honor --

5 MR. HENNESSY: But I would take note of the
6 fact that counsel is, in fact, arguing under the Public
7 Records Law the fact that these are exempted.

8 THE COURT: Okay. That's a good point and well
9 taken.

10 MR. ROSS: Well, okay, Your Honor --

11 THE COURT: At any rate, let's keep going.

12 MR. ROSS: -- not under the Public Records Law,
13 it's an attorney-client conversation.

14 THE COURT: Okay. One through 7 are -- the
15 Motion to Compel is denied as to 1 through 7.

16 MR. ROSS: And I hate to skip ahead for Your
17 Honor, but I think this is another one I can group
18 together very easily and handle. Items 55 through 66
19 all relate to the mediation.

20 THE COURT: I think the mediation rules require
21 that you are not permitted to disclose those.

22 MR. ROSS: Those are confidential and, I mean,
23 if counsel wants me to produce them, I find that
24 interesting because some of those are also their
25 communications with us regarding the mediation. So I

1 don't think anybody really wants that to go into the
2 public record, plus the fact is, as Your Honor noted,
3 under the mediation statute, all communications in
4 mediation are confidential.

5 THE COURT: Okay.

6 MR. HENNESSY: Again, Your Honor, unless you
7 had some finding of waiver, we're not seeking production
8 of those documents.

9 THE COURT: Okay. So the Motion to Compel is
10 denied as to Item 55 --

11 MR. HENNESSY: Your Honor --

12 THE COURT: -- through --

13 MR. HENNESSY: -- I will point out -- I'm
14 sorry.

15 THE COURT: Yes. Go ahead.

16 MR. HENNESSY: I will point out that with
17 regard to the Shade transcripts, the Shade transcript
18 that we have been pursuing and is part of our Complaint,
19 a December of '08, I believe --

20 MS. COWAN: January 5th.

21 MR. HENNESSY: -- I'm sorry, January 5th of '09
22 Shade transcript is, in fact, not listed among the items
23 that have been identified in this Privilege Log and
24 would suggest that the absence of including that on the
25 Privilege Log has waived the privilege claim as to that

1 document and we would seek its production.

2 THE COURT: Then you have five days from
3 today's date to either amend the Privilege Log as to
4 that particular document or it will be waived and you
5 must produce it.

6 All right. So continuing then regarding the
7 mediation, Items 55 through 66, the Motion to Compel is
8 denied.

9 Okay. That's good. And that would also
10 include the mediation on Number 77 is denied as
11 indicated, that it relates to mediation.

12 Okay.

13 MR. ROSS: I guess next is Item Number 8, Your
14 Honor. It's clear from the Privilege Log that this is a
15 communication from Ms. McNulty, who at the time was a
16 Trustee, to communication directed to counsel for the
17 District, Mr. Barnebey, and it's a communication
18 regarding Ms. McNulty's thoughts in response to the
19 allegations contained in the Complaint.

20 That is a communication between the client and
21 the attorney. It's also work-product in that she
22 prepared that response at the request of Mr. Barnebey
23 and it contains the District's mental impressions
24 regarding the allegations contained in the Complaint.

25 THE COURT: Okay.

1 MR. HENNESSY: Your Honor, our response to that
2 is, we can't determine from what's been provided what
3 the nature of the communication is.

4 We do acknowledge that Mark Barnebey at that
5 time was District attorney and Mary Lou McNulty was on
6 the Board of Trustees, but to the extent that the --
7 again, it is from Ms. McNulty to Mr. Barnebey, to the
8 extent it contains factual information, as opposed to
9 any thoughts or impressions or work strategy, that
10 document is not privileged and should be -- and we
11 should be entitled to its production.

12 THE COURT: Okay. It is sufficient on its face
13 to the Court to establish an attorney-client privilege,
14 work-product, and I will deny the Motion to Compel as to
15 Number 8.

16 MR. ROSS: Items Number 9 and 10, Your Honor,
17 will be produced in response to the Public Records
18 Request.

19 THE COURT: Okay.

20 MR. ROSS: So I know Mr. Hennessy doesn't have
21 them yet, but if he doesn't get it today, he'll be
22 getting it this week. As I discussed, our office has
23 been preparing a response to the Public Records Request
24 and these are two of the items that we will be producing
25 in response to that request.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: So that will be 9 and 10, the Motion to Compel is granted.

MR. HENNESSY: Okay.

THE COURT: Eleven, Vander Molen's response.

MR. ROSS: Your Honor, this is the same as the argument in Number 8. Mr. Vander Molen at the time was a Trustee of the District. He sent a communication to the District's counsel regarding his responses to the allegations in the Complaint, it is, therefore, a privileged communication.

THE COURT: Any additional response, Mr. Hennessy?

MR. HENNESSY: Yes, Your Honor. The response to the allegation simply lists District attorneys. The response is from John Vander Molen. As indicated, Your Honor, the attorney-client or work-product privilege would only be available in this case if, in fact, it was directly related to this case and directly between the attorney in this case and his client.

At this time, John Vander Molen was, in fact, represented by represent separate counsel, not the District, and any communication simply between a Trustee and a District attorney is not, as you know, attorney-client privilege. Once it's in writing it is a public record and subject to production and it should be

1 produced.

2 Absent -- because the District hasn't supported
3 its burden, absent that, the Court should look at it
4 in-camera to see if, in fact, any privilege could be
5 ascertained from the document itself or any redacting of
6 the document could be done.

7 THE COURT: It's denied as to 11.

8 You know, by the way, while we're -- while
9 you've actually taken a breath here, you know, we
10 only -- you only scheduled 30 minutes again.

11 MR. HENNESSY: Yes, Your Honor.

12 THE COURT: And I can give you -- I can give
13 you some more time this morning, but we have got to
14 begin keeping this within the time frame that you
15 secure.

16 MR. HENNESSY: Yes, Your Honor.

17 THE COURT: All right.

18 MR. ROSS: The next items, Your Honor, are -- I
19 will -- for anticipation of Mr. Hennessy's response,
20 we'll group together 12, 13, 14, 16, 21, 33, those
21 numbers for this time.

22 THE COURT: Okay.

23 MR. ROSS: Your Honor, as indicated on here,
24 they are charts with packets of documents or they are
25 project lists and instructions to assist the attorney.

1 These are communications either from Mr. Shults to
2 Martha Brauer, who was the Chairman of the District at
3 the time, or from Ms. Brauer back to Mr. Shults.

4 The project lists and instructions are
5 compilations of documents that are in the public record
6 that were organized pursuant to Mr. Shults' request to
7 Ms. Brauer and instructions to her as to how to organize
8 and compile the facts in this case.

9 There is case law, Your Honor, stating that an
10 attorney's mental impressions are absolutely privileged
11 and that privilege extends to the selection of facts and
12 information the attorney considers important to the
13 case. These documents reveal that.

14 My cite for that, Your Honor, is the Ford Motor
15 Company vs. Hall-Edwards, which is 997 So.2d 1148, which
16 is a Third DCA case. And if Your Honor will allow me a
17 second, I can provide you with a copy of it. I'm sorry,
18 I don't have someone to pull out my cases for me.

19 The citation that I just read to you, the
20 quotations are under Headnotes 3, 4 and 5, I believe on
21 Page 5 of the document, Your Honor.

22 MR. HENNESSY: Your Honor, for brevity, we
23 don't disagree with the statements of the law that are
24 being made. We would disagree with the assertion that
25 some of these documents are from Tom Shults. They're

1 actually all to Tom Shults or identified as being to
2 District attorneys.

3 THE COURT: Okay. Well --

4 MR. HENNESSY: And we think that you can't
5 discern from this document the allegations that are
6 being stated by counsel.

7 THE COURT: Okay. Number 12 is denied.
8 Thirteen is denied. Fourteen is denied. Sixteen is
9 denied. I'm not sure about Number 21, that doesn't --

10 MR. ROSS: Laura Morris is Mr. Shults'
11 assistant, Your Honor.

12 THE COURT: Oh, okay.

13 MR. HENNESSY: We'll stipulate to that, Your
14 Honor.

15 THE COURT: Okay. Thank you. Then 21 is
16 denied.

17 MR. HENNESSY: I think the last one was 33.

18 THE COURT: Thirty-three is denied.

19 So can I assume, then, that you will be
20 producing 15, 17, 18, 19, 20?

21 MR. ROSS: No, Your Honor.

22 THE COURT: Oh.

23 MR. ROSS: And --

24 THE COURT: That's what I thought.

25 MR. ROSS: -- I have Ms. Brauer here and if I

1 need to, I can call her to testify. At the time that
2 these documents were being put together, Ms. Brauer was
3 up North, therefore, in order to further the request
4 from counsel for the District in compiling the
5 underlying public records pursuant to our instructions
6 on how we wanted them organized, she had to communicate
7 with Mr. Vander Molen, who was the then acting Chairman
8 as 2nd Vice Chair, due to the fact that Ms. Brauer was
9 up North.

10 And then also with T.J. Miller, who is the
11 records custodian for the District. Also with Jane
12 LaDuke, who is one of the employees in the office at the
13 District. And then the other gentleman is a -- Mr. Mark
14 O'Brien, who is a computer assistant, technology
15 assistant that was employed by the District, due to the
16 fact that what he was compiling were videos of the Board
17 Meetings, and so, he was helping with the technical
18 aspects of those requests.

19 So all those communications are in furtherance
20 of Mr. Shults' request to Ms. Brauer to compile the
21 underlying facts in the case in a manner that provides
22 the road map to our defense. And underneath both the
23 Florida Rules of Civil Procedure and underneath the
24 Public Records Law, those are exempted and privileged.

25 THE COURT: Mr. Hennessy.

1 MR. HENNESSY: Your Honor, here the privilege
2 again is, they're trying to swallow up the discovery
3 rules by a protracted bootstrapping, the best I can say
4 it.

5 Your Honor, communications between Trustees and
6 employees are not work-product and communications
7 between Trustees are potentially a Sunshine violation in
8 and of themselves and are the focus of the discovery
9 that we've been pursuing for the two years that this
10 case has been going on. Almost two years.

11 Further, the allegation that this is somehow
12 all, you know, communications that came from Mr. Shults
13 that passed through one Trustee, to another Trustee, to
14 an employee, to an outside consultant, is at best
15 something that would be -- that Your Honor would have to
16 glean through the documents or the District would have
17 to put on evidence to demonstrate.

18 And, third, the -- to the extent that the
19 documents are as Mr. -- as counsel represents, they are,
20 you know, a compiling of information, that's factual
21 information that is not privileged and that they are --
22 under the Rules of Civil Procedure and the cases we have
23 already cited to you, should be produced.

24 MR. ROSS: Your Honor, the documents and
25 work-product that they are seeking has organized the

1 facts and how -- and it reveals our -- what facts we
2 consider to be important, our strengths and weaknesses
3 on certain allegations, and, as I stated before, how you
4 compile facts and information is privileged
5 work-product.

6 If Your Honor wants, I can put Ms. Brauer on
7 the stand to put evidence into the record that she was
8 doing this work pursuant to a request from Mr. Shults
9 and that the communications to the other Trustee and to
10 the employees was in furtherance of those requests.

11 In addition, Your Honor, if Mr. Hennessy is
12 stating that he is seeking to discover these because
13 he's trying to find potential Sunshine violations, those
14 potential Sunshine violations are not part of this
15 lawsuit and are not relevant to this lawsuit.

16 MR. HENNESSY: Your Honor has already ruled
17 that a continuing pattern and practice of violations is
18 evidence that you will take.

19 THE COURT: If you produce -- I don't have time
20 to do an evidentiary hearing today.

21 MR. ROSS: Okay.

22 THE COURT: However, I am assuming that you
23 would not make those representations without the
24 expectation that that would be the response. So upon
25 the filing of an affidavit by Ms. Brauer that each of

1 these items were compiled or created pursuant to
2 instructions from the attorney and in furtherance of the
3 attorney's requests, I would find them to be
4 work-product and deny the Motion to Compel.

5 And that would include, then --

6 MR. ROSS: That's most of the other items on
7 here, Your Honor --

8 THE COURT: All right.

9 MR. ROSS: -- that we haven't discussed.

10 THE COURT: What else are you voluntarily
11 producing?

12 MR. ROSS: Your Honor, in addition to the two I
13 already stated to you, I believe one or two other
14 documents we've determined that we will produce.
15 Unfortunately, I cannot recall which ones other than
16 those two. But, as I stated, Mr. Hennessy should have
17 our response, along with those documents. We were
18 trying to get it to him yesterday. I imagine he should
19 be receiving them today. If not, by the end of this
20 week.

21 THE COURT: Okay.

22 MR. ROSS: You know, I think the only other
23 thing that doesn't relate to a project, Your Honor, are
24 45 and 46, and I would again state that those are
25 attorney-client privileged communications and that they

1 are a communication from Ms. Brauer, the acting
2 Chairman -- or the Chairman at the time, to counsel for
3 the District.

4 THE COURT: Okay. Well, as to 45, then, on the
5 face, I think you have sufficiently identified the
6 attorney-client privilege, and so, as to 45 and 46, I'll
7 deny. But do tell, what is "project for attorney
8 snippets"?

9 MR. ROSS: What that is, Your Honor, are video
10 snippets of the Board Meetings that we asked Ms. Brauer
11 to compile for us.

12 THE COURT: And so, why are the -- so I'm --
13 for purposes of the record --

14 MR. ROSS: And, Your Honor, let me tell you,
15 the documents that are within these projects that we've
16 put together are all public records, which we've already
17 produced to the Plaintiffs.

18 THE COURT: Okay.

19 MR. ROSS: The only thing they would gain from
20 us producing them is seeing how we've organized them,
21 which reveals our mental impressions of the case.

22 THE COURT: Okay. So are you saying anything
23 that was identified in 47, 48, 49, 50 and 51, which have
24 some blanks in your Privilege Log --

25 MR. ROSS: Yes, ma'am.

1 THE COURT: -- have all been previously
2 produced?

3 MR. ROSS: The underlying documents have been
4 previously produced.

5 THE COURT: Okay. All right.

6 MR. ROSS: The actual notebook that we had our
7 client put together pursuant to our request, hasn't
8 been.

9 THE COURT: Okay. Forty-seven through 51 is
10 denied.

11 Okay. How about 50 -- let's see. Everything
12 else I'm seeing --

13 MR. ROSS: Well, I mean, even with some of
14 these others, Your Honor, like 52, 53 and 54, again,
15 that's a communication from Ms. Brauer to Mr. Shults.
16 It's from the Chairman of the District to the District's
17 counsel.

18 THE COURT: Okay. Fifty-two, 53, 54 is denied
19 as showing on its face attorney-client privilege.

20 MR. ROSS: And, again, with 75, Your Honor,
21 that is a communication from Ms. Brauer to Mr. Shults'
22 assistant.

23 MR. HENNESSY: I'm sorry, did we discuss 67
24 through 74?

25 THE COURT: We haven't yet.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. ROSS: No, we have not.

THE COURT: So 75 will be -- I mean, that's clear, but let's jump back to 67.

MR. ROSS: Well, do you want to rule on 75 real quick?

MR. HENNESSY: Well, contract arrangements, how can contract arrangements with the attorneys be attorney-client privilege? It's a public record.

MR. ROSS: Not contract arrangements, but contact arrangements.

MR. HENNESSY: Oh, I'm sorry, contact arrangements.

THE COURT: Okay. It's denied.

Sixty-seven --

MR. ROSS: Sixty-seven through 74, Your Honor.

THE COURT: -- through --

MR. HENNESSY: Seventy-four.

THE COURT: -- 74.

MR. ROSS: Okay.

THE COURT: All right. Clearly, Number 74 is a communication which -- oh, I see that you've placed that under work-product, not attorney-client.

MR. ROSS: Yes, because it deals, as it's indicated, project to assist attorney. I guess we should have included attorney-client privilege on that

1 one, but in addition to that, Your Honor, it is, as I've
2 discussed, a communication relating to the request that
3 Mr. Shults made of Ms. Brauer to compile documents in a
4 specific manner to assist counsel in preparation for
5 trial.

6 MR. HENNESSY: Your Honor, I would oppose this.
7 It's clearly been delineated differently. These are
8 projects that District employees appear to have taken
9 upon themselves to do and not at the direction of
10 attorneys. Several of them don't even -- aren't even --
11 don't even involve the attorneys, they're between,
12 again, Trustees.

13 And to the effect that these Trustees are out
14 there communicating and working on projects related to
15 this case, it's a violation of the Sunshine Law and it's
16 emblematic of the -- this entire problem with this case
17 is that these individuals feel that they can do the
18 business of the District and interact and communicate
19 and do the business of the District as if they are not
20 public -- elected public officials and that they can do
21 this all in private.

22 And that's a major problem with the way that
23 this District has been operating and continues to
24 operate.

25 MR. ROSS: How does compiling documents in

1 response to a request from the District's attorney --
2 how does that foreseeably come up for a vote before the
3 District?

4 MR. HENNESSY: That's not what's identified
5 here. This is projects to assist attorneys between Mr.
6 Vander Molen and Martha Brauer.

7 MR. ROSS: And it's the same identification as
8 is in 22 through 35, projects and list of instructions
9 to assist attorney; project to assist attorney. I've
10 stated, Your Honor, that I will be filing an affidavit
11 from Ms. Brauer to establish the facts that support our
12 privilege on that.

13 THE COURT: Okay. I'm going to find that upon
14 the filing of an affidavit, this establishing that these
15 communications were at the direction of Counsel in
16 preparation for trial, they will be considered
17 work-product. Otherwise, Mr. Hennessy, you might as
18 well be in the attorney's office with them.

19 MR. HENNESSY: Your Honor, you know, I didn't
20 draft the Sunshine Law and the Sunshine Law --

21 THE COURT: I know.

22 MR. HENNESSY: -- puts burdens on public
23 counsel.

24 THE COURT: And there's a good reason for it.

25 MR. HENNESSY: Yes, Your Honor.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: So, okay.

MR. HENNESSY: So, Your Honor, I won't have an opportunity to depose any affiant on this issue?

THE COURT: Well, let's wait and see what the --

MR. HENNESSY: Okay.

THE COURT: -- affidavit says.

MR. HENNESSY: Thank you, Your Honor.

THE COURT: If it's sufficient.

All right. So the only ones I have left are 76 and 78, Laura Morris and Martha Brauer.

MR. ROSS: Those are communications, again, between counsel and -- 76 and 77 are communications between the Chairman of the District and counsel for the District, and those are actually communications from the attorneys to the Chairman.

THE COURT: It includes this -- it includes 78, since there are blanks as to what --

MR. ROSS: Seventy-eight will be covered in the affidavit, yes, ma'am.

THE COURT: All right.

MR. ROSS: For anything that states a project within our Privilege Log, Your Honor, I'll be filing the affidavit in support of those.

THE COURT: Okay. All right. I think that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

covers it.

MR. ROSS: Your Honor, just -- so 76, 77, you're denying based on attorney-client privilege?

THE COURT: Based on attorney-client, based on work-product -- oh, I'm sorry, 76 and 77 are -- well, 76 is an attorney-client privilege, 77 is mediation and attorney-client privilege.

MR. ROSS: Okay. Thank you, Your Honor.

THE COURT: Okay. That's it.

MR. ROSS: Your Honor --

THE COURT: Yes.

MR. ROSS: -- can we go off the record and discuss a housekeeping matter?

THE COURT: Before we do that, Mr. Carroll, you had something, if you can -- you wrote me a letter saying you wanted to try to get something else in. If you can do it in 13 seconds.

MR. CARROLL: This is the issue of my amended affirmative defenses for cure, which counsel for the Plaintiffs will not stipulate to. I've noticed it for Friday's hearing, but I'm happy to do it right this second.

THE COURT: Oh, okay. Friday will be fine then.

Okay, we are then off the record.

1 MR. HENNESSY: I don't know why we need to be
2 off the record.

3 THE COURT: I don't either, but . . .

4 MR. ROSS: Fine, we can be on the record.

5 THE COURT: We can be on the record.

6 MR. ROSS: Your Honor, I have here a motion
7 that I will be filing. I haven't filed it just yet
8 because I just had my Chairperson sign it.

9 Mr. Shults has developed a very serious medical
10 condition. He was in the hospital Thursday through
11 Sunday. He is under strict orders from his doctors to
12 be on light duty, not to work. He is out indefinitely
13 and, therefore, due to the fact that he has been lead
14 counsel for the District throughout this matter, we are
15 filing a Motion for the Continuance of the Trial, which
16 I have a copy for Your Honor and for all the other
17 counsel.

18 THE COURT: Do you want to address this today,
19 Mr. --

20 MR. ROSS: I was going to amend our Notice of
21 Hearing for Friday. I've already discussed this with
22 Mr. Hennessy, he said that he would permit us to do that
23 so that we can argue this -- deal with this matter first
24 thing on Friday.

25 THE COURT: Okay.

1 MR. ROSS: I spoke with Mr. Scott, who's not
2 here today. I noticed Mr. Turfffs is -- well, he sent
3 someone else, another Mr. Turfffs, here today.

4 THE COURT: A related Mr. Turfffs?

5 MR. TURFFFS: Yes.

6 THE COURT: Well, who knew.

7 (Laughter.)

8 MR. ROSS: So I would -- when I spoke with Mr.
9 Scott this morning, he said he didn't oppose it, but I
10 told him that we would be dealing with this on Friday
11 and he'd prefer if we dealt with it on Friday so that he
12 could be here --

13 THE COURT: Okay.

14 MR. ROSS: -- for that discussion.

15 THE COURT: All right.

16 MR. ROSS: In addition, Your Honor, I have a
17 letter, and I have copies that I'm going to provide to
18 the other attorneys without the enclosures, but this is
19 a letter just enclosing our Second Motion for a
20 Continuance of Trial, and this is the Motion for Summary
21 Judgment and the supporting documents and case law for
22 the hearing next Friday.

23 THE COURT: Okay. All right. Thank you.

24 Anything else?

25 (No response.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Okay. Then that concludes today's proceeding.

Thank you.

MR. ROSS: Thank you, Your Honor.

MR. HENNESSY: Thanks for providing us
additional time, Your Honor.

THE COURT: I'll see you on Friday.

Mr. Hennessy, you can prepare the order.

MR. HENNESSY: Thank you, Your Honor.

THE COURT: All right. Thank you.

(The hearing adjourned at 11:46 a.m.)


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE WITH ACKNOWLEDGMENT

STATE OF FLORIDA)
COUNTY OF SARASOTA)

I, FRANCES CHIPPENDALE, Certified Shorthand Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings; and that the transcript is a true record of the proceedings held.

I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATE  25th day of February, 2010.


FRANCES CHIPPENDALE, CSR

DUPLICATE ORIGINAL

A	appears 13:22	39:8,22,25	break 4:10	Civil 1:2 17:20
absence 26:24	applicability 7:3 8:11,18	43:3,4,6,7	breath 30:9	18:18 19:11
absent 30:2,3	applicable 14:21	August 12:23	brevity 31:22	20:12,20
absolutely 10:12 10:17 31:10	applies 14:12,14	author 4:11 9:16 9:18 10:14	broad 10:24	22:13 33:23
abundance 20:24	approach 4:1	authority 22:22 23:1	burden 11:14,15 14:3 17:9 30:3	34:22
access 15:12	appropriate 9:16	authorized 47:4	burdens 41:22	claim 4:12 6:1 6:15 8:6 14:6
acknowledge 24:20 28:4	argue 20:17 44:23	available 13:3 29:17	business 18:5 40:18,19	17:25 18:2 19:22,24 21:10 23:14 26:25
ACKNOWLEDGMENT 47:1	arguing 25:6	Avenue 1:19 2:3 2:9,22	C	claimed 3:22 10:4
Act 13:17 19:16	argument 11:11 17:18 29:6	avoid 20:25	C 10:13	claiming 8:4 21:1
acting 33:7 37:1	arrangements 39:6,7,9,10 39:12	awarded 15:13	CA 1:3 3:9	claims 5:19 12:21
action 18:19 20:13 47:8,9	ascertained 30:5	aware 5:1,25	call 33:1	clear 22:7 27:14 39:3
actual 22:25 38:6	asked 3:23 4:11 19:19 37:10	a.m. 1:17,17 46:10	carried 11:14	clearly 12:5,10 12:18 39:20 40:7
addition 15:14 35:11 36:12 40:1 45:16	asking 22:11	B	Carroll 2:15 43:14,18	clerk 3:10
additional 29:11 46:5	asserted 10:12 14:14	B 1:3 2:18 10:11	case 1:3 7:4,7 7:14,20,25 8:20,22 9:1 9:21 11:15 12:2,16,17 13:21 16:1 17:2 21:17,24 22:11 24:12 24:13,15 29:17,18,19 31:8,9,13,16 33:21 34:10 37:21 40:15 40:16 45:21	client 24:12 27:20 29:19 38:7
address 44:18	assertion 31:24	back 3:17 6:11 21:21 31:3 39:3	cases 11:3,8,8 31:18 34:22	clients 12:13 24:18
addressee 9:17 9:18	asserts 14:11	Barnebey 4:17 27:17,22 28:4 28:7	cause 3:4	close 18:5
adjourned 46:10	assess 7:3 8:11	Barton 16:2	caution 20:24	column 9:9
admit 20:7	assist 30:25 39:24 40:4 41:5,9,9	based 5:19 6:15 11:7 19:11,21 24:15 43:3,4 43:4	Central 2:9	columns 24:1
affiant 42:3	assistant 12:24 32:11 33:14 33:15 38:22	basis 14:1,20 15:7	cert 7:8	combined 10:20
affidavit 35:25 41:10,14 42:7 42:20,24	assume 32:19	begin 3:20 4:7	certain 35:3	come 20:5 41:2
affirmative 43:19	assuming 35:22	begins 9:12	CERTIFICATE 47:1	coming 18:6
afforded 14:23	attached 6:19	Behalf 2:2,7,12 2:16,21	Certified 3:2 47:4	comments 4:16
agencies 13:9	attaches 10:8	believe 5:14 10:19 15:23 17:11 18:10 19:25 26:19 31:20 36:13	Chair 33:8	communicate 33:6 40:18
agency 13:6,7,8	attachment 10:8	best 23:21 34:3 34:14	Chairman 31:2 33:7 37:2,2 38:16 42:14 42:16	communicating 40:14
ago 20:6,15	attorney 4:21 5:25 7:7 11:20,23 12:18 13:6,22 27:21 28:5 29:19,23 30:25 31:12 36:2 37:7 39:24 41:1,9 41:9 47:7	beyond 19:10 22:11	certify 47:4,7	communication 10:6 27:15,16 27:17,20 28:3 29:7,10,22 37:1 38:15,21 39:21 40:2
ahead 6:3 24:2 25:16 26:15	attorneys 4:6 24:17 29:14 32:2 39:7 40:10,11 41:5 42:16 45:18 47:8	bigger 22:15	Central 2:9	communications 5:5 8:8 11:25 12:3,8 25:25 26:3 31:1 33:19 34:5,6 34:12 35:9 36:25 41:15 42:12,13,15
al 3:10	attorney's 13:12 15:13 31:10 36:3 41:18	bills 16:18	cert 7:8	Company 8:21 9:6 31:15
allegation 29:14 34:11	attorney-client 4:12,18 5:5 6:21 10:3,7 11:18 13:2 14:2 17:10 19:25 25:13 28:13 29:16 29:24 36:25 37:6 38:19	blanks 37:24 42:18	Chairperson 44:8	Compel 3:12,17 3:19 7:9,12 17:18,20 18:17 20:11 20:19 22:19 22:25 23:4 25:15 26:9 27:7 28:14 29:2 36:4
allegations 4:17 27:19,24 29:9 32:5 35:3		Board 28:6 33:16 37:10	Chapter 17:22 18:20 20:14 23:11,14	
allow 24:14 31:16		bootstrapping 34:3	charts 30:24	
alternatively 15:20		Bradenton 1:20 2:4,23	Chippendale 1:21 3:2 47:4,12	
amend 27:3 44:20		Brauer 3:21 4:10 31:2,3,7 32:25 33:2,8 33:20 35:6,25 37:1,10 38:15 38:21 40:3 41:6,11 42:11 Brauer's 4:3,8	circuit 1:1,1 16:16	
amended 43:18			citation 14:22 31:19	
American 9:7			cite 7:4 31:14	
amount 22:4			cited 12:16 16:1 34:23	
and/or 10:4			cites 8:2	
answer 5:8 6:2 21:11			citing 13:10	
answers 5:21				
anticipation 13:14 30:19				
anybody 26:1				
apparent 9:17				
appear 40:8				
APPEARANCES 2:1				
appeared 3:21				

DUPLICATE ORIGINAL

compelling 18:21	copies 45:17	43:9,11,14,23	26:10 27:8,10	discusses 23:13
compilations	copy 14:25 16:3	44:3,5,18,25	30:7 32:7,8,8	discussion 24:18
31:5	31:17 44:16	45:4,6,13,15	32:9,16,18	45:14
compile 31:8	copying 14:16,20	45:23 46:6,9	38:10,18	district 1:8,9
33:20 35:4	Corporation 9:23	Courthouse 1:18	39:13	2:7 4:6 5:2
37:11 40:3	correct 21:4	Courtroom 1:19	Denson 1:5 3:10	10:9 11:14,16
compiled 36:1	Correction 12:25	court's 7:10	deny 28:14 36:4	11:20,23 14:4
compiling 33:4	correctly 4:21	12:22	37:7	15:5 19:9
33:16 34:20	4:21 8:24	covered 42:19	denying 7:9 43:3	27:17 28:5
40:25	costs 15:14,17	covers 43:1	Department 12:24	29:7,14,22,23
Complaint 4:17	counsel 10:5,9	Cowan 2:6 16:5,6	depose 42:3	30:2 31:2
4:23 26:18	10:10 12:24	23:5 26:20	deposition 3:20	32:2 33:4,11
27:19,24 29:9	16:12 19:2,4	crafted 24:16	3:25 4:3,8	33:13,15
complete 18:8	25:6,23 27:16	CRAUWELS 2:13	6:18 14:5	34:16 37:3
complexity 22:3	29:8,21 32:6	created 4:22	19:19 20:3	38:16 40:8,18
computer 33:14	33:4 34:19	14:23 36:1	21:22	40:19,23 41:3
concerned 22:10	37:2 38:17	CSR 1:21 47:12	describe 7:1 8:7	42:14,15
conclude 13:25	40:4 41:15,23	cure 43:19	describes 7:6	44:14
concluded 12:25	42:13,14	custodian 15:1	9:8	District's 3:21
concludes 46:1	43:19 44:14	33:11	description 9:9	3:22 4:22
conclusion 15:2	44:17 47:7,8	custody 13:9	10:12	12:10 27:23
24:9	County 1:1,18	14:11,18	designated 13:19	29:8 38:16
condition 44:10	47:2	cut 11:4	despite 6:13	41:1
conduct 16:16,20	couple 4:2 6:8		determination	DIVISION 1:2,3
confidential	20:5		15:25	DOC 13:22
15:3 25:22	course 3:24	D	determine 11:13	doctors 44:11
26:4	court 1:1 3:1,2	D 2:24 10:16	16:17,21 28:2	Doctrine 16:23
confused 19:6	3:6,9,14 7:8	date 1:16 9:13	determined 16:10	document 4:11,15
confusing 19:5	7:10,25 8:13	10:15 14:6	36:14	5:13 7:23
connected 47:8	8:18,22,24	27:3	determines 17:8	9:12,13,14,15
consider 11:2	9:3,5 10:24	dated 4:4 12:22	developed 44:9	9:16,17 10:15
12:14 35:2	11:1,4,7,13	47:10	differ 17:23	10:18 15:10
considered 41:16	12:13,16,25	dates 4:19	different 20:8	15:12 27:1,4
considers 31:12	13:10,16 14:1	day 6:8,10 20:18	20:10,18	28:10 30:5,6
constituted 13:1	15:10,15,18	47:10	differently 40:7	31:21 32:5
constitutes	15:23 16:1,4	days 6:8 27:2	dilatory 10:20	documents 3:12
10:22	16:10,15,16	DCA 31:16	direct 18:25	3:23,24 4:2
constrained	17:4,7,8,12	deal 19:10 44:23	directed 27:16	4:19,21 5:1,4
19:13	17:16 18:12	dealing 45:10	direction 40:9	5:16,18 6:5,7
construed 13:17	18:21,25 19:3	deals 39:23	41:15	6:10,13,20,24
13:19	19:6 20:2,19	dealt 12:17	directions 16:16	7:2,12,14 8:8
consultant 34:14	21:18,23 22:1	45:11	directly 29:18	9:12,25 10:2
contact 39:10,11	22:2,21,24	December 26:19	29:18	10:3,8,11,13
contain 9:10	23:6,8,15,18	declared 5:22	disagree 20:21	10:17,23
13:12	23:20,23 24:2	Defendant 2:7,12	31:23,24	11:16,17,19
contained 27:19	24:24 25:3,8	2:16,21	discern 32:5	12:7,9,18
27:24	25:11,14,20	Defendants 1:12	disclose 24:11	14:4 15:6,19
contains 27:23	26:5,9,12,15	Defendant's 10:5	25:21	15:21,24,25
28:8	27:2,25 28:12	defense 33:22	disclosed 8:9	16:11 17:6
contends 14:18	28:13,19 29:1	defenses 43:19	disclosure 5:20	18:10 19:8,15
14:21	29:4,11 30:3	deficient 10:1	13:18	19:21 20:9
context 21:2	30:7,12,17,22	DEITRICH 2:22	discover 35:12	21:2,8 26:8
Continuance	32:3,7,12,15	delay 16:4 21:19	discoverable 8:4	30:24 31:5,13
44:15 45:20	32:18,22,24	21:20 22:3	discovery 5:12	31:25 33:2
continues 40:23	33:25 35:19	delineated 40:7	7:9,11 10:25	34:16,19,24
continuing 5:24	35:22 36:8,10	delivering 18:11	16:25 18:15	36:14,17
27:6 35:17	36:21 37:4,12	demonstrate	19:8 34:2,8	37:15 38:3
contract 39:6,7	37:18,22 38:1	11:17 14:4	discretion 10:24	40:3,25 45:21
39:9	38:5,9,18,25	34:17	22:9	doing 35:8
conversation	39:2,13,16,18	demonstrated	discuss 18:6	draft 41:20
25:13	39:20 41:13	15:22 17:12	38:23 43:13	duces 3:20 9:15
conversations	41:21,24 42:1	demonstrating	discussed 12:20	19:20
24:12	42:4,7,9,17	17:9	28:22 36:9	due 33:8,15
conveyed 13:23	42:21,25 43:4	denial 7:10	40:2 44:21	44:13
		denied 25:15		

DUPLICATE ORIGINAL

DUNNIGAN 1:15	exempt 5:19	file 23:3	gentleman 33:13	25:5 26:6,11
duty 19:10 44:12	14:19 15:3	filed 44:7	Gesturing 18:24	26:13,16,21
DYE 2:22,24	exempted 5:22	filing 6:23	getting 28:22	28:1,20 29:3
Dyehouse 12:19	25:7 33:24	35:25 41:10	give 30:12,12	29:12,13
12:23	exemption 6:15	41:14 42:23	glean 34:16	30:11,16
<hr/>	13:3,3,10,11	44:7,15	go 11:10 14:9	31:22 32:4,13
E	14:6,8,12,13	final 13:23	22:24 23:17	32:17 33:25
e 2:17 14:17	14:21,23	finally 9:20	23:22 24:2	34:1 35:11,16
easily 25:18	19:22 24:16	10:16 14:24	26:1,15 43:12	36:16 38:23
EASTMOORE 2:13	exemptions 6:11	financially 47:9	goes 8:13 13:16	39:6,11,17
effect 40:13	13:18 20:14	find 4:15 11:10	going 6:7,9 9:4	40:6 41:4,17
effort 20:24	exhibit 5:14	22:24 25:23	11:10 20:10	41:19,22,25
eight 16:8	6:19	35:13 36:3	23:25 25:11	42:2,6,8 44:1
either 7:20 14:1	exist 10:23	41:13	34:10 41:13	44:22 46:4,7
16:18 17:13	16:22 17:11	finding 22:7,9	44:20 45:17	46:8
23:17 27:3	17:14	25:1 26:7	good 3:6,7,8	Hennessy's 22:5
31:1 44:3	exists 11:1	finds 15:10	21:16 25:8	30:19
electd 40:20	expectation	fine 43:23 44:4	27:9 41:24	he'll 28:21
Eleven 29:4	35:24	firm 7:7	Government 12:2	Honor 3:8,13,17
emblematic 40:16	explain 21:12	first 2:18 17:17	24:18	4:1,7 6:3,16
eminent 13:15	explains 13:10	23:24 44:23	grant 7:12	7:4 8:20,23
employed 13:6,7	explanatory	five 7:16 27:2	granted 7:17	9:20 10:19
33:15	16:17	Florida 1:1,20	29:2	11:3,6,12
employee 34:14	expressly 8:7	1:22 2:4,9,14	group 25:17	12:1 14:3
47:7,8	extends 13:11	2:18,23 3:3	30:20	15:9,18,20
employees 33:12	31:11	13:4 17:20	guess 5:25 18:25	17:17 18:7
34:6 35:10	extensions 7:17	18:18 20:4,12	25:4 27:13	20:1,21 21:12
40:8	7:17	20:19 24:6,16	39:24	21:12,13
enable 7:2 8:10	extent 6:21	33:23 47:2	<hr/>	22:20,23 23:7
enclosing 45:19	20:22 28:6,8	focus 34:8	H	23:10,21 24:1
enclosures 45:18	34:18	followed 6:3	half 16:5 22:16	24:4,8,22,25
ensued 7:15	e-mail 4:5 6:6	Ford 31:14	Hall-Edwards	25:4,10,17
entire 40:16	21:5	foregoing 47:5	31:15	26:2,6,11
entitled 12:5	<hr/>	foreseeably 41:2	handle 25:18	27:14 28:1,16
28:11	F	form 13:23	handling 21:15	29:5,13,16
entries 16:18	f 14:24	formal 14:6	handwritten	30:11,16,18
equivalent 17:3	face 28:12 37:5	forth 9:22	23:25	30:23 31:9,14
erred 14:1	facie 11:15	Forty-seven 38:9	happy 20:17	31:16,21,22
error 7:11 12:21	fact 7:16 10:7	found 7:10	43:21	32:11,14,21
ESQUIRE 2:5,6,11	11:9 12:14,14	Fourteen 32:8	hardship 17:2	34:1,5,15,24
2:15,20,24	17:8,11,14	frame 30:14	HARDY 2:13	35:6,11,16
establish 11:14	19:5,7,18	Frances 1:21 3:1	hate 25:16	36:7,12,23
28:13 41:11	20:25 24:20	47:4,12	HCarroll@mat...	37:9,14 38:14
establishing	25:6,6,7 26:2	frankly 12:6	2:15	38:20 39:15
41:14	26:22 29:17	19:9 21:12	Headnote 12:20	40:1,6 41:10
Estates 1:8 2:7	29:20 30:4	Friday 43:23	Headnotes 31:20	41:19,25 42:2
3:10	33:8,16 44:13	44:21,24	heard 6:12	42:8,23 43:2
et 3:10	facts 31:8,11	45:10,11,22	hearing 6:4 18:7	43:8,10 44:6
evidence 34:17	33:21 35:1,1	46:6	21:13,20	44:16 45:16
35:7,18	35:4 41:11	Friday's 43:21	22:16 35:20	46:3,5,8
evidentiary	factual 13:23	further 6:12 9:8	43:21 44:21	HONORABLE 1:15
35:20	28:8 34:20	11:24 12:9	45:22 46:10	hopefully 16:2
exactly 3:15	failed 21:1	15:9 16:20	held 7:25 47:6	hospital 44:10
examine 12:5	fall 14:4	33:3 34:11	helping 33:17	hour 22:16
exception 6:1	favor 13:17	47:7	Hennessy 2:5 3:8	housekeeping
14:5	avored 22:8	furtherance	3:13,15 4:9	43:13
exceptions 16:21	February 1:16	33:19 35:10	5:9 8:23 9:1	HUNTER 2:15
excerpt 4:3	4:4 17:25	36:2	9:4,6 11:4,6	<hr/>
exclude 5:15	47:10	<hr/>	11:12 16:7,14	I
excluding 14:1	feel 15:20,21	G	17:18 18:5,8	identification
exclusion 12:22	40:17	gain 37:19	19:1,2,4,7	3:24 10:14,18
exclusively	fees 15:13,16	GARCIA 2:13	20:16,21	15:7 41:7
13:14	Fifty-two 38:18	general 9:13	22:10,20,23	identified 6:20
Excuse 16:12		12:24	23:7,9 24:25	6:22 9:23

DUPLICATE ORIGINAL

10:5 26:23 32:1 37:5,23 41:4 identifies 10:11 identify 8:16 9:15 11:20 imagine 36:18 important 31:12 35:2 impression 13:24 impressions 13:13 24:13 24:15 27:23 28:9 31:10 37:21 improperly 15:11 include 27:10 36:5 included 39:25 includes 42:17 42:17 including 9:16 13:6 14:22 26:24 indefinitely 44:12 independent 1:9 indicate 11:22 11:24 indicated 4:7 7:16 11:19 12:12 27:11 29:15 30:23 39:24 indicates 6:6 10:2,17 12:21 indication 19:23 individual 1:4,5 1:10,10,11,11 individuals 40:17 information 8:3 8:10 9:14 13:24 15:8 17:4 28:8 31:12 34:20 34:21 35:4 initially 3:22 15:22 21:10 inspect 14:25 inspection 14:16 14:20 17:8 instructions 7:11 30:25 31:4,7 33:5 36:2 41:8 insufficient 10:19,21 11:1 Insurance 8:21 9:6,22 interact 40:18 interested 47:9 interesting 25:24	interestingly 7:13 interests 13:8 interim 7:22 interject 20:1 interjected 4:14 intertwine 17:19 invoking 22:21 23:1 involve 40:11 involved 11:20 11:23 21:17 in-camera 15:24 16:16 17:7 30:4 issue 3:16 42:3 43:18 issues 3:18 18:16 21:15 Item 10:16 26:10 27:13 items 9:25 11:21 11:24 24:3 25:18 26:22 27:7 28:16,24 30:18 36:1,6	34:12,20 36:22 41:19 41:21 44:1 knowledge 17:6	<hr/> L <hr/> L 2:11 LaDuke 33:12 Large 1:22 3:3 Laughter 45:7 Laura 32:10 42:11 law 5:20 7:7 12:2,4 18:19 19:13,15,23 19:25 20:13 22:8 24:6 25:7,12 31:9 31:23 33:24 40:15 41:20 41:20 45:21 lawsuit 4:23 18:1,16,23 35:15,15 lawyer-client 16:19,21 lead 44:13 leave 8:22 left 42:10 left-hand 23:25 legal 13:13 legislature 24:16 letter 15:4 43:15 45:17 45:19 let's 25:11 38:11 39:3 42:4 LEWIS 2:3 liberally 13:17 light 44:12 Lightbourne 12:17,21 limited 13:19 14:5 Line 4:8 list 41:8 listed 10:3 15:19 26:22 lists 6:20 10:13 29:14 30:25 31:4 litigation 13:13 13:14,15,24 24:10,19,21 LLP 7:5 Log 3:12 5:6,9 5:11,15,17 6:5,16 7:1,6 7:23 8:14,25 9:10,20 10:20 10:25 11:1,9 15:19 18:11	21:7 23:22 24:1 26:23,25 27:3,14 37:24 42:23 long 22:8 LONGMAN 2:3 look 21:1 30:3 looking 6:10 8:1 12:7 21:6 22:18 Lou 1:4,11 2:21 28:5	<hr/> M <hr/> main 2:13 12:6 major 40:22 Manatee 1:1,18 1:19 manner 8:9 33:21 40:4 map 33:22 Mark 28:4 33:13 marked 5:14 Martha 3:21 31:2 41:6 42:11 Mary 1:4,11 2:21 28:5 material 8:6 16:25 materials 8:16 17:1,3 matter 9:13 19:5 19:7 43:13 44:14,23 matters 18:6 19:5 MATTHEWS 2:13 ma'am 37:25 42:20 McCollum 12:17 McNulty 1:11 2:21 27:15 28:5,7 McNulty's 27:18 mean 11:4 25:22 38:13 39:2 means 17:3 mediation 25:19 25:20,25 26:3 26:4 27:7,10 27:11 43:6 medical 44:9 meet 24:17 meeting 24:7 meetings 24:5 33:17 37:10 memorandum 12:20 12:22,25 13:21,22 14:1 mental 13:12,24 24:13 27:23 31:10 37:21 Miller 33:10 minutes 30:10	Molen 29:6,15,20 33:7 41:6 Molen's 29:4 momentarily 16:3 months 6:18 9:21 16:8 morning 3:6,7,8 30:13 45:9 Morris 32:10 42:11 motion 3:11,17 3:19 6:19 7:9 7:12 9:24,24 15:16 17:18 17:20 18:17 20:11,19 22:19,25 23:4 23:10 25:15 26:9 27:7 28:14 29:2 36:4 44:6,15 45:19,20 Motor 31:14
	<hr/> J <hr/> Jacob 16:1 James 2:20,24 16:22 Jane 33:11 JANET 1:9 2:12 JANETTE 1:15 January 23:5,6 26:20,21 jdye@dyefirm... 2:24 JENNIFER 2:6 John 1:10 29:15 29:20 Johnson 9:7 JONES 1:9 2:12 JOSEPH 1:10 2:16 Judgment 45:21 JUDICIAL 1:1 jump 39:3 June 12:22				<hr/> N <hr/> narrowing 23:13 narrowly 13:19 nature 7:1 8:7 28:3 necessary 15:21 16:20 22:5 need 4:19 17:1 20:14,25 21:8 33:1 44:1 neither 7:18 never 8:25 9:1 nonpublic 19:10 normally 21:15 North 33:3,9 Notary 1:21 3:2 note 21:13 23:9 25:5 notebook 38:6 noted 26:2 Notice 44:20 noticed 43:20 45:2 Number 27:10,13 28:15,16 29:6 32:7,9 39:20 numberings 23:24 numbers 23:25 30:21 numerous 10:11	
	<hr/> K <hr/> Kaye 7:5 keep 25:11 keeping 30:14 KEVIN 2:5 khennessy@11... 2:5 KIRK 2:8 Kirk-Pinkerton 4:5 knew 45:6 know 4:19 5:23 12:1,9 16:6,7 19:12 28:20 29:23 30:8,9				<hr/> O <hr/> objection 7:18 obligated 12:14 obligation 20:22 obtain 16:24 17:2 obtainable 12:11 obtained 12:13 occurred 7:19	

DUPLICATE ORIGINAL

25:1	9:25 10:2,11	20:6 28:23	34:23 37:17	purposes 37:13
offended 22:2	10:13 15:12	preserve 8:15	38:2,4	pursuant 7:23
office 6:17 13:8	23:12	previously 6:14	producing 11:16	18:14 19:20
18:3 28:22	parens 9:12	38:1,4	20:10 28:24	20:9 24:5
33:12 41:18	14:17	prima 11:15	32:20 36:11	31:6 33:5
officer 22:2	PARK 1:8 2:7	prior 8:19	37:20	35:8 36:1
officials 40:20	part 14:12,19	private 24:17	production 3:12	38:7
oh 32:12,22	18:1,22 24:9	40:21	8:14 10:20	pursue 12:5
39:11,21 43:5	26:18 35:14	privilege 3:12	15:18 17:5,19	pursued 19:8
43:23	particular 22:3	4:13 5:6,9,11	17:21 19:11	pursuing 25:2
okay 3:14 4:25	27:4	5:15,16 6:5	20:4 26:7	26:18 34:9
5:18 9:3,5	particularity	6:16,21,22	27:1 28:11	put 33:2 34:17
18:12 21:18	15:2	7:1,3,6,23	29:25	35:6,7 37:16
21:23 23:8,15	parties 7:3 8:6	8:12,14,15,17	Productions 7:12	38:7
23:19,23 24:3	8:11 47:7,8	8:18,25 9:10	project 30:25	puts 41:22
24:24 25:3,8	party 6:25 8:3	9:20 10:4,7	31:4 36:23	P.A 2:3,8,13,17
25:10,14 26:5	10:5 15:12	10:12,20,22	37:7 39:24	P.L 2:22
26:9 27:9,12	16:24 19:10	10:25 11:1,2	41:9 42:22	
27:25 28:12	passed 34:13	11:9,15,18	projects 37:15	
28:19 29:3	pattern 35:17	13:2 14:2	40:8,14 41:5	
30:22 32:3,7	PAUL 2:22	15:19,23	41:8	Q
32:12,15	period 7:15	16:19,19,22	protect 13:8	question 4:9,25
35:21 36:21	permit 44:22	17:10,10,13	protected 8:10	5:6,18,21
37:4,18,22	permitted 25:21	18:11 19:22	13:1 16:18	10:6 21:11
38:5,9,11,18	person 14:11,14	19:25 21:7,10	protection 8:5	questions 19:10
39:13,19	14:18,25	23:14,22 24:1	8:12,17,19	19:19
41:13 42:1,6	petitioner 7:7	26:23,25,25	16:23	quick 39:5
42:25 43:8,9	7:22	27:3,14 28:13	protective 7:19	quotations 31:20
43:23,25	PETRUFF 2:22	29:16,24 30:4	7:20	quoted 13:4
44:25 45:13	picture 22:15	31:11 34:1	protracted 7:14	
45:23 46:1	PINKERTON 2:8	37:6,24 38:19	34:3	R
once 24:20 29:24	PLACE 1:18	39:8,25 41:12	provide 4:2 7:24	R 2:6
ones 36:15 42:10	placed 39:21	42:23 43:3,6	24:14 31:17	raised 3:16
openness 13:18	Plaintiffs 1:6	43:7	45:17	raising 10:6
operate 40:24	3:11 10:9	privileged 8:5	provided 6:6	rate 25:11
operating 40:23	18:11 24:11	8:10 17:4	10:18 11:8,9	read 11:7 31:19
opportunity 4:15	24:14 37:17	19:15,16	15:4,8 28:2	reading 8:24
21:4 42:3	Plaintiff(s) 2:2	24:23 28:10	provides 9:9	9:11 16:13
oppose 40:6 45:9	please 20:1	29:10 31:10	33:21	real 39:4
opposed 28:8	plus 26:2	33:24 34:21	providing 16:2	realize 21:23
order 5:15 7:8	point 9:4 15:17	35:4 36:25	46:4	really 26:1
7:19,20 8:15	20:17 25:8	privileges 17:14	provision 14:17	realm 5:16
33:3 46:7	26:13,16	19:13	provisions 14:10	reason 21:15,16
ordered 15:14	portion 14:13	problem 40:16,22	public 1:21 3:2	41:24
orders 44:11	position 19:17	Procedure 17:21	4:4 5:20 6:4	reasonable 15:13
organize 31:7	possession 12:10	18:18 19:12	12:2,10,15	reasons 15:2
organized 31:6	potential 12:4	20:4,12,20	13:5,7,16	recall 36:15
33:6 34:25	35:13,14	22:14 33:23	14:7,11,18	receipt 4:22
37:20	potentially 34:7	34:22	15:1 17:21,25	received 6:5
original 22:25	power 22:12,13	proceed 23:16	18:19 19:9,13	7:15 10:22
23:3	22:14	proceeding 46:1	19:16,23,24	receiving 36:19
outside 34:14	practice 35:17	proceedings 1:14	20:5,9,13,23	recipient 10:14
overcome 16:22	prefer 45:11	3:1 16:20	21:2,9,10,21	recite 22:21
O'Brien 33:14	pregnant 16:8,8	47:5,5	23:11 24:9,22	record 13:5,9
	preparation 5:15	produce 6:8,9,25	25:6,12 26:2	14:11,12,13
P	8:6 17:1 40:4	14:15 18:22	28:17,23	14:15,18,19
packets 30:24	41:16	21:9 25:23	29:25 31:5	14:22,25 15:3
Page 4:8 5:24	prepare 20:16	27:5 35:19	33:5,24 37:16	15:11,13
8:1,2 9:8,24	24:14 46:7	36:14	39:8 40:20,20	21:10,13
12:19 13:5	prepared 5:6,17	produced 6:13,17	41:22	23:11 24:9,22
16:15 23:13	12:23 13:5,14	7:2 8:8,25	pull 31:18	26:2 29:25
31:21	13:22 27:22	9:2,21 17:13	pulled 3:11	31:5 35:7
paperwork 22:4	preparing 18:3	19:20 21:3,7	purpose 8:15	37:13 39:8
paragraph 9:11		28:17 30:1	13:20	43:12,25 44:2
				44:4,5 47:5
				records 4:4 5:20

DUPLICATE ORIGINAL

6:4 12:2,11 12:15 13:12 13:17 14:7 15:1 17:5,21 17:25 18:19 19:9,13,16,23 19:24 20:5,9 20:13,23 21:3 21:9,21 25:7 25:12 28:17 28:23 33:5,11 33:24 37:16 RECREATION 1:8 2:7 redact 14:13 17:4 redacting 30:5 reference 11:23 23:11 referred 12:19 regard 5:7 26:17 regarding 10:24 24:12,18 25:25 27:6,18 27:24 29:8 regards 24:3 relate 25:19 36:23 related 18:15 21:21 29:18 40:14 45:4 relates 27:11 relating 40:2 relationship 9:18 relative 47:7,8 relevant 35:15 relief 15:17 remainder 14:15 remanded 7:11 16:15 remark 22:5 remedies 15:14 remember 3:16 report 47:5 REPORTED 1:21 Reporter 3:2 47:4 REPORTER'S 47:1 represent 13:8 29:21 representations 6:14 35:23 representative 3:21,22 represented 29:21 represents 34:19 request 4:4 6:4 12:6 14:7 15:18 17:22 17:25 18:13 18:14,14 20:3 20:5,9,15,23	21:9,21 27:22 28:18,23,25 31:6 33:3,20 35:8 38:7 40:2 41:1 requested 4:16 6:10,16,24 7:14,22 14:24 15:6,16 requests 19:9 33:18 35:10 36:3 require 15:18 25:20 required 5:12 requirement 8:16 requirements 7:6 9:7 23:12 24:7 requires 5:14 6:23,25 8:14 requiring 17:5 respond 6:9 22:5 respondent 7:16 respondents 7:18 7:24 response 4:5 5:12 6:6,23 7:15 10:21 14:6 17:21,24 18:4,8,9 19:18 20:6,16 20:17 21:5,9 21:19,20 27:18,22 28:1 28:17,23,25 29:4,11,13,15 30:19 35:24 36:17 41:1 45:25 responses 7:18 29:8 restates 9:7 rests 14:3 retained 13:6,7 reveal 24:13 31:13 revealing 8:9 reveals 35:1 37:21 review 7:8 15:21 15:24,25 16:17 revolved 3:18 right 6:3 9:3 11:12 24:2 27:6 30:17 36:8 38:5 39:20 42:10 42:21,25 43:21 45:15 45:23 46:9 road 33:22 ROBERT 2:17	ROSS 2:11 3:7 16:12 17:17 18:17,24 20:1 20:3 21:11,19 21:25 23:16 23:19,21,24 24:3 25:4,10 25:12,16,22 27:13 28:16 28:20 29:5 30:18,23 32:10,21,23 32:25 34:24 35:21 36:6,9 36:12,22 37:9 37:14,19,25 38:3,6,13,20 39:1,4,9,15 39:19,23 40:25 41:7 42:12,19,22 43:2,8,10,12 44:4,6,20 45:1,8,14,16 46:3 Rudacille 4:5 rule 3:19 6:23 6:25 8:2,13 8:14,18 22:14 22:22 23:18 39:4 ruled 35:16 rules 8:4 17:20 18:14,18 19:3 19:11 20:4,12 20:19 22:13 25:20 33:23 34:3,22 <hr/> S <hr/> S 2:5 SALERNO 1:10 2:16 Sara 12:23 Sarasota 2:9,14 2:18 47:2 satisfied 17:9 saying 18:13 21:6 37:22 43:16 says 19:15 42:7 scheduled 30:10 scheme 22:3,10 Scholer 7:4,5 scope 10:25 Scott 4:5 45:1,9 seated 3:6 second 9:9 16:5 18:13 31:17 43:22 45:19 Secondly 20:23 seconds 43:17 secure 30:15 see 15:4 22:15	30:4 38:11 39:21 42:4 46:6 seeing 22:16 37:20 38:12 seek 27:1 seeking 14:25 15:12 26:7 34:25 35:12 selection 31:11 sense 23:2 sent 3:17 29:7 45:2 separate 29:21 serious 44:9 served 5:13 7:18 set 9:22 seven 6:18 9:21 Seventy-eight 42:19 Seventy-four 39:17 Shade 5:22 24:4 24:7 26:17,17 26:22 SHARON 1:5 short 11:5 Shorthand 47:4 show 16:25 showing 38:19 Shults 4:14 5:3 5:8,11,21 21:14,16 31:1 31:3,6,25 32:1,10 33:20 34:12 35:8 38:15,21 40:3 44:9 side 23:25 sign 44:8 similar 7:13 simply 29:14,22 Sixteen 32:8 Sixty-seven 39:14,15 six-month 16:8 skip 25:16 slightly 17:23 slipping 16:5 Smith 1:4 3:9 snippets 37:8,10 sorry 8:1,20 10:9 16:14 26:14,21 31:17 38:23 39:11 43:5 sought 7:8,16,19 7:21 15:5 So.2d 31:15 speaking 4:16 special 1:9 specific 13:23 40:4 specifically	9:23 14:9 16:24 23:12 24:16 spoke 45:1,8 ST 2:22 stand 35:7 standard 9:22 20:8 23:17 standards 17:19 17:23,24 20:11 start 4:8 23:18 state 1:22 3:3 8:13 14:10,20 15:1 20:14 36:24 47:2 stated 14:7 32:6 35:3 36:13,16 41:10 statements 31:23 states 14:10,17 15:10 16:3 24:7,8 42:22 stating 8:3 13:11 31:9 35:12 statute 14:23 24:6 26:3 Statutes 13:4 statutory 14:9 14:22 stenographic... 47:5 stipulate 32:13 43:20 stop 18:12 strategies 13:25 strategy 13:13 28:9 Street 2:13,18 strengths 35:2 strict 17:24 44:11 subject 8:5,17 9:13 15:22 29:25 submitted 20:24 subpoena 9:15 19:20 substantial 17:3 sub-paren 24:8 sufficient 7:2 9:14 24:4 28:12 42:9 sufficiently 37:5 suggest 26:24 Suite 2:3,9,13 2:18,22 Summary 45:20 Sunday 44:11 Sunshine 12:2,4 24:6 34:7 35:13,14
--	---	--	--	--

DUPLICATE ORIGINAL

<hr/> <p style="text-align: center;">5</p> <hr/> <p>5 24:8 31:20,21 5th 26:20,21 50 2:9 37:23 38:11 500 2:13 51 37:23 38:9 52 38:14 53 38:14,18 54 38:14,18 55 25:18 26:10 27:7</p> <hr/>				
<hr/> <p style="text-align: center;">6</p> <hr/> <p>6E 1:19 66 25:18 27:7 67 11:22 38:23 39:3 670 2:3</p> <hr/>				
<hr/> <p style="text-align: center;">7</p> <hr/> <p>7 9:25 12:19 13:5 24:4,24 25:14,15 700 2:9 708-4040 2:4 71 11:22 74 38:24 39:15 39:18,20 75 38:20 39:2,4 76 6:20 42:10,13 43:2,5,5 77 27:10 42:13 43:2,5,6 78 42:11,17</p> <hr/>				
<hr/> <p style="text-align: center;">8</p> <hr/> <p>8 27:13 28:15 29:6 877 2:23</p> <hr/>				
<hr/> <p style="text-align: center;">9</p> <hr/> <p>9 11:21 28:16 29:1 941 2:4,10,14,19 953-9009 2:19 997 31:15</p> <hr/>				