

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

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

ASIA ECONOMIC INSTITUTE,	)	
ET AL.,	)	
	)	
PLAINTIFFS,	)	
	)	
VS.	)	CASE NO. CV 10-1360-SVW (PJWX)
	)	
	)	
XCENTRIC VENTURES, LLC,	)	
ET AL.,	)	LOS ANGELES, CALIFORNIA
	)	JUNE 24, 2010
	)	(11:06 A.M. TO 11:45 A.M.)
DEFENDANTS.	)	
_____	)	

HEARING  
BEFORE THE HONORABLE PATRICK J. WALSH  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:	SEE NEXT PAGE
COURT REPORTER:	RECORDED; COURT SMART
COURTROOM DEPUTY:	CELIA ANGLON-REED
TRANSCRIBER:	DOROTHY BABYKIN COURTHOUSE SERVICES 1218 VALEBROOK PLACE GLEN DORA, CALIFORNIA 91740 (626) 963-0566
PROCEEDINGS RECORDED BY ELECTRONIC SOUND RECORDING; TRANSCRIPT PRODUCED BY TRANSCRIPTION SERVICE.	

1 APPEARANCES: (CONTINUED)

FOR THE PLAINTIFFS:

ASIA ECONOMIC INSTITUTE LLC  
BY: LISA J. BORODKIN  
DANIEL F. BLACKERT  
ATTORNEYS AT LAW  
11766 WILSHIRE BOULEVARD  
SUITE 260  
LOS ANGELES, CALIFORNIA 90025

6 FOR THE DEFENDANTS:

GINGRAS LAW OFFICE  
BY: DAVID SCOTT GINGRAS  
ATTORNEY AT LAW  
4072 EAST MOUNTAIN VISTA DRIVE  
PHOENIX, ARIZONA 85048

9

JABURG & WILK PC  
BY: MARIA CRIMI SPETH  
ATTORNEY AT LAW  
3200 NORTH CENTRAL AVENUE  
SUITE 2000  
PHOENIX, ARIZONA 85012  
(APPEARING TELEPHONICALLY)

10

11

12

13

EDWARD MAGEDSON, DEFENDANT  
(APPEARING TELEPHONICALLY)

14

15

16

17

18

19

20

21

22

23

24

25

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

I N D E X

CASE NO. CV 10-1360-SVW(PJWX)

JUNE 24, 2010

PROCEEDINGS: PLAINTIFF'S MOTION TO BIFURCATE DISCOVERY, ET  
CETERA

1 MS. BORODKIN: WE DON'T DISAGREE. THANK YOU.

2 THE COURT: ALL RIGHT.

3 MR. BLACKERT, DID YOU HAVE ANYTHING YOU WANTED TO  
4 ADD?

5 MR. BLACKERT: NO, YOUR HONOR. I THINK EVERYTHING  
6 WAS COVERED.

7 THE COURT: OKAY.

8 MR. BLACKERT: THANK YOU.

9 THE COURT: MS. SPETH, ANYTHING YOU WANTED TO ADD?

10 MS. SPETH: THANK YOU, YOUR HONOR.

11 JUST THAT MR. MAGEDSON'S DEPOSITION WAS, IN FACT,  
12 TAKEN AFTER THIS WAS FILED. AND, SO, I JUST WANT TO CLARIFY  
13 THAT WHEN YOU SAID YOU CAN TAKE HIS DEPOSITION, YOU DON'T  
14 MEAN THAT THEY CAN TAKE IT A SECOND TIME. YOU JUST DIDN'T  
15 KNOW THAT IT WAS ALREADY TAKEN.

16 THE COURT: WELL, WE'RE IN FIGHT NUMBER TWO NOW.  
17 BECAUSE MS. BORODKIN I THINK --

18 COME ON UP HERE, MS. BORODKIN.

19 -- WANTS TO TAKE THE DEPOSITION AGAIN.

20 AM I RIGHT?

21 MS. BORODKIN: CORRECT, YOUR HONOR. WE SUSPENDED  
22 IT BASED ON THE FACT THAT WE HAD AN UNRESOLVABLE DISAGREEMENT  
23 BASED ON WHETHER MR. MAGEDSON SHOULD ANSWER QUESTIONS BASED  
24 ON THE PENDING MOTION FOR A PROTECTIVE ORDER.

25 THE COURT: HOW LONG WAS THE DEPOSITION?

1 MS. BORODKIN: I BELIEVE WE CONSUMED ABOUT FIVE  
2 HOURS.

3 THE COURT: ALL RIGHT. WELL, THAT SOUNDS LIKE IT'S  
4 MORE THAN JUST HIM SAYING I'M NOT GOING TO ANSWER THE  
5 QUESTIONS WITH A PROTECTIVE ORDER.

6 HOW MUCH MORE TIME DO YOU WANT?

7 MS. BORODKIN: WE COULD DO IT IN AN HOUR OR  
8 DEFINITELY WITHIN THE SEVEN-HOUR LIMITATION OF RULE 30.

9 THE COURT: WHAT TYPES OF QUESTIONS DID HE REFUSE  
10 TO ANSWER?

11 MS. BORODKIN: HE REFUSED TO ANSWER QUESTIONS, AND  
12 HE REFUSED TO BRING DOCUMENTS UNDER A SUBPOENA TO THE  
13 DEPOSITION REGARDING THE CONTRACT THAT PROSPECTIVE MEMBERS OF  
14 THE CAP APPLICATION ARE OFFERED AND QUESTIONS REGARDING THE  
15 EXACT STEPS THAT APPLICANTS OR POTENTIAL APPLICANTS OF THE  
16 CAP APPLICATION GO THROUGH WHEN THEY ARE ASKED TO JOIN THE  
17 CAP.

18 THE COURT: OKAY.

19 MS. BORODKIN: WE HAVE THE --

20 MS. SPETH: WE DISAGREE -- WE DISAGREE, YOUR HONOR.

21 MS. BORODKIN: WE HAVE THE PORTIONS OF THE  
22 DEPOSITION TRANSCRIPTS TABBED AND HIGHLIGHTED FOR YOUR HONOR  
23 IF YOU'D LIKE TO TAKE A LOOK AT IT AFTER THIS HEARING -- ON  
24 WHICH HE WAS INSTRUCTED NOT TO ANSWER BASED ON THE LACK OF  
25 PROTECTIVE ORDER.

1 THE COURT: ALL RIGHT. MS. SPETH.

2 MS. SPETH: YES. HE EXTENSIVELY ANSWERED QUESTIONS  
3 ABOUT THE PROGRAM AND THE WAY THE PROGRAM WORKS, YOUR HONOR.

4 SO, I WOULD ENCOURAGE YOU TO LOOK AT THE ITEMS THAT  
5 WE DID -- OR DAVID DID INSTRUCT THE WITNESS NOT TO ANSWER  
6 CERTAIN ITEMS BECAUSE THERE WAS NO PROTECTIVE ORDER IN PLACE.

7 BUT THE ONES THAT MS. BORODKIN JUST DESCRIBED, FOR  
8 THE MOST PART WERE ANSWERED.

9 ALSO, I THINK THE SUBPOENA IS A WHOLE OTHER ISSUE  
10 THAT MR. GINGRAS CAN ADDRESS. BUT THAT SUBPOENA WAS  
11 DEFECTIVE IN MANY, MANY WAYS. AND IT WAS ISSUED LIKE THE  
12 NIGHT BEFORE -- A COUPLE OF DAYS BEFORE, SOMETHING LIKE THAT.

13 YOUR HONOR, MR. MAGEDSON'S DEPOSITION WAS  
14 EXTENSIVE. IT WENT ON FOR FIVE HOURS. PLUS, THEY TOOK A  
15 30(B)(6) DEPOSITION FOR -- I DON'T EVEN KNOW HOW MANY HOURS,  
16 BUT IT WAS CLOSE TO THE LIMIT.

17 SO, THEY'VE HAD HIM IN DEPOSITION FOR FAR, FAR MORE  
18 THAN TEN HOURS. AND --

19 THE COURT: I UNDERSTAND.

20 AND I'LL LET YOU HAVE A CHANCE, MR. GINGRAS. AND I  
21 SAW -- I'LL PRONOUNCE YOUR NAME -- THERE'S ONLY ONE "S" IN  
22 YOUR NAME THOUGH, RIGHT?

23 MR. GINGRAS: CORRECT.

24 THE COURT: BECAUSE I READ THE TRANSCRIPT FROM  
25 JUDGE WILSON'S HEARING WHERE YOU TOLD HIM HOW TO PRONOUNCE

1 IT.

2 (LAUGHTER.)

3 MR. GINGRAS: THANK YOU.

4 THE COURT: SO, I'M FOLLOWING ALONG HERE.

5 MS. SPETH, I UNDERSTAND WHAT YOU'RE SAYING. FIVE  
6 HOURS OF ONE DEPOSITION AND ANOTHER FIVE AND A 30(B)(6) IS A  
7 LONG TIME.

8 BUT MS. BORODKIN IS MAKING A POINT HERE. IF SOME  
9 OF THESE QUESTIONS WERE NOT ANSWERED BASED ON THE FACT THAT  
10 THERE WAS NO PROTECTIVE ORDER -- IN OTHER WORDS, THE  
11 DEPOSITION COULD HAVE GONE 20 HOURS. IF THE QUESTIONS THAT  
12 THEY NEEDED ANSWERED TO GO FORWARD ON THESE EXTORTION CLAIMS  
13 AND/OR OPPOSE THE SUMMARY JUDGMENT MOTION WERE NOT ANSWERED  
14 BASED ON THAT OBJECTION, THEN, I THINK SHE SHOULD BE ALLOWED  
15 TO ASK THOSE QUESTIONS.

16 TELL ME WHY I'M WRONG.

17 MS. SPETH: WELL, I THINK WHAT -- I DON'T THINK  
18 YOU'RE WRONG. I THINK THE PROBLEM IS THAT SHE'S POINTING OUT  
19 AREAS THAT SHE DID, IN FACT, COVER AND HE DID, IN FACT,  
20 ANSWER.

21 AND ONE OF THE PROBLEMS THAT WE HAVE IS THERE WERE  
22 CERTAIN PLACES IN THE DEPOSITION WHERE MR. MAGEDSON  
23 ORIGINALLY REFUSED TO ANSWER AND THEN SHE CIRCLED BACK  
24 AROUND, AND HE ULTIMATELY ANSWERED THEM.

25 WHAT I'D LIKE TO SEE IS I'D LIKE TO SEE IS THERE

1 ANY REAL ISSUE THAT SHE TRULY NEVER GOT AN ANSWER TO THAT SHE  
2 STILL NEEDS. AND IF THAT'S THE CASE, WE CAN PROBABLY WORK  
3 THAT OUT.

4 BUT I DON'T THINK THAT THERE'S THESE BROAD  
5 CATEGORIES. IN FACT, I'M SURE THAT HE ANSWERED SOME OF THE  
6 EXACT QUESTIONS THAT MS. BORODKIN JUST TOLD YOU HE DIDN'T  
7 ANSWER.

8 THE COURT: OKAY.

9 MS. SPETH: MR. GINGRAS WAS THERE FOR THE WHOLE  
10 TIME. HE'S PROBABLY BETTER EQUIPPED TO ADDRESS ANY  
11 PARTICULAR ISSUE.

12 THE COURT: ALL RIGHT.

13 MR. GINGRAS.

14 MR. GINGRAS: YOUR HONOR, I THINK MS. SPETH IS  
15 RIGHT. I THINK -- FIRST OF ALL, SHE'S RIGHT ABOUT THE FACT  
16 THAT THERE WERE TWO DEPOSITIONS. THEY COVERED TWO ALMOST  
17 FULL DAYS. THERE WAS A LOT COVERED. WHAT I THINK --

18 THE COURT: I GUESS WHAT I WANT EVERYBODY TO FOCUS  
19 ON IS WHAT WASN'T COVERED. THAT'S ALL I CARE ABOUT.

20 MR. GINGRAS: RIGHT. AND, YOUR HONOR, MY ONLY --  
21 MY MAIN COMMENT -- AS I WAS SITTING HERE LISTENING TO YOU  
22 TALKING TO MS. SPETH, MY MAIN COMMENT IS I'M NOT SURE HOW TO  
23 SQUARE THE ORDER THAT YOU JUST ENTERED STAYING DISCOVERY AS  
24 TO NON-RICO MATTERS. I'M NOT SURE HOW TO SQUARE THAT WITH  
25 THE EXPLORATION THAT MS. BORODKIN WANTS TO DO ON OTHER



1 ISSUES. BECAUSE I'M QUITE SURE THAT THE QUESTIONS THAT SHE  
2 ASKED, SOME OF THEM RELATED TO EXTORTION AND SOME DID NOT.  
3 SOME RELATED TO DAMAGES. YOU'VE ALREADY STAYED THAT.  
4 THEY'RE NOT ENTITLED -- THEY'RE NOT ALLOWED -- WE'RE NOT  
5 ALLOWED TO SEEK DISCOVERY FROM THEM ON THOSE ISSUES. I THINK  
6 THAT SHOULD BE A TWO-WAY STREET.

7 THE COURT: RIGHT. YOU KNOW, THERE'S ABOUT 15  
8 ISSUES HERE. THERE'S NO BRIEFING ON IT. AND THERE'S FIVE  
9 HOURS OF DEPOSITION OR MAYBE 10 HOURS. I DON'T KNOW HOW I  
10 RESOLVE THIS.

11 GO AHEAD.

12 MR. GINGRAS: MY COMMENT, YOUR HONOR, WOULD BE THAT  
13 THE WAY I THINK WE SHOULD HANDLE THIS, RATHER THAN SITTING  
14 HERE AND GUESSING AS TO WHAT THE ISSUES ARE, I THINK THAT IF  
15 PLAINTIFFS WANT TO MOVE TO COMPEL A SECOND DEPOSITION AS TO  
16 SPECIFIC QUESTIONS, THEY OUGHT TO FILE A MOTION ON THAT. LET  
17 US RESPOND TO IT. I DON'T THINK IT'S URGENT -- I DON'T THINK  
18 -- LIKE I'VE SAID, WE'VE ALLOWED THEM TO HAVE A LOT OF  
19 LEEWAY IN DEPOSING OUR CLIENT.

20 MS. BORODKIN: YOUR HONOR, WE HAVE THE DEPOSITION  
21 TRANSCRIPTS RIGHT HERE. THERE'S ONE-PAGE SUMMARIES OF THE  
22 TOPICS THAT MR. MAGEDSON AND ALSO AS THE XCENTRIC  
23 30(B)(6) WITNESS WAS INSTRUCTED NOT TO ANSWER. SOME OF THEM  
24 GO DIRECTLY TO THE HEART OF THE EXTORTION CLAIM.

25 WE JUST NEED TO SEE HOW THE CONTRACT IS PRESENTED

1 TO PEOPLE.

2 THE COURT: OKAY. BUT NOW MS. SPETH SAYS THAT YOU  
3 CIRCLED BACK ON SOME OF THOSE, WHERE THEY SAID DON'T ANSWER  
4 AND THAT HE, IN FACT, ANSWERED.

5 MS. BORODKIN: I WOULD DISAGREE WITH THAT.

6 THE COURT: OKAY. SO, WE NEED TO RESOLVE THAT.  
7 THAT'S A FACTUAL DISPUTE, AND WE NEED TO RESOLVE IT.

8 AND HANDING ME TWO FIVE-HOUR DEPOSITIONS AND HAVING  
9 ME READ THEM AND FIGURE OUT WHAT YOU GUYS WERE THINKING AND  
10 WHAT EVERYBODY DID, THAT'S NOT THE WAY TO RESOLVE IT.

11 HERE'S HOW WE'RE GOING TO RESOLVE THIS. YOU ARE  
12 GOING TO MAKE A LIST OF THOSE QUESTIONS THAT YOU WANT TO ASK  
13 IN THIS CONTINUED DEPOSITION. AND YOU PUT PAGE AND LINE  
14 NUMBER WHERE YOU BELIEVE THAT THEY OBJECTED AND DID NOT  
15 ANSWER BASED ON THE PROTECTIVE ORDER ISSUE. OKAY.

16 SEND IT TO THE OTHER SIDE. LETTER FORMAT. I DON'T  
17 NEED ANOTHER JOINT STIPULATION. I DON'T NEED TO KNOW WHAT  
18 THE LAW IS ON TAKING DEPOSITIONS. OKAY.

19 YOU TELL THEM WHAT YOU WANT TO ASK AND WHY YOU  
20 THINK THEY DIDN'T ANSWER IT. THEY'RE GOING TO RESPOND TO  
21 YOU. I'LL SET SOME DEADLINES. THEN, YOU CAN FILE WHATEVER  
22 IS LEFT IN DISPUTE. YOU SEND IT TO ME, AND I'LL MAKE A  
23 RULING. I'LL GET YOU ON THE PHONE IF I NEED TO.

24 MS. SPETH: YOUR HONOR, CAN I SUGGEST MAYBE PERHAPS  
25 A GOOD RESOLUTION TO THIS. IF MS. BORODKIN WANTS TO SEND US

1     THAT LIST, AND IF IT HASN'T REALLY BEEN ANSWERED, THE OTHER  
2     THING WE WOULD BE WILLING TO DO IS WE'D BE WILLING TO HAVE  
3     MR. MAGEDSON, YOU KNOW, WITHIN A COUPLE OF DAYS OF HER  
4     REQUEST PROVIDE A DECLARATION OR AN AFFIDAVIT UNDER OATH OF  
5     EXACTLY THE ANSWERS TO THOSE QUESTIONS. THAT MIGHT BE A  
6     LITTLE BIT MORE EFFICIENT.

7             THE COURT: IT MIGHT BE MORE EFFICIENT, BUT YOU  
8     KNOW BETTER THAN I DO THAT YOU DON'T WANT -- YOU DIDN'T WANT  
9     A DECLARATION FROM THE OTHER SIDE. IN FACT, YOU GOT  
10    DECLARATIONS FROM THE OTHER SIDE THAT YOU BELIEVE WERE  
11    INACCURATE.

12            SO, I'LL CONSIDER THAT. AND IF MS. BORODKIN WANTS  
13    TO GO ALONG WITH THAT, THAT'S FINE. BUT THE VALUE OF HAVING  
14    THE LAWYERS IN THIS CASE IS THEY CAN FOLLOW UP ON THESE  
15    ANSWERS AND THEY CAN PROBE FURTHER.

16            BUT HERE'S WHAT WE'RE GOING TO DO.

17            HOW LONG, MS. BORODKIN, DO YOU NEED TO GET YOUR  
18    LETTER OVER TO MS. SPETH AND MR. GINGRAS?

19            MS. BORODKIN: I CAN DO IT BY THE END OF TODAY. I  
20    HAVE EVERYTHING RIGHT HERE THAT YOU JUST ARTICULATED.

21            THE COURT: ALL RIGHT. LET'S DO IT BY TOMORROW  
22    NIGHT, BY, LET'S SAY, FIVE O'CLOCK TOMORROW NIGHT LOS ANGELES  
23    TIME.

24            AND, MS. SPETH AND MR. GINGRAS, I WANT YOU TO  
25    RESPOND -- TODAY IS THE 24TH OF JUNE. I'M GOING TO GIVE YOU

1 A WEEK UNTIL JULY 1ST. BY JULY 1ST, PLEASE, YOU RESPOND AND  
2 TELL THEM WHY THOSE QUESTIONS WERE ANSWERED OR WHY THEY'RE  
3 NOT RELEVANT -- BECAUSE I'M ONLY HAVING DISCOVERY ON THE  
4 EXTORTION PORTION OF THIS CLAIM.

5 LET HER RESPOND. AND IF YOU CANNOT RESOLVE IT,  
6 YOU CAN SEND ME THE LETTERS FROM BOTH SIDES, AND I'LL GET  
7 YOU ON THE PHONE AND LET YOU ARGUE, AND THEN I'LL MAKE A  
8 RULING.

9 MS. BORODKIN: YOUR HONOR, THERE IS ONE COLLATERAL  
10 ISSUE THAT IS TECHNICALLY OUTSIDE THE SCOPE OF YOUR ORDER  
11 BIFURCATING DISCOVERY, AND THAT IS THE SUBJECT OF THE  
12 TELEPHONE RECORDINGS THAT WERE MADE.

13 DEFENDANTS ARE THE ONES WHO HAVE RAISED THAT IN  
14 THEIR MOTION FOR SUMMARY JUDGMENT. THEY CONTINUE TO RAISE IT  
15 IN EVERY SINGLE PROCEEDING BEFORE THE COURT.

16 WE'VE ASKED THEM CERTAIN QUESTIONS ABOUT THE  
17 ACCURACY AND COMPLETENESS OF THEIR PRACTICES OF RECORDING  
18 TELEPHONE CALLS. AND I WOULD JUST REQUEST THAT THE COURT  
19 ALSO INCLUDE IN THE LIST OF QUESTIONS WE COULD FOLLOW UP ON  
20 WITH MR. MAGEDSON ASPECTS THAT GO TO THE SUFFICIENCY OF THE  
21 EVIDENCE REGARDING THE TELEPHONE RECORDINGS.

22 THE COURT: ALL RIGHT. I'M GOING TO TALK TO THEM  
23 ABOUT THAT. BUT YOU'VE HAD A SIT-DOWN WITH YOUR CLIENT --  
24 RIGHT? -- AND YOU SAID, IS THIS YOUR VOICE, IS THIS WHAT YOU  
25 SAID, IS THAT WHAT THEY SAID, IS THIS WHAT YOU SAID, IS THAT

1     WHAT THEY SAID.  YOU KNOW, THIS ISN'T BRAIN SCIENCE, RIGHT.  
2     YOUR CLIENT RECOGNIZES HIS OR HER OWN VOICE AND SAYS, YEAH,  
3     THAT'S WHAT I SAID.  THEY RECOGNIZE THE OTHER GUY'S VOICE,  
4     AND THEY SAY, YEAH, THAT'S WHAT HE SAID.

5             ARE YOU SUGGESTING THAT MAYBE THEY'VE DOCTORED THE  
6     TAPES OR SOMETHING?

7             MS. BORODKIN:  WE SIMPLY DON'T KNOW.  THERE'S A  
8     FACTUAL DISPUTE ABOUT WHETHER THE RECORDINGS THAT ARE IN  
9     EVIDENCE OR IN THE RECORD AT THIS TIME ARE ALL OF THE  
10    RECORDINGS THAT WERE EVER MADE.

11            THERE'S ALSO A DISPUTE ABOUT --

12            THE COURT:  I HAVE NO PROBLEM WITH YOU PROBING  
13    ABOUT THAT.

14            MS. BORODKIN:  THANK YOU, YOUR HONOR.

15            THE COURT:  ABSOLUTELY.  THAT'S ONE OF THE CORE  
16    ISSUES THAT THEY HAVE, AND THEY'RE GOING TO RIDE THAT HORSE  
17    IN THROUGH TRIAL IN AUGUST, AND YOU'RE GOING TO BE ABLE TO  
18    ASK THEM ABOUT THAT IN DISCOVERY.  NO PROBLEM.  WHETHER IT'S  
19    DONE BY A DECLARATION OR WHATEVER TO GET YOU THAT  
20    INFORMATION.

21            BUT, ULTIMATELY, IF YOUR CLIENT RECOGNIZES HIS  
22    VOICE, AND HIS WIFE RECOGNIZES HER VOICE ON THAT TELEPHONE,  
23    AND THOSE ARE THE CONVERSATIONS, AND THEY KIND OF TIE INTO  
24    THE PHONE RECORDS THAT THEY'VE BEEN ABLE TO DIG UP, YOU KNOW,  
25    YOU GOT A PROBLEM.  THERE'S NO DOUBT ABOUT IT.

1 MS. BORODKIN: THANK YOU, YOUR HONOR.

2 THE COURT: DON'T THANK ME FOR YOUR PROBLEM.

3 MS. BORODKIN: IT'S NOT -- JUST TO BE CLEAR FOR THE  
4 RECORD. IT'S NOT A DISPUTE OVER WHAT'S THERE.

5 THE COURT: OKAY.

6 MS. BORODKIN: IT'S A DISPUTE OVER WHAT ELSE THERE  
7 MAY BE.

8 THE COURT: I UNDERSTAND. SO, MAYBE THE  
9 CONVERSATIONS WERE EXCERPTED, OR MAYBE THERE WERE OTHER  
10 CONVERSATIONS THAT WERE ALSO RECORDED THAT THEY HAVEN'T  
11 SHARED WITH YOU.

12 IS THAT WHAT YOU'RE SAYING?

13 MS. BORODKIN: AMONG OTHER THINGS. BECAUSE WE'VE  
14 ASKED HIM QUESTIONS ABOUT HIS CELL PHONES. HE REFUSED TO  
15 ANSWER.

16 THE COURT: OKAY. WHAT DID YOU ASK HIM ABOUT HIS  
17 CELL PHONE?

18 MS. BORODKIN: HOW MANY CELL PHONES DOES HE  
19 MAINTAIN.

20 THE COURT: OKAY. BECAUSE THERE WERE SOME CELL  
21 PHONE CALLS BETWEEN YOUR CLIENT AND MR. MAGEDSON, RIGHT?

22 MS. BORODKIN: YES.

23 AND HE HAS ARTICULATED A CONCERN ABOUT NOT WANTING  
24 TO BE TRACKED, AND WE ARE SENSITIVE TO THAT CONCERN.

25 THE COURT: ALL RIGHT.