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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 GLENORA, 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  
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DANIEL F. BLACKERT  
ATTORNEYS AT LAW  
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6 FOR THE DEFENDANTS:

GINGRAS LAW OFFICE  
BY: DAVID SCOTT GINGRAS  
ATTORNEY AT LAW  
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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)

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EDWARD MAGEDSON, DEFENDANT  
(APPEARING TELEPHONICALLY)

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

JUNE 24, 2010

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

1 LOS ANGELES, CALIFORNIA; THURSDAY, JUNE 24, 2010; 11:06 A.M.

2 THE CLERK: ALL RISE AND COME TO ORDER.

3 THIS UNITED STATES DISTRICT COURT IS NOW IN  
4 SESSION. THE HONORABLE PATRICK J. WALSH, UNITED STATES  
5 MAGISTRATE JUDGE, PRESIDING.

6 PLEASE BE SEATED.

7 CALLING CASE NUMBER CV 10-1360-SVW(PJWX), ASIA  
8 ECONOMIC INSTITUTE VERSUS XCENTRIC VENTURES.

9 COUNSEL, PLEASE STATE YOUR APPEARANCES FOR THE  
10 RECORD.

11 MS. BORODKIN: LISA BORODKIN FOR PLAINTIFFS.

12 THE COURT: MS. BORODKIN.

13 YOU HAVE TO STAND, COUNSEL. YOU'RE GOING TO HAVE  
14 TO SPEAK INTO THE MICROPHONE.

15 MR. BLACKERT: DANIEL BLACKERT FOR PLAINTIFFS.

16 THE COURT: MR. BLACKERT.

17 MR. GINGRAS: GOOD MORNING, YOUR HONOR.

18 DAVID GINGRAS ON BEHALF OF DEFENDANTS XCENTRIC  
19 VENTURES AND EDWARD MAGEDSON.

20 THE COURT: AND WE HAVE SOMEONE ON THE PHONE?

21 MS. SPETH: YES, YOUR HONOR.

22 MARIA SPETH ON BEHALF OF XCENTRIC VENTURES AND  
23 EDWARD MAGEDSON. WE ALSO HAVE MR. MAGEDSON ON THE LINE.

24 THE COURT: ALL RIGHT. MR. GINGRAS, I'M PRIMARILY  
25 RULING AGAINST YOU SO WHY DON'T YOU COME UP HERE TO THE

1 LECTERN AND WE CAN TALK FOR A MINUTE.

2 WHY DON'T YOU TELL ME WHY YOU THINK I'M WRONG.

3 MR. GINGRAS: YOUR HONOR --

4 THE COURT: YOU WANTED THE DISCOVERY EXPANDED. I  
5 SAID NO.

6 MR. GINGRAS: YES. AND I'VE READ THE COURT'S  
7 RULING, AND, TO BE HONEST, I'M NOT SURE I DISAGREE WITH MUCH  
8 OF IT SUBSTANTIVELY.

9 I WOULD NOTE THAT IN OUR JOINT STIPULATION WE  
10 INDICATED THAT AS TO THE BIFURCATION ISSUE, WE REALLY DIDN'T  
11 OBJECT TO THAT AS LONG -- ESSENTIALLY WHAT WE DID NOT WANT TO  
12 SEE HAPPEN WAS A TRIAL TAKE PLACE IN AUGUST. THE OUTCOME IS  
13 WHAT IT IS. AND THEN THE JUDGE SAYS, WELL, OKAY, WE'RE GOING  
14 TO SET THE NEXT TRIAL ON A SIMILARLY ACCELERATED BASIS, AND  
15 I'M SURE THAT YOU'RE ALL READY BECAUSE YOU'VE HAD MONTHS TO  
16 PERFORM DISCOVERY NOW.

17 THE COURT: WELL, IF IT COMES TO THAT, HE'LL READ  
18 MY ORDER, AND HE'LL SEE. HE'LL PROBABLY READ IT ANYWAY.

19 MR. GINGRAS: I THINK THAT'S RIGHT. AND I THINK  
20 THE EFFECT OF YOUR ORDER IS ESSENTIALLY TO GIVE ME THE SAME  
21 RELIEF I WAS ASKING FOR AS AN ALTERNATIVE ANYWAY, WHICH WAS  
22 TO STAY THOSE CLAIMS. IF I CAN'T TAKE DISCOVERY AS TO THESE  
23 CLAIMS, THEY'RE EFFECTIVELY STAYED ANYWAY.

24 SO, I'M SURE THAT THE COURT WILL IN THE FUTURE  
25 REALIZE THAT IF A NEW TRIAL DATE IS NEEDED, THAT APPROPRIATE

1 TIME WILL BE NEEDED FOR DISCOVERY AS WELL.

2 SO, IN THAT REGARD I DON'T REALLY HAVE A PROBLEM  
3 WITH THAT PART OF YOUR RULING.

4 THE COURT: ALL RIGHT. I THINK I SEE THE WRITING  
5 ON THE WALL. YOU DON'T THINK THERE IS AN EXTORTION CLAIM  
6 HERE, RIGHT?

7 MR. GINGRAS: I THINK THAT'S EXACTLY RIGHT.

8 THE COURT: AND, SO, IF THERE'S NO EXTORTION CLAIM,  
9 THERE'S NO FEDERAL JURISDICTION, RIGHT?

10 MR. GINGRAS: I'M NOT SURE -- I THINK THERE'S STILL  
11 DIVERSITY JURISDICTION. I'M NOT SURE THAT THAT MATTERS. THE  
12 NON-RICO CLAIMS ARE SUBJECT TO A DEFENSE BASED ON THE  
13 COMMUNICATIONS DECENCY ACT. WE'VE MOVED FOR SUMMARY JUDGMENT  
14 ON THAT, WHICH IS BEING HEARD ON MONDAY. SO, I THINK THE  
15 WHOLE THING IS PIECEMEAL, EITHER GOING TO LIVE OR DIE ON  
16 MONDAY.

17 THE COURT: OKAY.

18 ALL RIGHT. ANYTHING ELSE?

19 MR. GINGRAS: YES. WITH RESPECT TO THE PART OF THE  
20 RULING THAT TALKS ABOUT THE CONDUCT OF THE PARTIES, I  
21 COMPLETELY AGREE WITH THE COURT'S STATEMENTS, AND I OFFER THE  
22 COURT MY APOLOGIES FOR THE LACK OF PROFESSIONALISM AND MY  
23 COMMITMENT TO INCREASING THAT GOING FORWARD.

24 THE COURT: ALL RIGHT. AND I THINK WHAT HAPPENS IN  
25 DEPOSITIONS IS THE LAWYERS ASSUME THAT NO ONE IS EVER GOING

1 TO REVIEW WHAT THEY'RE DOING, AND IT'S JUST WHATEVER. YOU  
2 KNOW, IT'S KIND OF A STREET FIGHT.

3 I'M GOING TO REVIEW THESE DEPOSITIONS IF I'M ASKED  
4 TO. SO, I JUST WANT EVERYBODY TO KNOW THAT. AND RIGHT NOW  
5 THE CONDUCT OF ALL THE LAWYERS IS SANCTIONABLE UNDER BOTH  
6 STATE AND FEDERAL RULES AND THE LOCAL RULES. YOU CAN'T TREAT  
7 EACH OTHER THAT WAY.

8 IT IS UNETHICAL TO BE UNCIVIL TO THE OTHER SIDE.  
9 ALL RIGHT. TELLING THE OTHER SIDE THEY CAN'T TAKE A BREAK TO  
10 GO TO THE BATHROOM -- UNCIVIL. ALL RIGHT. AND I CHALLENGE  
11 YOU TO TAKE THAT UP TO THE NINTH CIRCUIT WHEN I SANCTION YOU.  
12 AND I WILL SANCTION YOU SO THAT IT HAS SOME CONSEQUENCES.  
13 OKAY. AND THIS GOES FOR BOTH SIDES. ALL RIGHT. TAKE IT UP  
14 TO THE NINTH CIRCUIT AND TELL THEM THAT IT'S OKAY FOR YOU TO  
15 TELL THE OTHER SIDE THEY CAN'T GO TO THE BATHROOM DURING A  
16 DEPOSITION.

17 MR. GINGRAS: YOUR HONOR, THAT PART OF THE  
18 TRANSCRIPT ACTUALLY REFERRED TO MY CO-COUNSEL REQUESTING A  
19 BREAK, AND I WANTED TO MOVE FORWARD.

20 BUT YOUR HONOR'S POINT IS WELL TAKEN, AND I'M SURE  
21 THAT THE CONDUCT WILL RISE TO A HIGHER LEVEL GOING FORWARD.

22 THE COURT: YES. AND I DON'T THINK SECURITY SHOULD  
23 BE DRAGGING LAWYERS OUT OF DEPOSITIONS. IF YOU HAVE A  
24 PROBLEM, YOU GET ME ON THE PHONE AND I'LL RESOLVE IT.

25 ALL RIGHT. ANYTHING ELSE YOU WANT TO ADD? ANY

1 MISTAKES YOU SEE IN THERE THAT I CAN FIX BEFORE I SIGN OFF ON  
2 THIS?

3 MR. GINGRAS: I DON'T, YOUR HONOR.

4 THE COURT: ALL RIGHT.

5 MS. BORODKIN, IS THAT HOW I PRONOUNCE YOUR NAME,  
6 MA'AM?

7 MS. BORODKIN: YES, IT IS, YOUR HONOR.

8 THE COURT: COME TO THE LECTERN HERE.

9 I'VE RULED AGAINST YOU ON SOME ASPECTS OF THIS AS  
10 WELL. TELL ME WHY YOU THINK I'M WRONG AND HOW I SHOULD  
11 CHANGE IT.

12 MS. BORODKIN: OH, WE DON'T, YOUR HONOR. WE'RE  
13 HAPPY TO SUBMIT ON ISSUES ONE AND FOUR.

14 AND WITH RESPECT TO TWO AND THREE, IT'S JUST A  
15 MATTER OF SIMPLE EQUITY. DEFENDANTS HAVE ALREADY TAKEN AND  
16 MADE AMPLE USE OF THE DEPOSITION OF PLAINTIFF MR. MOBREZ.  
17 AND WE JUST THINK THAT WE SHOULD BE ALLOWED THE SAME -- THE  
18 SAME.

19 THE COURT: WHEN YOU SAY AMPLE USE, YOU MEAN THEY  
20 FILED IT IN SUPPORT OF THEIR SUMMARY JUDGMENT MOTION?

21 MS. BORODKIN: CORRECT. AND YOU ARE COMPLETELY  
22 CORRECT, YOUR HONOR, IN THAT IN SOME REGARDS THE MOTION HAS  
23 BECOME MOOT. THE REASON WE DIDN'T TAKE IT OFF CALENDAR WAS  
24 THAT THERE WERE NUMEROUS AREAS OF DEPOSITION QUESTIONING THAT  
25 ARE RELEVANT AND CENTRAL TO THE EXTORTION CLAIM IN AUGUST



1 THAT THEY REFUSED TO ANSWER ON THE GROUND THAT THERE'S A  
2 PENDING PROTECTIVE ORDER.

3 AND WE JUST SIMPLY DON'T THINK THAT THEY HAVE TAKEN  
4 REASONABLE STEPS TO KEEP ANYTHING CONFIDENTIAL.

5 THE COURT: OKAY. WELL, A COUPLE OF THINGS. ONE  
6 IS IS WHEN YOU FILE THINGS IN THIS COURT, THEY'RE LIKELY NOT  
7 GOING TO BE FILED UNDER SEAL. YOU CAN REQUEST THAT. OR YOU  
8 CAN REQUEST THE OTHER SIDE.

9 BUT EXCEPT FOR THINGS LIKE THE SOCIAL SECURITY  
10 NUMBERS AND THINGS LIKE THAT, WE DON'T FILE THINGS UNDER SEAL  
11 HERE.

12 MS. BORODKIN: VERY GOOD. SO, JUST TO CLARIFY,  
13 YOU'RE SAYING THAT WE'RE FREE TO FILE THEM IN SUPPORT OR  
14 AGAINST MOTIONS THAT ARE FILED AND AT THE TRIAL WITHOUT  
15 HAVING TO FILE THEM UNDER SEAL?

16 THE COURT: RIGHT. I MEAN, THERE'S RULES THAT  
17 GOVERN THAT. OKAY. THE DEPONENT'S ADDRESS, HIS TELEPHONE  
18 NUMBER, HIS SOCIAL SECURITY NUMBER, HIS MEDICAL PROBLEMS YOU  
19 NEED TO MOVE TO FILE THOSE UNDER SEAL AND ASK ME OR JUDGE  
20 WILSON TO MAKE A RULING ON THAT.

21 BUT WHAT HAPPENED, AND WHAT THE EXTORTION WAS OR  
22 WASN'T AND THE CONVERSATIONS THAT TOOK PLACE, WE DON'T SEAL  
23 ANYTHING FOR THAT. ALL RIGHT. THIS IS A PUBLIC FORUM, AND  
24 ALL THIS IS GOING TO BE DONE IN PUBLIC.

25 SO, THERE'S ALLEGATIONS THAT YOUR CLIENT WAS LESS

1 THAN CANDID. THAT'S NOT GOING UNDER SEAL. THAT'S BEING  
2 FILED UPFRONT. IF THE U.S. ATTORNEY'S OFFICE PICKS UP ON IT  
3 AND DECIDES THAT YOUR CLIENT HAS PERJURED HIMSELF IN A  
4 DECLARATION OR AT HIS DEPOSITION, THEY MAY REFER THAT MATTER  
5 TO AN AGENT AND HAVE YOUR CLIENT PROSECUTED. I'M NOT HERE TO  
6 SAY ONE WAY OR THE OTHER. BUT THAT DOESN'T GET FILED UNDER  
7 SEAL. THERE'S STATE AND LOCAL RULES THAT GOVERN WHAT IS  
8 PRIVATE AND WHAT ISN'T.

9 THIS FIGHT YOU GUYS ARE HAVING ABOUT WHAT TOOK  
10 PLACE OVER THE TELEPHONE IS NOT A PRIVATE FIGHT. IT'S A  
11 PUBLIC FIGHT RIGHT NOW.

12 OKAY?

13 MS. BORODKIN: YES. THANK YOU, YOUR HONOR.

14 WITH THAT CLARIFICATION, I THINK WHAT'S GOING TO  
15 HAPPEN IS WE'RE JUST GOING TO RETAKE THE DEPOSITION OF MR.  
16 MAGEDSON. AND WE'LL BE HAPPY TO STIPULATE TO A PROTECTIVE  
17 ORDER THAT IS CONSISTENT WITH YOUR RULING TODAY.

18 THE COURT: YES. WELL, I ENTERED THE PROTECTIVE  
19 ORDER. SO, YOU CAN DO WHATEVER YOU WANT. BUT THE PROTECTIVE  
20 ORDER AS FAR AS I'M CONCERNED IS WHAT IS HERE. ALL RIGHT.  
21 IF YOU WANT TO EXPAND IT OR SOMETHING, YOU WANT ME TO SIGN  
22 OFF ON IT, I WILL. IT'S NORMALLY DONE BY A STIPULATION.

23 WHAT MORE DO YOU NEED IN THE PROTECTIVE ORDER  
24 THAT'S NOT HERE?

25 MS. BORODKIN: WELL, WE THINK THAT THE PROPOSED

1 FORM OF PROTECTIVE ORDER THAT WAS PRESENTED TO US BY  
2 DEFENDANTS IS OVERLY RESTRICTIVE AND HAMPERS OUR ABILITY TO  
3 PREPARE FOR TRIAL.

4 THE COURT: BUT WAIT A SECOND. I'M ISSUING A  
5 PROTECTIVE ORDER RIGHT IN HERE, RIGHT. AND I'M GOING TO TELL  
6 YOU WHAT THE PROTECTIVE ORDER IS GOING TO PROVIDE, AND YOU  
7 TELL ME IF I NEED TO INCLUDE ANYTHING ELSE.

8 MS. BORODKIN: THANK YOU, YOUR HONOR.

9 THE COURT: THE DISCOVERY PRODUCED TO DATE IN THIS  
10 -- THIS IS THE PROTECTIVE ORDER.

11 PLAINTIFFS ASKED FOR -- THERE'S A MISTAKE THERE --  
12 PLAINTIFFS ASK FOR A COURT ORDER PERMITTING THEM TO DEPOSE  
13 DEFENDANT --

14 IS IT MAGEDSON?

15 MS. BORODKIN: YES, IT IS.

16 THE COURT: -- WITHOUT A PROTECTIVE ORDER. THIS  
17 REQUEST IS DENIED.

18 DEFENDANTS HAVE PRESENTED SUFFICIENT CAUSE TO  
19 SUPPORT THE ISSUANCE OF A PROTECTIVE ORDER, AND THE COURT  
20 HEREBY ENTERS ONE.

21 THE DISCOVERY IS SUBJECT -- I'M SORRY.

22 THE DISCOVERY PRODUCED TO DATE IN THIS CASE, AND  
23 WHICH WILL BE PRODUCED IN THE FUTURE, IS SUBJECT TO A  
24 PROTECTIVE ORDER.

25 THE PARTIES AND THEIR COUNSEL ARE PROHIBITED

1 FROM DISSEMINATING THIS INFORMATION TO THE GENERAL PUBLIC  
2 ABSENT COURT ORDER. THIS ORDER DOES NOT RESTRICT THE USE  
3 OF THE INFORMATION FOR COURT PROCEEDINGS, SUBJECT TO  
4 FEDERAL, STATE, AND LOCAL RULES GOVERNING THE DISCLOSURE OF  
5 PRIVATE INFORMATION AND PUBLIC RECORDS.

6 THAT IS MY PROTECTIVE ORDER. YOU TELL ME WHAT ELSE  
7 YOU NEED IN THERE.

8 MS. BORODKIN: I THINK WE JUST FOR CLARITY PROBABLY  
9 NEED AN ORDER STATING THAT WE'RE PERMITTED TO TAKE THE  
10 DEPOSITION OF MR. MAGEDSON AGAIN WITH THAT PROTECTIVE ORDER  
11 IN PLACE.

12 THE COURT: YOU KNOW, I THINK THIS IS ALL  
13 SEMANTICS. THERE IS A PROTECTIVE -- AS OF AN HOUR FROM NOW  
14 WHEN I ISSUE THIS, THAT'S THE PROTECTIVE ORDER. IT GOVERNS  
15 THE DEPOSITIONS THAT TOOK PLACE ALREADY AND THE DEPOSITIONS  
16 THAT TAKE PLACE IN THE FUTURE. IF THERE'S ANY CONFUSION, YOU  
17 CAN GET THIS TRANSCRIPT. IT ALSO GOVERNS ALL DOCUMENTARY  
18 DISCOVERY AND ALL THE OTHER DISCOVERY. THERE'S A PROTECTIVE  
19 ORDER IN THIS CASE NOW. I JUST ENTERED THAT ORDER.

20 AND THAT'S WHAT YOU GUYS ARE GOING TO GO BY. YOU  
21 CAN DRAW IT UP AND DO YOUR OWN STIPULATION OR SOMETHING. IF  
22 IT'S NOT INCONSISTENT WITH WHAT I'VE DONE, I'LL SIGN OFF ON  
23 IT FOR YOU.

24 BUT WHEN YOU TAKE HIS DEPOSITION, IT'S SUBJECT TO A  
25 PROTECTIVE ORDER. YOU CAN'T SEND IT TO THE L.A. TIMES. IF

1 YOU DO, I'M GOING TO SANCTION YOU. OKAY. AND THAT'S GOING  
2 TO BE AT A MINIMUM MONETARY SANCTIONS BUT, LIKELY,  
3 EVIDENTIARY SANCTIONS AS WELL.

4 MS. BORODKIN: THANK YOU, YOUR HONOR. WE  
5 UNDERSTAND.

6 THE COURT: OKAY.

7 AND THE SAME GOES TO YOUR SIDE. THEY TOOK YOUR  
8 CLIENT'S DEPOSITION. THEY'RE NOT ALLOWED TO DISSEMINATE IT  
9 TO THE PUBLIC ABSENT A COURT ORDER. ALL RIGHT. SO, THEY  
10 CAN'T SEND IT TO THE L.A. TIMES. AND THEY CAN INCLUDE IT AS  
11 EXHIBITS TO THEIR MOTIONS OR THE REPLY, AND YOU CAN INCLUDE  
12 PARTS OF ANY OF THESE DEPOSITIONS TO EXHIBITS IN YOUR MOTION  
13 OR YOUR OPPOSITION TO THEIR MOTION.

14 BUT, NO, YOU -- THE TRIAL TEAM CAN HAVE IT. YOUR  
15 CLIENTS CAN HAVE IT. AND THAT'S IT. YOU DON'T SHARE IT WITH  
16 ANYBODY ELSE.

17 MS. BORODKIN: THANK YOU, YOUR HONOR.

18 THE COURT: ALL RIGHT. NOW, IS THAT OKAY WITH YOU?  
19 I MEAN, I DON'T WANT YOU TO THINK THAT YOU'RE BEING BATTERED  
20 HERE, AND YOU CAN'T TELL ME YOU WANT SOMETHING DIFFERENT.  
21 I'M WILLING TO GIVE YOU WHAT YOU WANT. BUT, YOU KNOW, I SIGN  
22 A PROTECTIVE ORDER EVERY WEEK IN THIS COURTHOUSE, AND THAT'S  
23 REALLY THE SUBSTANCE OF WHAT THEY SAY.

24 MS. BORODKIN: WELL, IF YOUR HONOR WILL BEAR WITH  
25 US, WE'RE HAPPY TO ABIDE BY WHATEVER THE COURT RULES.

1 THE COURT: OKAY.

2 MS. BORODKIN: AND WE'RE PERFECTLY HAPPY WITH IT.

3 WE DO, HOWEVER, FEEL THAT THIS IS A CASE OF  
4 TREMENDOUS PUBLIC SIGNIFICANCE, AND IT'S LIKELY TO AFFECT  
5 MANY OTHER COLLATERAL LITIGANTS, PEOPLE WHO HAVE BEEN  
6 AFFECTED BY THE PRACTICES OF DEFENDANT, AND WE THINK THERE'S  
7 A VERY STRONG PUBLIC INTEREST IN HAVING THIS IN THE PUBLIC  
8 RECORD. WE THINK AS A MATTER OF SIMPLE EQUITY THIS IS  
9 CONSISTENT WITH WHAT THE DEFENDANT PRESENTS TO THE PUBLIC AS  
10 A PUBLIC SERVICE.

11 HOWEVER, WE WILL --

12 THE COURT: YOU RAISE A GOOD POINT, AND I AGREE  
13 WITH YOU. THERE ARE SOME PARTS OF THIS LITIGATION --  
14 ASSUMING YOU'RE RIGHT AND THEY'RE WRONG -- THAT SHOULD BE  
15 SHARED. AND I WOULD ALLOW IT TO BE SHARED. OKAY.

16 BUT WHAT I THINK IS GOING TO HAPPEN IN THIS CASE,  
17 AND NOW MAYBE YOU FOLKS DISAGREE, IS JUDGE WILSON IS GOING TO  
18 RULE THIS SUMMER WHETHER OR NOT THERE'S A RICO CLAIM. IF  
19 THERE'S NO RICO CLAIM, THE CASE IS GOING TO BE SENT BACK TO  
20 THE STATE COURT, I'M ASSUMING. JUDGE WILSON DOESN'T WANT TO  
21 TRY THIS CASE TWICE. HE'S GOING -- IF THERE'S NO RICO CLAIM,  
22 IT'S GOING BACK TO STATE COURT.

23 SO, I'M NOT GOING TO BE -- I'M SHEPHERDING ONE VERY  
24 SMALL PART OF THIS CASE IN MY VIEW. GET THE EVIDENCE YOU  
25 NEED ON THE MERITS OF THE SUBSTANCE OF THAT RICO CLAIM. GET

1 THAT TRIAL DONE OR THAT SUMMARY JUDGMENT MOTION DONE, AND  
2 YOU'RE GOING TO MOVE ON, ONE WAY OR THE OTHER.

3 IF THIS GOES FURTHER DOWN THE ROAD, AND YOU --  
4 FIRST OF ALL, ANY -- YOU KNOW, THE SUMMARY JUDGMENT DECISION  
5 THAT THE JUDGE IS GOING TO RULE ON THIS SUMMER, THE TRIAL  
6 YOU'RE GOING TO HAVE, IT IS GOING TO BE PUBLIC. AND THERE  
7 ARE GOING TO BE NO GAG ORDERS AND NO RESTRICTIONS AS FAR AS I  
8 KNOW. AS FAR AS I'M CONCERNED, I'VE NEVER SEEN IT ON A CASE  
9 LIKE THIS. SO, YOU WILL BE ALLOWED THAT.

10 BUT RIGHT NOW WHAT I'M TRYING TO DO IS GET YOU  
11 THROUGH TWO WEEKS OF DISCOVERY. OKAY. AND THEY WANT TO  
12 FIGHT ABOUT A DISCOVERY ORDER. THEY'RE SAYING THAT THIS GUY  
13 IS SUBJECT TO THREATS FROM OTHER PEOPLE AND THAT HIS LIFE  
14 COULD BE IN DANGER, I'M LIKE, OKAY, WE'RE GOING TO --

15 MS. BORODKIN: YOUR HONOR, FROM DAY ONE, WE'VE  
16 AGREED TO STIPULATE TO A PROTECTIVE ORDER THAT COVERS EVERY  
17 SINGLE CONCERN THAT THEY HAVE ARTICULATED. WE'VE AGREED AND  
18 WE HAVE KEPT THE LOCATION AND TIMES OF THE DEPOSITION  
19 CONFIDENTIAL. WE'VE OFFERED TO REDACT ANY IDENTIFYING  
20 INFORMATION ABOUT HIS ADDRESS OR HIS WHEREABOUTS.

21 I THINK THE ARGUMENT HERE IS THAT WE DON'T FEEL  
22 THAT THEY'VE MADE THE NECESSARY SHOWING FOR A PROTECTIVE  
23 ORDER REGARDING A BROAD SUBJECT MATTER THAT THEY CLAIM IS  
24 CONFIDENTIAL. WE DON'T THINK THAT THEY'VE TAKEN ADEQUATE  
25 MEASURES TO KEEP THAT INFORMATION SECRET. WE THINK THEY'VE

1 WAIVED THE RIGHT TO CLAIM THAT SOME OF THE MATTER THAT WE'RE  
2 SEEKING IS CONFIDENTIAL OR PROTECTIBLE AS A TRADE SECRET.

3 THE COURT: I UNDERSTAND YOUR POINT. AND AT A  
4 LATER TIME IF YOU WANT TO BRING IT BACK TO ME, I WILL TAKE A  
5 LOOK AT IT. I'M THINKING THIS CASE ISN'T GOING TO BE IN THIS  
6 COURTHOUSE IN SEPTEMBER. OKAY. AND WHEN YOU GO DOWN TO THE  
7 STATE COURT, YOU KNOW, THE STATE JUDGE CAN DO WHATEVER HE OR  
8 SHE WANTS DOWN THERE. I'M JUST GETTING YOU THROUGH THERE.  
9 YOU COME BACK TO ME AND TALK ABOUT THIS, AND I'LL LISTEN TO  
10 YOU.

11 YOU ARE FIRM IN YOUR CONVICTION THAT YOUR CLIENT IS  
12 RIGHT AND HIS CLIENT IS WRONG, AND THAT, THEREFORE, THEY'RE  
13 DOING THINGS THEY SHOULDN'T BE DOING AND YOU NEED TO EXPOSE  
14 THAT.

15 I DON'T HAVE A DOG IN THAT FIGHT. I DON'T KNOW  
16 WHAT THE ANSWER IS. AND I'M NOT ABOUT TO RULE THAT YOU'RE  
17 RIGHT AND HE'S WRONG. YOU HAVE ALLEGATIONS. THERE'S NO  
18 PROOF RIGHT NOW. YOU HAVE ALLEGATIONS THAT THEY'RE A BAD  
19 COMPANY AND THEY DO BAD THINGS AND THEY EXTORT MONEY.

20 HE HAS ALLEGATIONS THAT YOUR CLIENTS ARE COMMITTING  
21 PERJURY.

22 I'M NOT TAKING A SIDE ON THIS. OKAY. THERE'S NO  
23 PROOF IN FRONT OF ME. THERE'S ALLEGATIONS.

24 AS WE GET FURTHER DOWN THE LINE, IF YOU SURVIVE  
25 SUMMARY JUDGMENT AND/OR TRIAL ON THE RICO, AND THIS CASE IS



1 GOING TO PROCEED, YOU COME BACK TO ME AND I WILL ADDRESS IT  
2 WITH YOU. ALL RIGHT.

3 SO, MY DECISION IS WITHOUT PREJUDICE TO COME BACK  
4 IN THE FALL AND SAY, JUDGE, WE WANT TO DISSEMINATE THIS. WE  
5 WANT TO SEND IT TO THE L.A. TIMES. AND WE'LL TALK ABOUT IT.  
6 ALL RIGHT.

7 MS. BORODKIN: THANK YOU VERY MUCH, YOUR HONOR.

8 THE COURT: INFORMATION THAT YOU DIDN'T GAIN  
9 THROUGH DISCOVERY OR THAT YOU ALREADY HAD, YOU'RE FREE TO  
10 SHARE. I'M NOT PUTTING A GAG ORDER ON YOU. YOU WANT TO TALK  
11 TO THE MEDIA OR THE PRESS, YOU CAN. THEY CAN GO ON THEIR  
12 WEBSITE. YOU CAN GO ON THEIR WEBSITE AND SAY THIS IS WHAT'S  
13 ON THEIR WEBSITE. YOU CAN TALK ABOUT OTHER LAWSUITS THAT  
14 THEY'VE HAD. THOSE ARE PUBLIC RECORDS. ALL RIGHT.

15 I WANT HIM TO HAVE HIS DEPOSITION TAKEN UNDER A  
16 PROTECTIVE ORDER, AND I WANT YOUR CLIENTS' DEPOSITIONS  
17 PROTECTED UNDER A PROTECTIVE ORDER SO WE GET THROUGH THIS  
18 SUMMER. AND, THEN, AFTER THAT WE'LL LET THE CHIPS FALL WHERE  
19 THEY MAY.

20 IS THAT ALL RIGHT?

21 MS. BORODKIN: ABSOLUTELY. THANK YOU, YOUR HONOR.

22 THE COURT: OKAY.

23 IF YOU DISAGREE WITH MY PROTECTIVE ORDER, YOU CAN  
24 ASK JUDGE WILSON TO TAKE ANOTHER LOOK AT IT. YOU HAVE 14  
25 DAYS TO DO THAT.

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.

1           OKAY.  ANYTHING YOU WANT TO ADD?

2           MR. GINGRAS:  ONLY THAT THIS ISSUE ABOUT THE CALLS

3  --

4           THE COURT:  I DON'T THINK YOU READ JUDGE WILSON'S  
5  TRANSCRIPT.  I WANT TO TELL YOU.  I'M GENTLE AND NICE.  YOU  
6  GUYS HAVE MET JUDGE WILSON.  ALL RIGHT.  I'VE PRACTICED IN  
7  FRONT OF JUDGE WILSON.  I'D JUST SUGGEST THAT YOU FOLLOW THE  
8  RULES IN AS MUCH AS -- I KNOW YOU GUYS BOUNCE BACK FROM STATE  
9  AND FEDERAL COURT AND, LIKE, EVERYBODY'S GOT A DIFFERENT  
10  RULE.  YOU'RE LIKE, HOW COME THEY ALL JUST CAN'T HAVE THE  
11  SAME RULE.

12           I'M WITH YOU ON THAT.  BUT THAT IS THE RULE IN THIS  
13  COURT, AND YOU GUYS NEED TO FOLLOW IT.  AND YOU DON'T WANT TO  
14  BE IN A POSITION WHERE THE JUDGE IS COMING DOWN ON YOU IN  
15  FRONT OF A JURY ABOUT STANDING UP IN HIS COURTROOM AND JUST  
16  SIGNALS TO THE JURY THAT THE JUDGE DOESN'T HAVE A LOT OF  
17  CONFIDENCE IN YOU.  SO, I'M TRYING TO MOLD YOU INTO THAT  
18  FORM.

19           MR. GINGRAS:  AND I APPRECIATE THE MOLDING, YOUR  
20  HONOR.

21           THE ONLY COMMENT I HAD TO MAKE WAS THAT REGARDING  
22  THE RECORDINGS, THAT CONCERN WAS ALWAYS -- THE STICKING POINT  
23  WAS THE PROTECTIVE ORDER.  I THINK YOU'VE RESOLVED THAT NOW.  
24  THAT WILL, I ASSUME, MOVE FORWARD LIKE A HOT KNIFE THROUGH  
25  BUTTER.

1           THERE'S BEEN AN ISSUE -- BECAUSE THOSE RECORDINGS  
2 ARE IMPORTANT. WE'VE NEVER WANTED TO WITHHOLD ANYTHING FROM  
3 THE PLAINTIFFS. WE JUST WANTED TO PROTECT PRIMARILY THE  
4 IDENTITY OF THE VENDOR THAT DID THE RECORDINGS SO THAT THAT  
5 PARTY ISN'T HARASSED BY SOME PEOPLE THAT DON'T LIKE US.

6           THE COURT: I UNDERSTAND. AND I'M SURE THAT THEY  
7 DO RECORDINGS FOR OTHER PEOPLE. I'M NOT SO MUCH WORRIED  
8 ABOUT THAT. IT'S SUBJECT TO A PROTECTIVE ORDER. THEY'RE  
9 GOING TO GIVE YOU ALL THAT INFORMATION, AND YOU GO WHERE YOU  
10 CAN WITH IT. ALL RIGHT.

11           MS. BORODKIN: THANK YOU, YOUR HONOR.

12           THE COURT: ALL RIGHT. WHAT ELSE DID YOU WANT TO  
13 TALK TO ME ABOUT?

14           SO, GO GET THAT TO THEM BY FRIDAY. THEY'RE GOING  
15 TO GET IT BACK TO YOU BY THURSDAY. YOU RESPOND TO THEM.

16           JUST LET'S BE FACTUAL ABOUT THIS. I WANT THE  
17 ANSWER TO THIS QUESTION. IT WASN'T ANSWERED. AND MAYBE  
18 THERE ARE SOME OTHER AREAS THAT YOU DIDN'T ASK IN THAT FIRST  
19 DEPOSITION THAT YOU MAY WANT TO GET ANSWERS TO.

20           AND WHAT I WILL TELL YOU IS IF THERE ARE ONLY  
21 QUESTIONS THAT YOU DID NOT ASK IN THOSE OTHER DEPOSITIONS,  
22 AND YOU WANT ANSWERS TO, I MAY GO ALONG WITH MS. SPETH ON  
23 THAT ONE AND ALLOW THEM TO JUST PROVIDE IT THROUGH  
24 DECLARATION.

25           BUT IF THERE ARE QUESTIONS THAT WERE RAISED, MY

1 INCLINATION AT THIS POINT WITHOUT HAVING SEEN THE RECORD AND  
2 NOT READING THE DEPOSITION YET, IS IF THERE ARE QUESTIONS  
3 THAT WERE RAISED, AND THEY OBJECTED BASED ON THE LACK OF A  
4 PROTECTIVE ORDER, I'M GOING TO ALLOW YOU TO GET SOME ANSWERS  
5 ASSUMING THEY'RE RELEVANT TO THE EXTORTION ISSUE. AND YOU  
6 DIDN'T CIRCLE BACK AROUND AND GET THE ANSWER. AND MS. SPETH  
7 AND MR. GINGRAS WILL FIGURE OUT THE BEST WAY TO RESOLVE THAT.

8 YOU DON'T HAVE TO COME BACK AND SEE ME. OKAY. IF  
9 YOU GUYS WORK THIS OUT, YOU WORK IT OUT.

10 BUT IF YOU DON'T WORK IT OUT, I WILL BE GONE THE  
11 4TH OF JULY WEEK. BUT I'LL BE BACK THE WEEK AFTER THAT.

12 SO, THE WEEK AFTER THAT YOU CAN CALL MY CLERK  
13 CELIA. 8958 IS HER NUMBER. (213) 894-8958. THIS IS CELIA.

14 AND YOU TELL HER WE WEREN'T ABLE TO WORK IT OUT.  
15 WE WANT TO FAX THOSE LETTERS TO YOU SO THE JUDGE CAN READ  
16 THEM. AND THEN WE'RE GOING TO GET ON THE PHONE WITH THE  
17 JUDGE AND WE'RE GOING TO HASH THIS OUT.

18 ALL RIGHT?

19 MS. BORODKIN: ALL RIGHT, YOUR HONOR. THANK YOU.

20 THE COURT: OKAY.

21 MS. BORODKIN: WE'LL SEE YOU AT THE SETTLEMENT  
22 CONFERENCE ON JULY 14TH.

23 THE COURT: ALL RIGHT. YES. AND ANY OTHER ISSUES  
24 WE NEED TO RESOLVE THERE.

25 WHAT ARE THE CHANCES WE'RE GOING TO SETTLE THIS

1 CASE? IS THERE ANY DESIRE TO SETTLE THIS CASE?

2 I MEAN, YOU -- I THINK ONE OF THE THINGS YOU'RE  
3 TRYING TO POINT OUT TO THE COURT IS THIS IS ALMOST A PUBLIC  
4 SERVICE LAWSUIT IN WHICH YOU'RE TRYING TO EXPOSE THE  
5 DEFENDANTS FOR CONDUCT THAT YOU THINK IS INAPPROPRIATE.

6 AM I RIGHT?

7 MS. BORODKIN: WE HAVE MADE A DEMAND UNDER THE  
8 PRIVATE ATTORNEY GENERAL STATUTE UNDER CALIFORNIA STATE LAW.  
9 WE THINK IT'S A MATTER OF EQUITY THAT THEY HAVE A BUSINESS OF  
10 PUBLISHING WHAT THEY BELIEVE TO BE EXPOSES. AND WE JUST WANT  
11 TO UNDERSTAND WHAT IT IS EXACTLY THAT THEIR BUSINESS IS BASED  
12 ON.

13 THE COURT: BUT THERE'S GOING TO BE NO VINDICATION  
14 FOR YOU IF YOU SETTLE THIS CASE. THEY'RE NOT -- IF THERE'S  
15 ANY SETTLEMENT, ASSUMING THEY WANTED TO SETTLE, AND THEY  
16 HAVEN'T SIGNALLED TO ME THEY DO, YOU KNOW HOW SETTLEMENTS GO.  
17 THE DEFENDANT DOES NOT ADMIT ANY LIABILITY, NO WRONGDOING.  
18 WE DIDN'T DO ANYTHING. WE'RE JUST SETTLING BECAUSE IT'S  
19 CHEAPER TO SETTLE THAN GO TO TRIAL.

20 MS. BORODKIN: THERE IS PRECEDENT FOR SETTLING  
21 THESE CASES, YOUR HONOR.

22 THE COURT: OKAY.

23 MS. BORODKIN: AND WE ARE ABOUT TO MEET AND CONFER  
24 THOROUGHLY UNDER RULE 16 AT OUR PRETRIAL CONFERENCE.

25 THE COURT: ALL RIGHT. THANKS, MS. BORODKIN.



1 MS. BORODKIN: THANK YOU, MR. -- THANK YOU, YOUR  
2 HONOR.

3 THE COURT: ALL RIGHT. FINE.

4 MR. GINGRAS?

5 MR. GINGRAS: I HAVE NOTHING FURTHER. MS. SPETH  
6 MIGHT WANT TO COMMENT ON SETTLEMENT.

7 THE COURT: MS. SPETH.

8 MS. SPETH: YOUR HONOR, A LITTLE CLARITY ON THE  
9 PROTECTIVE ORDER IF I MAY.

10 I UNDERSTOOD IT. AND NOW THAT I KNOW THAT MS.  
11 BORODKIN IS GOING TO BE ASKING SOME OTHER QUESTIONS THAT WERE  
12 REFUSED TO BE ANSWERED, FOR INSTANCE, THE VENDOR OR THE  
13 RECORDINGS, IF I UNDERSTOOD THE PROTECTIVE ORDER CORRECTLY,  
14 WHAT YOU'VE GOT IS THEY CAN'T SEND IT TO ANYONE ELSE. SO,  
15 THEY CAN'T TURN AROUND AND MAIL THAT INFORMATION OR EMAIL  
16 THAT INFORMATION OFF TO ONE OF THEIR BUDDIES WHO --

17 THE COURT: RIGHT. CO-COUNSEL IN ANOTHER CASE OR  
18 SOMETHING LIKE THAT.

19 MS. SPETH: YES.

20 THE COURT: THIS IS GOING TO BE LIMITED TO THIS  
21 CASE.

22 MS. SPETH: RIGHT. SO, THAT PART IS CLEAR.

23 BUT, THEN, YOU ALSO SAY THAT THEY OF COURSE CAN USE  
24 IT IN THIS CASE, AS WELL THEY SHOULD. BUT I THOUGHT I HEARD  
25 YOU SAY SOMETHING ABOUT WE DON'T FILE THINGS UNDER SEAL.

1           SO, IF MS. BORODKIN WERE TO ASK HIM, FOR INSTANCE,  
2 THE VENDOR'S NAME. AND HE ANSWERS THE QUESTION UNDER COURT  
3 ORDER AND UNDER A PROTECTIVE ORDER. AND, THEN, SHE TURNS  
4 AROUND AND SHE FILES THAT AS A PUBLIC RECORD IN THE CASE.  
5 NOW THAT VERY, VERY SENSITIVE INFORMATION IS NOW PUBLIC.

6           THE COURT: OKAY. AND THE ONLY DISPUTE I WOULD  
7 HAVE WITH YOU, MS. SPETH, IS WHAT YOU CONSIDER VERY  
8 SENSITIVE. OKAY. WE HAVE, YOU KNOW, TOP SECRET CASES HERE.  
9 WE HAVE TRADEMARK CASES. WE HAVE EVERY KIND OF CASE. WE  
10 HAVE MURDER TRIALS. WE HAVE EVERYTHING.

11           NONE OF THOSE ARE TOO SENSITIVE TO SHARE. IN OTHER  
12 WORDS, IF YOU'RE CLAIMING THE OTHER SIDE STOLE YOUR  
13 TRADEMARK, AND YOU END UP IN TRIAL -- WHICH THEY RARELY DO.  
14 BUT YOU END UP IN A MARKMAN HEARING OR SOMETHING, THE L.A.  
15 TIMES SITS IN THE FRONT SEAT -- IN THE FRONT ROW AND WRITES  
16 DOWN EVERYTHING THAT HAPPENS AT THE TRIAL.

17           SO, TRADE SECRETS AREN'T FILED UNDER SEAL. WHY IS  
18 THE NAME OF A VENDOR IN CHARGE OF A RECORDING UNDER SEAL?

19           MS. SPETH: BECAUSE WE HAD A YEAR-LONG SITUATION  
20 WITH A GUY NAMED WILLIAM STANLEY WHO'S VERY -- NO DISPUTE  
21 FROM ANYBODY -- IS A CRIMINAL. I MEAN, I'M TALKING WANTED BY  
22 THE AUTHORITIES, THE WORKS. AND MR. STANLEY HAS A GOOD  
23 RELATIONSHIP WITH MR. BREWINGTON WHO WE KNOW THAT MS.  
24 BORODKIN'S CLIENT IS TALKING TO BECAUSE HE ADMITTED IT IN HIS  
25 DEPOSITION.

1 THE COURT: I READ ALL THAT.

2 MS. SPETH: OKAY. SO, THE PROBLEM THAT I HAVE IS  
3 THAT MR. STANLEY FOR A YEAR SPENT ALMOST A YEAR OF HIS TIME  
4 ATTACKING EVERYBODY WHO PROVIDED ANY SERVICES TO RIPOFF  
5 REPORT. AND THE ATTACKS WERE VERY PERSONAL. THEY WERE  
6 NASTY. THEY WERE DDOS ATTACKS. THEY WERE HACKING COMPUTERS.  
7 THEY ACTUALLY HACKED MY COMPUTER, YOUR HONOR, BY THE WAY.  
8 HACKING COMPUTERS, DOING DDOS ATTACKS, SOCIALLY ATTACKING  
9 ANYONE WHO PROVIDED ANY SERVICES TO RIPOFF REPORT.

10 SO, THERE'S CERTAIN SERVICE PROVIDERS THAT IF THEY  
11 GET -- YOU KNOW, OBVIOUSLY, IT'S NOT WORTH IT. YOU'RE NOT  
12 MAKING ENOUGH MONEY. IF YOU'RE GOING TO GET ATTACKED AND  
13 HARASSED, YOU'RE JUST GOING TO SAY, OH, YOU KNOW WHAT, I'M  
14 NOT GOING TO DO ANY MORE BUSINESS WITH YOU. YOU JUST GO FIND  
15 ANOTHER VENDOR.

16 AND THIS IS WHAT HAS HAPPENED TO RIPOFF REPORT IN  
17 2007, FROM JANUARY THROUGH APPROXIMATELY THE NINTH MONTH OF  
18 THE YEAR, TO THE POINT WHERE THEY SPENT \$400,000 MOVING FROM  
19 SERVICE PROVIDER TO SERVICE PROVIDER IN EVERY AREA BECAUSE  
20 NOBODY WOULD PROVIDE SERVICES TO THEM.

21 AND THERE'S A CONNECTION DIRECTLY FROM THAT PERSON  
22 BACK TO MR. MOBREZ. AND, SO, MY CONCERN IS THAT THEY WILL  
23 INTENTIONALLY PUT THIS IN THE PUBLIC RECORD AND THEN JUST  
24 TELL PEOPLE, YOU KNOW, I CAN'T SEND IT TO YOU DIRECTLY, BUT  
25 COME LOOK AT IT.

1 THE COURT: UH-HUH.

2 MS. SPETH: SO, THAT'S -- I WAS JUST HOPING TO HAVE  
3 THE ABILITY TO HAVE CERTAIN THINGS PUT UNDER SEAL JUST TO  
4 PROTECT RIPOFF REPORT, GIVE IT THE ABILITY TO CONTINUE TO DO  
5 BUSINESS WITHOUT HAVING ALL OF ITS VENDORS HARASSED.

6 THE COURT: WELL, LET ME TELL YOU WHAT I DON'T DO  
7 WITH THESE PROTECTIVE ORDERS. I DON'T RULE THAT ANYTHING IS  
8 GOING TO BE FILED UNDER SEAL. WE HAVE ANOTHER RULE, LOCAL  
9 RULE 79-5, THAT TELLS HOW TO FILE THINGS UNDER SEAL.

10 MS. SPETH: UH-HUH.

11 THE COURT: AND I SUPPOSE WHAT YOU'RE ASKING ME TO  
12 DO IS PUT THE BURDEN ON THE PLAINTIFFS HERE THAT IF THEY'RE  
13 GOING TO EXPOSE THE VENDOR IN THE PLEADINGS, THAT THEY SHOULD  
14 MOVE TO FILE IT UNDER SEAL. AND WHOEVER THE MOTION IS GOING  
15 TO BE IN FRONT OF, WHETHER IT'S GOING TO BE ME OR JUDGE  
16 WILSON, THEN, WE WOULD HAVE TO DECIDE. IN OTHER WORDS, WE  
17 DON'T MAKE BLANKET UNDER SEAL RULES HERE.

18 MS. SPETH: OF COURSE. AS I WOULD EXPECT YOU  
19 WOULDN'T. THAT MAKES ALL THE SENSE IN THE WORLD.

20 THE COURT: OKAY.

21 ALL RIGHT. SO, WHAT YOU WANT ME TO DO IS IF  
22 THEY'RE GOING TO EXPOSE ANY OF THE VENDORS OR ANY OF THOSE  
23 FOLKS IN THE PUBLIC RECORD, YOU WANT THEM TO ASK THE COURT TO  
24 LET YOU FILE IT UNDER SEAL?

25 MS. SPETH: YES.

1           THE COURT:  ALL RIGHT.  MS. BORODKIN, WHAT DO YOU  
2 THINK ABOUT THAT?

3           MS. BORODKIN:  WE HAVE NO PROBLEM WITH THAT.  WE'RE  
4 NOT INTERESTED IN THE VENDOR.

5           THE COURT:  ALL RIGHT.  SO, HERE'S WHAT I'M GOING  
6 TO DO.  I'M GOING TO AMEND THE PROTECTIVE ORDER SLIGHTLY.

7           AND THAT IS THAT, MS. SPETH, YOU AND MR. GINGRAS  
8 CAN GIVE MS. BORODKIN A LIST OF THE FOLKS THAT YOU -- THE  
9 INFORMATION YOU DON'T WANT IN THE PUBLIC RECORD; FOR EXAMPLE,  
10 THE NAME OF THE VENDOR WHO PROVIDES THE RECORDING SERVICE,  
11 WHATEVER.

12           AND YOU'RE GOING TO -- AND WHEN YOU GIVE HER THAT  
13 LIST, SHE'S GOING TO HAVE IT, AND SHE'S GOING TO UNDERSTAND  
14 THAT WHAT YOU'RE REQUESTING, AND WHAT I'M ORDERING, IS THAT  
15 BEFORE SHE DOES THAT, BEFORE SHE PUTS THAT INFORMATION IN THE  
16 PUBLIC RECORD, SHE HAS TO MOVE TO FILE THAT UNDER SEAL.  AND  
17 YOU CAN PROVIDE HER THE SUPPORT THAT SHE NEEDS.

18           MS. BORODKIN:  YOUR HONOR, I'M SORRY.  I ONLY MEANT  
19 IT WITH RESPECT TO THE VENDOR.  I THINK MS. SPETH  
20 DELIBERATELY CHOSE A VERY TANGENTIAL ASPECT OF THE CASE.  
21 WHAT WE'RE WORRIED ABOUT NOW IS THAT THEY'RE GOING TO  
22 DESIGNATE A LOT OF CATEGORIES THAT ARE INTENTIONALLY  
23 BURDENSOME TO THE PLAINTIFF.

24           THE COURT:  LIKE WHAT?

25           MS. BORODKIN:  WELL, BASED ON THE TYPES OF

1 QUESTIONS THAT THEY REFUSE TO ANSWER IN DEPOSITION, WE  
2 BELIEVE BASED ON PREVIOUS CASES THAT WE ARE AWARE OF, THEY  
3 MAY CLAIM THAT THE NUMBER OF CELL PHONES HE HAS IS  
4 CONFIDENTIAL. WE SIMPLY DON'T KNOW WHAT THEY'RE ABOUT TO  
5 DESIGNATE.

6 THE COURT: ALL RIGHT.

7 MS. BORODKIN: BUT WE DON'T WANT IT TO BE OVERLY  
8 BURDENSOME. I WAS SIMPLY RESPONDING WITH RESPECT TO THE  
9 VENDOR.

10 THE COURT: OKAY.

11 MS. SPETH, SHE'LL GO ALONG ON THE VENDOR.

12 MS. SPETH: RIGHT.

13 THE COURT: WHAT ABOUT THE NUMBER OF CELL PHONES  
14 YOUR CLIENT HAS?

15 MS. SPETH: I DON'T CARE ABOUT THE NUMBER OF CELL  
16 PHONES. I CERTAINLY CARE ABOUT THE CELL PHONE NUMBER.

17 THE COURT: THAT WOULD BE SOMETHING THAT I WOULD  
18 AGREE TO PUT UNDER SEAL. I'M NOT SPEAKING FOR JUDGE WILSON.  
19 HE MAKES HIS OWN DECISIONS ON THOSE ISSUES.

20 YOU KNOW, THE FACT -- YOU MAY NOT EVEN NEED THE  
21 NUMBER. YOU CAN DO WHAT THEY DO WHEN THE AGENTS COME IN TO  
22 GET A SEARCH WARRANT FROM ME ON THE TELEPHONE. THEY JUST  
23 BLANK OUT MOST OF THE NUMBERS AND LEAVE THE LAST FOUR OR  
24 SOMETHING.

25 SO, THERE'S SOME OTHER SOLUTIONS TO THAT.

1           SO, WHY DON'T YOU DO THAT FOR ME, MS. BORODKIN.  
2           DON'T PUT HIS CELL PHONE NUMBERS IN THE PUBLIC RECORD. ALL  
3           RIGHT.

4           MS. BORODKIN: ABSOLUTELY, YOUR HONOR.

5           THE COURT: NOT THE WHOLE NUMBER. IDENTIFY IT.  
6           AND MAYBE CELL PHONE NUMBER 1. OR PUT JUST AN XXX FOR THE  
7           AREA CODE AND XXX FOR WHATEVER THE FIRST THREE NUMBERS ARE.  
8           AND THEN PUT THE LAST FOUR IN OR SOMETHING.

9           MS. BORODKIN: NO PROBLEM. THANK YOU.

10          THE COURT: MS. SPETH, ARE YOU OKAY WITH THAT?

11          MS. SPETH: YES.

12          AND, YOUR HONOR, THE ONLY OTHER THING I WOULD SAY  
13          RIGHT ALONG THESE SAME LINES IS SOME OF THESE THINGS I  
14          QUESTION WHY MS. BORODKIN EVEN NEEDS THEM TO BEGIN WITH.

15          ASSUMING SHE NEEDS THEM, AND ASSUMING IT'S RELEVANT  
16          TO THE CLAIM, THEN, WE SHOULD HAVE TO PROVIDE THEM. AND IF  
17          THEY REALLY ARE SENSITIVE, THEN, WE SHOULD HAVE THE ABILITY  
18          TO ASK THAT THEY BE ONLY FILED UNDER SEAL IF THEY'RE GOING TO  
19          BE FILED.

20          BUT I DON'T WANT TO SORT OF PRESUPPOSE THAT  
21          EVERYTHING THAT SHE'S ASKED FOR IS EVEN RELEVANT TO THE RICO  
22          CLAIM. BECAUSE I'M NOT EVEN SURE WHAT HIS CELL PHONE NUMBER  
23          HAS TO DO WITH --

24          THE COURT: WELL, HIS CELL PHONE NUMBER MIGHT HAVE  
25          NOTHING TO DO WITH IT, BUT YOU'RE CLAIMING THAT THESE

1 EXTORTIONS -- OR, IN FACT, YOU'RE CLAIMING THAT THESE LACK OF  
2 EXTORTIONS OCCURRED OVER THE TELEPHONE.

3 AND ONE OF THE THINGS THEY WANT TO DO IS THEY WANT  
4 TO CALL THAT INTO QUESTION. AND THEY WANT TO CHALLENGE YOU  
5 AND SAY, HE'S GOT A LOT OF PHONES. MAYBE THERE WERE OTHER  
6 CALLS.

7 MS. SPETH: RIGHT. EXCEPT MR. MOBREZ SAID THAT HE  
8 NEVER CALLED ANY OTHER NUMBER OTHER THAN THE MAIN LINE, AND  
9 HE NEVER HAD ANY OTHER NUMBER. AND THAT MR. -- HE DOESN'T  
10 RECALL THAT MR. MAGEDSON EVER CALLED HIM.

11 THE COURT: OKAY. ALL RIGHT. WELL --

12 MS. SPETH: SO, YOU KNOW, I JUST -- I DON'T -- I'M  
13 A LITTLE BIT LEERY OF THE FISHING EXPEDITION. AND I  
14 APPRECIATE THAT DISCOVERY HAS TO BE OPEN AND BROAD. I REALLY  
15 DO. BUT I DO HAVE A CLIENT THAT'S JUST GOT A LONG, LONG  
16 HISTORY OF, YOU KNOW, THE DEATH THREATS, THE HARASSMENT.  
17 AND, SO, I HAVE TO BE A LITTLE BIT MORE CAREFUL.

18 THE COURT: I UNDERSTAND.

19 ALL RIGHT. GET ME ON THE PHONE IF YOU CAN'T WORK  
20 OUT THINGS, AND I'LL TRY TO RESOLVE THEM. OKAY?

21 MS. SPETH: THANK YOU.

22 THE COURT: BUT WHATEVER YOU CAN RESOLVE ON YOUR  
23 OWN, I WOULD APPRECIATE IT. IT'S NOT THAT I DON'T ENJOY  
24 TALKING WITH YOU, COUNSEL. IT'S JUST THAT I HAVE A LOT GOING  
25 ON HERE.



1           AND I THINK MOST OF THESE ISSUES -- AND MAYBE THERE  
2 WILL BE AN ATTITUDE ADJUSTMENT FROM BOTH SIDES. I THINK MOST  
3 OF THESE ISSUES WITH EVEN A MINIMAL EFFORT CAN BE RESOLVED BY  
4 THE LAWYERS WITHOUT THE COURT'S INTERVENTION. THAT'S MY  
5 HOPE.

6           MS. SPETH: WE APPRECIATE THAT, YOUR HONOR.

7           THE COURT: OKAY.

8           MS. BORODKIN, ANYTHING MORE BEFORE WE GO TODAY?

9           MS. BORODKIN: NO, THANK YOU, YOUR HONOR.

10          THE COURT: MR. BLACKERT?

11          MR. BLACKERT: I HAVE NOTHING FURTHER TO ADD, YOUR  
12 HONOR.

13          THE COURT: THANKS, MR. BLACKERT.

14          MR. GINGRAS?

15          MR. GINGRAS: NO, YOUR HONOR. THANK YOU.

16          THE COURT: MS. SPETH.

17          MS. SPETH: NO, NOTHING, YOUR HONOR.

18          THE COURT: ALL RIGHT. COUNSEL, THANKS FOR YOUR  
19 TIME. I'LL LOOK FORWARD TO TALKING TO YOU ON JULY 14TH, IF  
20 NOT BEFORE THEN.

21          THANK YOU.

22          MS. SPETH: THANK YOU.

23          MS. BORODKIN: THANK YOU.

24          THE CLERK: COURT IS ADJOURNED.

25          (PROCEEDINGS CONCLUDED 11:45 A.M.)

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C E R T I F I C A T E

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

DOROTHY BABYKIN

7/1/10

\_\_\_\_\_  
FEDERALLY CERTIFIED TRANSCRIBER

\_\_\_\_\_  
DATED

DOROTHY BABYKIN