

EXHIBIT F

COUNTY COUNSEL

MICHAEL P. MURPHY

CHIEF DEPUTIES

JOHN C. BEIERS

DEBORAH PENNY BENNETT

BRENDA B. CARLSON



COUNTY COUNSEL

COUNTY OF SAN MATEO

HALL OF JUSTICE AND RECORDS · 6TH FLOOR
400 COUNTY CENTER · REDWOOD CITY, CA 94063-1662
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September 10, 2008

DEPUTIES

KATHRYN E. ALBERTI
REBECCA M. ARCHER
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CLAIRE A. CUNNINGHAM
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TIMOTHY J. FOX
PORTOR GOLTZ
JUDITH A. HOLIBER
DAVID A. LEVY
GLENN M. LEVY
KIMBERLY A. MARLOW
JOHN D. NIBBELIN
PAUL A. OKADA
DAVID A. SILBERMAN
WILLIAM E. SMITH
MIRUNI SOOSAIPILLAI
V. RAYMOND SWOPE III
LEE A. THOMPSON
EUGENE WHITLOCK
CAROL L. WOODWARD

VIA FACSIMILE (415) 561-9609 AND U.S. MAIL

John Houston Scott, Esq.
Scott Law Firm
1375 Sutter Street, Suite 222
San Francisco, CA 94109

Re: Toschi, et al.v. County of San Mateo, et al.

Dear Mr. Scott:

I am in receipt of your correspondence dated September 5, 2008, sent via facsimile and attached hereto as Exhibit "A", which is apparently in response to my notices for the continued depositions of your clients, plaintiffs Michael and Tracy Toschi. Please consider this a meet and confer letter on the length of time to take the depositions of your clients.

In your letter, you have limited the continued depositions of each plaintiff to one hour, which is insufficient, and is inconsistent with Judge Chesney's position during the hearing on Plaintiffs' motion to amend the complaint on June 27, 2008. (See excerpts from Reporter's Transcripts of Proceedings dated 6/27/08, pp. 26-29 attached hereto as Exhibit "B".) I advised Judge Chesney that we had exhausted our seven hour limits as to each plaintiff, and advised that there was much more to be discovered, including the alleged conspiracy. (Transcript, p. 28, lines 9-14.) Judge Chesney stated that defendants would have more time to take plaintiffs' depositions (Transcript, p. 28, line 15), particularly in view of the new allegations of equal protection violations. (Transcript, p. 28, lines 17-25; p. 29, lines 1-5.)

Further, I stated near the end of Michael Toschi's second deposition session on May 13, 2008, that I had not completed my questioning, and that I would need at least six more hours to take Mr. Toschi's deposition. This does not even account for the questions which Lisa Cummins, Esq. may have on behalf of defendants Donald and Rhonda Dallimonti. (See excerpt from Michael Toschi's Deposition, Vol. II, dated 5/13/08, attached hereto as Exhibit "C," p. 275, lines 17-25, and pp. 276-277.)

Michael Toschi has not been very forthcoming, and has been very evasive in his testimony thus far. Simply put, he has wasted a good deal of our time during the initial seven hours of deposition testimony. For example, in Volume I of his deposition taken March 20, 2008, Mr. Toschi asked me to define what a "berm" was, and took twenty to thirty pages of questions and answers to finally agree to what a berm was, even though he had frequently used and understood the term before this lawsuit was filed. In Volume II of his deposition, he took cues from the objections made by Brian Gearing, and altered his testimony accordingly. (See Deposition Transcript, Exhibit "C," pp. 186-193). The excerpts I have attached are just a few of the many examples in which Mr. Toschi has followed cues from his counsel, or has stalled or otherwise avoided answering key questions which directly relate to the allegations of the complaint. Your clients conduct is nothing more than gamesmanship designed to stall and exhaust our time limits.

John Houston Scott
September 10, 2008
Page 2

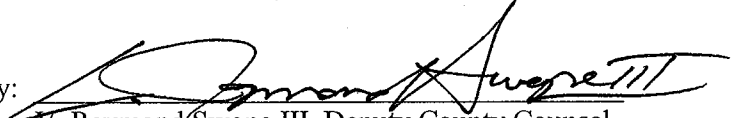
Finally, Ms. Cummins and I have spoken with Mr. Gearing about our need for more time to depose Mr. and Mrs. Toschi, and he stated that we should forward our estimates to him. Since then, Judge Chesney has ruled that we should have more time to depose the plaintiffs. Ms. Cummins and I believe we need at least ten more hours for Michael Toschi, and at least six more hours for Tracy Toschi. We noticed Mr. Toschi's deposition for September 16, 2008, and Mrs. Toschi's deposition for September 17, 2008. Yet, you said you were unavailable, and you limited their depositions to one hour each on October 8, 2008, the same day in which Jayme DuBois and Pamela Schnur are scheduled. This is obviously not going to work.

I suggest that you should offer your clients for depositions on the week following the close of fact discovery. I am available on October 15-17th, and the week of October 20th. If you do not agree to the length of time necessary, and to the foregoing dates, I will have no choice but to file a motion to compel these depositions, with sanctions.

Very truly yours,

MICHAEL P. MURPHY, COUNTY COUNSEL

By:



V. Raymond Swope III, Deputy County Counsel

MPM:VRS/al

cc: Brian Gearing, Esq.
Lisa Jeong Cummins, Esq.
Carol L. Woodward, Deputy County Counsel

Enclosures

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(EXHIBIT A)

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September 5, 2008

VIA FAX & U.S. MAIL

V. Raymond Swope, III
Hall of Justice and Records
400 County Center, 6th Floor
Redwood City, CA 94063

Re: *Toschi v. County of San Mateo, et al.*
USDC – Northern District, Case No. C-07-3625

Dear Mr. Swope:

I have received your deposition notices for my clients. Unfortunately, I have a conflict with September 16 and 17, 2008. However, we will agree to produce Michael and Tracy Toschi for depositions to last no longer than one hour each, on October 8, 2008.

Sincerely,

DICTATED BUT NOT READ

John Houston Scott

JHS/tsp
cc: Brian Gearing
Michael and Tracy Toschi

(EXHIBIT B)

United States District Court
Northern District of California

Before The Honorable Maxine M. Chesney

Michael Toschi, et al.,)
)
 Plaintiff,)
)
 vs.)
)
 County of San Mateo,)
 et al.,)
)
 Defendant.)

No. C07-3625 MMC

San Francisco, California
Friday, June 27, 2008

Reporter's Transcript Of Proceedings

Appearances:

For Plaintiff: Gearinger Law Firm
825 Van Ness Avenue, Fourth Floor
San Francisco, California 94109
By: Brian Gearinger, Esquire
R. Stephen M. LaRoe, Esquire

For Defendant: San Mateo County Counsel
400 County Center, 6th Floor
Redwood City, California 94063
By: Carol Woodward, Esquire
Raymond Swope, Esquire

Campbell, Warburton, Fitzsimmons
Smith, Mendell & Pastore
64 West Santa Clara Street
San Jose, California 95113
By: Lisa Jeong Cummins, Esquire

Reported By: Sahar McVickar, RPR, CSR No. 12963
Official Reporter, U.S. District Court
For the Northern District of California

(Computerized Transcription By Eclipse)

1 Friday, June 27, 2008

9:00 a.m.

2 P R O C E E D I N G S

3 **THE CLERK:** Calling civil case No. 07-3625,
4 Michael and Tracy Toschi versus the County of San Mateo.
5 Counsel, please state your appearances for the
6 record.

7 **MR. GEARINGER:** Good morning, Your Honor.
8 Brian Derringer and my colleague, Steven LaRoe,
9 for plaintiffs, Michael and Tracy Toschi.

10 **THE COURT:** Thank you.

11 **MS. WOODWARD:** Good morning.
12 Carol Woodward, county counsel on behalf of the
13 defendant, the county defendants.

14 **THE COURT:** Thank you.

15 **MR. SWOPE:** Good morning.
16 Raymond Swope, deputy county counsel on behalf of
17 defendants.

18 **MS. CUMMINS:** Lisa Cummins appearing on behalf of
19 defendants, Don and Rhonda Dallimonti..

20 **THE COURT:** I gather most of you got the message
21 that we were going to start a half hour late. Some of you
22 coming from farther away may not have gotten the message, so
23 sorry for that.

24 I have the motion to file an amended complaint; I
25 thought it was best to have you come in rather than just make

1 **MR. GEARINGER:** What I said, Your Honor, was that
2 formalized what we believed, informally, all along, our clients
3 talked with their neighbor, and we confirmed it under oath.

4 **THE COURT:** Of course, you could have pled it
5 earlier, if your client is saying it. I mean, your client
6 hasn't been hesitant to make allegations that are disputed by
7 other people. So, if Ms. Whipps had denied that she told them
8 that, they would still have information and belief, which was
9 the basis of much of this.

10 **MR. SWOPE:** But, there is a lot of discretion and
11 pragmatics that goes into the waterflow management, and that is
12 vested in Public Works.

13 **THE COURT:** Well, you may --

14 **MR. SWOPE:** And, I believe --

15 **THE COURT:** Okay, but that's a defense to this,
16 okay.

17 **MR. SWOPE:** Yes.

18 **THE COURT:** So, they may be prepared to say that
19 these people are not similarly situated. For example, if
20 Ms. Whipps moved the water off her property, it wasn't going
21 into anybody else's property to cause damage, unlike the claim,
22 here, that the water is going into someone's property and
23 causing damage. All right, so that's the ground.

24 I could see some amount of discovery being required
25 for that claim because the claim doesn't seem to be supported,

1 necessarily, by your complaint, or you can't point to where you
2 said all that earlier. So, that's kind of a new idea.

3 Equal protection is very different than you did me
4 wrong in my one instance. It brings in all kinds of other
5 concepts and how other people have been treated far beyond just
6 Ms. Whipps and this person. And so, that could change things
7 markedly, if you really want to plead that as one of your many
8 claims.

9 You know, you don't need to go to a form book and
10 find every possible cause of action that might be available,
11 but, if you are afraid you might have left a stone unturned
12 here, let alone the trees -- okay.

13 So -- but keeping in mind you have two different
14 goals. One appears to be to cover every possible theory of
15 liability and involve every possible individual who may be
16 liable thereunder and getting a fast trial and speedy
17 resolution of the problem. These have to be reconciled in some
18 way because they are in conflict. Okay.

19 Now, we talked about all these things. It isn't
20 clear to me what particular additional discovery the defendant
21 -- defendants anticipated by these changes. One is they've
22 still got to get the tree worked out, both your expert and
23 theirs; they may have to look further into equal protection and
24 not only Ms. Whipps, but other people. And also, I don't know
25 if their decision with respect to Ms. Whipps brings in all

1 kinds of other disputed issues about property runoff and
2 whether anybody was, or was not, harmed by Ms. Whipps' actions
3 or what they had reason to believe.

4 And then, you have the extra people, okay, two out,
5 two in. The County will defend, if Mr. Marelich and Mr. Costa
6 come in, just like they defended the other two people.

7 **MR. SWOPE:** That's correct, Your Honor.

8 **THE COURT:** Okay.

9 **MR. SWOPE:** But, coupled with that is the defense of
10 certain allegations. I have to ask the plaintiffs specifically
11 how, number one, they deprived the Toschis of their rights and
12 what Mr. Marelich and Mr. Costa actually did to conspire
13 against them. Now, we've already exhausted our seven hours of
14 discovery.

15 **THE COURT:** So, you'll have more.

16 **MR. SWOPE:** Thank you.

17 **THE COURT:** Yeah.

18 Now, if you cannot agree on how much more you should
19 have, or whether you should have more -- I can say that it
20 appears to me that you should have more. If somebody is not
21 only saying the following: You changed this way, no I didn't,
22 fine, then he's already said that, okay. But, if you say you
23 conspired, these people are not simply being alleged to have
24 done something wrong negligently, they are accused of
25 intentionally being in cahoots with nasty neighbors, and that

1 everybody is in it together, and it's a vast right-wing
2 conspiracy fueled by law enforcement connections.

3 Okay, now, if that's the case, that involves other
4 kinds of discovery. Okay, now, and I don't see you dropping
5 anything. I see you adding, not dropping.

6 So, now, we get to the question of let's say that
7 you might be able to add some of these people in, primarily
8 because all of you agree to push back the discovery; if you had
9 kept a tight discovery time line, that might affect the Court's
10 view as to what you should be allowed to put in, when you
11 should have figured all this out, et cetera, et cetera.

12 When you agreed to push back the experts, for
13 example, I think you were trying to save money until you could
14 get a chance to have your settlement conference with Magistrate
15 Judge Spero, that was the articulated reason. So I said, well,
16 okay, the parties have been spending a lot of money, maybe we
17 can save them some money. Okay, so I approved that. So, the
18 experts are way off.

19 Your fact discovery is still pretty far off, too.

20 **MS. WOODWARD:** Two weeks.

21 **THE COURT:** No, I think -- is that all you have?

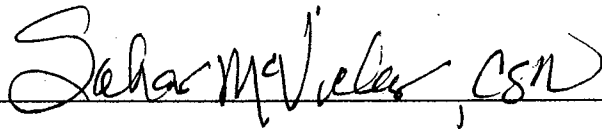
22 **MS. WOODWARD:** July 15th.

23 **THE COURT:** Oh, you only have two weeks?

24 **MS. WOODWARD:** And the summary judgment deadline is
25 August 1st, that is four weeks.

CERTIFICATE OF REPORTER

I, Sahar McVickar, Official Court Reporter for the United States Court, Northern District of California, hereby certify that the foregoing proceedings were reported by me, a certified shorthand reporter, and were thereafter transcribed under my direction into typewriting; that the foregoing is a full, complete and true record of said proceedings as bound by me at the time of filing. The validity of the reporter's certification of said transcript may be void upon disassembly and/or removal from the court file.



Sahar McVickar, RPR, CSR No. 12963

July 8, 2008

(EXHIBIT C)

1 UNITED STATES DISTRICT COURT
2 IN THE NORTHERN DISTRICT OF CALIFORNIA
3

4 MICHAEL TOSCHI AND TRACY
5 TOSCHI,

6 Plaintiffs,

7 vs.

No. C-07-3625 MMC

8 COUNTY OF SAN MATEO, DON
9 DALLIMONTI, RHONDA
10 DALLIMONTI, NEIL CULLEN,
11 BRIAN LEE, DAVID WEIDNER, and
12 DOES 1 through 50, inclusive,

**CERTIFIED
COPY**

13 Defendants.
14 _____/

15 DEPOSITION OF MICHAEL TOSCHI

16 Tuesday, May 13, 2008

17 Volume II, Pages 176 - 278

18 Reported by: R. Chayo Ayon, CSR # 12372

19 **The original of this deposition**
20 **is in our office for signature**
21 **and will be sealed in 35 days**
22 **unless otherwise notified.**

23 Uccelli & Associates
24 Certified Shorthand Reporters
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South San Francisco, CA 94080
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fax 650.952.8688
www.uccellireporting.com

A P P E A R A N C E S

FOR THE PLAINTIFFS MICHAEL TOSCHI AND TRACY TOSCHI:

GEARINGER LAW GROUP
BY: BRIAN GEARINGER, ESQ.
825 Van Ness Avenue, Fourth Floor
San Francisco, California 94109
(415) 440-3175

FOR THE DEFENDANTS COUNTY OF SAN MATEO, NEIL CULLEN,
BRIAN LEE, and DAVID WEIDNER:

OFFICE OF MICHAEL P. MURPHY,
COUNTY COUNSEL SAN MATEO COUNTY
BY: V. RAYMOND SWOPE, DEPUTY COUNTY COUNSEL
HALL OF JUSTICE AND RECORDS
400 County Center, Sixth Floor
Redwood City, California 94063-1662
(650) 363-4759

FOR THE DEFENDANTS DON DALLIMONTI AND RHONDA
DALLIMONTI:

CAMPBELL, WARBURTON, FITZSIMMONS, SMITH,
MENDELL & PASTORE
BY: LISA JEONG CUMMINS, ESQ.
64 West Santa Clara Street
San Jose, California 95113-1806
(408) 295-7701

ALSO PRESENT:

MARK MARELICH
RHONDA DALLIMONTI

1 BY MR. SWOPE:

2 Q. You alleged -- I'm sorry.

3 You alleged on September 28, 2006, that
4 Mr. Marelich and Mr. Dallimonti were friends. So how
5 do you know that Mr. Marelich and Mr. Dallimonti were
6 friends?

7 MR. GEARINGER: As of today?

8 MR. SWOPE: Yes.

9 THE WITNESS: How do I --

10 BY MR. SWOPE:

11 Q. No. I'm going to ask the question again.

12 How did you know in September of 2006 that
13 Mr. Marelich and Mr. Dallimonti were friends?

14 A. Through conversations that I had with
15 different county employees witnessing Mark and Don
16 speaking to each other, having Mark and the county
17 respond to some of the requests by Don within minutes
18 when, if any other neighbor requested the county to
19 attend to something, it wouldn't happen for weeks.

20 I don't know. I mean, just a whole variety
21 of factors contributed to my belief of him being
22 friends with Don.

23 Q. Let's go through those factors, Mr. Toschi.

24 What other factors do you have to support
25 your claim that in September of 2006 that Mark Marelich

1 and Don Dallimonti were friends?

2 MR. GEARINGER: In addition to what you've
3 already stated.

4 THE WITNESS: I don't have anything to add to
5 that.

6 BY MR. SWOPE:

7 Q. But you said there were other factors that
8 lend itself to your belief that as of September 28,
9 2006, Mark Marelich was a friend of Don Dallimonti.

10 And what are those factors?

11 A. The factors that I just mentioned.

12 Q. You said that there were other factors. What
13 other factors do you have beyond which you've testified
14 to to support your belief that Mark Marelich and Don
15 Dallimonti were friends as of September 28, 2006?

16 A. I don't really have the ability to describe
17 the other factors right now.

18 Q. That's because you really don't know, do you?

19 A. I really don't know what?

20 Q. You really don't know whether or not Don
21 Dallimonti and Mark Marelich were friends back in
22 September 2006 in terms of your personal knowledge, do
23 you?

24 MR. GEARINGER: Objection. Argumentative.

25 Go ahead and answer.

1 THE WITNESS: Well, to say that I know that
2 they were friends or that I perceived that they were
3 friends, I don't know how you would define "friends,"
4 but they knew each other, and they had conversations,
5 and I witnessed them speaking to each other.

6 Some very coincidental situations happened
7 that unless they spoke to each other and maintained
8 some sort of friendly relationship, Don and Mark and I
9 wouldn't have had encountered.

10 One being the time that Don came out the day
11 that I met him up on the road.

12 BY MR. SWOPE:

13 Q. What day that you met him on the road?

14 A. Well, actually, I met Mark several times, but
15 one day Don came out.

16 He happened to come out right at the moment
17 that we came to the property and interrupted our
18 conversation with, you know, seemed to me information
19 that he already knew what was happening, what was going
20 on and what was going to be discussed.

21 That kind of thing.

22 Q. Okay. How do you know? Do you have any
23 personal knowledge that Mr. Dallimonti knew what was
24 going to be discussed before it was discussed?

25 A. On that particular incident?

1 Q. Yes.

2 A. Well, my personal knowledge is I was there
3 that day when it happened.

4 Q. I'm asking you what personal knowledge do you
5 have that Don Dallimonti knew what the purpose was and
6 what was going to transpire before he got there?

7 MR. SWOPE: Excuse me. Can you read the
8 question?

9 (Record read.)

10 THE WITNESS: I knew that because of the way
11 Don approached Mark and I and what he said. And so
12 that gave me the information to know that he knew what
13 was happening. And so they must have had a
14 conversation.

15 I didn't hear their conversation, if that's
16 what you're asking me.

17 BY MR. SWOPE:

18 Q. So you have no personal knowledge as to
19 whether Don Dallimonti actually knew what the meeting
20 was about on this incident that occurred -- the meeting
21 with Mark Marelich?

22 MR. GEARINGER: Objection. Asked and
23 answered.

24 Go ahead.

25 THE WITNESS: I have the same answer as I had

1 before.

2 BY MR. SWOPE:

3 Q. Now, you see, Mr. Toschi, we're trying to get
4 discovery from you. I don't want your attorney
5 coaching you. I don't want you to take cues from your
6 attorney.

7 Your attorney is lodging objections that are
8 appropriate to lodge to preserve the record, and he's
9 preserving his objections for the purposes of trial.

10 A. Uh-huh.

11 Q. Is that a yes?

12 A. I understand.

13 Q. Thank you.

14 However, this is discovery, and this is a
15 deposition. And I have the right to ask you questions
16 concerning certain matters that are very key to this --
17 the whole case. And that's why we're preserving your
18 testimony.

19 But don't think just because your attorney is
20 making an objection that you don't have an obligation
21 to answer. And don't take any cues as being coached on
22 the record as to how to answer these questions.

23 Do you understand that?

24 A. Yes.

25 Q. So I think it's important that you answer the

1 question notwithstanding the objection unless your
2 attorney instructs you not to answer.

3 Is that fair?

4 A. Can you say that one more time.

5 Q. Okay. You have an obligation to answer the
6 questions notwithstanding your attorney's objection
7 unless your attorney instructs you not to answer.

8 Do you understand that?

9 A. Yes.

10 Q. Okay.

11 MR. GEARINGER: And there's no coaching going
12 on, Raymond. You're asking the same question. If you
13 didn't like the first answer, he's not going to change
14 it just because you ask it again.

15 MR. SWOPE: Mr. Gearinger, with all due
16 respect, I know that you don't coach witnesses.

17 But notwithstanding the fact that you don't
18 coach witnesses, Mr. Toschi is taking cues from your
19 objections that you have a right to make. And he is
20 altering his testimony or his response based upon the
21 objections that you make.

22 And that's a huge distinction. I'm not
23 accusing you of any of that. I never would.

24 MR. GEARINGER: I appreciate that, Raymond.
25 I disagree with the second part of your contention.

1 But be that as it may, proceed.

2 BY MR. SWOPE:

3 Q. But I think, Mr. Toschi, you understand that
4 taking a direct cue -- and I can show you that you
5 have -- from Mr. Gearinger's objections that it's
6 inappropriate, and you just need to independently
7 answer the question that's been asked. Okay?

8 A. Okay.

9 Q. Because otherwise, we're going to be here a
10 lot longer than you want to be. Given the first
11 deposition, we didn't get very far because of this, and
12 that doesn't help anyone.

13 A. Because of what?

14 Q. Well, it took you 30 pages to appreciate what
15 a "berm" was in your previous deposition, and I also
16 talked to you off the record about a berm.

17 And you had been using the term "berm." And
18 you even used the term "berm" in the tape that we
19 talked about in September of '06.

20 And yet suddenly you didn't know what a
21 "berm" was and asked me to define a "berm."

22 And that's not helpful to the discovery
23 process, Mr. Toschi.

24 So let's have a fresh start and answer the
25 questions to the best of your ability, and we can have

1 an efficient deposition. Okay?

2 Now, there was a meeting that you had with
3 Mr. Marelich about drainage issues on upper Park Road
4 when Mr. Dallimonti appeared that you've referred to in
5 your testimony; correct?

6 A. Yes.

7 Q. And this was a meeting that was in April or
8 so of 2006; correct?

9 A. I don't recall the date.

10 Q. And the question is, you didn't hear
11 Mr. Marelich speaking with Mr. Dallimonti that this
12 meeting was going to take place regarding your
13 drainage, did you?

14 A. Mr. Dallimonti -- I have witnessed
15 Mr. Dallimonti speaking with Mr. Marelich.

16 Q. That wasn't the question, sir.

17 The question was in relation to this meeting
18 that took place on or about April 27 of 2006, you
19 didn't hear Mr. Marelich speaking with Mr. Dallimonti
20 beforehand regarding what was going to happen during
21 the course of the meeting with you, did you?

22 A. Well, I did hear him speaking with
23 Mr. Marelich before that happened. So my witness of
24 Mark and Don's relationship and friendship, if that's
25 what you're getting at, was established before we met

1 put me through.

2 Q. Joe is acquiescing to some abuse that the
3 county is putting you through?

4 A. It's kind of a chain of events of me doing
5 the work, the Dallimontis complaining about it, and Joe
6 getting involved.

7 It just kept moving up the chain of command.
8 And it seems like it started there. It seems that was
9 sort of the point of misdoings. So I guess that's why
10 he made the comment.

11 Q. What knowledge do you have?

12 MR. GEARINGER: Why don't you go ahead and
13 exhaust all the questions on the six to eight months,
14 and we'll call it a day.

15 I don't want you to quit in the middle of a
16 line of questioning.

17 MR. SWOPE: But I may have more than just a
18 couple minutes, and I don't want to hold you up. So
19 why don't we adjourn now.

20 And I think what we're going to need is
21 probably about six more hours of questioning. The way
22 that the questioning has gone and the material that we
23 have from discovery and the nature of the case has
24 necessitated a minimum of that much time. And we
25 haven't even gotten to Ms. Cummins' questions.

1 MS. CUMMINS: And we're still waiting for
2 more documents.

3 MR. GEARINGER: I just want to put on the
4 record that we're stopping now because we're at the
5 seven-hour mark for the deposition of Mr. Toschi.

6 And we've agreed amongst counsel that counsel
7 for the defendants are going to make a proposal
8 regarding continuing the deposition for some further
9 length of time and that counsel for the Toschis will
10 respond, and we'll either come to an agreement or, if
11 necessary, the defendants may have to bring a discovery
12 motion.

13 MR. SWOPE: And we very well may if we don't
14 come to an agreement. We'll meet and confer. As good
15 members of the bar, we will make our best efforts to
16 try to resolve our dispute concerning the time.

17 But reasonable minds may differ as to what's
18 necessary for the support of our case. But given the
19 allegations and the personality issues that are
20 alleged, it certainly is important to delve into
21 because that's really the heart of the case.

22 MR. GEARINGER: What would be helpful is if
23 you and Lisa, Ms. Cummins, get together and
24 collectively figure out what your combined needs are,
25 and both of you can get back to us.

1 MR. SWOPE: We will do that.

2 (Whereupon, the May 13, 2008, deposition of
3 MICHAEL TOSCHI ended at 2:13 p.m.)
4
5
6
7

8 MICHAEL TOSCHI
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1 I, R. CHAYO AYON, duly authorized to
2 administer oaths pursuant to Section 2093(b) of the
3 California Code of Civil Procedure, do hereby certify
4 that the witness in the foregoing deposition was by me
5 duly sworn to testify the truth in the within-entitled
6 cause; that said deposition was taken at the time and
7 place therein cited; that testimony of said witness was
8 reported by me and thereafter transcribed under my
9 direction into typewriting; that the foregoing is a
10 complete and accurate record of said testimony; and
11 that the witness was given an opportunity to read and
12 correct said deposition and to subscribe the same.

13 Should the signature of the witness not be
14 affixed to the deposition, the witness shall not have
15 availed himself/herself of the opportunity to sign or
16 the signature has been waived.

17 I further certify that I am not of counsel
18 nor attorney for any of the parties in the foregoing
19 deposition and caption named nor in any way interested
20 in the outcome of the cause named in said caption.

21 DATED: MAY 28, 2008

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R. CHAYO AYON
CERTIFIED SHORTHAND REPORTER NO. 12372