

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

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GAOS,)	CV-10-4809-EJD
)	
PLAINTIFF,)	SAN JOSE, CALIFORNIA
)	
VS.)	
)	OCTOBER 28, 2011
GOOGLE, INC.,)	
)	
DEFENDANT.)	PAGES 1-30
)	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE EDWARD J. DAVILA
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S :

FOR THE PLAINTIFF: ASCHENBRENER LAW, P.C.
BY: MICHAEL ASCHENBRENER
795 FOLSOM STREET, 1ST FL
SAN FRANCISCO, CA 94107

FOR THE DEFENDANT: O'MELVENY & MYERS, LLP
BY: RANDALL EDWARDS
TWO EMBARCADERO CENTER, 28TH FL
SAN FRANCISCO, CA 94111

(APPEARANCES CONTINUED ON THE NEXT PAGE)

OFFICIAL COURT REPORTER: SUMMER FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

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

FOR THE PLAINTIFF: NASSIRI & JUNG, LLP
BY: KASSRA NASSIRI
47 KEARNY STREET, STE 700
SAN FRANCISCO, CA 94108

1 SAN JOSE, CALIFORNIA

OCTOBER 28, 2011

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

3 (WHEREUPON, COURT CONVENEED AND THE
4 FOLLOWING PROCEEDINGS WERE HELD:)

5 THE CLERK: CALLING CASE NUMBER 10-4809.
6 GAOS VERSUS GOOGLE.

7 ON FOR MOTION TO DISMISS THE FIRST
8 AMENDED COMPLAINT.

9 COUNSEL, PLEASE COME FORWARD AND STATE
10 YOUR APPEARANCES.

11 MR. EDWARDS: GOOD MORNING, YOUR HONOR.

12 RANDALL EDWARDS ON BEHALF OF GOOGLE.

13 THE COURT: THANK YOU. GOOD MORNING.

14 MR. NASSIRI: GOOD MORNING, YOUR HONOR.

15 KASSRA NASSIRI ON BEHALF OF PLAINTIFF
16 GAOS.

17 MR. ASCHENBRENER: GOOD MORNING,
18 YOUR HONOR.

19 MICHAEL ASCHENBRENER ON BEHALF OF THE
20 PLAINTIFF AS WELL.

21 THE COURT: THANK YOU. GOOD MORNING.

22 SO THIS IS THE DEFENDANT'S MOTION TO
23 DISMISS. SO LET ME -- YOU CAN BE SEATED COUNSEL,
24 THANK YOU.

25 MR. EDWARDS, WHAT WOULD YOU LIKE ME TO

1 KNOW?

2 MR. EDWARDS: WELL, YOUR HONOR, WE TRIED
3 TO COVER ALL OF THE POINTS WE RAISED, OBVIOUSLY A
4 NUMBER OF DIFFERENT GROUNDS PARTICULARLY A LOT OF
5 SPECIFIC ISSUES WITH THE STATE LAW CLAIMS.

6 WE TRIED TO ADDRESS THOSE AS THOROUGHLY
7 AS WE COULD IN THE REPLY BRIEF, AND I WANT TO BE
8 RESPECTFUL OF THE COURT'S TIME AND NOT TELL YOU ALL
9 THE GOOD ARGUMENTS I PUT IN THE BRIEF.

10 BUT WHAT I WOULD LIKE TO DO HERE IS JUST
11 HIGHLIGHT A FEW THINGS WHAT WE BELIEVE IS REALLY
12 SORT OF THE NUT OF THE ISSUE.

13 THE CENTRAL DEFICIENCY IN THE FIRST
14 AMENDED COMPLAINT IS REALLY THE SAME DEFICIENCY
15 THAT EXISTED IN THE PRIOR COMPLAINT THAT CHIEF
16 JUDGE WARE DISMISSED WHICH IS, IT DOES NOT ACTUALLY
17 MAKE FACTUAL ALLEGATIONS, NON CONCLUSORY
18 ALLEGATIONS, WITH RESPECT TO THE NAMED PLAINTIFF
19 WITH RESPECT EITHER TO ESTABLISH ACTUAL OR CONCRETE
20 OR EMINENT INJURY WITH RESPECT TO STANDING, OR AS
21 WE TRIED TO GO THROUGH IN THE BRIEF, EACH OF THE
22 STATE LAW CAUSES OF ACTION HAVE ADDITIONAL PROBLEMS
23 WITH THEM.

24 CHIEF JUDGE WARE DIDN'T ADDRESS ANY OF
25 THOSE BECAUSE OF HIS FINDING JUST ON THE STANDING

1 ISSUE. SO WE BELIEVE THAT THERE ARE ACTUALLY
2 THREE, I WILL BROADLY CATEGORIZE THEM, THREE
3 REASONS TO DISMISS ALL OF THE STATE LAW CAUSES OF
4 ACTION, AND THE STANDING ISSUE GOES TO THE SCA
5 CLAIM AS WELL.

6 SO FIRST THERE'S THE STANDING POINT WHICH
7 IF ALL THAT PLAINTIFF'S REALLY HAVE, THE PLAINTIFF
8 REALLY HAS DONE TO TRY TO ADDRESS THE DEFICIENCIES
9 THAT CHIEF JUDGE WARE FOUND WERE TO ADD PARAGRAPH
10 76 TO 80 TO THE FIRST AMENDED COMPLAINT WHICH
11 ESSENTIALLY SAYS THAT MS. GAOS USED THE SERVICE
12 DURING ALL MATERIAL TIMES, I BELIEVE IS THE PHRASE
13 THE COMPLAINT USES.

14 SO THE FIRST FOUR PARAGRAPHS OF THOSE
15 FIVE SAY SHE USED THE SERVICE AND THEN SHE HAS A
16 VERY CONCLUSORY RECITATION AS A RESULT SHE WAS
17 INJURED.

18 THAT DOESN'T PROVIDE A RESPONSE TO THE
19 PRIOR DISMISSAL ORDER WHICH REQUIRED FACTUAL
20 ALLEGATIONS, NOT A CONCLUSORY ASSERTION IN A SINGLE
21 PARAGRAPH.

22 NOWHERE IN THE FIRST AMENDED COMPLAINT
23 AND NOWHERE IN THE OPPOSITION BRIEF DOES PLAINTIFF
24 REALLY IDENTIFY ANY FACTS THAT SHOW COGNIZABLE
25 INJURY WITH RESPECT TO HER.

1 MOST OF THE COMPLAINT IS GENERIC AND IT'S
2 SPECULATIVE THAT SOMETHING MIGHT HAPPEN IN THE
3 FUTURE IF THREE OR FOUR DIFFERENT THINGS HAPPENED
4 AND THE SEARCH QUERIES ARE PIECED TOGETHER WITH
5 OTHER INFORMATION BY THIRD PARTIES DOWN THE ROAD,
6 SOMEBODY MIGHT GET HURT IN SOME WAY.

7 AND THE CASE IS EXTREMELY DIFFERENT FROM
8 THE CASES THAT PLAINTIFF SITES, AND I WON'T GO
9 THROUGH CHAPTER AND VERSE WHAT WE DID IN THE BRIEFS
10 BUT THE KROTTNER DECISION, THE STARBUCKS CASE, THE
11 RUIZ CASE, IPHONE, ALL OF THESE CASES WHERE THERE
12 IS STANDING, THERE'S SOMETHING MUCH MORE CONCRETE
13 WHERE SOCIAL SECURITY NUMBERS AND CREDIT CARD
14 NUMBERS ARE ACTUALLY STOLEN. THEY JUST DON'T HAVE
15 ANYTHING LIKE THAT HERE.

16 BUT PARTICULARLY WITH RESPECT TO
17 MS. GAOS. THE ONLY CONCRETE FACTUAL ALLEGATION
18 ABOUT WHAT MS. GAOS SEARCHED WAS FOR HER NAME AND
19 NAMES OF FAMILY MEMBERS. THERE'S NO ALLEGATIONS
20 THAT ANYTHING BAD OR ANYTHING REALISTICALLY BAD IS
21 LIKELY OR EMINENT TO OCCUR. AND THAT'S REALLY THE
22 PROBLEM WITH STANDING.

23 THE SAME PROBLEM EXISTS WITH RESPECT TO
24 HOW PLAINTIFFS HAVE TRIED TO DEAL WITH THE
25 SUBSTANCE OF THEIR STATE LAW CLAIMS. SO FOR

1 INSTANCE, IN THE NEGLIGENT AND INTENTIONAL
2 MISREPRESENTATION CLAIMS THERE'S NO ALLEGATIONS
3 ABOUT RELIANCE OR REVIEW OF THE SUPPOSED
4 MISREPRESENTATIONS, AND EVEN THE MISREPRESENTATIONS
5 AREN'T IDENTIFIED CLEARLY WITH RESPECT TO MS. GAOS.
6 AND THERE'S NO DISCUSSION WITH RESPECT TO MS. GAOS
7 OR FACTS SHOWING THAT SHE'S BEEN DAMAGED.

8 WITH RESPECT TO THE PUBLIC DISCLOSURE OF
9 PRIVATE FACTS CONSTITUTIONAL CLAIM, AGAIN, THE
10 OPPOSITION BRIEF DOESN'T ENGAGE ON WHAT THE
11 ALLEGATIONS ARE WITH RESPECT TO HER. HER NAME
12 ISN'T A PRIVATE FACT.

13 AND THEY REALLY HAVE NO RESPONSE TO THE
14 POINT THAT THE TEST -- ONE OF THE ELEMENTS FOR THAT
15 CLAIM IS THAT A DISCLOSURE, ASSUMING ONE EVEN
16 OCCURRED AND WE DISPUTE THAT, A DISCLOSURE MUST BE
17 TO A REASONABLE PERSON HAVE BEEN OFFENSIVE AND
18 OBJECTIONABLE.

19 AND THE DISCLOSURE OF THE FACT OF HER
20 NAME OR EVEN THAT SHE DID A VANITY SEARCH ON HER
21 NAME DOESN'T RISE TO THAT. IT'S FAR, FAR MORE
22 INNOCUOUS THAN ONE OF THE CASES WE CITED THE VIACOM
23 V. DALY CASE WHERE A WOMAN SUED BECAUSE THERE WAS A
24 PUBLICATION THAT SHE HAD KISSED A MAN IN THE STALL
25 OF THE WOMAN'S BATHROOM AND SHE SAID THAT WAS

1 ENOUGH TO CAUSE HER PERSONAL AND SUBJECTIVE
2 EMBARRASSMENT. AND THE COURT, AS A MATTER OF LAW,
3 SAID THAT WASN'T ENOUGH FOR THIS REASONABLE,
4 OBJECTIVE, OFFENSIVE TEST.

5 THE COURT: SO YOU ARE SAYING MS. GAOS,
6 WE KNOW WHAT SHE'S DONE, PUT HER NAME IN A VANITY
7 SEARCH AND THAT'S ALL, AND WITHOUT MORE THERE'S NO
8 STANDING.

9 MR. EDWARDS: EXACTLY.

10 AND NO STANDING, AND SHE DOESN'T MEET THE
11 VARIOUS ELEMENTS. SHE DOESN'T PLEAD ENOUGH TO
12 SATISFY THE ELEMENTS OF THE STATE LAW CAUSES OF
13 ACTIONS.

14 SO THOSE ARE TWO OF THE PROBLEMS. AND
15 THE THIRD ONE IS THE PREEMPTION ARGUMENT WITH
16 RESPECT TO THE STATE LAW CLAIMS. THERE ARE A LOT
17 OF STATE LAW CLAIMS THAT ARE APPENDED TO WHAT SEEMS
18 TO BE THE THRUST OF WHERE THE COMPLAINT IS GOING
19 THE SCA CLAIM.

20 AND THERE'S JUST NO, IN THE OPPOSITION,
21 NO ATTEMPT TO GRAPPLE WITH THE PLAIN LANGUAGE. AND
22 WE CITED THE SUZLON ENERGY CASE IN THE REPLY BRIEF,
23 AND I WANTED TO HIGHLIGHT THAT BECAUSE THAT'S A
24 NINTH CIRCUIT DECISION FROM EARLIER THIS MONTH, WAS
25 INTERPRETING A DIFFERENT PROVISION OF THE SCA, BUT

1 IT EMPHASIZED THE POINT, TURNING AND MAKING
2 ARGUMENTS ABOUT LEGISLATIVE HISTORY AND
3 SPECIFICALLY SIMILAR TYPES OF LEGISLATIVE HISTORY
4 TYPES OF ARGUMENTS THAT MS. GAOS ADVANCED HERE
5 DON'T OVERCOME PLAIN LANGUAGE.

6 THERE'S NO DOUBT THAT WHAT SECTION 2708
7 SAYS IS THAT FOR VIOLATIONS OF WHICH CHAPTER, WHICH
8 THEY CERTAINLY ALLEGE, THE ONLY NONCONSTITUTIONAL
9 REMEDIES ARE THE REMEDIES IN THIS CHAPTER.

10 AND THE TWO CASES THAT WE CITED QUON AND
11 BUNNELL EXPRESSLY LOOK AT THAT LANGUAGE AND FIND
12 THAT ALL THE STATE LAW CLAIMS, THERE ARE DIFFERENT
13 STATE LAW CLAIMS THAN THE TWO, DON'T SURVIVE.

14 THERE ARE A COUPLE OF DECISIONS THAT
15 MS. GAOS CITED FROM OTHER COURT'S IN THIS DISTRICT
16 THAT FIND NO PREEMPTION BUT WHAT -- NO EXPRESS
17 PREEMPTION, ONE OF THEM ACTUALLY FINDS FIELD
18 PREEMPTION.

19 BUT NONE OF THEM ENGAGE ON THE LANGUAGE
20 OF THE STATUTE, WHICH LAST WEEK OR THE WEEK BEFORE,
21 I THINK IT WAS OCTOBER 3RD, SO A COUPLE WEEKS AGO,
22 I APOLOGIZE, THE NINTH CIRCUIT VERY CLEARLY SAID IF
23 THE LANGUAGE IS CLEAR, DON'T GET INTO LEGISLATIVE
24 HISTORY, IT'S THE END OF IT.

25 SO THAT'S THE THIRD INDEPENDENT GROUND TO

1 ELIMINATE ALL OF THE STATE LAW CLAIMS.

2 THE COURT: SO 2707(A), I THINK, OF THE
3 STATUTE TALKS ABOUT AGGRIEVED.

4 MR. EDWARDS: TALKS ABOUT AGGRIEVED?

5 THE COURT: RIGHT.

6 STATES AN AGGRIEVED PERSON MAY BRING A
7 CIVIL ACTION, I THINK IS WHAT THE LANGUAGE IS.

8 MR. EDWARDS: YES.

9 THE COURT: AND WHAT'S YOUR POSITION AS
10 TO WHETHER OR NOT THIS PLAINTIFF IS AGGRIEVED?

11 MR. EDWARDS: FOR PURPOSES OF STANDING
12 WITH RESPECT TO THE SCA, I GUESS WHAT I WOULD SAY
13 IS WE DON'T KNOW BECAUSE PARAGRAPH 76 THROUGH 80 IS
14 ALL THAT'S ALLEGED WITH RESPECT TO MS. GAOS.

15 SO CERTAINLY UNDER EXISTING NINTH CIRCUIT
16 PRECEDENT WITHOUT THE -- ONE COULD ARGUE THAT THE
17 VIOLATIONS OF A STATUTE IS SUFFICIENT TO GET
18 STANDING WITH RESPECT TO THAT CAUSE OF ACTION. YOU
19 HAVE TO ANALYZE STANDING BY CAUSE OF ACTION AND BY
20 CAUSE OF ACTION.

21 THE COURT: RIGHT.

22 MR. EDWARDS: BUT THERE'S SOME AUTHORITY
23 THAT WOULD SUGGEST THAT A PERSON AGGRIEVED BY THE
24 STATUTE WOULD HAVE STANDING.

25 BUT OUR FUNDAMENTAL POSITION AND WHY WE

1 CAME BACK TO THE COURT WITH RESPECT TO THAT CAUSE
2 OF ACTION IS PARAGRAPH 76 THROUGH 80 DON'T REALLY
3 GET THERE. THEY DON'T SOLVE THE PROBLEM THAT CHIEF
4 JUDGE WARE SAID, WHICH IS, JUST CONCLUSORY
5 ALLEGATIONS WITH NO FACTS ARE NOT ENOUGH.

6 AND WE POINTED OUT, I THINK IN OUR REPLY
7 BRIEF, ONE EXAMPLE OF THAT WHERE IT'S NOT AS IF
8 THERE'S BEEN A COMPLETE RECITATION ESTABLISHED
9 WHETHER MS. GAOS WAS AGGRIEVED.

10 THE COURT: OKAY. THANK YOU.

11 MR. EDWARDS: THANK YOU.

12 THE COURT: MR. NASSIRI.

13 MR. NASSIRI: THANK YOU, YOUR HONOR.

14 I WOULD LIKE TO PICK UP ON THE LAST PART
15 OF THAT DISCOURSE. I THINK THE COURT RECOGNIZES
16 THAT THERE'S AN INCONSISTENCY IN GOOGLE'S ARGUMENT.
17 PARTICULARLY WITH RESPECT TO PREEMPTION.

18 COUNSEL JUST SAID LEAD PLAINTIFF HAS
19 ALLEGED STATUTORY VIOLATIONS UNDER THE SCA, AND
20 THAT'S OUR POSITION AS WELL.

21 WE'VE ALLEGED STATUTORY VIOLATIONS AND
22 THAT'S SUFFICIENT TO CONFER STANDING UNDER
23 NINTH CIRCUIT LAW.

24 I CAN RECITE A NUMBER OF CASES FROM THE
25 NINTH CIRCUIT AND OUTSIDE OF THIS CIRCUIT THAT

1 STATE THAT, INCLUDING THE U.S. SUPREME COURT IN
2 WARTH.

3 WITH RESPECT TO JUDGE WARE'S ORDER ON THE
4 MOTION TO DISMISS, JUDGE WARE SAID THAT PLAINTIFF
5 FAILED TO PLEAD THAT SHE CLICKED ON THE LINK FROM
6 THE GOOGLE SEARCH PAGE DURING THE SAME TIME PERIOD
7 THAT DEFENDANT ALLEGEDLY RELEASED SEARCH TERMS VIA
8 REFER HEADERS.

9 WHAT WE DESCRIBED IN THE COMPLAINT IS
10 ESSENTIALLY A PATTERN AND PRACTICE OF DISCLOSING
11 THE SEARCH INQUIRIES VIA URL WITH VERY LIMITED
12 EXCEPTIONS DURING CERTAIN LIMITED TIME PERIODS FOR
13 SMALL SUBSETS OF GOOGLE USERS DURING THE CLASS
14 PERIOD.

15 WE ADDRESSED JUDGE WARE'S CONCERN AND WE
16 ALLEGED THAT MS. GAOS, BEING A MATERIAL USER OF
17 GOOGLE WHO USES IT REPEATEDLY, ON INFORMATION WE
18 BELIEVE AND WITH REASONABLE BASIS, HAD HER SEARCH
19 QUERIES FORWARDED BY URL'S.

20 THE COURT: SO YOU STATED IN PARAGRAPH
21 80, PLAINTIFF'S SEARCH QUERIES WHICH CONTAIN
22 SENSITIVE PERSONAL INFORMATION TO THIRD PARTIES.

23 AND IS THAT HER NAME? BECAUSE I THINK
24 EARLIER YOU SUGGEST THAT SHE MADE I THINK WHAT I
25 REFERRED TO AS "VANITY SEARCHES."

1 MR. NASSIRI: YES, YOUR HONOR.

2 ACTUALLY, JUST -- IT'S ACTUALLY PARAGRAPH, AS
3 MY COLLEAGUE STATED, 76 THROUGH 80. ALL OF THOSE
4 ADDRESS JUDGE WARE'S CONCERN. ONE THING THAT EVEN
5 GOOGLE --

6 THE COURT: BUT IS HER NAME SENSITIVE,
7 PERSONAL INFORMATION?

8 MR. NASSIRI: HER NAME IS SENSITIVE,
9 PERSONAL INFORMATION. BUT IT'S IMPORTANT TO FIND
10 OUT ONE THING FOR THE COURT, YOUR HONOR.

11 THE SCA DOESN'T PLACE ANY RESTRICTIONS OR
12 REQUIREMENTS ON THE DISCLOSED DATA. IT DOESN'T
13 NEED TO BE PERSONAL, FINANCIAL, SENSITIVE OR ANY OF
14 THAT. IF IT'S THE CONTENT OF COMMUNICATION AND
15 IT'S DISCLOSED WITHOUT CONSENT THEN THAT'S ENOUGH
16 TO STATE A VIOLATION.

17 THE COURT: SO WHY DID YOU SAY PERSONAL,
18 SENSITIVE INFORMATION?

19 MR. NASSIRI: BECAUSE WE BELIEVE IT IS
20 PERSONAL, SENSITIVE, INFORMATION, YOUR HONOR.

21 TECHNOLOGY HAS ADVANCED TO THE POINT, AS
22 WE DESCRIBED IN THE COMPLAINT, WHERE ALL THIS
23 INFORMATION ADDS TO THE AGGREGATE DATA THAT'S
24 AVAILABLE TO COMPANIES LIKE RAMPLEAF THAT AGGREGATE
25 DATA TO CREATE PROFILES.

1 THE COURT: THAT'S A COMPANY THAT'S
2 SEPARATE FROM GOOGLE?

3 MR. NASSIRI: IT'S SEPARATE FROM GOOGLE.

4 ONE OF THE ISSUES, AND GOOGLE'S FORMER
5 CEO ERIC SCHMIDT STATED THIS IN RESPONSE TO WHAT
6 HAPPENED IN THE AOL CASE, GOOGLE'S CEO SAYS,
7 APPARENTLY AOL DIDN'T ANONYMIZE THE DATA ENOUGH.

8 AND THAT'S WHAT WE ARE SEEING HERE IS
9 THAT IN TODAY'S WORLD, GOOGLE IS DISCLOSING
10 BILLIONS OF SEARCH INQUIRIES AND ALL OF PLAINTIFF'S
11 SEARCH QUERIES ISN'T ANONYMOUS ENOUGH.

12 WE ALLEGE THIS IN GREAT DETAIL, AND WE
13 COULD PROVIDE MORE FOR THE COURT IF WE SURVIVE THIS
14 MOTION TO DISMISS, AND FOR LACK OF STANDING WE
15 WOULD BE ABLE TO ESTABLISH ALL OF THIS. THESE ARE
16 ALL FACTUAL QUESTIONS THAT PLAINTIFF DOESN'T
17 BELIEVE ARE APPROPRIATE FOR DISPOSITION HERE ON THE
18 MOTION TO DISMISS.

19 THE COURT: SO WHAT ABOUT AGGRIEVED?

20 THE QUESTION I PUT TO COUNSEL, YOUR
21 COLLEAGUE OPPOSITE, IS SHE AGGRIEVED?

22 MR. NASSIRI: SHE IS AGGRIEVED.

23 THE COURT: HOW?

24 MR. NASSIRI: SO WE HAVE MADE OUT, WE
25 BELIEVE, A CLEAR VIOLATION OF THE SCA.

1 PLAINIFF IS AGGRIEVED BECAUSE THE
2 CONTENTS OF HER COMMUNICATIONS WERE DISCLOSED
3 WITHOUT HER CONSENT.

4 SHE HAS STANDING BECAUSE THE STATUTE IS
5 ADDRESSED TO PROTECT HER AND TO GIVE HER JUDICIAL
6 RELIEF.

7 IF SHE PREVAILS IN MAKING OUT A VIOLATION
8 OF THE SCA, SHE'S ENTITLED TO HER ACTUAL DAMAGES
9 AND AT LEAST \$1,000.

10 THE COURT: SO I UNDERSTAND THAT PORTION
11 OF IT.

12 BUT ISN'T THE CONDITION PRECEDENT THAT
13 SHE MUST BE AN AGGRIEVED PARTY?

14 MR. NASSIRI: SHE IS AGGRIEVED,
15 YOUR HONOR.

16 THE COURT: IF THAT'S THE CONDITION
17 PERCEIVED. YOU'VE GOT TO BE AN AGGRIEVED PERSON.

18 WHAT DOES THAT MEAN, AGGRIEVED, HOW IS
19 SHE.

20 MR. NASSIRI: WHAT THAT MEANS,
21 YOUR HONOR, IS IF SHE'S CONFERRED CERTAIN RIGHTS BY
22 THE STATUTE AND THOSE RIGHTS ARE VIOLATED THEN
23 SHE'S AGGRIEVED.

24 THE COURT: SO SHE NEED NOT SHOW ANY
25 PERSONAL INJURY AT ALL.

1 MR. NASSIRI: SHE HAS SHOWN PERSONAL
2 INJURY, WE BELIEVE.

3 BUT YOUR HONOR, THERE ARE NUMEROUS
4 EXAMPLES INCLUDING MANY OF WHICH ARE IN THE CIVIL
5 RIGHTS ARENA WHERE THE HARM MIGHT BE CONCEIVED TO
6 BE INTANGIBLE AND CREATED SOLELY BY LEGISLATIVE
7 ACTION.

8 HERE, PRIVACY HARMS CAN BE INTANGIBLE.
9 CONGRESS RECOGNIZED THAT WHETHER YOU CAN PUT A
10 DOLLAR AMOUNT ON THEM EASILY OR NOT, PEOPLE HAVE AN
11 INTEREST IN KEEPING THEIR SEARCH QUERIES IN THIS
12 CASE TO THEMSELVES IF THEY CHOOSE TO DO SO.

13 AND WHEN A COMPANY VIOLATES THAT THEN
14 THERE'S --

15 THE COURT: SURE. I GET THAT. I
16 APPRECIATE THAT.

17 BUT AGAIN, THE THRESHOLD QUESTION, DOES
18 SHE NEED TO SAY MORE THAN I'M AGGRIEVED?

19 IS THAT ENOUGH JUST TO SAY STATUTE SAYS
20 AGGRIEVED, THAT'S ME I'M AGGRIEVED, SO LET ME IN,
21 WITHOUT MORE?

22 MR. NASSIRI: YES, YOUR HONOR.

23 ACTUAL INJURY IS NOT REQUIRED HERE. SHE'S
24 AGGRIEVED BECAUSE HER STATUTORY RIGHTS WERE
25 VIOLATED.

1 THE COURT: DOES SHE SAY THAT?

2 MR. NASSIRI: SHE DOES SAY THAT,
3 YOUR HONOR.

4 THE COURT: DOES SHE SAY I'VE SUFFERED
5 WHATEVER INJURY, IT MAY NOT BE -- I UNDERSTAND SHE
6 NEED NOT EXPRESS PERHAPS AN INJURY. BUT DOESN'T
7 SHE NEED TO SAY MORE? I GUESS THAT'S WHAT I'M
8 DIGGING AT HERE.

9 MR. NASSIRI: I DON'T BELIEVE SO,
10 YOUR HONOR.

11 IN, FOR EXAMPLE, IN THE DOE V. AOL CASE
12 THAT THE DEFENDANTS TRY TO DISTINGUISH, LIKEWISE
13 THERE, THERE WAS NO ALLEGATION THAT ANY THIRD PARTY
14 HAD ACTUALLY MISUSED ANY OF THE DATA.

15 THE COURT: BUT THAT WAS ACTUAL
16 DISSEMINATION OF ACTUAL REAL LIVE PERSONAL
17 INFORMATION. THERE WERE SOCIAL SECURITY NUMBERS,
18 THERE WERE OTHER BANKS NUMBERS AND OTHER REAL,
19 REAL, WHAT WE ALL WOULD RECOGNIZE AS PERSONAL
20 INFORMATION.

21 DID THAT HAPPEN IN THAT CASE?

22 MR. NASSIRI: IT'S NOT CLEAR WHETHER THAT
23 HAPPENED WITH RESPECT TO THE MAIN PLAINTIFF,
24 YOUR HONOR. AND I DON'T THINK THAT THAT'S REALLY
25 THE CRUX OF THE ISSUE.

1 IT'S NOT APPROPRIATE ON A MOTION TO
2 DISMISS TO DECIDE THAT A SOCIAL SECURITY NUMBER
3 WOULD AGGRIEVE SOMEBODY BY A VANITY SEARCH THAT
4 ALLOWS THIRD PARTIES OR INCREASES THE RISK THAT ALL
5 OF YOUR OTHER ANONYMOUS DATA THAT WILL BE CONNECTED
6 TO YOU IS NOT SUFFICIENT TO CONFER STANDING.

7 THE COURT: SO WHAT I GUESS, AND THANK
8 YOU FOR SPEAKING WITH ME ABOUT THIS, I GUESS WHAT I
9 HAVE HERE IS YOUR COMPLAINT THAT GOES TO GREAT
10 DETAIL, IN GREAT DETAIL THAT TALKS ABOUT WHAT THIRD
11 PARTY THESE BUSINESSES, THESE OTHER CONCERNS DO
12 WITH THIS INFORMATION.

13 AND THEY HAVE GREAT POSSIBILITIES TO
14 AGGREGATE AND DO ALL THESE MINING OF INFORMATION
15 AND PUT TOGETHER THEIR PROGRAMS THAT CAN DIVINE AND
16 SEARCH OUT AND FIND PEOPLE'S INFORMATION.

17 SO YOU'VE EDUCATED THE COURT INDICATING
18 THESE CONCERNS EXIST, THEY ARE OUT THERE. AND
19 YOU'VE INDICATED TO THE COURT WHAT YOUR CLIENT HAS
20 DONE IN THIS VANITY SEARCH IN HER NAME AND HER
21 FAMILY'S NAMES.

22 AND I GUESS WHAT YOU ARE SAYING IS, GEE,
23 ALL OF THIS EXISTS OUT THERE, JUDGE, AND MY CLIENT
24 IS AGGRIEVED BECAUSE ALL OF THIS EXISTS.

25 DOES THERE NEED TO BE MORE? DO I NEED TO

1 HEAR MORE WITH HOW YOUR CLIENT WAS AGGRIEVED?

2 I GUESS WHAT I'M FOCUSED ON, AND I
3 APOLOGIZE FOR THIS, PERHAPS, BUT I'M JUST FOCUSED
4 ON THAT WORD. THAT SEEMS TO BE THE KEY WORD FOR
5 SOMEONE TO GAIN ACCESS TO RELIEF HERE.

6 IS IT ENOUGH FOR HER TO SAY I'M, BUT DOES
7 SHE NEED TO SAY I'M AGGRIEVED BECAUSE I HAVE
8 HEADACHES AS A RESULT OF THIS. I'M AGGRIEVED
9 BECAUSE I SUFFERED GRIEF BECAUSE OF THIS. I'M
10 AGGRIEVED BECAUSE I AM WORRIED ABOUT THIS.

11 IS IT JUST ENOUGH TO SAY AGGRIEVED, OR
12 NEED SHE SAY MORE?

13 MR. NASSIRI: I THINK THE EXAMPLES THAT
14 THE COURT JUST GAVE, I SUFFER HEADACHES OR ITS COST
15 ME SOMETHING, THAT'S NOT NECESSARY UNDER THE
16 STATUTE.

17 AND THEN CHIEF JUDGE WALKER UNDER THE
18 VERY SAME STATUTE THAT WE ARE BRINGING THIS CLAIM
19 UNDER, DIDN'T REQUIRE THAT. AND IN FACT DIDN'T
20 REQUIRE IN THAT CASE, AT&T HAD MADE AVAILABLE TO
21 THE GOVERNMENT THE CONTENTS OF COMMUNICATIONS OF
22 ITS USERS.

23 PLAINTIFF THERE COULD NOT ALLEGE THAT ANY
24 THAT THE GOVERNMENT ACTUALLY SOUGHT OR USED THAT
25 INFORMATION.

1 THE COURT: THAT WAS AN ECPA CASE?

2 MR. NASSIRI: YOU KNOW, I DON'T RECALL,
3 YOUR HONOR. BUT IN THAT CASE JUDGE WALKER SAID
4 THEY ARE AGGRIEVED BECAUSE THE STATUTE SAYS THEY
5 ARE ENTITLED TO KEEP THE CONTENTS OF THEIR
6 COMMUNICATIONS PRIVATE.

7 AND PLAINTIFF DID NOT HAVE TO ACTUALLY
8 ALLEGE THAT ANYTHING ACTUALLY HAPPENED. LIKEWISE
9 IN KROTTNER THE NINTH CIRCUIT SAID PLAINTIFFS THERE
10 DIDN'T ALLEGE THAT THEIR IDENTITIES WERE ACTUALLY
11 STOLEN. THEY SAID THEY MIGHT BE STOLEN NOW BUT
12 THEY ARE OUT THERE. AND THE NINTH CIRCUIT SAID "AN
13 ACT WHICH INCREASES THE RISK OF FUTURE HARM THAT
14 THE PLAINTIFF WOULD OTHERWISE HAVE FACED IS
15 SUFFICIENT TO CONFER STANDING."

16 THAT'S WHAT WE'VE ALLEGED HERE,
17 YOUR HONOR. WHAT GOOGLE IS DOING IS INCREASING THE
18 RISK OF IDENTITY THEFT, PRIVACY HARM, FINANCIAL
19 FRAUD, ALL OF THESE THINGS. AND WE BELIEVE IT'S
20 FUNCTIONALLY INDISTINGUISHABLE FROM WHAT WAS
21 SUFFICIENT TO CONFER STANDING IN /KROT /TPHER, AND
22 IN DOE V AOL.

23 IN NONE OF THOSE CASES DID PLAINTIFF
24 ALLEGE I'VE GOT HEADACHES OR I CAN'T SLEEP ANYMORE.
25 AND NOT ONLY THAT, THEY DIDN'T EVEN ALLEGE THAT

1 ANYONE HAD MISUSED THEIR INFORMATION.

2 SO WE BELIEVE THAT WE'VE MET THE
3 THRESHOLD HERE UNDER ARTICLE III. IF PLAINTIFF
4 PREVAILS, I'M SORRY ON THE AGGRIEVED ISSUE, I
5 HADN'T FOCUSED ON THAT IN THE PAPERS, IT WASN'T
6 BROUGHT UP IN THE MOTION TO DISMISS, BUT THAT'S OUR
7 TAKE ON IT

8 THE COURT: YOU KNOW THAT'S WHAT WE DO,
9 DON'T WE. WE ASK YOU THINGS THAT HAVEN'T BEEN
10 RAISED IN THE PAPERS.

11 SOMETHING ELSE?

12 MR. NASSIRI: YES, YOUR HONOR.

13 MY COLLEAGUE WOULD LIKE TO GET UP AND
14 ADDRESS THE BREACH OF CONTRACT CLAIM. WE HAVE SOME
15 SUPPLEMENTAL AUTHORITY TO SUBMIT, IF WE ARE DONE ON
16 THIS.

17 THE COURT: YES, I THINK THAT'S FINE.

18 YES.

19 MR. ASCHENBRENER: GOOD MORNING,
20 YOUR HONOR. MICHAEL ASCHENBRENER.

21 I WOULD LIKE TO FOLLOW UP JUST VERY, VERY
22 BRIEFLY ON THE COMMENTS OF MY COLLEAGUE HERE.

23 FIRST, HEPTING WAS AN ECPA CASE TO ANSWER
24 THE COURT'S QUESTION ON THAT.

25 AND SECOND -- EXCUSE ME, YOUR HONOR?

1 THE COURT: NO, GO AHEAD.

2 MR. ASCHENBRENER: AND THEN ALSO TO ECHO
3 THE COMMENTS OF MY COLLEAGUE HERE, THE COURT HAS
4 ASKED WHETHER TO BE AGGRIEVED MORE IS REQUIRED.

5 AND OUR POSITION, AND IT'S IN THE PAPERS
6 AS WELL SO I WILL BE BRIEF ABOUT IT, IS NO MORE IS
7 NOT REQUIRED.

8 THAT'S THE CASE, WORTH SAYS THAT, IN RE
9 FACEBOOK SAYS THAT. AS MANY OF THE CASES WE CITED
10 STATE, CONGRESS HAS THE RIGHT TO CREATE THROUGH
11 STATUTE THESE RIGHTS AND THUS CREATE STANDING AS
12 WELL. AND THAT'S ALL THAT'S REQUIRED.

13 SO WHERE MY COMMENT WAS ARGUING IT AND
14 STATING THAT, YOU KNOW, HEADACHES ARE NOT NECESSARY
15 AND, YOU KNOW, MONEY DAMAGES ARE NOT NECESSARY
16 THOSE THINGS TO BE AGGRIEVED UNDER THE STATUTE, I
17 WOULD ALSO POINT THE COURT TO THOSE CASES AS WELL
18 FROM OUR BRIEF.

19 THE COURT: I THINK I UNDERSTAND THAT.
20 YOU DON'T HAVE TO SAY I SUFFERED MONETARY DAMAGES
21 OR ANY OF THAT.

22 AND THESE OTHER CASES I THINK THE
23 STARBUCKS CASE AND THOSE CASES I THINK IT'S PRETTY
24 CLEAR, YOU KNOW, THE DAMAGE, THE POTENTIAL DAMAGE
25 OR HARM THAT IT -- THAT WAS A REAL CLEAR AND

1 PRESENT HARM, IF YOU WILL.

2 MR. ASCHENBRENER: OKAY.

3 THE COURT: SO I GET THAT.

4 I GUESS I FOCUSED ON THIS WORLD
5 "AGGRIEVED" AND WHETHER OR NOT THAT IS SOMETHING
6 THAT SHOULD BE OF CONCERN.

7 MR. ASCHENBRENER: OKAY.

8 AND OPPOSING COUNSEL OPENED WITH SEVERAL
9 POINTS ABOUT -- PARTICULARLY ABOUT THE STATE LAW
10 CLAIMS. I'M HAPPY TO ADDRESS ALL OF THOSE. THE
11 COURT HAS NOT OPPOSED ANY QUESTIONS

12 THE COURT: NO, I DON'T THINK I NEED ANY
13 MORE INFORMATION ON THOSE.

14 MR. ASCHENBRENER: IF I MAY -- WITH ONE
15 POINT ON THAT YOUR HONOR, IF I MAY APPROACH AND
16 SUBMIT ONE CASE THAT WAS NOT IN THE BRIEFING. IT
17 HAS BEEN SUPPLIED THIS MORNING TO OPPOSING COUNSEL.

18 THE COURT: THIS IS IN RELATION -- WHICH
19 ISSUE?

20 MR. ASCHENBRENER: THIS IS IN RELATION TO
21 CONTRACT DAMAGES, UNJUST ENRICHMENT, BOTH.

22 THE COURT: THIS IS THE STATE --

23 MR. ASCHENBRENER: STATE LAW CLAIM.

24 THE COURT: OKAY. WELL, I'M HAPPY TO
25 RECEIVE IT.

1 MR. ASCHENBRENER: OKAY. THANK YOU,
2 YOUR HONOR.

3 THE COURT: DO YOU HAVE THIS, COUNSEL?

4 MR. EDWARDS: YES, YOUR HONOR. I GOT IT
5 THIS MORNING.

6 MR. ASCHENBRENER: AND IF THE COURT
7 PREFERS I NOT MAKE ARGUMENT, I CAN POINT TO A
8 PINPOINT CITE ORALLY. PAGES 668 AND 669, I BELIEVE
9 IT IS SECTION TWO OF THE NINTH CIRCUIT'S DECISION.

10 THE COURT: OKAY. THANK YOU.

11 ANYTHING ELSE YOU WOULD LIKE ME TO HEAR?

12 MR. ASCHENBRENER: NO. IF THE COURT IS
13 SATISFIED AS TO THE ARGUMENTS MADE BY OPPOSING
14 COUNSEL THEN I WILL RESPECT THE COURT'S WISHES.

15 THE COURT: THANK YOU.

16 MR. EDWARDS, YOU GET THE LAST WORD.

17 MR. EDWARDS: THANK YOU, YOUR HONOR.

18 I WILL JUST BE VERY BRIEF.

19 FIRST, JUST WITH RESPECT TO THE NEW
20 CONTRACT CASE THAT COUNSEL HANDED UP THIS MORNING.
21 I HAVEN'T HAD A CHANCE TO STUDY IT AT ANY LENGTH SO
22 I CAN'T PROVIDE MUCH COMMENT ON IT. I WOULD ONLY
23 MAKE TWO POINTS.

24 ONE IS IT APPEARS TO BE DIRECTED TO
25 BREACH OF CONTRACT CASE OR BREACH OF CONTRACT

1 PROTECTING TRADE SECRETS.

2 AND MY OTHER COMMENT WOULD BE TO THE
3 EXTENT THAT THE COURT FEELS THAT THIS CASE IS
4 SIGNIFICANT AND POTENTIALLY DISPOSITIVE, I DON'T
5 BELIEVE IT WOULD BE DISPOSITIVE OF ALL THE
6 ARGUMENTS AGAINST THE CONTRACT CLAIM, BUT I WOULD
7 LIKE AN OPPORTUNITY TO ADDRESS IT AT THAT TIME.

8 THEN I WOULD LIKE TO MAKE TWO RESPONSES
9 WITH RESPECT TO WHAT COUNSEL SAID ON THE STANDING
10 ISSUE.

11 FIRST, WITH THE KROTTNER CASE, NOT TO
12 BELABOR THE POINT, BUT WE MAKE THIS POINT IN THE
13 REPLY BRIEF ON PAGE 3. THE COURT SAID IF NO LAPTOP
14 IN THAT CASE HAD BEEN STOLEN AND PLAINTIFFS HAD
15 SUED BASED ON THE RISK IT WOULD BE STOLEN IN SOME
16 POINT OF THE FUTURE, WE WOULD FIND THAT THREAT FAR
17 LESS CREDIBLE.

18 SO I DON'T THINK /KROT /TPHER SUPPORTS
19 THE PLAINTIFF IN THIS CASE BECAUSE THE FAR MORE
20 CREDIBLE THREAT AND FAR MORE SPECULATIVE OF WHAT
21 THE NINTH CIRCUIT WAS HYPOTHESIZING THERE IS WHAT
22 WE HAVE HERE.

23 THEN THE FINAL POINT I WOULD LIKE TO MAKE
24 IS IN RESPONSE TO THE VERY FIRST POINT COUNSEL MADE
25 WHICH IS ATTEMPTING ONCE AGAIN TO SET UP SOME

1 INCONSISTENCY IN GOOGLE'S ARGUMENT SAYING WELL, WE
2 ARE ARGUING PREEMPTION THEREFORE WE MUST HAVE
3 CONCEDED STANDING.

4 THAT'S NOT THE CASE AT ALL.

5 ONE, WE'RE ALLOWED TO MAKE ALTERNATIVE
6 ARGUMENTS IN THE EVENT THAT YOUR HONOR DOESN'T
7 AGREE WITH US ON THE STANDING CLAIM, WE BELIEVE
8 THERE ARE ADDITIONAL ARGUMENTS TO BE MADE.

9 EVEN IN THE BUNNELL CASE ONE OF THE TWO
10 CASES WE CITE FIND EXPRESS PREEMPTION UNDER THE
11 SCA.

12 THERE WASN'T A VALID CLAIM UNDER THE SCA
13 EITHER, FOR DIFFERENT REASONS. I APOLOGIZE, I
14 BELIEVE IT WAS THE WIRE TAP ACT WHICH IS THE OTHER
15 PART OF ECPA BESIDES THE SCA THAT BUNNELL DEALT
16 WITH.

17 PREEMPTION IS NOT JUDGED BASED ON YOU
18 HAVE TO HAVE A VALID CAUSE OF ACTION UNDER THE
19 FEDERAL LAW AND LIABILITY MUST EXIST BEFORE YOU CAN
20 PREEMPT STATE LAW CLAIMS.

21 YOU PREEMPT THE STATE LAW CLAIMS IF THEY
22 ARE TRYING TO COVER ESSENTIALLY THE SAME
23 ALLEGATIONS AND THAT'S SQUARELY TRUE HERE, SO I
24 WANTED TO MAKE THAT POINT AS WELL.

25 AND I WOULD BE HAPPY TO RESPOND TO ANY

1 FURTHER QUESTIONS.

2 THE COURT: NO, THANK YOU. THAT IS VERY
3 HELPFUL.

4 MR. NASSIRI: YOUR HONOR, MAY I MAKE ONE
5 LAST COMMENT?

6 THE COURT: WELL, HE GETS THE LAST WORD
7 YOU SEE.

8 WHAT IS IT YOU WOULD LIKE ME TO KNOW?

9 MR. NASSIRI: WELL, YOUR HONOR, COUNSEL
10 SAID THAT THIS IS NOT A CREDIBLE THREAT. AND THE
11 BENCH SAID SOMETHING ABOUT CLEAR AND PRESENT HARM
12 IN THE /KROT /TPHER CASE.

13 I UNDERSTAND THAT WHETHER THERE'S AN
14 INCREASED RISK OF HARM IN THIS CASE KIND OF BLURS
15 THE LINE BETWEEN THE LEGAL QUESTION AND FACTUAL
16 QUESTION.

17 WE WOULD SUBMIT THAT WE'VE ALLEGED ENOUGH
18 HERE AND IT'S RELATIVELY CUTTING EDGE TECHNOLOGY,
19 SAY THAT THERE IS AN INCREASED RISK AND YOU SHOULD
20 ALLOW THE CASE TO PROCEED.

21 I JUST WANTED TO HIGHLIGHT FOR THE COURT
22 SOMETHING WE DISCUSSED AT LENGTH IN OUR PAPERS
23 WHICH IS GOOGLE ITSELF IN THE GONZALES MATTER --

24 THE COURT: YOU KNOW, THIS IS ABOUT THE
25 JUDICIAL ESTOPPEL ISSUE?

1 MR. NASSIRI: YES, YOUR HONOR.

2 AND IN THAT CASE THEY ARE --

3 THE COURT: I THINK THAT WAS
4 DISTINGUISHABLE THOUGH.

5 I THINK THAT IS DISTINGUISHABLE AND I
6 APPRECIATE YOUR PURSUING THE JUDICIAL ESTOPPEL
7 ARGUMENT.

8 I DON'T THINK IT'S ON ALL SQUARES AS TO
9 THAT. AND I APPRECIATE THE INFORMATION ABOUT THE
10 POSITION GOOGLE TOOK, IS THAT FIVE YEARS AGO, SEVEN
11 YEARS AGO?

12 MR. NASSIRI: YES, YOUR HONOR.

13 EVEN IF IT DOESN'T MEET THE REQUIREMENTS
14 FOR JUDICIAL ESTOPPEL, IT SHOULD GIVE THE COURT
15 PAUSE TO CONSIDER WHETHER OR NOT DISSEMINATION OF
16 SEARCH QUERIES INCREASES THE RISK OF PRIVACY AS
17 GOOGLE ARGUED.

18 THE COURT: I'VE READ WHAT YOU SAID ABOUT
19 THAT IN THE PAPERS.

20 I APPRECIATE THE BACKGROUND INFORMATION
21 AS TO THAT AND ALL THE OTHER TECHNOLOGY ISSUES THAT
22 YOU SUGGEST, SO I APPRECIATE THAT.

23 MR. NASSIRI: THANK YOU, YOUR HONOR.

24 THE COURT: YOU'RE WELCOME.

25 ANYTHING ELSE, MR. EDWARDS.

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

MR. EDWARDS: YOUR HONOR, I MAY BE ABLE
TO DO IT IN ONE SENTENCE.

NONE OF THOSE ISSUES REALLY ADDRESS THE
DEFICIENCIES WITH RESPECT TO MS. GAOS WHO IS THE
PLAINTIFF IN THIS CASE.

THE COURT: OKAY.

WELL, THANK YOU VERY MUCH. I ENJOYED
THIS.

THANK YOU. I APPRECIATE IT. YOU WILL
GET AN ORDER. THANK YOU.

MR. NASSIRI: THANK YOU, YOUR HONOR.

MR. EDWARDS: THANK YOU, YOUR HONOR.

MR. ASCHENBRENER: THANK YOU, YOUR HONOR.

(WHEREUPON, THE PROCEEDINGS IN THIS
MATTER WERE CONCLUDED.)

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

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT
REPORTER OF THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED
TRANSCRIPTION TO THE BEST OF MY ABILITY.

SUMMER A. FISHER, CSR, CRR
CERTIFICATE NUMBER 13185