

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
JUDGE WILEY Y. DANIEL**

Courtroom Deputy: Robert R. Keech
E.C.R./Reporter: Therese Lindblom

Date: November 9, 2009

Civil Action No: **07-cv-00004-WYD-KLM**

Counsel:

STONE INTERNATIONAL MARKET, INC.,

Sander N. Karp
James F. Fosnaught

Plaintiff,

v.

CITY OF WHEAT RIDGE, COLORADO,

Steven J. Dawes
Sophia H. Tsai

Defendant.

COURTROOM MINUTES

TRIAL TO JURY (DAY 1)

8:58 a.m. Court in Session

APPEARANCES OF COUNSEL.

Court's opening remarks.

ORDERED: Defendant's Motion for Leave for Witness Cindy Hagerman to Testify Out of Order [doc. #295], filed November 3, 2009, is **DEFERRED**.

9:00 a.m. Discussion regarding jury instructions and Plaintiff's exhibits 182, 208, and 215 which have been withdrawn.

9:03 a.m. Discussion regarding request by Plaintiff that the Court take judicial notice and order of witnesses.

9:10 a.m. Court in Recess

9:24 a.m. Court in Recess - Jury present
Court's opening remarks to prospective jurors.

9:25 a.m. Voir dire oath given.

9:35 a.m. Voir dire by Court commences.

11:24 a.m. Court in Recess

11:42 a.m. Court in Session - Jury present

11:43 a.m. Voir dire by Plaintiff (Mr. Fosnaught).

12:05 p.m. Voir dire by Defendant (Mr. Dawes).

Challenges for Cause:

N/A

Challenges by Plaintiff:

- 1) 100194113
- 2) 100162656
- 3) 100183566

Challenges by Defendant:

- 1) 100198512
- 2) 100180377
- 3) 100167428

12:29 pm Jury sworn to try:

- | | |
|--------------|---------------|
| 1) 100175089 | 2) 100190207 |
| 3) 100185496 | 4) 100192816 |
| 5) 100183554 | 6) 100188540 |
| 7) 100168741 | 8) 100163996 |
| 9) 100168022 | 10) 100163028 |

12:30 pm Court reads preliminary jury instructions and gives some basic guidelines.

12:31 pm Court in Recess

1:45 p.m. Court in Session - Jury enters

1:54 p.m. Court reads further preliminary jury instructions.

2:05 p.m. Opening statement by Plaintiff (Mr. Fosnaught).

2:36 p.m. Opening statement by Defendant (Ms. Tsai).

2:48 p.m. Interpreter Marcela Salazar sworn (Spanish)

2:49 p.m. Plaintiffs' witness **Joel Pena-Hernandez** sworn.

Direct examination by Plaintiffs (Mr. Karp).
EX ID: 232

3:21 p.m. Court in Recess

3:44 p.m. Court in Session - Jury enters

3:46 p.m. Plaintiffs' witness **Joel Pena-Hernandez** resumes.

Direct examination by Plaintiffs continues (Mr. Karp).
EX ID: 236

3:56 p.m. Jury excused

Direct examination by Plaintiffs continues (Mr. Karp).

4:04 p.m. Court's examination of witness.

Objection by Defendant is SUSTAINED.

4:12 p.m. Jury enters

Direct examination by Plaintiffs continues (Mr. Karp).

4:51 p.m. Jury excused for the evening.

4:52 p.m. Discussion regarding schedule of witnesses for tomorrow.

Defendant's Motion for Leave for Witness Cindy Hagerman to Testify Out of Order [doc. #295], filed November 3, 2009, is raised for argument.

4:56 p.m. Argument by Defendant (Mr. Dawes).

4:57 p.m. Argument by Plaintiff (Mr. Karp).

ORDERED: Defendants' Motion for Leave for Witness Cindy Hagerman to Testify Out of Order [doc. #295], filed November 3, 2009, is **GRANTED**.

4:59 p.m. Discussion regarding order of witnesses.

5:01 p.m. Discussion and argument regarding objections by Defendant to testimony of witness Joel Pena Hernandez - **DEFERRED**.

5:13 p.m. Court in Recess - HEARING CONTINUED

TOTAL TIME: 5:34