

1
2
3
4
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CITY OF SEATTLE,)	Cause No. 07-01620-MJP
)	
Plaintiff,)	Seattle, Washington
)	June 19, 2008
vs.)	Volume IV
)	
PROFESSIONAL BASKETBALL CLUB,)	
LLC,)	
)	
Defendant.)	
)	
_____)	

BENCH TRIAL
VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE MARSHA J. PECHMAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff:	Paul Lawrence Jeffrey Charles Johnson Gregory Narver
For the Defendant:	Bradley S. Keller Paul Taylor James Webb

Reported by:	Barry L. Fanning, CCR, RMR, CRR Nichole Rhynard, CCR, RMR, CRR
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Proceedings recorded by mechanical stenography, transcript produced by Reporter on computer.

1

EXAMINATION INDEX

		PAGE
2	EXAMINATION OF: LON HATAMIYA	
3	DIRECT EXAMINATION	BY MR. JOHNSON 622
	CROSS-EXAMINATION	BY MR. TAYLOR 635
4	REDIRECT EXAMINATION	BY MR. JOHNSON 655
	RECROSS-EXAMINATION	BY MR. TAYLOR 657
5	SHERMAN ALEXIE	658
	DIRECT EXAMINATION	BY MS. JENSEN 658
6	REDIRECT EXAMINATION	BY MS. JENSEN 686
	MATTHEW WADE	
7	DIRECT EXAMINATION	BY MR. NARVER 689
	BRAD R. HUMPHREYS	
8	DIRECT EXAMINATION	BY MR. TAYLOR 717
	CROSS-EXAMINATION	
9	REDIRECT EXAMINATION	BY MR. TAYLOR 756
	MITCHELL ZIETS	
10	DIRECT EXAMINATION	BY MR. TAYLOR 760
	CROSS-EXAMINATION	BY MR. JOHNSON 781
11	REDIRECT EXAMINATION	BY MR. TAYLOR 803
	DEBORAH JAY	
12	DIRECT EXAMINATION	BY MR. WEBB 805
	CROSS-EXAMINATION	BY MR. JOHNSON 816

13

14

15

EXHIBIT INDEX

	EXHIBITS ADMITTED	PAGE
16	336	676
17	337	677
	218	693
18	219	699
	610	764
19	78	796
	614	809
20	333	819

21

22

23

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P R O C E E D I N G S

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THE COURT: Counsel, this morning I wanted to bring you up-to-date on the time. Yesterday the plaintiffs used 192 minutes, the defense used 105. That means the running balances for the plaintiffs 409, for the Defense 488. I also wanted to let you know that I have read Mr. McClendon's deposition.

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MR. KELLER: When you say the running balance, is that time remaining or time elapsed?

THE COURT: Time remaining. That's what's left. Every day you get a declining balance, just like the bank.

MR. KELLER: That assumes I had a balance.

THE COURT: Mr. Johnson.

LON HATAMIYA

CONTINUED DIRECT EXAMINATION

BY MR. JOHNSON:

Q Good morning, Mr. Hatamiya. We left the trial yesterday with discussing your first conclusions about the economic impact of the Sonics in Seattle. We have a demonstrative that shows your conclusions. Let's quickly explain again how we get to these numbers.

A Yes, Mr. Johnson. If I may, again, these are the total aggregate economic benefits that the Sonics bring to the

1 local economy. The local economy in this instance is defined
2 as the Seattle-metropolitan division, which includes King
3 County and Snohomish County. I am pronouncing that
4 correctly. This is derived directly from the inputs I
5 received from the Sonics' consolidated income statements,
6 from each of the five previous years, starting in 2003 going
7 through 2007.

8 Q Let me stop you there for a second. What do you mean when
9 you say, inputs from the Sonics' financial statements?

10 A The way the RIMS -- the two model is established, it is
11 established as a national input/output model, and it shows
12 goods and services purchased within the economy and the
13 outputs are goods and services sold. And so the inputs in
14 this case are the expenditures and the revenues of the Sonics
15 from year to year. And I took those line by line of items
16 and categorized those with the appropriate outputs that are
17 also provided through this RIMS-2 study.

18 Q Did you make any adjustments to the inputs? In other
19 words, inputs are the Sonics expenditures. Did you make any
20 adjustments to the raw numbers that you got from the
21 financial statements?

22 A Yes, Mr. Johnson. I took very conservative approach in
23 applying the inputs. I assumed that only 50 percent of the
24 players' salaries would be spent in the local economy, and I
25 also neglected to use certain line items within the

1 expenditures that didn't fall within any specific category.
2 So, again, I took a very conservative approach in analyzing
3 those inputs.

4 Q Why did you assume that only 50 percent of the players'
5 salary line item would be spent in the local economy?

6 A I think that was a presumption made by the fact that not
7 all the players live here full-time. I think subsequent to
8 that I received a listing of where the players lived, and
9 actually more than 50 percent of the players live within the
10 Seattle area.

11 Q You mentioned that the region that you studied was I
12 believe you called it the Seattle-metropolitan region?

13 A Metropolitan division, that's correct.

14 Q That included King and Snohomish counties?

15 A That's correct.

16 Q Why did you use that region?

17 A That was the most specifically defined area based upon the
18 data that is available. It is based upon census data, it is
19 based upon Department of Commerce and Bureau of Economic
20 Analysis data. And the beauty of the RIMS-2 models is it
21 allows you to identify very specifically geographic regions.
22 The smallest region for this area was that two-county area
23 that I mentioned.

24 Q So that was the smallest region that you had appropriate
25 data for that -- Let me back up. You got your data from the

1 government?

2 A That's correct.

3 Q And the government tracks this data or cuts it up into
4 various regions?

5 A That's correct.

6 Q In this situation this was the smallest region that you
7 could get your hands around from the government?

8 A Yes. That's correct, the most specific data that is
9 available.

10 Q So the average economic impact in Seattle on or below this
11 time period in the region is 187 million?

12 A That's correct, almost 188 million.

13 Q What do you mean by economic impact in the region?

14 A That is the contributions that they make, not only the
15 expenditures that the Sonics are making, but based upon the
16 multipliers, the way they pay the direct, indirect, induced
17 impacts that are incurred by those expenditures in the
18 economy. Once a dollar is spent it is multiplied many times
19 over by the services and goods that are purchased within that
20 economy. And so the expenditures from each of these given
21 years multiply over that period of time within that specific
22 year time and you come out with a much greater number of the
23 economic impact into the local community.

24 Q All right. Did you use this data to come up with any
25 other conclusion about the Sonics impacting the local

1 economy?

2 A Yes, I did.

3 Q Can we get the next slide, John? Did you come up with a
4 conclusion as to the number of jobs that are created or
5 supported by the Sonics in Seattle?

6 A Yes, I did. The RIMS-2 analysis also provides multipliers
7 for employment. And based upon the total economic impact
8 that I showed previously, I came up with a number that the
9 Sonics create and support nearly 1,200 to 1,300 full and
10 part-time jobs per year over that same five-year period.

11 Q All right. You are using two terms, create and support.
12 Let's take create first. What do you mean that the Sonics
13 create some subsection of this?

14 A Well, they create these jobs directly. Their expenditures
15 create jobs. Out of this number we know specifically there
16 are roughly 120 jobs that the Sonics provide each year. I
17 think that varies from 120 to 125 over that five-year period.
18 So those are directly created by the expenditures of the
19 Sonics.

20 Q You are talking about people that work for the Sonics?

21 A That's correct, including the players, including the
22 management, including the day-to-day operations of the team.
23 That's correct.

24 Q So that makes sense, the Sonics are here, they have to
25 employ people. Where do these other thousand or so jobs come

1 from?

2 A These are all indirectly or directly related to those
3 expenditures that are made by the Sonics. Their contribution
4 in the economy support these jobs and actually create many of
5 these jobs. The way the RIMS-2 model is established is it
6 depends upon earnings, household income, Bureau of Labor
7 statistic numbers of specifically people placed in a number
8 of industries across the Seattle economy. Without these
9 expenditures by the Sonics these jobs would not exist.

10 Q All right. Using the same data did you come up with any
11 other opinions?

12 A I did.

13 Q What were your other opinions?

14 A My other opinion was that what also is provided in the
15 RIMS-2 analysis are earnings multipliers by the money and the
16 economic benefits that are generated by the expenditures of
17 the Sonics. It also creates an increased earnings base
18 within the Seattle economy.

19 Q Next slide.

20 A Those earnings, again, creates anywhere from 25.3 million,
21 which was the low in 2006, to a high of about 26.3 million in
22 2005. But, again, this is additional household income that
23 is generated in terms of earnings multipliers because of
24 these expenditures and economic activity engaged in by the
25 Sonics from year to year.

1 Q Okay. Let's talk about this kind of input/output study
2 that you are doing here. Is this something that you invented
3 or is this something used elsewhere?

4 A No, this is a widely accepted, widely acclaimed model --
5 input/output model that is used by public sector officials,
6 by private entities in a broad range of activities.

7 Q Can you give me some examples of where this is used
8 elsewhere?

9 A Well, in the public sector it is used, for example, by the
10 Department of Transportation to determine the impacts of new
11 highway investment, new airport development, new port
12 development, for example, across the country. In the private
13 sector it is used by economic development specialists within
14 the local community, oftentimes the chamber of commerces and
15 local governments, to take a look at what impacts would be
16 for the establishment of a new amusement park, the creation
17 of a new shopping center, the creation of a new retail
18 outlet.

19 Q Are you aware of the uses of this study -- these kinds of
20 studies with respect to professional sports teams?

21 A Absolutely. It has been used many times over for the
22 impacts of a new sports arenas across the country.

23 Q Did you have the opportunity to review any uses of impact
24 statements like this that were used in Oklahoma?

25 A I have. In my review of these --

1 MR. TAYLOR: Objection on the grounds of relevance,
2 your Honor. This is about the Seattle economy, not Oklahoma,
3 which is a different economy.

4 MR. JOHNSON: Your Honor, the PBC has used economic
5 impact statements very similar to these in their effort to
6 obtain funding in Oklahoma City. To the extent Mr. Taylor is
7 going to criticize Mr. Hatamiya for using this kind of study,
8 I think it is relevant.

9 MR. TAYLOR: This is the same study they tried to go
10 into the other day and it was excluded or kept out.

11 MR. JOHNSON: It has been admitted, your Honor.

12 THE COURT: This study has been admitted? What is
13 the exhibit number?

14 MR. JOHNSON: It is Exhibit 182.

15 THE COURT: Mr. Taylor, has it been admitted.

16 MR. TAYLOR: I am told it has. I still object on the
17 grounds of relevance with this witness.

18 THE COURT: Overruled.

19 BY MR. JOHNSON:

20 Q Mr. Hatamiya, can you turn to Exhibit 182?

21 THE COURT: One clarifying question. How do you know
22 this is the methodology that was used in Oklahoma?

23 MR. JOHNSON: I can ask Mr. Hatamiya. I don't, your
24 Honor.

25 THE WITNESS: Mr. Johnson, in answer to your

1 question, I have had the opportunity to review the various
2 documents in preparation for this trial. A study that was
3 prepared for the City of Oklahoma -- Oklahoma City --

4 BY MR. JOHNSON:

5 Q Let me stop you there. To refresh your recollection, I
6 think this was prepared for the State of Oklahoma?

7 A I believe that is correct. And based upon my review of
8 this they used very similar input/output analysis. I took a
9 look at the ultimate numbers. They were using very similar
10 input and output multipliers that I utilized in my own study.

11 THE COURT: That wasn't the question. Did PBC use
12 this methodology?

13 MR. JOHNSON: Your Honor, let me clarify.

14 BY MR. JOHNSON:

15 Q Mr. Hatamiya, would you take a look at Exhibit 182?

16 A Yes.

17 Q Is this the study that you are referring to that you
18 looked at?

19 A Yes. It is referred to as the Sonics relocation proposal.
20 I believe at the bottom it says Professional Basketball Club.
21 I believe they paid for that study.

22 Q Can you turn to the second page of the study?

23 A Yes.

24 Q Can we highlight the section "projected total economic
25 impact?" Can you highlight the "annual amount?"

1 Mr. Hatamiya, can you discuss this section -- What makes
2 you think that the PBC -- the folks at PBC hired were using a
3 model similar to yours?

4 A Because in order to reach the 171.7 million total economic
5 impact on an annual basis -- That is not just directly
6 related to the expenditures made by the basketball team
7 within that region. It is also multiplied by some factor and
8 it is probably the appropriate geographic factor in the
9 Oklahoma City area or the State of Oklahoma.

10 Q Because the team isn't going to spend -- isn't going to
11 move to Oklahoma and suddenly start spending \$171 million in
12 the local economy?

13 A That's correct. They don't spend that much in the Seattle
14 economy.

15 Q So this is the indirect benefits of the monies they will
16 spend in Oklahoma that this report is trying to --

17 A That's correct. I came to the conclusion it is the
18 direct, indirect and induced benefits that are provided to
19 that local economy. And it is very similar to the analysis
20 that I provided here for the Seattle economy.

21 Q All right. How did you first come into contact --

22 THE COURT: Sorry, Mr. Johnson. I need a
23 clarification here. The document that has been introduced, I
24 can't see any of the calculations that comes up with that
25 number, so I don't know how it is that your expert indicates

1 that it is the same calculation.

2 MR. JOHNSON: Can I lay some more foundation about
3 that, your Honor?

4 THE COURT: Certainly. Go ahead.

5 BY MR. JOHNSON:

6 Q Mr. Hatamiya, I want to turn to your background. How did
7 you first come into contact with these input/output studies?

8 THE COURT: Mr. Johnson, that doesn't answer my
9 question. I am asking -- I am trying to look at this
10 document that you put into evidence. Where can I find the
11 calculations that Mr. Hatamiya says are the same ones that he
12 used in his calculation?

13 MR. JOHNSON: Your Honor, I am happy to ask
14 Mr. Hatamiya. I'm sure you don't want to hear this from me.

15 THE COURT: No, I don't. I would ask for some
16 clarification because I am trying to figure out if I have the
17 whole document here.

18 MR. JOHNSON: I think what you are looking at is a
19 summary report. I think what Mr. Hatamiya is saying, is that
20 based on the way the numbers come out he can --

21 THE COURT: Ask the question, please.

22 THE WITNESS: Mr. Johnson, I will be glad to explain
23 how I reached that determination. I reviewed just the
24 available numbers, your Honor, that were here. And based
25 upon my knowledge of the expenditures made by the Sonics

1 within the local economy here, you can't reach that
2 \$171.7 million level without some multiplier impact.

3 As I recall from my review of other documents there were
4 multipliers that were created for the State of Oklahoma that
5 were utilized in this study. And very similar to the
6 multiplier input/output analysis that I provided.

7 And as I looked at this study I thought if I could
8 generate those same input/output numbers that I utilized here
9 from the RIMS-2 I would more than likely come up with a
10 similar number to this in Oklahoma. But I wasn't asked to do
11 that. I was only asked to review how they reached this
12 number.

13 BY MR. JOHNSON:

14 Q Mr. Hatamiya, if you turn to Page 4 of this exhibit, which
15 is I think 14403?

16 A Yes.

17 Q And you look at the note 1 near the bottom of the page.

18 A Yes. I am glad you pointed that out. That is the
19 ultimate multiplier, which is based on 1.89 and -- That is
20 for the employment numbers. Very similar to the multiplier
21 that -- I would say it is the same one because a regional
22 multipliers are different in Oklahoma than they are in
23 Seattle. But it is a similar use of a multiplier -- an
24 output multiplier to come to that ultimate number.

25 Q If you turn to the last page of this exhibit,

1 Mr. Hatamiya, there is a section where it says, "total
2 ancillary impact?"

3 A Yes. I am glad you noted that again. It says based on --

4 Q Projected --

5 A Based on a 2.67 times multiplier effect. Again, that goes
6 down -- it is about three-quarters of the way down that page.

7 Very similar. It comes up with the number 126.377.

8 Q It is difficult to read with the picture of Kevin Durant
9 there.

10 A Again, another output multiplier utilizing the study
11 similar to the ones I have used in my study.

12 Q Mr. Hatamiya, how did you first come into contact with
13 these multiplier analyses?

14 A During my tenure as Secretary of Technology, Trade and
15 Commerce of California I had oftentimes many private sector
16 entities that came forward with proposals for state support,
17 and they had utilized many of these input/output analyses to
18 show the total economic impact of proposed new developments
19 in the State of California.

20 Q Mr. Hatamiya, if the Sonics move from Seattle to Oklahoma
21 City where is that \$181 million a year going to go to?

22 A Well, it may go away. There is no certainty that money
23 will continue to be spent here. Obviously the money that is
24 spent by the Sonics were not be spent in the Seattle economy.

25 Q Where will that be spent?

1 A It will be spent wherever the team moves to. And I guess
2 in this study they would presumably be in Oklahoma City. So
3 much of that impact would shift to Oklahoma City.

4 MR. JOHNSON: Thank you, Mr. Hatamiya.

5 CROSS-EXAMINATION

6 BY MR. TAYLOR:

7 Q Good morning, Mr. Hatamiya, my name is Paul Taylor and I
8 represent the Professional Basketball Club.

9 A Good morning, Mr. Taylor.

10 Q 182, that is not Oklahoma City, that is its entire state
11 of Oklahoma that was being measured under this multiplier,
12 right?

13 A That's correct.

14 Q I want to talk first about the economic impact on Seattle
15 as the Sonics leave Seattle. It is your opinion, is it not,
16 that if the Sonics leave the people who buy tickets to the
17 Sonics won't spend that money on something else, right?

18 A It is my opinion that they won't be spending it on the
19 Sonics, that's true.

20 Q Isn't it your opinion that they will simply stop spending
21 it?

22 A To some extent that is correct.

23 Q Can we publish the deposition of Mr. Hatamiya, please?
24 Can we have Page 27, Line 10, please, on the screen?

25 "It is your expert opinion that if the Sonics leave the

1 people who buy tickets for the Sonics won't spend there money
2 on something else, true?" Answer: "True."

3 In fact, it is also your opinion that the fans will save
4 their hard earned money rather than spend it on something
5 else, their Sonics money, right?

6 A That's correct.

7 Q It is also your opinion that some of these people might
8 actually take their Sonics money and put it in a tin can in
9 the backyard, right?

10 A I guess that is up -- depending upon the saving patterns
11 of the people of Seattle, that's correct.

12 Q Let's take a look at 28 Line 4. "It is your opinion they
13 will just stop spending their money, go into a tin can in the
14 backyard or whatever?" "That's part of it. That's
15 absolutely right."

16 A I think that is exactly what I just answered, Mr. Taylor.

17 Q Let me ask you some questions about that. You are
18 basically offering an opinion on consumer spending patterns,
19 right?

20 A I was offering an opinion by the question you asked me in
21 response to an expert opinion you had performed.

22 Q And did some research and you concluded that people will
23 stop spending, right, stop spending their Sonics dollars?

24 A I did some research that reflected that consumer spending,
25 if your first choice is not available you are not necessarily

1 going to spend it on another choice.

2 Q Let's talk about that, please. Exhibit 609.

3 MR. JOHNSON: That has not been provided to us.

4 THE COURT: I am assuming its impeachment.

5 BY MR. TAYLOR:

6 Q Could we have Exhibit 609 up on the screen? This is the
7 article you cited --

8 MR. JOHNSON: Objection, your Honor. This has not
9 been admitted. I am not allowed to put stuff up on the
10 screen that hasn't been admitted.

11 THE COURT: This is used for purposes of impeachment.
12 Let's take a look at the rule.

13 MR. JOHNSON: The learned treatise exception?

14 THE COURT: The learned treatise exception. The
15 document does not have to be admissible.

16 MR. JOHNSON: All right.

17 BY MR. TAYLOR:

18 Q Exhibit 609, this is the article you cite in your report
19 for the proposition that there is a significant body of
20 literature that indicates when consumers first choices are
21 unavailable they don't automatically spend their dollars on
22 other choices but make no spending choice at all, right?

23 A That's correct.

24 Q Let's take a look at what this article really says. And
25 by the way, in this article they weren't looking at sports

1 dollars, were they?

2 A No, they were looking generally at consumer patterns. I
3 think that was a reference that I made in my response to the
4 opinion provided by your expert. I also mentioned that was a
5 large body of other marketing and consumer choice documents
6 that I didn't have time to review or reflect upon because I
7 was asked to provide an opinion within a day of receiving
8 that expert report.

9 Q So you were in a hurry and this is the article you
10 grabbed?

11 A This is the article that was provided to me by colleagues
12 of mine at the UC Davis Graduate School of Business that are
13 experts in marketing.

14 Q Let's take a look at Page 222 of the document. If we
15 could blow up the top table? So this article was looking at
16 people's consumer behavior in buying cordless phones, radio,
17 cassette players, auto focus cameras, those kinds of consumer
18 goods?

19 A I believe that was the case.

20 Q All right. And what this article studied was what people
21 do if they look at one phone versus another phone and they
22 can't make a decision, right?

23 MR. JOHNSON: Excuse me, your Honor. We don't have
24 table two in the documents that was provided to us.

25 THE COURT: I don't either. I am sorry. It looks to

1 me like it is out of order. Turn the next page. It is on
2 the backside.

3 MR. LAWRENCE: We have every other page. I have a
4 figure two, table three; figure one, table seven.

5 THE COURT: Mine goes figure one, table three; figure
6 two, figure three.

7 MR. LAWRENCE: Right. But this is table two. None
8 of us have a table two.

9 MR. TAYLOR: I can solve the problem. I will work
10 from the first page at this point.

11 BY MR. TAYLOR:

12 Q If we could blow up the synopsis at the start? If we
13 could have the third line highlighted? "Uncertainty may lead
14 to choice deferral." This article was talking about people
15 deferring choices to spend, not stopping spending, right?

16 A No, I think it went beyond that as well. That was my
17 interpretation and my opinion of the conclusions of this
18 article, as well as a review of other consumer choice
19 materials, and in discussions with consumer choice experts
20 and marketing professors from certainly educational
21 institutions.

22 Q Well, let's read a little more about what this article
23 really says. If we could go to the fifth line down -- I'm
24 sorry, starting at the fourth line, building on research. It
25 says, "building on recent research, the article shows that

1 the decision to defer choice is influenced by the difference
2 in attractiveness among the alternatives provided." It
3 doesn't say stop spending, it says "defer choices," right?

4 A That's correct, that's what this says. Again, if you are
5 asking me about my interpretation of it --

6 Q I didn't ask you --

7 A I think I have already explained that. I'm sorry,
8 Mr. Taylor.

9 Q Sir, I asked you what it says, not your interpretation.
10 We can all read it. Let's look at the first paragraph of the
11 article.

12 "Consumers often face situations requiring choosing among
13 several alternatives in the marketplace."

14 Now, if we go five or six lines down it says, "a recent
15 analysis of a sample of consumers." "A recent analysis of a
16 sample of consumers finds that the difficulty of selecting a
17 single alternative was one of the most important causes for
18 delaying a number of purchases." Do you see that?

19 A Yes, I do.

20 Q This says "delay," you say stop, fair?

21 A Yes.

22 Q Let me ask you another question about that. Can we have
23 Exhibit 525 on the screen, please? Page 3, please.

24 MR. JOHNSON: It has not been admitted, your Honor.

25 MR. TAYLOR: It is for impeachment, your Honor.

1 THE COURT: That doesn't stop you from having to
2 admit it. What are you intending to do?

3 MR. TAYLOR: Just for impeachment purposes. I am not
4 offering to admit it.

5 THE COURT: First of all, what is it?

6 MR. TAYLOR: This is a document prepared by the
7 Seattle City Council staff studying the issue of the impact
8 of sports teams on the City of Seattle.

9 THE COURT: Let's lay some foundation here, please.

10 BY MR. TAYLOR:

11 Q You indicated that you looked at the research and the
12 literature that was out there on sports and economics and the
13 economic impacts on cities?

14 A I don't recall saying that. I looked at the research and
15 impacts of the RIMS and input/output studies.

16 Q Did you look at anything -- any literature on the economic
17 impact of sports teams in preparing your opinion?

18 A Aside from the ones that were provided to me that I think
19 I have already mentioned from Oklahoma City, I did not.

20 Q Did you read any economic journals, for example?

21 A I read economic journals about the effectiveness of the
22 RIMS-2 analysis.

23 Q Did you read anything at all about the impact of sports
24 teams on local economies?

25 A I did not.

1 Q Did you look at the impact of sports teams on county
2 economies?

3 A I did not.

4 Q Or on the impact of sports teams on King County and
5 Snohomish County?

6 A Only from my own report.

7 Q The City's lawyers, did they provide you with this study
8 prepared by the council staff?

9 A I don't recall reviewing this study. No, I do not.

10 Q Well, do you agree or disagree with the following
11 conclusions, sir? "The economic literature is unanimous that
12 the presence of a pro sports team has no measurable impact on
13 a local economy." Agree or disagree?

14 A I disagree.

15 Q Do you understand that that is what the Council's staff
16 told the Seattle City Council?

17 MR. JOHNSON: Objection, your Honor. How is he
18 supposed to know what the Council's staff told anyone?

19 THE COURT: Isn't that part of the point, that he
20 doesn't know that? I am trying to understand your objection,
21 Mr. Johnson.

22 MR. JOHNSON: Lack of foundation, your Honor.

23 THE COURT: Overruled.

24 BY MR. TAYLOR:

25 Q Do you understand that the Seattle City Council staff told

1 the City Council that the economic literature is unanimous
2 that there is no measurable impact from a sports team on a
3 local economy?

4 A I think, as I mentioned, Mr. Taylor, I am unaware of any
5 communication from the City staff to the City Council.

6 Q Do you understand that they went on to say that there are
7 few areas of economic analysis where the opinions are
8 unanimous -- that the opinions are unanimous that there is no
9 impact on local economies from sports teams? Do you
10 understand that's what the Council was told?

11 A I do not understand that, because I was unaware that is
12 what the Council was told.

13 Q Let me ask you some other questions, just basic supply and
14 demand. By the way, you have a Ph.D. in economics?

15 A I do not.

16 Q A Masters degree in economics?

17 A I have a Masters in business administration with a
18 concentration in economics.

19 Q Economics or was it finance?

20 A It was economics.

21 Q Let's talk about supply and demand. You understand that
22 the Sonics have revenues, right?

23 A Yes.

24 Q And they take those revenues -- they get those revenues
25 from selling tickets and suites and sponsorships and the

1 I like, right?

2 A Correct.

3 Q And this is money that comes out of the local economy and
4 into the Sonics' pockets?

5 A Correct.

6 Q Then the Sonics turn around and use those revenues to pay
7 their expenses, to get the inputs, I think you called them,
8 right?

9 A That's correct.

10 Q And those input payments they make when they buy raw
11 materials and such, that's what you take and you multiply to
12 get your number, right?

13 A Through the various industries and multipliers that are
14 provided, that is correct.

15 Q I want you to make an assumption for me. I know you
16 disagree with it. I want you to assume that if consumers
17 can't buy Sonics tickets they will spend their money on
18 something else. Okay? Will you make that assumption for me?

19 A As you have already noted I will make that assumption but
20 I disagree with that.

21 Q I recognize that. But if those Sonics dollars are spent
22 elsewhere then those businesses will have more revenues,
23 right?

24 A I think it depends upon the model. It depends upon the
25 type of expenditures that are made. I think you are

1 comparing apples to oranges. The expenditures made by the
2 Sonics are very specific. They go into specific goods and
3 services within the economy. Now, how somebody else spends
4 would be very different. And in this model the multipliers
5 are very different, so the impacts upon the economy will be
6 very different.

7 Q We are going to get to that, Professor -- I'm sorry,
8 Mr. Hatamiya. But for right now would you agree that if this
9 money is not spent on the Sonics, and we are making the
10 assumption they are going to spend it elsewhere, a simple
11 question, the businesses where it is spent will have more
12 revenue, right?

13 A I don't know about more revenue but they will have those
14 expenditures whichever way they are spent.

15 Q They will have revenue that was being used to purchase
16 Sonics tickets that is now being used, for example, to
17 purchase Mariners tickets?

18 A That's if you make that jump to the conclusion.

19 Q I understand that. You would agree then that, for
20 example, the Mariners will have more revenues?

21 A That's only if I agree that the assumption is -- You are
22 asking me a question that I don't agree with the basic
23 premise of. So to presume the understanding, I can't agree
24 with that.

25 Q I understand that. But if -- We will take it a step

1 further. Assume the Mariners do have more revenue from
2 whatever source. Okay?

3 A The way they are playing right now that is probably hard
4 to determine, but that is true.

5 Q That may well be. They will have more revenue to spend on
6 goods and services, right?

7 A If there is added revenues to their bottom line, that's
8 correct.

9 Q And so that will increase -- through your multiplier that
10 will increase the economic activity generated by the
11 Mariners, right?

12 A Based upon their inputs, that's correct.

13 Q So if I am right that Sonics dollars will be spent
14 elsewhere, those dollars will reverberate through the economy
15 just like it would have been if the Sonics were spending
16 them, right?

17 A Only if you are right in your assumption, that's correct.

18 Q The Sonics' payroll is about what, one one-thousandth of
19 the greater Seattle economy -- or greater Seattle payroll?

20 A I don't know the exact number of that.

21 Q Does that sound about right?

22 A I can't make a conclusion because I don't know the numbers
23 and the comparisons. I wouldn't answer that accurately.

24 Q Do you remember reading Mr. Humphreys' report?

25 A I do.

1 Q And he talked about what percentage of the Seattle payroll
2 consisted of the Sonics' payroll?

3 A Yes, he did.

4 Q He said one-tenth of one percent?

5 A I don't recall exactly what number he used.

6 Q Could the witness be shown Exhibit 113, please? Take a
7 look at Page 9, please. Top paragraph. Does that refresh
8 your recollection that the payroll of the Sonics represents
9 approximately one-tenth of one percent of the total
10 metropolitan area payroll?

11 A Well, it refreshes my recollection that's what Professor
12 Humphreys says.

13 Q In order of magnitude you wouldn't disagree with it, would
14 you?

15 A If those numbers are correct. Again, I don't have any
16 justification or basis to determine that at this point. This
17 is Dr. Humphreys' report.

18 Q Let me ask you a question. The Sonics generate, you said,
19 \$187 million a year in total economic activity?

20 A That's correct, average over the last five years.

21 Q That is almost a billion dollars over the last five years,
22 right?

23 A If you multiply that out it is less than a billion, that's
24 true.

25 Q Just shy of a billion?

1 A Just shy of a billion.

2 Q If one-tenth of one percent of the payroll in town can end
3 up generating by the time it is spent and re-spent almost a
4 billion dollars in five years, doesn't that mean if you take
5 all the rest of the payroll, the other 999, that you would
6 really end up with, under this multiplier analysis, a net
7 economic impact of about a thousand billion dollars in five
8 years, right?

9 A I don't follow that analysis. Mr. Taylor, if you would
10 allow me to answer that question --

11 Q Certainly.

12 A I think you are asking me just primarily based upon the
13 salaries. My analysis included much more than just salaries.
14 The salaries were a component of the entire expenditures made
15 by the Sonics. And my analysis shows what the total economic
16 impact of those were. And not to minimize what that impact
17 is on the Seattle economy. It is quite large, absolutely.

18 Q Would you agree that payroll -- the size of payroll is a
19 proxy for measuring the size of a business?

20 A I guess it depends upon the type of business you are
21 involved in. In this instance it is a percentage of the
22 total expenditures that are made.

23 Q So if the size of the Sonics business was one-tenth of one
24 percent of the total Seattle economy then the Seattle economy
25 would be generating 999 times more than the Sonics?

1 A Again, I don't follow your line of reasoning or your
2 question here.

3 Q I am just wondering if -- You would agree the Sonics are
4 a small business, right?

5 A Not in the terminology of -- a definition of a small
6 business.

7 Q 60 to \$80 million, smaller than a Macy's for example?

8 A I don't know what Macy's is. I can't make that
9 comparison.

10 Q Well, if a business the size of the Sonics can generate a
11 billion dollars in five years can you tell us how many
12 billions of dollars are generated by all the Seattle
13 businesses in five years, or do you know?

14 A Not without doing an empirical study, not without doing a
15 similar economic analysis that I performed for the City of
16 Seattle.

17 Q By the way, when you took a look at Mr. Humphreys' study,
18 did you ask the City's attorneys to give you any prior
19 analyses that the City had done of the impact of sports teams
20 on the local economy?

21 A I did not because I was unaware that any had been done.

22 Q Your experience using the RIMS-2 process, my understanding
23 is that have you done it five times before this case?

24 A That's correct.

25 Q And four of those five times were you working for

1 Wal-Mart?

2 A That's correct.

3 Q You were helping Wal-Mart try to convince a town to let
4 Wal-Mart come to town?

5 A No, I was doing economic impact studies of existing
6 Wal-Mart facilities within the community.

7 Q You were trying to show that Wal-Mart generates a lot of
8 activity?

9 A That's correct.

10 Q You have testified as an expert before?

11 A I have.

12 Q We had an expert here on Tuesday who testified in the
13 Anaheim Angels case. You testified in that case too, right?

14 A That's correct.

15 Q In that case a team known as the Anaheim Angels changed
16 their name to the Los Angeles Angels of Anaheim?

17 A That's correct.

18 Q And you studied things and you gave an expert opinion that
19 because of the name change from the Anaheim Angels to the
20 Los Angeles Angels in Anaheim more people stayed in hotels in
21 Anaheim? That was your expert opinion?

22 A That is a simplification of my opinion. I stated that
23 hotel tax revenues went up after the name change and you
24 could extrapolate any kind of conclusion from that.

25 Q Why don't we take a look at page 54, Lines 1 through 15 in

1 your deposition? And we look at Line 8. "That means that
2 you as a professional economist had concluded more people
3 were coming to hotels in the city of Anaheim?" Answer:
4 "That's correct." Question: "Because the name had changed?"
5 "That's part of my analysis, that's correct."

6 So you as an expert said, the baseball team changed it's
7 name from the Anaheim Angels to the Los Angeles Angels in
8 Anaheim, and because of that more people were staying in
9 hotels in Anaheim, true?

10 A That was a factor involved with a basis of factual numbers
11 that were calculated. I relied upon hotel tax revenues that
12 had gone up after the name change, that's correct.

13 Q Let's take a look at exhibit -- Appendix G to your report,
14 please. That is 207, I believe. So as I understand what you
15 do in this multiplier analysis is, you find out ways in which
16 the Sonics spend money and then you multiply that money,
17 right?

18 A That's a simple version of saying that. I think I
19 explained that in my answers to Mr. Johnson's questions. It
20 is a very labor intensive activity, going through the
21 consolidated income statements line by line, and then
22 correlating those line by line expenditures with the
23 multipliers that are provided by the Bureau of Economic
24 Analysis, Department of Commerce and the RIMS-2 models.

25 Q Let me ask you some questions. You are assuming all this

1 money gets spent in the Seattle area, right?

2 A Spent within the Seattle definition that I provided for,
3 the metropolitan division, that's correct.

4 Q King County, Snohomish County, etcetera. If money is not
5 spent here it shouldn't be on your chart here, correct?

6 A That's correct.

7 Q Let me ask you a question. Real estate. Do you see that?

8 A Yes, I do.

9 Q You are calculating 5 million, \$6 million of real estate
10 approximately?

11 A Yes.

12 Q And that's the rent the Sonics pay?

13 A Well, as I can recall it is delineated in the income
14 statement as rent and office expenses.

15 Q But you know that the rent here is used to cover debt
16 service on the bonds that were floated to pay for the
17 KeyArena?

18 A I wasn't aware that the entire rent was for KeyArena. If
19 could have applied to many other -- their practice facility,
20 their offices.

21 Q Those are all covered by the lease, though, right, or did
22 you know that?

23 A I didn't know that for a fact, no.

24 Q If the money is being used for debt service that means it
25 is going out to the bondholders, right?

1 A If that is the presumption. And, again, I don't know the
2 answer to that.

3 Q Well, unless all the bondholders live in King County and
4 Snohomish County we shouldn't even be looking at this
5 \$6 million, should we?

6 A No, I believe you should if it was based upon my
7 assessment that these were under the delineated multiplier
8 effect that I talked about. Again, I used my judgment --
9 best judgment on all the line items that were there.

10 Q If it is not being spent in King and Snohomish County we
11 shouldn't be considering it, should we?

12 A That's correct. This is based upon my best judgment of
13 what was being spent in the local economy.

14 Q Did you ask anybody where does this real estate money go?

15 A I used my judgment because it was based upon my previous
16 experience in reviewing income statements, financial
17 statements. I have reviewed many of these in my experience.

18 Q My question was much simpler. Did you ask anybody where
19 this real estate money goes?

20 A No, I did not.

21 Q By the way, did you notice when you looked at these
22 financial statements, were these consolidated for the Sonics
23 and the Seattle Storm, or were these just Sonics?

24 A Some of them were consolidated. And I retracted out where
25 the Storm -- for example, the salaries of the Storm players.

1 I was focusing directly on the expenditures of the Sonics.

2 Q All right. Let's look at another line. Air
3 transportation, third from the bottom. You are assuming that
4 is paid to a local company?

5 A That's correct.

6 Q Did you make any effort to find out whether the Sonics use
7 a charter outfit that isn't based in Seattle?

8 A I did not.

9 Q A small point. Insurance carriers, six down. Did you
10 make any effort to find out whether they have a local carrier
11 or maybe a carrier based in New York City with the NBA?

12 A No, I assumed it was a local carrier. I presumed at least
13 the line item that was in the consolidated statement was
14 spent locally.

15 Q Is it fair to say that you simply presumed without doing
16 any investigation that all of these dollars that you say are
17 spent in Snohomish County and King County are actually spent
18 in Snohomish County and King County?

19 A I think I made an educated guess as to my previous
20 experience on what these expenditures are made utilizing this
21 model from before.

22 Q I think my question was different. I apologize if it
23 wasn't clear. Is it fair to say you made no investigation
24 whatsoever of where these monies were spent, but instead you
25 made a guess?

1 A No, it is not fair to say. Again, let me repeat what I
2 just said. I made an educated guess based on my previous
3 knowledge of where these expenditures were made.

4 I will also go on to say, as I mentioned earlier, that I
5 took a very conservative approach. There are various line
6 items within the income statements that I didn't include in
7 here, because I couldn't determine where they fell under the
8 multiplier effects.

9 I also took only 50 percent of the players' salaries,
10 which again is a conservative approach to this multiplier.
11 It could be much greater than that based upon my previous
12 knowledge of working with these models.

13 Q Have you ever studied the spending patterns of a
14 professional basketball team and where their money goes?

15 A Only in this instance.

16 MR. TAYLOR: Nothing further.

17 REDIRECT EXAMINATION

18 BY MR. JOHNSON:

19 Q Can we get the first slide up again, John? Mr. Hatamiya,
20 Mr. Taylor was asking you at the beginning of your
21 examination a lot of questions about consumer spending. Does
22 your report have anything to do with consumer spending?

23 A No, it does not. My opinions provided on consumer
24 spending were in response to the expert report that he
25 provided.

1 Q What was the origin of your opinion regarding the kernel
2 that started your opinion regarding what you might do if a
3 team moved from town with respect to being a season ticket
4 holder?

5 A Well, it was based on my own experience. I was a season
6 ticket hold of the Sacramento Kings for many years. After I
7 had children I stopped spending money on the Kings. It was
8 not spent elsewhere, it was put into savings. And it was
9 based upon just common sense approach. Seattle SuperSonics
10 fans aren't necessarily Seahawks fans or Mariner fans. I am
11 sure if you ask most of the museum directors or the theater
12 directors in Seattle, I don't believe their revenues are
13 going up. So that was a presumption -- an educated
14 presumption, a common-sense approach that I took.

15 Q The output dollar figures that are shown here on this
16 exhibit, these are all based on actual expenditures by the
17 Sonics?

18 A That is correct. They are not extrapolated, they were not
19 estimated, they are not projected. These are directly
20 related to line-by-line items and consolidated -- I will say
21 audited consolidated income statements for the Sonics for
22 each of those years.

23 MR. JOHNSON: Thank you, Mr. Hatamiya.

24 THE COURT: Mr. Taylor, anything further?

25

RECROSS-EXAMINATION

1 BY MR. TAYLOR:

2 Q The article I asked you questions about is the article you
3 cited in your report, Exhibit 208, true?

4 A True.

5 MR. TAYLOR: Nothing further.

6 THE COURT: I have a question.

7 THE WITNESS: Yes, your Honor.

8 THE COURT: Using your model, does it work no matter
9 what the business is? In other words, you could use it for
10 Wal-Mart, you could use it for Sonics, you could use it for
11 Boeing?

12 THE WITNESS: That is correct.

13 THE COURT: So it is your opinion then that every
14 business can be evaluated with a dollar number?

15 THE WITNESS: That is correct. And it has been shown
16 through empirical evidence that that can occur.

17 THE COURT: And there is nothing unique about the
18 type of business?

19 THE WITNESS: Nothing unique about the type of
20 business. You just have to be able to interpret the correct
21 inputs as they correlate to the outputs.

22 THE COURT: So evaluating this sports team then is no
23 different than evaluating a box store?

24 THE WITNESS: That's correct. That is exactly right.

25 THE COURT: Thank you. Any questions based upon my

1 questions?

2 MR. TAYLOR: No, your Honor.

3 THE COURT: Thank you. You may step down. Next
4 witness, please.

5 MS. JENSEN: The City calls Sherman Alexie.
6 Whereupon,

7 SHERMAN ALEXIE

8 Called as a witness, having been first duly sworn, was
9 examined and testified as follows:

10 MS. JENSEN: Good morning, your Honor, Michelle
11 Jensen, K&L Gates.

12 THE CLERK: Please state your full name for the
13 record, spelling your first and last name.

14 THE WITNESS: My name is Sherman Joseph Alexie, Jr.,
15 S-H-E-R-M-A-N, last name A-L-E-X-I-E.

16 MS. JENSEN: Michelle Jensen, K&L Gates for the City
17 of Seattle. May I inquire?

18 THE COURT: Go ahead, please.

19 SHERMAN ALEXIE

20 DIRECT EXAMINATION

21 BY MS. JENSEN:

22 Q Mr. Alexie, what do you do for a living?

23 A I am a writer, first and foremost, but I am also a
24 professor and the artist in residence at the University of
25 Washington Department of American Ethnic Studies.

1 Q When you write who do you write for?

2 A Everybody on the planet, I hope. By and large I am a
3 literary fiction writer. I depend on about 150,000 hard core
4 readers.

5 Q Do you ever write any journalistic pieces?

6 A Yes, actually I have worked for Time Magazine, Newsweek,
7 The Rolling Stone, The Los Angeles Times, The New York Times,
8 the Seattle PI, the Seattle Times, the Seattle Weekly and The
9 Stranger.

10 Q And what kind of -- I would like to ask a little bit
11 about The Stranger for a minute. What kind of publication is
12 The Stranger?

13 A It is the local lefty, alternative, gay friendly, art
14 friendly, satirical weekly. And I think it is the best
15 journalism in the city.

16 Q So you would agree that it is a fairly edgy publication?

17 A Extremely edgy.

18 Q And the contributing journalists often use hyperbolic
19 language, would you agree?

20 A That is sort of standard for The Stranger.

21 Q And they occasionally use what some might consider vulgar
22 or profane language?

23 A Yes, they do.

24 Q Where do you live, Mr. Alexie?

25 A I live in the Central District, 1617 32nd Avenue, here in

1 Seattle.

2 Q How long have you lived in Seattle?

3 A I have lived in Seattle in 14 years.

4 Q You didn't grow up in Seattle, did you?

5 A No. I grew up on the Spokane Indian Reservation, 60 miles
6 northwest of Spokane.

7 Q And you go to Sonics games, correct?

8 A Yes. I have been going since I have been here 14 years,
9 but I have been a full-time season ticket holder for 12
10 years. I have been to approximately 300 games.

11 Q So 12 years would be since 1996?

12 A Yes.

13 Q And why do you have season tickets to the Sonics?

14 A There is a few reasons. First and foremost, it is really
15 about my relationship with my father. My father was a huge
16 professional basketball fan. For him it started with George
17 Mikan and the Minneapolis Lakers before they moved to
18 Los Angeles. So I grew up as a Lakers fan actually.

19 When I became a Sonics fan really is when they drafted
20 Gary Payton. It was can quite a tragedy of Shakespearian
21 proportions in my household when I turned my back on my
22 father and startled rooting for the Sonics. So it is a big
23 thing to my father. He taught me how to play basketball.
24 The first thing we ever played on was a Folgers coffee can
25 nailed to a pine tree in our yard. You can become a good

1 shooter when you are using a roll of duct tape into a Folgers
2 coffee can.

3 I grew up in eastern Washington where basketball is huge.
4 High school basketball is the center of the social life of a
5 small town. In high school when I would play or when anybody
6 would play you would get caravan to go the to next game in
7 the next city and you would look behind you and you would see
8 70, 80, 90 sets of headlights.

9 In Reardan where I went to high school there was a famous
10 incident where these guys knew the entire city would be empty
11 because there was a big game a couple of towns over and they
12 looted every business in town because they knew everybody
13 would be gone.

14 So when I moved to Seattle I was terrified, huge city for
15 me, huge city. I mean, I went to high school with 50 kids.
16 So one of the ways in which I made it small and intimate and
17 like home is through the Sonics. They became my team.

18 MR. KELLER: Excuse me, your Honor. I hate to
19 interrupt but maybe we could have a question.

20 THE COURT: That is actually the way it goes.

21 MS. JENSEN: I understand, your Honor. I will break
22 it up. Thank you.

23 BY MS. JENSEN:

24 Q So you say you became a season ticket holder in order to
25 make Seattle smaller; is that correct?

1 A Yeah. They became my social place as well. Most of my
2 friendships in the city are also based on basketball, you
3 know, with the guys I went to college with, the new guys I
4 have met here. We play basketball together, we go to the
5 games together and our social lives revolve around Sonics
6 basketball.

7 Q Let's talk a little bit about your experiences at Sonics
8 games. How would you describe the crowd, the fans at a
9 Sonics game?

10 A When we are winning? As loud as any arena in the country.
11 I would come away from those games with my ears ringing. And
12 I have speech impediments and I need to hear myself in order
13 not to lisp and stutter so much. I would come out of those
14 games lisping and stuttering because my hearing had been so
15 affected. It was really amazing.

16 And when big stars come to town from other teams, Kobe
17 Bryant, Alan Iverson or LeBron James the same thing would
18 happen. This year, any number of games, 20 or 30 games, the
19 place would be packed and loud and I would walk out
20 stuttering and lisping.

21 Q What you would describe the racial make up at a Sonics
22 game?

23 A Well, one of the things -- the great things about
24 professional basketball is it is the most diverse sport in
25 the country. 75 percent of NBA basketball players are

1 African-American. And there are 75 players in the NBA from
2 31 different countries.

3 Q I am sorry, Mr. --

4 A One of the NBA's slogans is NBA is a global game -- the
5 global game.

6 Q And based on your observations sitting in KeyArena for 12
7 years watching games, how does that appear to effect the
8 racial make up of the fans that come to the games?

9 A When certain stars come to town or when Kevin -- when we
10 got Kevin Durant or when we had Ray Allen and Rashard Lewis,
11 superstars, there is a lot more black people in KeyArena than
12 there are in most public venues in the Seattle region. I
13 live in the Central District, my office is also in the
14 Central District, so on game days you will see dozens of
15 jerseys of NBA teams if that team is coming to town. You
16 will see a lot of Kevin Durant jerseys a lot of Sonics
17 jerseys. Before games you get their early. My seats are
18 behind the visitors' bench. You get their early. I will
19 generally have to ask somebody to move, a couple of black
20 teenagers to move from my seats because they come down early
21 to be close to the players. So it is just packed -- my
22 section is packed before games and after games when they come
23 rushing down trying to get autographs from the players going
24 into the visitors' tunnel.

25 Q Would it be fair to say in your opinion there appears to

1 be a an identification with the players that brings a more
2 diverse crowd into KeyArena?

3 A A really strong identification, not only with African
4 Americans, but because there is 31 countries, when a player
5 like Pau Gasol, who just played in the NBA finals for the
6 Lakers, is from Spain, and you will see Spanish folks in the
7 crowd, Spanish-Americans and Spanish nationals. When Yao
8 Ming comes to town, who a Chinese, he is his seven foot eight
9 giant, this God, when he comes to town there will be
10 thousands of Chinese-Americans, Asian-Americans and Chinese
11 nationals. So the racial demographics of the arena change
12 every time the racial demographics of the players change.

13 Q Is that something you value about going to Sonics games?

14 A Of course. I am an ethnic minority living in a city that
15 is 78 percent white, so I often feel very alone and isolated
16 and a little -- When you look out on the floor and you see
17 all these -- all this diversity you realize the power of
18 that. Being a Native American in a really white city I
19 realize by watching these amazing athletes it ends up being a
20 positive thing for me, I feel special because those players
21 on the floor are special.

22 Q And we talked a little bit about how the diversity of the
23 crowd that comes out might be of value. What else is special
24 about those NBA players that are on the floor in your
25 opinion?

1 A Oh, I mean -- Professional athletes are amazing in any
2 form. But the great thing about basketball is they are
3 barely wearing any clothes, they play in their underwear, so
4 you can see their muscles, you can see their size, you can
5 see their ability. I mean, LeBron James who is probably the
6 best player in the world is six foot eight, 260 pounds. He
7 can jump four feet off the ground. When we look at history,
8 when we look at mythology, when we talk about Hercules, when
9 we talk about Athena, when we talk about these gods what we
10 are talking about is physical accomplishment. So when I look
11 at a LeBron James I look at current mythology, I look at the
12 way in which a 100 years from now people will be talking
13 about LeBron James the way we talk about Hercules.

14 THE COURT: Mr. Alexie, I can't get a record on you.
15 You have to slow down.

16 THE WITNESS: Okay.

17 BY MS. JENSEN.

18 Q We will try to calm your excitement, Mr. Alexie.

19 THE WITNESS: Sorry, judge.

20 BY MS. JENSEN

21 Q So if the Sonics leave town, though, why couldn't you just
22 go follow college basketball, like the Huskies or high school
23 basketball, Garfield and Roosevelt are here?

24 A You know, that is like telling Seattle they only get to
25 have me as a writer and not Shakespeare. That would be the

1 choice they are making. Professional basketball, they are
2 the greatest athletes in the world. And as much as I love
3 watching college basketball, as much as I love watching high
4 school basketball -- I mean, I go to random high school
5 games every year just to watch. It is not the same. The
6 Sonics would beat the Huskies by 70 points. The Sonics would
7 beat the best high school team in the city by 150 points. So
8 you are talking about excellence. And I want to see the very
9 best.

10 Q Thank you. How would you respond to people who say that
11 Seattle should worry about more important things, like
12 schools and transit rather than professional sports?

13 MR. KELLER: We would object, your Honor. Mr. Alexie
14 is not here as an expert. He is not here to provide
15 commentary on people's positions.

16 MS. JENSEN: Your Honor, if I may respond?

17 THE COURT: Go ahead.

18 MS. JENSEN: The City is not offering Mr. Alexie as
19 an expert on any matter. The testimony he is offering is
20 personal opinion squarely within the bounds of 701. I
21 believe he is entitled to testify his opinion as to why
22 professional sports might be equally important as other
23 issues we have pressing here in Seattle.

24 MR. KELLER: The opinion needs to be helpful to the
25 trier of fact. I don't think his personal opinion is what we

1 are here about.

2 THE COURT: The question was, how would you respond
3 to people who say we should be worried about more important
4 things, like schools. That is not the issue in this case.
5 We are not worried about schools, we are worried about this
6 team. So how about if we ask a question that goes to why the
7 Sonics should stay here?

8 MS. JENSEN: Thank you, your Honor.

9 BY MS. JENSEN:

10 Q Why do we need the Sonics to stay here, Mr. Alexie?

11 A Number one, it is a diverse sport. It presents the kind
12 of diversity that doesn't exist elsewhere in Seattle. Number
13 two, it is also the sport of poverty. It is a celebration of
14 the American dream of all these players, all these people
15 rising up from poverty into positions of extreme privilege,
16 extreme talent. The NBA acknowledges this. The logo is the
17 shadow, the silhouette, of Jerry West, who was an NBA
18 basketball player in the '60s and '70s who grew up really
19 poor in West Virginia. So the NBA's very roots are about the
20 rise from poverty. They acknowledge that with their logo.
21 So when you see a player --

22 And also, Seattle, it is amazing, we have had a
23 renaissance of professional basketball players coming from
24 Seattle. Right now there are seven players in the NBA who
25 are from Seattle, who played high school basketball in

1 Seattle. The story of the rise exists on a very personal and
2 intimate level here.

3 Q I would like it if you could talk a little bit more about
4 your experience as a season ticket holder. As you have sat
5 in KeyArena over 12 years have you observed fluctuations in
6 how full the arena is on any given game night?

7 A You know, when it comes to fans it is a pretty basic
8 formula, you win games you fill the arena. Or if great teams
9 come, great teams that are well managed and well coached and
10 well staffed, when they come to town the arena is filled.

11 Q In your experience when does the arena tend to be the most
12 packed?

13 A In the playoffs certainly. During the playoff runs,
14 during the end of the season, when we were competing to get
15 into playoffs to improve our position, that's when the gym is
16 packed.

17 Q Would it be fair to say during the 2005 playoff run it was
18 fairly packed in there?

19 A That was the glory days. We won 52 games that year when
20 most people had been predicting the Sonics would finish last.
21 But with an amazing coach, Nate McMillan, who the players
22 believed in, Ray Allen, Rashard Lewis, two amazing all stars
23 playing at the top of their game, we ended up in the playoffs
24 surprisingly. We upset the Sacramento Kings in the first
25 round surprisingly. And then we played the San Antonio Spurs

1 who were the dynasty at the time. We took them to six games.
2 The place was going crazy, hugging strangers, jumping up and
3 down, spinning around. In the sixth game Ray Allen had
4 three-pointer, Ray Allen who just won an NBA title with the
5 Boston Celtics, Ray Allen had a three-pointer that would have
6 won the game and sent it to a seventh game in San Antonio.
7 Who knows what would have happened in that game? We might
8 have won it. But when Ray Allen took that shot, that is one
9 of my favorite Sonics memories. He missed it. But as it
10 floated through the air, stuck in that moment between the
11 mystic and the real, everything you dream about when you
12 watch professional basketball was occurring. A great player.
13 One of the greatest shooters ever. Maybe the greatest
14 shooter ever, and he played for us, and he had the chance to
15 win the biggest game I have seen as a season ticket holder.
16 And I remember that moment vividly.

17 Q The Sonics obviously didn't go to the playoffs this year,
18 did they?

19 A No, they didn't.

20 Q How is the team's record this year?

21 A The team finished up 20 and 62, 20 wins, 62 losses.

22 Q What did you observe about attendance in the arena this
23 year when you were there watching games?

24 A Well, number one, we had no established superstars. Ray
25 Allen and Rashard Lewis had either been let go or traded. So

1 the connection with the past was severed. We had obtained
2 Ray Allen in a trade for Gary Payton. And Gary Payton is the
3 most beloved Sonic ever. He is a folk hero in this city. So
4 Ray Allen took his place --

5 MR. KELLER: Excuse me. I wonder if Mr. Alexie can
6 answer the question, your Honor?

7 MS. JENSEN: Your Honor, I am happy to repose the
8 question.

9 THE COURT: The question is what did you observe
10 about attendance in the arena this year when you were
11 watching games.

12 THE WITNESS: What I noticed was that without the
13 superstars we had the year before attendance really dwindled.
14 And that with the superstar -- potential superstar we did
15 have in Kevin Durant people were interested at the beginning
16 of the season in him. But as the team struggled, and as the
17 Sonics organization itself struggled to promote the game, the
18 attendance dwindled at certain games as the year went on.

19 MS. JENSEN: Thank you. Your Honor, we have a
20 witness binder prepared for Mr. Alexie. He will be working
21 with two exhibits. The Court has copies of the exhibits.

22 THE COURT: Are these once you gave to Ms. Scollard
23 previously?

24 MS. JENSEN: Yes, they are, your Honor.

25 THE COURT: What are the numbers, please?

1 MS. JENSEN: Exhibit 336 and Exhibit 337.

2 BY MS. JENSEN:

3 Q Do you have your binder?

4 A Yes.

5 Q I would like to talk more specifically about your
6 experience as a season ticket holder. As a season ticket
7 holder I understand -- are there special benefits that go
8 with that status?

9 A Yeah, there are official benefits. You know, there is a
10 season ticket holder party, there is chances to meet the
11 players, you get discounts on tickets and discounts on
12 merchandise, you get this really cool press packet with a
13 great book about the year to come and Sonics history. So
14 there are official benefits. There are also unofficial
15 benefits. You get treated better. You do. I guess the best
16 analogy I can come up with, it is like being a high roller in
17 Vegas. You get comped a lot of things. And over the years,
18 three or four times a year, ticket folks would come to my
19 seats, and I had great seats, but they would bring me down to
20 even greater seats. And that happened in previous years.

21 Q You mentioned a special season ticket holder parties.
22 What have those been like historically?

23 A All the parties that happened the last couple of years I
24 have been out of town for. But one of the great -- one of
25 the most entertaining, wonderful things that had happened

1 over the years was the seat relocation party. Every year
2 when you reapply to have season tickets, it happens in April,
3 you put down your deposit and you say, yes, I am going to be
4 a season ticket holder again, you get assigned in August the
5 chance to come into KeyArena and relocate your seats. You
6 can improve your seats, you can move to a different part of
7 the arena, you get to go on the Court, you get to go in the
8 locker rooms, you get to go all over KeyArena. That was one
9 of the most fun things to do.

10 Q After the change in ownership in 2006 did you notice
11 anything different about that Seattle relocation party?

12 A Yes, especially last year, last August. In previous years
13 as a season ticket holder -- The first thing you get to do
14 is you get to drive into the parking lot and you get to park
15 in the players' parking lot. As you pull in you are thinking
16 I wonder whose slot this is, am I in Ray Allen's slot, am I
17 in Rashard Lewis' slot. There is banners and posters
18 everywhere. This last August you pulled in and you got to
19 park in the same slot but there was no signs or banners.
20 There was only these photocopied signs that said "ticket
21 relocation." Even outside the arena it was quite the change.
22 And when I walked in -- when my wife and my sons and I walked
23 in there used to be banners leading the way down the hallways
24 toward the arena, and you would get to this desk where you
25 would check in. And in previous years at that desk there had

1 been popcorn machines. One year there were these incredible
2 cucumber sandwiches, free pop, free water, free fluids, free
3 candy.

4 Q How did it compare to the most recent?

5 A Last August? There was a desk of people who didn't know
6 who I was, didn't recognize me when I walked in. There was
7 one fluid barrel, one of those cool barrels, that was empty.
8 I don't know if it had been anything in there to begin with
9 but it was empty when I got there. We walked down onto the
10 floor. The ticket person who was showing me around didn't
11 know who I was. I had to introduce myself. And we walked
12 around the arena. I went alone pretty much walking around
13 with my sons and wife looking at the seats. In previous
14 years the seat ticket person was with me. In fact, a couple
15 of years when none of us could make it the seat ticket people
16 would get on their cell phones and call me. So I forget
17 where I was, I was on book tour, and they would call me. The
18 season ticket person was actually saying, well, this is what
19 it looks like from here, and was taking cell phone
20 photographs of the view. This year the person didn't know
21 who I was, and as walked around didn't really interact with
22 us, let us go on our own. On previous years we would go on
23 the Court to shoot baskets. And with people around -- the
24 staff would come out and guard me. I would challenge them.
25 One year there was a tall, skinny basketball player kid who

1 was working there, and I challenged him, and he saw an old,
2 fat, middle-aged guy, and he thought could take me and I
3 scored on him a few times. That was fun. One of the big
4 highlights was going into the locker room with my sons. The
5 big thing was the shower --

6 Q What was about it the locker room?

7 A For me it is like going into a church, right. You are
8 going into the locker room. One of the big things for my
9 sons was the showerheads which are ten feet off the ground.
10 And the lockers where they had jerseys hanging for the
11 players. Three years ago my sons and I went without my wife
12 and we actually sat in Ray Allen's locker. And the Sonics
13 took pictures. They were taking pictures in the locker room
14 of season ticket holders sitting in the locker of their
15 favorite player. That didn't happen this last year. In
16 fact, as we walked in there were three staff people sitting
17 there watching TV. And I talk a lot, you can tell. I am
18 friendly. I joke. And I tried to interact with these guys.
19 And they literally looked at us, didn't say a word and looked
20 back at the television.

21 Q Sounds like it was quite a different experience.

22 A It was incredibly rude. It was heartbreaking. My sons
23 loved that moment so much of us being in that locker room and
24 getting our picture taken that that photo -- they put the
25 photo on the wall between their bedrooms. It is that photo

1 and then a photo of them light saber dueling.

2 MR. KELLER: Again, your Honor, I think we need to
3 get some questions, so we can go in a question and answer
4 format, rather than having the witness going on.

5 THE COURT: We need some questions, please.

6 MS. JENSEN: I understand, your Honor.

7 BY MS. JENSEN:

8 Q Mr. Alexie, I want to change gears a little bit. Have you
9 renewed your season tickets for next year?

10 A I haven't been allowed to renew my season tickets for next
11 year.

12 Q Why is that?

13 A We received a letter here in the spring that said due to
14 circumstances that they weren't selling season tickets.

15 Q And, Mr. Alexie, can you please turn to Exhibit 336 in
16 your binder?

17 A I see it here.

18 Q And take a minute to review.

19 A Yes, I remember getting this letter.

20 Q And what is it? Is that the letter that you received?

21 A Yeah, it is the generic letter sent out to season ticket
22 holders that states that they are not selling -- or not
23 assigning season tickets at the present time because of the
24 various proceedings.

25 Q So this isn't the actual e-mail you received but it is a

1 form e-mail you received?

2 A Yes.

3 Q And that particular e-mail is dated April 14th; is that
4 correct?

5 A Yes.

6 Q And is that around the time that you received that e-mail?

7 A We would get these kinds of -- for the next season we
8 would always get these in April. So, yes, April is the date
9 for these kind of letters.

10 MS. JENSEN: Your Honor, I would move for the
11 admission over Exhibit 336.

12 MR. KELLER: No objection.

13 THE COURT: 336 will be admitted.

14 (Exhibit 336 admitted)

15 BY MS. JENSEN:

16 Q Mr. Alexie, we talked about this a little bit, but I want
17 to look at Paragraph 1 of this letter e-mail. The sentence
18 starting "typically." "Typically this is the time of year we
19 initiate a renewal campaign for the upcoming season.

20 However, with the current uncertainty surrounding the team's
21 status about playing next season we feel it is prudent to
22 wait until this matter is resolved before presenting you with
23 renewal information."

24 What did you understand when you received this and you saw
25 that language?

1 A They weren't selling season tickets. They weren't
2 interested in selling season tickets.

3 Q And they weren't interested in selling tickets because?

4 A I took it that they were leaving, that they were operating
5 as if they were leaving.

6 Q And, Mr. Alexie, did you receive a later e-mail from the
7 Sonics front office about your season ticket package?

8 A Yes, I did.

9 Q And I would like to you please turn to Exhibit 337 in your
10 binder, and just take a look at that.

11 MR. KELLER: No objection, your Honor.

12 THE COURT: 337 will be admitted.

13 (Exhibit 337 admitted)

14 BY MS. JENSEN:

15 Q Mr. Alexie, I would like to direct your attention to the
16 first paragraph of that e-mail, after "dear fan." "Today the
17 NBA Board of Governors voted to approve the Professional
18 Basketball Club, LLC's application to relocate the Sonics to
19 Oklahoma City."

20 Do you know who the Professional Basketball Club is?

21 A Yes.

22 Q And what did you understand when you -- Let's look at the
23 next paragraph. "The immediate future of the team, however,
24 is still uncertain as we now await the outcome of the June
25 federal court trial over the KeyArena lease."

1 Do you see that language?

2 A Yes.

3 Q And in the next paragraph, "when the trial concludes you
4 will be contacted on the next steps regarding your account."

5 What does this refer to when it says "your account?" For
6 a season holder what is an account?

7 A The season ticket holder, depending on how long you have
8 been a season ticket holder, you have a priority number that
9 places you on a list in terms of where you get to choose,
10 where you get the seat, various privileges, various levels of
11 those privileges. And that's what your account is about.

12 Q And so did you understand that your account was
13 effectively frozen at this point?

14 A There is nothing I can do. My account, my priority
15 number, none of that meant anything.

16 Q Thank you, Mr. Alexie. One last question. I understand
17 you can't currently renew your season tickets, but if the
18 Sonics are required to play the remaining two years of their
19 lease here will you renew?

20 A Of course.

21 Q Why if they are going to leave -- Say they plan to leave
22 at the end of the lease term, why renew for those final two
23 years?

24 A They have been here 41 years, I have been a season ticket
25 holder for 12 years. I love this team. I love what it

1 represents. I love its history. If they leave I haven't
2 been given -- the fellow fans have not been given the proper
3 way to say good-bye. There was no celebration of our
4 history, there was no celebration of Sonics' history.

5 MR. KELLER: We are going off. This is not
6 responsive.

7 THE COURT: I think he is telling you the why.

8 THE WITNESS: I am hoping in those two years, if they
9 do leave, that the season ticket holders, the fans, the city
10 and the team will have the chance to celebrate each other, if
11 it is only two years left. And beyond all that, I don't know
12 if professional basketball will come back. There is no
13 guarantee of that. If it does it is going to be for who
14 knows when. So I want two more years of the Greek gods.

15 MS. JENSEN: Thank you, Mr. Alexie. Nothing further.

16 CROSS-EXAMINATION

17 By Mr. Keller:

18 Q Good morning, Mr. Alexie. My name is Brad Keller.

19 A Good morning.

20 Q I represent the PBC. I am going to ask you a question.
21 We have never chatted, you haven't had your deposition taken
22 or anything, right? I am going to ask you a question, and I
23 have a feeling the answer may be yes. Do you have a passion
24 for basketball?

25 A Yes.

1 Q You have been a loyal and faithful fan for many years?

2 A Yes.

3 Q Thank you for your support. It is very much appreciated.

4 Take a look at Exhibit 337, if you would? You received
5 this what, three or four days after Exhibit 336, the other
6 one we looked at?

7 A Yes.

8 Q Now, take off your hat as a passionate basketball fan and
9 try and look at PBC and professional basketball as a business
10 for a moment. Would you agree that with the NBA having
11 approved relocation to Oklahoma City, and with the ownership
12 trying to move the team and not have to play the next two
13 years, it would make sense to not want to take your dollars
14 for a ticket renewal -- season ticket renewal until this case
15 gets resolved?

16 A That would have made sense. That would have made great
17 sense to put, Dear Sherman Alexie on the letter.

18 Q I'm sorry. I'm sorry that the Locker guy didn't know who
19 you are, I am sorry there wasn't popcorn when you came in the
20 door.

21 MS. JENSEN: Your Honor, I will object. He is
22 mocking the witness.

23 MR. KELLER: I am not.

24 THE COURT: Well, let's ask a question, please.

25 By Mr. Keller:

1 Q Really, again, just as a business person, can you
2 understand why the owner of a franchise wouldn't want to take
3 your money for two, two and a half months until this thing
4 gets resolved?

5 A As a business person?

6 Q Yes.

7 A Yes, I understand that.

8 Q Thank you. I gather that basketball for you in your life
9 has been a big thing in terms of your relationship with your
10 father; is that right?

11 A Yes.

12 Q And was your dad a fan of the Lakers when they were still
13 in Minnesota?

14 A When he was a child, yes.

15 Q The Minnesota Lakers relocated and became the Los Angeles
16 Lakers, right?

17 A Yes.

18 Q Did your dad continue to be a fan of the Lakers?

19 A Yes.

20 Q So his loyalty to that team followed it from one city to
21 the other?

22 A His did.

23 Q I spent a little time reading *The Stranger*. Did you write
24 in *The Stranger* that if the Sonics move to Oklahoma City
25 you're not going to give up on the Sonics either?

1 A I think the tone of that was much more questionable. I
2 think I said, will I have to give up on the Seattle
3 SuperSonics. And I wondered if I would have to travel to
4 Oklahoma City to see some games.

5 Q Could I ask that the witness be handed Exhibit 611,
6 please?

7 MS. JENSEN: Again, your Honor, we don't have a copy.

8 THE COURT: Actually, we need to take our morning
9 recess. Can we come back to 611? We will be at recess for
10 15 minutes.

11 (Break)

12

13

14 THE COURT: Please be seated. All right.

15 Mr. Keller, you were at 611.

16 MR. KELLER: Yes.

17 BY MR. KELLER:

18 Q Mr. Alexie, I'm going to put 611 into evidence. I don't
19 want to put it up on the screen because of some of the
20 language that is in it.

21 You had a chance to look at that over the break?

22 A Yes, I did.

23 Q Did you write these words: I'm not going to give up on
24 the Sonics and move to Oklahoma City?

25 A Yes. Can I clarify? This column was not a Sonics Death

1 Watch column. This was written shortly after --

2 THE COURT: Mr. Alexie, you have to --

3 A Yes, I wrote those words.

4 BY MR. KELLER:

5 Q Thank you.

6 A Sorry.

7 Q Did you say that you fly to Oklahoma City to make bets
8 with your friends on how soon Danny Fortson picked up his
9 first bat.

10 Did you write those words?

11 A Yes.

12 Q Danny Fortson is a player on the team?

13 A He was a player on the team.

14 Q Did you say you might even become a fan of Clay Bennett if
15 he proved to be a smart owner?

16 A Yes.

17 Q Now, in this same piece that I have been ask you about,
18 did you acknowledge that plenty of people are happy that the
19 Sonics are --

20 A Yes.

21 Q And that plenty of people don't give a blank at all?

22 A Yes.

23 Q And that you were struggling somewhat personally and had
24 turmoil because you were living in a city where most, if not
25 all of the citizens, didn't care about your losses?

1 A Yes.

2 Q You grew up in Eastern Washington?

3 A Yes.

4 Q And was it in high school that you decided to leave the
5 native school on the Native American Indian reservation to go
6 to a private school or public school?

7 A I left the reservation school at the beginning of eighth
8 grade to attend a public school, Reardan.

9 Q You were a high school ball player yourself?

10 A Yes.

11 Q Basketball?

12 A Yes.

13 Q So basketball became a big part of your life in middle
14 school and high school?

15 A Yes.

16 Q It became a big part of the life between the -- bond
17 between your father as well, right?

18 A Yes.

19 Q When did you first go to a Sonics game?

20 A Once a year they would come to Spokane and play exhibition
21 games in the old coliseum. First Sonics game I went to was
22 an exhibition game in 1976 the year before they played for
23 the championship.

24 Q I think you said growing up in Eastern Washington high
25 school basketball was the center of social life in a small

1 town.

2 Did I get that right?

3 A Yes.

4 Q In Eastern Washington Gonzaga basketball is a big deal,
5 too?

6 A Gonzaga basketball, yes.

7 Q Do you remember being at the Phoenix Suns/Sonics game this
8 past year?

9 A There would have been two of them.

10 Which one are you referring to?

11 Q The one you wrote about in your March column about Sonics
12 Death Watch in The Stranger?

13 A Yes.

14 Q And do you remember observing that at that game -- by the
15 way, Phoenix is a good team, right?

16 A Phoenix is a great team.

17 Q There were more Phoenix fans than there were Sonics fans
18 in KeyArena, right?

19 A I think I remarked there were thousands of orange jerseys.
20 Most with Steve Nash's name on them.

21 Q Take a look at Exhibit No. 612. See if that refreshes
22 your recollection?

23 A Yes. Suns fans out-numbered Sonics fans.

24 BY MR. KELLER:

25 Q There was a Suns fan sitting in close proximity to you,

1 right?

2 A Yes. In front of us.

3 Q She was a woman from Victoria BC, right?

4 A Yes.

5 Q She was a Phoenix Suns fan; is that right?

6 A She was wearing a Steve Nash Jersey. That made her
7 Phoenix Suns fan and a Steve Nash fan.

8 Q She asked you: Do you think they're really going to
9 Oklahoma?

10 Do you remember hearing a you that?

11 A Uh-huh (affirmative).

12 Q Is that a yes?

13 A Yes.

14 Q Your response was: Yes, they're gone. Right?

15 A Yes.

16 MR. KELLER: Thank you, Mr. Alexie.

17 THE COURT: Any redirect?

18 MS. JENSEN: Briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. JENSEN:

21 Q Mr. Keller asked you about an article in which you
22 commented about Clay Bennett.

23 Do you remember when that article was written?

24 A Yeah. That was in 2006, shortly after the sale.

25 Q And he also mentioned language that indicated that you

1 might have been feeling despondent at the time that your
2 aloneness in Sonics fandom.

3 Can you explain what you meant by that?

4 A At that time it didn't seem anybody cared about the team.
5 There was no response really from the general population,
6 about the sale of the team, about the sale to Oklahoma City.
7 So I felt at that point when I wrote it that nobody cared.
8 My opinions have changed.

9 Q He also asked you about a more recent column regarding a
10 Phoenix Suns game.

11 Do you recall when that was written?

12 A Yes.

13 Q And when was that?

14 A It was written this spring.

15 Q What were your feelings about the team this spring?

16 A Well, when I wrote the first article, when I felt
17 despondent, when I talked about traveling to Oklahoma City
18 and still following the Sonics, I was still hoping, I
19 believed the Oklahoma City guys were going to make an honest
20 effort to build an arena here, and that they might be good
21 owners. And I was going to follow the team because they were
22 going to try here. And if they didn't try here, I would
23 still follow them. I don't feel that same way about the
24 ownership.

25 And the column I wrote this spring -- when you step into

1 an arena and you see that, when you see thousands of those
2 jerseys, of course, I was depressed, of course I was
3 distraught. Because I feel ownership created a situation
4 where many fans from another team were able to buy the
5 tickets. So that's the situation that occurred.

6 Q Mr. Alexie, you have sons, don't you?

7 A Yes.

8 Q Do you take them to Sonics games?

9 A Yes. The youngest --

10 MR. KELLER: Well ---

11 MS. JENSEN: Your Honor, he inquired into his
12 relationship with his father.

13 THE COURT: Overruled.

14 A Yes. I take my youngest to the -- he's six. Noise gets
15 him. So he wears headphones and we watch the game together
16 at home. And I have a little Sonics hoop and -- Nurf hoop
17 that is set up in my TV room. And when we watch the game he
18 shoots baskets.

19 Q If the Sonics are required to stay for the remaining
20 portion of the lease term will you continue to take your sons
21 to games?

22 A Yes. I will take them to more games now.

23 MS. JENSEN: Thank you. No further questions.

24 THE COURT: Any recross?

25 MR. KELLER: Nothing further. Thank you.

1 THE COURT: Thank you. You may step down.

2 Next witness, please.

3 MR. LAWRENCE: City calls Matthew Wade.

4 MATTHEW WADE

5 After being sworn testified as follows:

6 THE CLERK: Please state your name and spell your
7 last name for the record, spelling your first and last name.

8 THE WITNESS: Matthew Christopher Wade, M-A-T-T-H-E-W
9 W-A-D-E.

10 DIRECT EXAMINATION

11 BY MR. NARVER:

12 Q Good morning.

13 A Good morning.

14 Q What is the Athletes' Foundations LLC?

15 A It's a company I started to professional athlete with
16 their philanthropy and community outreach.

17 Q What is your title?

18 A President, executive director.

19 Q You're the guy?

20 A Yes.

21 Q Before you founded the Athletes' Foundation, you worked
22 for the Sonics?

23 A I did.

24 Q You started as an intern back in the '80s?

25 A Early '90s.

1 Q I want to talk to you a bit about the position you held
2 with the Sonics, beginning in I believe 1996.

3 What job did you take then?

4 A I was -- it was actually earlier than '96. It was
5 community relations manager.

6 Q Manager of community relations.

7 What does that job entail?

8 A It's basically a link between organization, community, and
9 its players.

10 Q You held that job until --

11 A 2003 I think.

12 Q Okay. During your years as the community relations
13 manager, how many community charitable appearances, things
14 like that, did you attend the Sonics players?

15 A I was there pretty much every one of them. We averaged
16 about 300 a year, year around.

17 Q I want to be clear here.

18 The term "appearances" is used a lot in some of the
19 documents I have seen. That encompasses a whole range of
20 things, doesn't it?

21 A That's correct. And it ranges from clinics -- basketball
22 clinics for five to ten kids to school assemblies, with six,
23 seven hundred kids. Sponsorship meetings, you know, meet and
24 greets. Court side club appearances. Meeting court-side
25 seat holders. Season ticket holder parties. Things of that

1 nature.

2 Q So it sounds like a way range of things.

3 My questions today will focus on a particular type of
4 those appearances. I want to talk primarily in things where
5 the audience for the players were children. I want to talk
6 about appearances at schools, Children's Hospitals, community
7 centers things like that. I understand, too, that as we look
8 at the number of appearances they're also season ticket
9 holder things. That's not quite the focus of my question.
10 But I wanted to clarify.

11 From the events you attended with players I -- I know it's
12 a hard thing to generalize. I wonder if you could provide a
13 description of what you observed in the kids, their reactions
14 to the presence of a professional basketball player.

15 What were you able to observe?

16 THE COURT: Mr. Narver, that was at least five
17 questions. Please, I can't tell which question he's going to
18 answer. So one question at the time.

19 MR. NARVER: Absolutely.

20 BY MR. NARVER:

21 Q Can you describe in general terms what you were able to
22 observe in the reaction of the children to the appearance by
23 Sonics players in the events you attend?

24 A The kids go crazy, they go ecstatic. They love to see
25 these guys come into a room. For instance, a school gym, the

1 whole gymnasium is filled with kids, teachers, parents. When
2 a player walks into that gymnasium it explodes -- smiles,
3 grin from ear to ear, clapping, cheers.

4 Q But you also do work with football players with your
5 foundation; is that right?

6 A Yes.

7 Q You've been at events with pro baseball players?

8 A Yes.

9 Q Same effect?

10 A Relatively. It's a different type of effect. With Sonics
11 players, these guys are six ten, seven-foot-tall guys.
12 Whereas, football and baseball players -- it's almost like
13 they have to wear their uniform, so they have to be
14 identified. Because they -- football players wear helmets;
15 you can't see who they are. Like a football player, once
16 identified, we know them pretty well. Baseball player are
17 the same. They look like you and me, and they're just
18 regular guys. But with basketball players, they're just huge
19 guys. I mean, seven-foot-tall guys, with 20 foot shoes.
20 Huge shoes, boats. They're enormous.

21 Q 20-foot shoes?

22 A 20, whatever -- big shoes.

23 MR. NARVER: City offers Exhibit No. 218 into
24 evidence.

25 MR. KELLER: No objection.

1 THE COURT: 218 admitted.

2 (Exhibit No. 218 admitted.)

3 BY MR. NARVER:

4 Q Before we talk about 218, are you aware based on your
5 years with the Sonics or your knowledge of the current
6 situation, if there is a required number of community
7 appearances NBA players are supposed to make every year?

8 A There are. I don't know the exact numbers. I know there
9 are a certain amount of personal appearances and mandatory
10 appearances that each team's employers are required to do.

11 Q Is that the case when you were working for the Sonics in
12 community relations?

13 A Yes.

14 Q Were there some players who did more? Did extra
15 appearances?

16 A Absolutely.

17 Q Exhibit No. 218 is a collection of documents. I will
18 represent these were documents you provided to me.

19 Do you recognize -- if you just flip through, I think you
20 have a book in front of you. Can you flip through 218 before
21 I start asking that a few of them and tell me if you
22 recognize what those documents are?

23 A After the NBA lock-out, there was a real effort on behalf
24 of --

25 Q Could you just start by flipping through those pages. I

1 want to establish that these are documents that you are
2 familiar with.

3 A Yeah, I recognize them.

4 Q These are things that came to you when you worked for the
5 Sonics?

6 A Yes.

7 Q If we look at the first page of this, on the screen I
8 think there is a part highlighted, which reads: Seattle's
9 players appeared most frequently with the team total of 195
10 appearances in an average of 15 appearances per player.

11 Do you see that?

12 A Yes.

13 Q 195 appearances. That's for one NBA season?

14 A A majority of them are during right season spread out also
15 during the course of year.

16 Q Is that the number that was required by the league at the
17 time or is that higher?

18 A That's higher.

19 Q Can you turn to the second page of 218.

20 There is a highlighted portion. There is a communication
21 from you from somebody at the NBA; is that right?

22 A That's right.

23 Q Second paragraph it says: Sonics led league with 167
24 appearances as compared to a league median of 87.

25 Do you see that?

1 A Yes.

2 Q That's the communication from NBA to you about the Sonics
3 players going to more appearances in the community than other
4 teams?

5 A Yes.

6 Q Is that consistent with your years with the team that the
7 Sonics were out front on that?

8 A Absolutely.

9 Q Could you turn also on Exhibit No. 218. That's going to
10 appear on the screen, this is to the seventh page of this
11 exhibit. It's on the heading of the Boys & Girls Club?

12 A Uh-huh (affirmative).

13 Q This is addressed to you. It's something called Full
14 House Sports and Entertainment.

15 Can you tell me what that refers to?

16 A When we moved into the new building, at the time KeyArena,
17 we formed this company, Full House Sports and Entertainment.
18 And the Sonics were part of that.

19 Q So this is associated with your work for the Sonics?

20 A Yes.

21 Q I would like you to look at the highlighted portion which
22 reads, and this is a communication from Boys & Girls Club
23 saying: Your relationship shows that NBA and WNBA teams can
24 make a difference in the community. The commitment that
25 you've made today will make a difference in our youth and

1 family members lives for years to come.

2 Do you see that?

3 A Yes.

4 Q It appears there is a reference to a specific event that
5 involved 350 youth and family members. I said like you to
6 youth were real excited to see Gary Payton and Vin Baker?
7 Sonics players at the time?

8 A Yes.

9 Q Real team players, talking to youth while giving them real
10 life experiences and good advice.

11 Were you at that event?

12 A Yes.

13 Q Is Gary Payton a guy who did a lot of appearances in the
14 community?

15 A And more.

16 Q What do you mean?

17 A I mean he went above and beyond sometimes. He was the
18 face of the franchise, and he recognized that. He would take
19 it upon himself to do even more than the requirement the NBA
20 would mandate.

21 Q Can you look at next page of Exhibit No. 218, please.
22 It's on the heading -- actually, maybe the eighth page of
23 Exhibit No. 218. I think to Make A Wish.

24 What is the Make A Wish Foundation?

25 A The Make A Wish Foundation grants wishes to children who

1 have life-threatening diseases.

2 Q Is that something Sonics players were involved with during
3 your years with the team?

4 A Yeah. In particular Gary.

5 Q Gary Payton?

6 A Yeah.

7 Q Can you look at the tenth page. It's the heading Hilltop
8 Elementary School Home of the Huskies. That's a letter to
9 you from somebody at the school?

10 A Yes.

11 Q It refers to an event that took place with Rashard Lewis.
12 Is that an event you attended?

13 A Yes.

14 Q And Rashard Lewis was a Sonics player at the time?

15 A Yes.

16 Q This one says: The Husky gym was packed with over 700
17 students and staff eagerly waiting to meet Rashard and hear
18 him speak to us about the importance of reading.

19 Do you remember that he did that?

20 A Yes.

21 Q And down below it says: He gave many practical reasons
22 why it is important to read for information, as well as
23 enjoyment. He's a wonderful role model for our students.

24 Do you remember receiving that letter?

25 A Yes.

1 Q Did you receive a lot of letters like this when you worked
2 for the Sonics?

3 A Pretty much after every appearance we got a nice letter
4 from a nonprofit or school we visited, yeah.

5 Q Finally, last page of 218, something on the heading
6 Children's Hospital Foundation, a letter you received.

7 It appears a Sonics player made an appearance around
8 Christmas; is that right?

9 A Yes. We made an annual trip to Children's.

10 Q Were there trips to Children's other than an annual
11 appearance?

12 A Yeah. Children's Hospital is a big -- is a big deal for
13 these players. At the time Gary Payton connected with the
14 children in Children's Hospital every year and struck up
15 friendships. Things like that.

16 Q Did you go with him on those appearances?

17 A Yes.

18 Q How do the kids react to him?

19 A I mean, they were elated. Gary walks into a room and
20 it's, you know, he has a cure for whatever that little child
21 is ailing from.

22 Q After you worked for the Sonics you started the Athletes'
23 Foundation. Why did you do that?

24 A I just started it -- after I left the Sonics, I wanted to
25 say in helping professional athletes with their community

1 outreach. Sometimes players go astray. But, you know, with
2 their community outreach I wanted to just help them
3 facilitate that with my connections with all nonprofits in
4 the area. It just was something I really wanted to do.

5 Q You continued with some Sonics players? You helped them
6 set up foundations. I guess that's the point --

7 A Yes. Foundations or the community outreach. Some set up
8 foundations. Others, this is what I want to do.

9 Q Ray Allen was one?

10 A Yes.

11 Q Rashard Lewis?

12 A Yes.

13 Q They were both well-known Sonics players?

14 A Yes.

15 MR. NARVER: Exhibit No. 219. City offers 219.

16 MR. WEBB: No objection.

17 THE COURT: Admitted.

18 (Exhibit No. 219 admitted.)

19 BY MR. NARVER:

20 Q 219 is a series of photographs. I'm only asking about a
21 few of them. Could you look at two photos on your screen
22 which both from Exhibit No. 219 and tell me what we're
23 looking at.

24 A This is a unveiling a grand opening of the Rashard Lewis
25 Theater at the Ronald McDonald House in Seattle.

1 Q What's the Ronald McDonald House?

2 A A house where families whose children are receiving
3 treatment at Children's Hospital can stay close. You know
4 all the amenities are there for the families.

5 Q What is the Rashard Lewis Theater? What is that about?

6 A I don't know the year. But Ronald McDonald House was
7 building a new Ronald McDonald House. I had meetings with
8 them regularly. One of the ideas that came up was from
9 Ronald McDonald House was that they had the space down below
10 in the basement area. They wanted to do something down
11 there.

12 I went to Rashard and I asked him, he's connected with the
13 Ronald McDonald House, do you have any ideas about what can
14 we do? He said let's do a home entertainment theater. It's
15 a home entertainment theater.

16 Q Were you at this event when it was opened?

17 A Yes.

18 Q How many kids and families there for that event?

19 A About 50. 50 parents, children.

20 Q It looks like Ronald McDonald himself was there as well?

21 A And woman in -- yeah. You got the big guy.

22 And the one in yellow, that is Rashard's mom, Juani ta.

23 Q What are we looking at here?

24 A This is a giving tree, we came up with. It's what we did
25 -- we partnered with a nonprofit. In this case it was the

1 Salvation Army. And we hung ornaments on the tree, with each
2 child's wish. And fans of the Sonics would come in, take an
3 ornament of the tree, go shopping in the mall, and come back.
4 That is Ray Allen on the left. He would autograph whatever
5 the fan wanted in exchange for the gift.

6 Q What about this far right that is Rashard Lewis?

7 A Yes.

8 Q What are we looking at here?

9 A This was called Truckloads of Love. And basically what it
10 is an idea where we would fill up the back of his pickup
11 trucks with food for Northwest Harvest. So the idea was fans
12 would come in, drop off bags of food for Northwest Harvest.
13 In exchange, Rashard would autograph whatever they wanted.

14 Q The photos we've looked at are activities that went
15 through their foundation, the Rashard Lewis and Ray Allen
16 foundations?

17 A Correct.

18 Q Ray Allen and Rashard Lewis are not playing for Sonics any
19 more?

20 A No.

21 Q Yesterday, Mr. Barth from the Sonics, was he on the stand,
22 he said he believed those foundations are still active in
23 Seattle; is that correct?

24 A No, they're not.

25 Q I will ask you one last thing. I think, as you know from

1 this lawsuit, what the City is in court asking for -- is for
2 the Sonics to play two more years at KeyArena.

3 You understand that is what we're doing here?

4 A Yes.

5 Q How many players on an NBA roster?

6 A 13.

7 Q Each one has a certain amount of appearances they're
8 required to make every year?

9 A Yes.

10 Q Some choose to make more from your years of experience; is
11 that right?

12 A Yes.

13 Q Some of these are going to be -- some appearances of the
14 time you mentioned before season ticket holders and things.
15 But others are community centers, clinics, schools?

16 A Yes.

17 Q Players go and talk about, as we looked at these
18 documents, reading, nutrition, don't take drugs, things like
19 that?

20 A Yes.

21 Q I believe you testified a number of kids at these things
22 ranges. Sometimes it's a couple dozen, sometimes we're
23 talking hundreds?

24 A Yes.

25 Q You've personally been to hundreds of those events over

1 the years, right?

2 A Hundreds, yes.

3 Q Based on your personal experience what you've observed
4 there, do you think it's going to make any difference to
5 those kids getting a visit if the player who is on a
6 lame-duck basketball team?

7 MR. NARVER: Based on his personal experience as well
8 as Rule 701.

9 THE COURT: Sustained.

10 MR. NARVER: Nothing further.

11 MR. WEBB: For the record, Jim Webb from McAfee &
12 Taft in Oklahoma City on behalf of PBC.

13 BY MR. WEBB:

14 Q Good morning.

15 A Good morning.

16 Q You make charity your business, don't you?

17 A Yes.

18 Q And you take great pride in the charitable enterprises
19 you've been involved in over the years, don't you?

20 A Yes.

21 Q And involving NBA players?

22 A NBA football, yes.

23 Q NFL players?

24 A Yes.

25 Q Major League players?

1 A Not so much baseball.

2 Q As I understand your business, athletes come to you, maybe
3 with an idea of somehow they might want to give back to the
4 community; is that right?

5 A Yes.

6 Q And then you figure out ways to make that happen, correct?

7 A Yes.

8 Q But you don't help for free, do you?

9 A No.

10 Q You charge your clients, don't you?

11 A Yes.

12 Q You have various charges depending on the particular
13 athlete, correct?

14 A Yes.

15 Q And the particular event, correct?

16 A It's a flat fee.

17 Q But it's how you make your living, isn't it?

18 A Yes.

19 Q And you've been making your living doing that since the
20 time you worked for the Sonics, right?

21 A After the Sonics, yeah.

22 Q You left the Sonics as part of a reduction in force in
23 2003, didn't you?

24 A Yes.

25 Q They eliminated your position, didn't they?

1 A Yes.

2 Q You worked under -- strike that.

3 You never worked for my client, did you?

4 A No.

5 Q You worked for the Schultz group, correct?

6 A Yes.

7 Q That's the group that laid you off, right?

8 A And Ackerley, yeah.

9 Q Well, the Schultz group is the one that laid you off
10 though, right?

11 A Yes.

12 Q You also worked for the Ackerley group before the Schul tz
13 group, correct?

14 A Yes.

15 Q I want to look at some documents I was looking at a moment
16 ago with counsel for the City. As I understand, this is a
17 compilation of documents you held on to since your time with
18 the Sonics, correct?

19 A Yes.

20 Q And when the City asked you for them you gave them this
21 compilation of documents, correct?

22 A Yes.

23 Q And counsel for the City is asking a few questions about
24 it. I want to look at the second page. These aren't
25 numbered. So I'm not sure how -- second page, top it says

1 Douglas Young?

2 A Uh-huh (affirmative).

3 Q Do you see that?

4 A Yes.

5 Q That's from 2002, correct?

6 A Yes.

7 Q The document he showed you, the Boys & Girls Club letter,
8 that was from 2001, wasn't it?

9 A Yes.

10 Q The next one is Hilltop Elementary School Husky letter.
11 That was from around about the time of September of 2001,
12 correct?

13 A Yeah, that sounds about right.

14 Q Then finally the last document in that compilation was
15 from December 23, 2002, correct? That's the Children's
16 Hospital Letter letter?

17 A Yes.

18 Q So these are all letters going back to your work at the
19 Sonics, correct?

20 A Correct.

21 Q Under prior ownership, correct?

22 A Correct.

23 Q You were laid off by prior ownership three years before my
24 client bought the team, weren't you?

25 A I guess -- I don't know when he bought the team. But yes.

1 Q If I tell you that the evidence is that my client bought
2 the team in 2006, would you have any reason to dispute that?

3 A No.

4 Q You had been gone from the team for three years by then,
5 correct?

6 A Yes.

7 Q Since that time you've been focusing your efforts not on
8 working for a team as an employee, but working with
9 individual athletes, correct?

10 A Yes.

11 Q And you found that you liked that better don't you?

12 A Better? I don't know. I liked my work with the Sonics.
13 I enjoyed it.

14 Q Do you not like your work with individual players?

15 A I like that too.

16 Q Gives you more flexibility, working for individuals,
17 doesn't it?

18 A I guess, yeah.

19 Q You're not answering to anybody; you get to be the man
20 that runs the show, right?

21 A Yeah. Work out of my home.

22 Q As your business operates, part of the way to keep that
23 operating is to get new clients, right?

24 A Try to, yeah.

25 Q I don't know the answer to this question. I have never

1 met you until just you now.

2 Is it easier for you in your experience to get players
3 that are playing in town, or are you able to get players from
4 all over the place?

5 A Well, I mean I have players that live in Seattle that play
6 outside the city, you know, in other NBA venues or other NBA
7 cities. I also have an athlete that doesn't live in the city
8 and lives in Los Angeles.

9 Q What's his or her name?

10 A Vladimir Radmanovich.

11 Q NBA player for the Lakers?

12 A Yes.

13 Q No connection with Seattle?

14 A He played for the Sonics.

15 Q No connection currently with Seattle, correct?

16 A No.

17 Q And you represent Jamal Crawford?

18 A Yes.

19 Q Player for the Nix?

20 A Yes.

21 Q As a matter of fact, you put on an event this past
22 Saturday involving Mr. Crawford, didn't you?

23 A Yes.

24 Q What was that event?

25 A High-Tops and Helping Hands.

1 Q Mr. Crawford, a New York Nix player, came into town for
2 that?

3 A He lives here.

4 Q He was at that event?

5 A Yes.

6 Q And also at that event were two players from the Portland
7 Trailblazers, correct?

8 A No.

9 Q Brandon Roy didn't come?

10 A He did not.

11 Q He was planned to come, but he didn't make it?

12 A Yeah.

13 Q And how about Martell Webster, did Mr. Webster make it to
14 the event?

15 A Did not come, no.

16 Q Did Spencer Hawes from the Sacramento Kings make it?

17 A Yes.

18 Q You had at least planned for players from other teams to
19 come in for this event here in Seattle, correct?

20 A Yes.

21 Q You've been described in some very nice press reports I
22 have seen about you as a charitable bulldog.

23 Would you agree with that assessment?

24 A I look more like a bulldog.

25 Q Your words not mine.

1 A Yes -- I don't know what a bulldog is.

2 Q You have been described by your clients as relentless,
3 though, haven't you?

4 A I work hard for my clients.

5 Q Would you agree with that characterization that you're
6 relentless at what you do?

7 A Sure, yeah.

8 Q You're tenacious at what you do, correct?

9 A Absolutely.

10 Q You may not remember the specific time. But you were
11 aware my client purchased the Sonics, correct?

12 A Yes.

13 Q And you were aware that whether through radio coverage, TV
14 coverage, newspaper, whatever, you were aware generally that
15 they were making an effort in Olympia to get something done
16 regarding a new arena for the Sonics, weren't you?

17 A Yes.

18 Q And so I'm assuming that you took that relentless,
19 tenacious nature you have and you did everything you could,
20 make phone calls, you did anything you could to lobby and
21 make that effort successful, right?

22 A Me, personally?

23 Q Yes.

24 A No.

25 Q Even though you put great value in the team being here and

1 the charitable activities they bring to the community,
2 correct?

3 A I think they're a valuable commodity.

4 Q You didn't do anything that might have saved the team for
5 this community, did you, as far as lobbying in Olympia?

6 A No, I didn't go down to Olympia, no.

7 MR. WEBB: That's all I have.

8 THE COURT: Any redirect?

9 MR. NARVER: No.

10 THE COURT: Thank you, sir. You may step down. Next
11 witness, please?

12 MR. LAWRENCE: Your Honor, for our final witness, so
13 to speak, I understand and appreciate you reading Aubrey
14 McClendon's deposition. There are five minutes of video that
15 we would like to play from that deposition.

16 THE COURT: Why don't you give my tape and I will
17 watch it elsewhere.

18 MR. LAWRENCE: We would be happy to do that.

19 MR. KELLER: Excuse me, we had covered this in
20 pretrial. Now that some video is going to be reviewed by the
21 Court, could we have the opportunity to help
22 counter-designate that?

23 THE COURT: Certainly. I haven't watched any video
24 yet. Is it the same clip off the deposition?

25 MR. LAWRENCE: I'm sorry. There are three clips

1 included in the designations that you read last night -- to
2 observe his demeanor in deposition.

3 THE COURT: I have read the words.

4 MR. LAWRENCE: Right. We would be happy to submit
5 the video to watch at your convenience.

6 THE COURT: Mr. Keller, you'll get a chance if you
7 want me to watch certain other portions.

8 MR. LAWRENCE: This a question for Your Honor. We
9 submitted to Your Honor the deposition designations in
10 support of our case.

11 Do we need to publish and formally have the Court accept
12 that? If so we would do that now.

13 THE COURT: You've given me each deposition? We'll
14 make them part of record. We've already marked them for
15 those objections I have sustained or overruled.

16 MR. LAWRENCE: In addition to that, I think there may
17 be some additional ones with respect to their designations,
18 but there have been certain exhibits that are associated with
19 that. And I assume that Your Honor will rule on those with
20 respect to the objections that are filed with that? Do you
21 want us to move those now? I'm trying to get what Your Honor
22 would like us to do.

23 THE COURT: I'm sorry, I'm not understanding which
24 documents you're talking about.

25 MR. LAWRENCE: With respect to -- with respect to the

1 deposition segments that you have read, as you have commented
2 on, there are references in those segments to documents that
3 are trial exhibits that should be formally accepted or
4 rejected based on an objection.

5 So again I'm just asking Your Honor how she would like to
6 proceed. Should we submit the numbers to you and with any
7 objections and let you rule on them in that context in which
8 case that is fine.

9 (Cell phone rings.)

10 THE COURT: Sir, you need to remove yourself.

11 MR. LAWRENCE: I am just asking the procedure you
12 would like to do. We have a list of the documents with the
13 objections that were on the pretrial order and you can just
14 look at them and rule.

15 THE COURT: I'm trying to understand which documents
16 you're talking about. In the depositions you gave me there
17 were no documents included. I have since gotten another book
18 that has documents. But I did not recall that any of the
19 objections that were highlighted to be preserved in the
20 depositions referenced in of the documents. So I did not
21 rule on any objections except the ones that you outlined for
22 me. And I don't recall that any of them went to documents.

23 MR. LAWRENCE: Then again, the issue is then those
24 documents just need to be reflected of record as having been
25 admitted with this case. In other words, we gave you -- as

1 Your Honor will remember, you asked for the documents
2 referenced in the depositions. We provided that subsequently
3 to you. Those are trial exhibits, and we would ask that
4 those be admitted into this case in the same way that Your
5 Honor has reviewed the depositions.

6 THE COURT: Well, then, Counsel, what I suggest that
7 you do is review those with opposing counsel. Because in the
8 deposition there are different numbers than what we have
9 here. I don't have any way of cross-referencing them.

10 MR. LAWRENCE: I believe that we provided a list to
11 Your Honor that references the particular exhibit to the
12 particular deposition and the lines within the deposition
13 that did not get to you. We did submit that I believe to the
14 Court. They're essentially --

15 THE COURT: Well, you may have, but I haven't
16 reviewed that. In other words, last night I reviewed Aubrey
17 McClendon's deposition and the e-mails and the exhibits that
18 were part of his deposition. I did not go back to the other
19 depositions and review. If that's something you want me to
20 do we'll take a look.

21 But let's see if there is any objections. Are you trying
22 to bring in new numbers into the case? Or do you simply want
23 them to be filed as part of the deposition testimony.

24 MR. LAWRENCE: They are filed as part of deposition
25 testimony which I understand will be part of the official

1 record of this court. In order to keep clarity, we believe
2 that the documents referenced should be referenced by their
3 trial exhibit number rather than their deposition exhibit
4 number.

5 So, for example, you know, in the deposition of McClendon
6 there were several exhibits -- deposition Exhibit No. 21 is
7 our Exhibit No. 248. We believe there ought to be formal
8 entry of the exhibits with their trial exhibit number as
9 opposed to deposition exhibits. We are happy to proceed to
10 provide that in whatever form. I would suggest we provide a
11 list and make sure if they have any objections, that those
12 are reflected on the list, and then Your Honor can rule on
13 their admissibility in that format, unless you would like it
14 in another format.

15 THE COURT: How about if you talk with the defense
16 and see if there is any objections to those exhibits that you
17 wish to -- that have been referenced in the deposition. And
18 then I don't think you really want to take your time to do
19 that.

20 MR. LAWRENCE: No. I would prefer to do the list.
21 With that understanding, then the City would rest.

22 THE COURT: City has rested.

23 MR. LAWRENCE: Actually, I'm sorry. I apologize.

24 Can I move admission of certain exhibits at this point
25 that were not introduced in evidence by a witness? I

1 apologize.

2 MR. KELLER: How long is this list? I'm going to
3 have to respond -- I need an opportunity to look at it.

4 MR. LAWRENCE: I just gave him the list. We can take
5 it up after he's had an opportunity to review it.

6 THE COURT: Look at the list and see if -- has it
7 been referenced? Is there a reason for me to know about this
8 and how am I to put it in context?

9 MR. LAWRENCE: These are exhibits that we think are
10 self-evident, or in one case there is, like, requests for
11 admissions and the answers to those. So these are all
12 exhibits that we believe do not need individual testimony for
13 Your Honor to understand in the context of this case.

14 THE COURT: All right.

15 MR. LAWRENCE: With that we rest.

16 THE COURT: The City has rested.

17 MR. KELLER: With respect to the list, would it be
18 acceptable for me to give -- if I need to give you a position
19 individually after the noon hour so I can look at it?

20 THE COURT: That's fine. We can take them at the end
21 of the day. You look at them. Take your time.

22 Let's use our time for testimony.

23 MR. KELLER: We call Mr. Humphreys.

24 BRAD R. HUMPHREYS

25 The witness, after being duly sworn, testified as follows:

1 THE CLERK: Please state your name and spell your
2 last name for the record.

3 THE WITNESS: Brad Runyon Humphreys, B-R-A-D
4 H-U-M-P-H-R-E-Y-S.

5 DIRECT EXAMINATION

6 BY MR. TAYLOR:

7 Q Good morning, Mr. Humphreys.

8 Do you have some opinions about the economic impact of
9 sports franchises on cities?

10 A Yes, sir, I do.

11 Q Before I get to those, I want to know a little bit about
12 your background.

13 What do you do for a living?

14 A I'm an associate professor with tenure of economics. I
15 hold a chair in the Economics of Gaming at the University of
16 Alberta Department of Economics in Edmonton, Alberta.

17 Q How long have you been at the University of Alberta?

18 A One year.

19 Q Were you before that?

20 A Immediately before I was in Alberta, I was an Associate
21 Professor in the Department of Recreations Sport and Tourism
22 at the University of Illinois Urbana-Champaign. I was there
23 for three years, and I was a tenured professor there. And
24 before that, I spent about 13 years as an assistant and
25 Associate Professor with tenure at the University of Maryland

1 Baltimore County, where I was in the economics department.

2 Q Do you have any advanced schooling in economics?

3 A Yes, I do. I hold a Ph.D. and Master's Degree in
4 Economics from the Johns Hopkins University in Baltimore;
5 Bachelor's Degree in Economics from West Virginia University;
6 and I hold a Bachelor's in Business Administration from West
7 Virginia University as well.

8 Q Have you ever studied the economic impact of the presence
9 or for that matter the departure of a pro sports team on a
10 city?

11 A I have spent the better part of the last ten years doing
12 economic research on exactly that question -- the question of
13 what is the economic impact of professional sports franchises
14 and facilities on urban economies in the United States.

15 Q Approximately, how many cities have you studied in this
16 regard?

17 A I have studied the economic performance of every city in
18 the United States that had either a professional football,
19 basketball, or baseball franchise over the period 1969 to
20 late 1990s. So that is 39 U.S. cities.

21 Q And have you ever studied specifically the economic impact
22 of the departure of a pro sports franchise on a city?

23 A Yes, I have. In trying to assess what the overall
24 economic impact of professional sports are, I tried to
25 measure or capture all the different types of events that --

1 Q Before we get to that, can you tell us -- do some of the
2 teams you have studied their departures, the impact of their
3 departure?

4 A Every professional sports team that left any U.S. city
5 over the last 40 years roughly. So I think there is about 19
6 different sports franchises in the NFL, NBA and major league
7 baseball who have left cities over that period.

8 Q You studied the impact of basketball teams?

9 A Yes. NBA franchises that departed cities in my data.

10 Q Baseball teams?

11 A Yes.

12 Q Football teams?

13 A Yes.

14 Q East Coast, West Coast?

15 A Every city in the United States.

16 Q Not every city but --

17 A Every city that had a team.

18 Q How do you study the economic impact of a sports team,
19 either presence or departure?

20 A Economic theory tells us about the determination of how
21 economic indicators work in the local economy. So
22 performance metropolitan economies. And we know there are --

23 Q Stop right there.

24 You said economic indicators. What do you mean?

25 A Income per capita, measure of the amount of income that

1 everybody on average earns that lives in the city, and also
2 employment and earnings in specific sectors of the economy.
3 So, say, the service sector or people that work in hotels and
4 bars and restaurants and things like that, earnings and
5 number of people employed in those areas. That would be
6 economic indicators that I'm talking about. Generally
7 accepted measures of economic performance in an urban
8 economy.

9 Q Where do you get the data for these economic indicators?

10 A The U.S. government collects and disseminates this data.
11 Department of Commerce. They're called regional economic
12 accounts. And U.S. the government basically collects these
13 metropolitan-area-specific data for every city in the United
14 States and makes those available to researchers. And I use
15 those data. It's a standard data source.

16 Q You come up with this data, the economic indicators for a
17 given town. What do you do with it?

18 A We know from economic theory that factors that affect
19 economic performance of the cities, like the population of
20 the city, the composition of various industries in the city,
21 lots of unobservable factors that we know affect cities'
22 economy. Business cycle. All these things that affect
23 global economic performance are also measurable.

24 So statistically in my research, I control for all those
25 other factors the economic theory tells us about -- tells us

1 will affect local economic performance. And then also the
2 sports environment in these cities are changing; teams are
3 leaving, teams are getting up -- cities are getting new
4 teams, new facilities are being built. So that is varying
5 both within individual cities and across cities.

6 For example, in Seattle the Pilots left in 1969. That is
7 some variation in the sports that are available in that city.
8 And I can exploit in my research statistically that sort of
9 variation to understand the relationship between all sorts of
10 sports-related events, like building --

11 Q Let me stop you there.

12 What you try and do is isolate out the other variables so
13 that you're focused just on impact of the sports team?

14 A Exactly. We want to make sure we control for other
15 economic factors that affect economic performance.

16 Q How do you control for those other factors?

17 A Statistically. We develop -- economists have developed a
18 number of econometric models that statistically allow us to
19 hold some of these things constant --

20 Q Hold on. We are not in graduate school.

21 Econometric model. What is that?

22 A Econometric model is a tool that economists use when they
23 want to take economic theories and apply to economic data to
24 test to see whether those theories work or not. So it's a
25 statistical model.

1 Q And for a given city that you're going to study, how long
2 does it take to assemble the data, work through the model,
3 and come to a conclusion?

4 A It takes a considerable amount of time.

5 Q Ballpark?

6 A Thousands of hours. You have to collect a lot of data
7 city-specific data on franchise moves and stadium
8 construction and things like that, and also collect these
9 additional data on economic performance. I would estimate
10 perhaps thousands of hours over the last ten years doing this
11 for research.

12 Q Have you had any articles published?

13 A Yes. I published personally over 30 articles in
14 peer-review journals.

15 Q Just on sports?

16 A I have other areas of research. But a significant portion
17 of them have been on the economic impact of professional
18 sports franchises. I guess maybe in the neighborhood of ten.

19 Q Peer-reviewed academic -- what does that mean?

20 A Peer-reviewed process is central to science moving forward
21 and disciplines like economics. And the idea is that I write
22 a paper, and I send it off to a journal. And that journal
23 sends it to other recognized experts in the field of
24 economics and economics of sports and asks them to read the
25 paper and assess whether or not the paper -- results in the

1 paper are correct, and that this has been carried out in the
2 correct way. I don't know who those people are. It's all
3 blind to me.

4 But the journal makes an assessment based on those reports
5 about whether it's right or not and if the other outside
6 experts have read it and thought that it's right, then they
7 publish it. And if they have concluded that there are
8 problems with the paper it will be rejected and you'll have
9 to go and make changes to it or maybe it will never be
10 published. I don't know. That's the way peer-review process
11 works.

12 Q Well, based on your work over the years and your studies
13 of various towns, have you reached any conclusions about
14 whether the departure of a pro sports franchises has any
15 economic impact on a city?

16 A Yes. I have reached a conclusion on that.

17 Q Tell us about that.

18 What did you conclude?

19 A I concluded that the departure of a professional sports
20 franchise from a city will have no detectible economic impact
21 on the economy in that city.

22 Q Wait a second. Sonics have a payroll of \$60-odd million.
23 That payroll the will go to Oklahoma City.

24 Won't there be a \$60 million hole in the economy?

25 A Well, it's important to recognize the difference between

1 economic activity that the Sonics generate. The Sonics
2 clearly generate economic activity. You can't go outside
3 KeyArena on game night and not conclude that Sonics are
4 generating economic activity.

5 But the question is, do the Sonics generate new economic
6 activity in the Seattle economy? And the answer is, no, they
7 don't. The Sonics are an entertainment business like many,
8 many other entertainment businesses in the Seattle area. And
9 so consumers spend their entertainment dollars on whatever
10 entertainment options they have that makes them happy.

11 And for Sonics fans that is spending it on the Sonics.
12 But when the team leaves, they don't take that consumer
13 spending with them. That spending remains in the local
14 economy. It simply gets spent on other entertainment
15 activities by whatever those consumers want to spend it on
16 all over the metropolitan area.

17 Q Stop. Stop right there.

18 We heard testimony this morning that people won't spend
19 their Sonics dollars -- we will call them -- elsewhere.

20 Have you taken a look at the academic literature on that
21 subject?

22 A Well, there is none. But you could say that I looked -- I
23 have looked in the past for such evidence. But there is no
24 peer-reviewed evidence that suggests that anything like that
25 will happen that I'm aware of in the economic literature.

1 Q You mean that they won't stop spending?

2 A Right.

3 Q What does the literature say?

4 A Literature says that they just go out and spend their
5 entertainment dollars on other activities.

6 Q Is that just Brad Humphreys or do most economists think
7 that or what?

8 A That's the consensus of a large number of economists who
9 have been doing research in this area for the past 30 years.

10 Q All right. Let's me ask you a question.

11 We still got \$60 million in payroll that is leaving. But
12 if I understand this, the money that is spent elsewhere goes
13 into those different companies -- be it the movie theater or
14 Mariners or what have you, and that causes them to increase
15 their spending?

16 A That's right. Well, it allows them to pay the salaries of
17 employees just like the Sonics do. Now they might not be as
18 high-earning employees as the employees of the Sonics, but
19 there are more of them and they are still getting paid. So
20 it's just a redirection -- spending -- the pay goes into
21 different pockets that still circulates in the local economy.

22 Q In all the cities where you studied this, did you find any
23 place where this wasn't the result?

24 A No.

25 Q Your analysis of this -- again, is this an opinion just of

1 Brad Humphreys, or are your views shared by others who have
2 studied the issue?

3 A I would argue there is an unusual amount of consensus
4 among economists on this particular issue. It's by far the
5 consensus of all the scholarly research publishing
6 peer-reviewed journals that there will be no economic impact
7 of a franchise -- professional sports franchise departure in
8 a local economy.

9 Q When you say it's an unusual consensus among economists,
10 what does that mean?

11 A Well, I think that economists typically have a -- the
12 general public has the perception that economists can't agree
13 on very much at all. Ask two different economists their
14 opinion on some issue, and you'll get three different answers
15 to that.

16 But in this case it's pretty clear, and there is a pretty
17 strong consensus among the academic researchers that work in
18 this area about this lack of economic impact from a departure
19 of a pro sports franchise.

20 Q Is there any peer-reviewed descending literature that
21 says, no, there is an impact?

22 A Not that I'm aware of. You'll find a few papers that
23 might claim economic impact of the presence of a franchise,
24 but not in economics journals.

25 Q Papers, you mean something that didn't make the

1 peer-review process, didn't make the cut?

2 A That's right.

3 Q Did you take a look at Seattle to see if there might be
4 something unique about the Seattle economy that would take it
5 out of the other 39?

6 A Yes. Certainly, I did. Because in my research I focused
7 on the behavior and economic performance of all these 39 U.S.
8 cities that had professional sports teams. It's important to
9 make sure that Seattle is not in some way unique, which would
10 make the results that apply to all cities on average not
11 apply to Seattle.

12 But I looked at the characteristics of economic
13 performance in Seattle that I used in my research compared to
14 that economic performance. For example, the level of income
15 per capita, the population of Seattle compared to other
16 economies, and concluded that Seattle in a typical sense
17 looks pretty much like all the other cities in the United
18 States that have professional sports team. It's not
19 exceptional in any way I can find. So I believe that -- in
20 other words, it applies to all cities in general; should
21 certainly apply to Seattle.

22 Q What does that mean?

23 Is the departure of the Sonics going to have an economic
24 impact in Seattle or will it just redistribute the spending?

25 A It won't have a net impact I don't believe on Seattle's

1 economy. It will redistribute spending throughout the
2 Seattle area. That's clear. But the overall impact will be
3 none whatsoever.

4 Q Let me ask you a question.

5 You say "redistribute spending". You've got restaurants
6 around KeyArena that on game night they may have a surge in
7 customers.

8 What's going to happen to that money?

9 A It will be spent somewhere else in Seattle by the same
10 consumers. They won't go to KeyArena, they won't go to the
11 game, but they will still have in their entertainment budget
12 to go out and get dinner or do entertainment activity.
13 They'll spend it on some other alternative entertainment
14 activity. I don't know where it will be. It's difficult to
15 determine precisely where in the metropolitan area. It will
16 be somewhere. That's entirely consistent with the results in
17 modern research and all other published research in this.

18 Q Slow down. Our court reporter is having a trouble.

19 A You should pity my students that have to listen to me
20 speak at this pace.

21 Q No comment.

22 You said the metropolitan area.

23 Did you look at just Seattle or did you look at some
24 broader section?

25 A I looked at the Seattle metropolitan area, and not just

1 the confines of the City of Seattle. And that's because I
2 need -- I think that's the most accurate and appropriate way
3 to look at this question.

4 Q Why is that?

5 A Well, it's because economic activity doesn't fall nicely
6 within the political boundaries we have set up in cities. So
7 people don't spend all their money where they vote, and they
8 spend their money all over the metropolitan area.

9 So to simply focus on nothing but the City of Seattle
10 would not be very accurate. And there are all sorts of
11 transactions -- people from outside the city are coming into
12 the city, people from inside who live in the city are going
13 outside the city to spend money. These transactions take
14 place elsewhere spatially and temporally throughout the city.

15 And -- I think the professionally the appropriate way to
16 look at it is to take the entire Seattle economy,
17 metropolitan statistical area as a unit of analysis and not
18 draw these --

19 Q Slow down.

20 "Metropolitan statistical area". Did you define that or
21 did somebody else?

22 A Federal government defines it. It's a standard definition
23 of "metropolitan area".

24 Q I want to change gears on you.

25 We heard this morning about the RIMS II model and using

1 multipliers to calculate economic impact.

2 Have you ever taken a look at those?

3 A Yes, I have. In fact, the reason I started on this
4 research agenda to try to understand the economic impact of
5 professional sports franchises and facilities was spurred on
6 just by such an economic impact study, using these regional
7 input/output multipliers.

8 When I lived in Baltimore, I saw the economic impact study
9 that was generated for the Browns --

10 MR. LAWRENCE: I'm going to object. This was not
11 disclosed in his expert report. This is a new opinion that
12 we've not heard before about the Browns --

13 MR. TAYLOR: The first page of his expert report.
14 I'm sorry, second page, Your Honor.

15 MR. LAWRENCE: I would be happy to have you see the
16 report. Second page talks about generically economic impact
17 study. It says nothing about any specific study. And I did
18 not know he was going to testify about any specific study. I
19 didn't have an opportunity to ask him a question about
20 anything specific. It's a generic issue.

21 And I didn't object when he was talking generically. Now
22 it's going to a specific study which was not disclosed in his
23 expert report. I think it's beyond the scope of his expert
24 report. He's classified generically about economic impact
25 studies going to something that is not identified in the

1 report. That should have been identified in his report.

2 THE COURT: Mr. Taylor, the RIMS II model you're
3 talking about, is that an economic study?

4 MR. TAYLOR: Yes. Economic impact study.

5 THE COURT: Objection overruled.

6 Ask your question.

7

8 BY MR. TAYLOR:

9 Q You were talking about something you did ten years ago
10 that got you to take a look at the RIMS study.

11 Can you tell us about that?

12 A I have read dozens of these economic impact studies over
13 the course of my academic career. And the regional
14 input/output models, that's the workhorse of these economic
15 impact studies.

16 And it was my opinion that they vastly overstate the net
17 economic impact of professional sports on a local economy.

18 They're forecasts. And --

19 Q Let me ask you a question.

20 You used the word "net economic impact".

21 Are these measuring net economic impact or gross economic
22 impact?

23 A Well, they're typically not very careful about what it is
24 they're measuring in these things. They use other words like
25 total economic impact or something --

1 Q Slow down.

2 Have you testified many times in court?

3 A Very few.

4 Q Just take it easy.

5 A So --

6 Q Let me ask you, what's the difference between gross
7 economic impact and net?

8 A Gross economic impact would be the total amount of
9 spending which would be associated with something.

10 Q So when we see the Sonics' payroll is \$60 million, but it
11 multiplies through the economy, that's the gross effect?

12 A That's right.

13 Q What is net?

14 A That's the new economic activity that is associated with
15 that.

16 Q Do these RIMS studies typically measure gross or net
17 economic impact?

18 A Well, it depends on the way the studies are set up. But
19 it's really hard to get at the numbers that would allow you,
20 the RIMS model, to identify the net.

21 What most people do who perform these studies is to
22 estimate the net. You take the total amount of revenues
23 generated by the Sonics, and you feed that into a regional
24 input-output model and you arrive at the gross economic
25 impact number. But it's just the amount of money that is

1 being spent in the local economy that can be attributed to
2 the Sonics. It's not new economic impact. You have to
3 figure out exactly how many people came into Seattle from
4 outside Seattle to get to that.

5 Q Let me ask you another question.

6 Among trained economists, is there a view one way or the
7 other about the reliability of these RIMS studies?

8 A I will say this: RIMS studies are never published in
9 peer-reviewed economics journals.

10 Q They never make the cut?

11 A No, they don't make the cut.

12 Q Why not?

13 A Because the methodology is flawed, is the consensus among
14 research economists. They're not -- they wouldn't be able to
15 get through the cut to make peer-reviewed journals because of
16 these methodological problems, which are well recognized. I
17 mean there are papers about the methodological problems in
18 regional input/output models. They're very, very seldom
19 published in peer-reviewed journals.

20 Q Thank you. On cross-examination slow down.

21 THE COURT: Mr. Lawrence?

22 CROSS-EXAMINATION

23

24 BY MR. LAWRENCE:

25 Q Good morning, Professor Humphreys.

1 I was counting; I think you used the term "city" ten
2 times; "town" was used by Mr. Taylor a couple of times.

3 But you don't study cities or towns; is that right?

4 A That's right. I study metropolitan statistical areas.

5 Q So when Mr. Taylor asked you about all the studies you've
6 done of cities, the answer should have been zero, correct?

7 A No, that's not correct. Because in some cases the
8 metropolitan statistical area is identical to the city.

9 Q Can you name one where you've done that?

10 A Not off the top of my head, no.

11 Q As you sit here today, knowing what you know and what you
12 just said, the correct answer when Mr. Taylor asked you how
13 many cities you've evaluated, you should have said none that
14 I recall?

15 Is that yes? Is that answer: That's correct, sir?

16 A Yes, that's correct.

17 Q How many towns have you studied?

18 A I don't know the difference between a city and a town is.

19 Q So the same answer. Whenever he mentioned the word
20 "town", you should have said, sir, I don't study towns that I
21 recall, correct?

22 A Correct.

23 Q So what you instead study are metropolitan statistical
24 areas, correct?

25 A That's correct.

1 Q So let's get a sense of what that is with respect to your
2 quote study about Seattle, right?

3 A Correct.

4 Q Mr. Taylor asked you whether you did a study about the
5 impact on Seattle.

6 You did no study about the impact on the City of Seattle,
7 did you?

8 A No, I didn't.

9 Q So when you use the word Seattle, you are talking about
10 the Seattle metropolitan -- what is it? Metropolitan
11 statistical area?

12 A Correct.

13 Q And you define that in your paper, and that's defined
14 "King County"; yes?

15 A Yes.

16 Q Plus Snohomish County?

17 A Yes.

18 Q Plus Pierce County?

19 A Yes.

20 Q So it includes Tacoma, Seattle, Bellevue, Everett, and
21 every town within that three-county region, correct?

22 A Yes.

23 Q Seattle is just a part of that region, correct?

24 A Correct. King County.

25 Q Seattle is not the entire King County. Or do you think it

1 is?

2 A No.

3 Q Do you know statistically what percentage of that area
4 Seattle represents?

5 A No.

6 Q I would like you to look at Exhibit No. 338, please.

7 A Okay.

8 Q Exhibit No. 338 shows on the right the total population
9 for the Seattle metropolitan statistical area.

10 Do you see that?

11 A Yes.

12 Q That's Snohomish, King, and Pierce County. The total is
13 3,263,497.

14 Do you see that?

15 A Yes.

16 Q It also shows the City of Seattle population?

17 A Yes.

18 Q That population is 582,454, correct?

19 A Correct.

20 Q That's less than 20 percent of the total population of the
21 area that you've called Seattle, correct?

22 A Federal government calls it Seattle.

23 Q For the purpose of your testimony, I want to understand
24 what is and not at issue.

25 In terms of what you studied, this metropolitan

1 statistical area, the City of Seattle is less than 20 percent
2 of that area, correct?

3 A If you say so, yes.

4 THE COURT: We need to find a place to stop. We will
5 be back at 1:30. Thank you, sir. You may step down. We'll
6 be at recess.

7

8 (Lunch recess taken.)

9 THE COURT: Are we ready to begin?

10 MR. LAWRENCE: We are, your Honor.

11 THE COURT: Go ahead, Mr. Lawrence.

12 By Mr. Lawrence:

13 Q At the break we were clarifying that what you had studied
14 is not cities but metropolitan statistical areas; is that
15 right?

16 A Yes.

17 Q And, in fact, you told Mr. Taylor that in your report,
18 didn't you?

19 A Yes.

20 Q In fact, you said the research that you relied upon was
21 the peer-reviewed academic journals that had examined the
22 economic impact of the departure of a professional sports
23 franchise from a US metropolitan area, correct?

24 A Correct.

25 Q And that what have you done is you have done a historical

1 data drawn from the past economic performance of every US
2 metropolitan area, correct?

3 A Correct.

4 Q So can you use that term to reflect what research you have
5 done and relied upon?

6 A Yes.

7 Q Now, in terms of the research in this area, it is well
8 known in the literature, is it not, that the smaller
9 geographic area that you choose to look at the easier it is
10 to find economic benefits, correct?

11 A In which literature are you referring to?

12 Q Could we have your deposition published, please?

13 Referring you to Page 16.

14 A Yes.

15 Q Starting on Line 22, you were asked. "I believe you said
16 that it's well known in the literature that the smaller the
17 geographic area of interest you choose the easier it is to
18 find economic benefits?" And if you turn the page you say,
19 "yes."

20 A Yes.

21 Q That is accurate?

22 A That is accurate, yes.

23 Q So, for example, you acknowledge that there are
24 significant economic benefits in the area immediately around
25 KeyArena from the presence of Sonics games, correct?

1 A That's correct.

2 Q And you also know that the City of Seattle as an area is
3 smaller than the Seattle MSA, correct?

4 A That's correct.

5 Q It is less than 20 percent of the population. So based on
6 what we have just learned, since the City of Seattle is a
7 smaller geographic area of interest than the Seattle MSA, if
8 one were to look only at the City of Seattle it might be
9 easier to find economic benefits from the Sonics than when
10 one looks at the Seattle MSA; is that correct?

11 A From the perspective of gross economic impact, yes.

12 Q Well, from the perspective of what you look at in your
13 studies; is that right?

14 A Well, the literature that I was referring to in my report
15 is the literature that criticizes economic impact studies,
16 regional input/output models.

17 Q I'm sorry, I am not talking about that. Let's look to
18 your deposition and see what you said in your deposition.
19 Page 19, please, starting on Line 23. Question: "Based on
20 what you've told me, since the City of Seattle is a smaller
21 geographic area of interest than the Seattle MSA, if one were
22 to look at the city of Seattle it might be easier to find
23 economic benefits from the Sonics than when one looks at the
24 Seattle MSA?" And you answered, "yes."

25 That was accurate at the time?

1 A Yes, gross economic benefits.

2 Q I am just talking about economic benefits, right?

3 A That is unclear to me.

4 Q That's fine. We will talk about --

5 MR. TAYLOR: Your Honor --

6 By Mr. Lawrence:

7 Q What is unclear to you in your deposition about your
8 answer, sir?

9 A When you say economic benefits, there are gross economic
10 benefits, there are net economic benefits. It is unclear in
11 that question which one of those types of economic benefits
12 were being referred to.

13 Q I will be happy to go through the deposition. I was
14 talking about your term of economic benefits, which I assume
15 is net?

16 A I think that is your question.

17 Q Sir, you would agree the net economic benefits to the
18 KeyArena area -- there are net economic benefits that would
19 be lost if the Sonics left?

20 A Gross economic benefits.

21 Q Are you saying that the spending in the KeyArena area
22 would be transferred within the Seattle KeyArena area? I
23 want you to tell me the difference between net and gross,
24 because maybe I am misunderstanding you.

25 A Gross is total economic activity spent. Net would be

1 incremental effect.

2 Q Okay. That's what I am trying to find. Your basic
3 premise is if I am not spending a dollar at the Sonics I will
4 spend my dollar somewhere else?

5 A Right.

6 Q Now, you have agreed in your report you looked at some
7 statistical evidence about season ticket holders that
8 something like eight percent of the season ticket holders
9 come from outside the Seattle MSA, right?

10 A Right.

11 Q And you acknowledge that those eight percent of season
12 ticket holders who are coming into the Seattle MSA to spend
13 dollars, their dollars might not end up within the Seattle
14 MSA when they spend it on other discretionary income,
15 correct?

16 A Correct.

17 Q So when we say that those eight percent of the dollars are
18 lost to the Seattle MSA, what economic benefit term do you
19 use? Is that a net or gross issue?

20 A That is gross.

21 Q That is gross. Okay. So then we are fine. So, again,
22 the question is, since Seattle is a smaller geographic area
23 of interest than the Seattle MSA, if you just look at the
24 city of Seattle it would be easier to find economic benefits,
25 correct?

1 A Gross economic benefits.

2 Q Now, you could have looked -- technically you could have
3 looked at the impact on the City of Seattle's economy from
4 the departure of the Sonics, correct?

5 A King County, not the City of Seattle.

6 Q Could we look at your deposition on Page 12, starting at
7 Line 14? I asked: "Let me ask you: If you had been asked
8 to look specifically at the impact on the City of Seattle's
9 economy, could you have done that?" Answer: "Well,
10 technically, yes. Technically I could have." And if you
11 want to read the rest of that answer go ahead. I don't want
12 to --

13 A If I could --

14 Q Was that what you answered at your deposition?

15 A Yes.

16 Q And you understand this is a dispute between the City of
17 Seattle and the SuperSonics, correct?

18 A Yes.

19 Q It is not a dispute between King County and the --

20 A I understand.

21 Q It is not King, Snohomish and Pierce County?

22 A I understand.

23 Q And you understand that the lease at issue is with the
24 City of Seattle?

25 A Correct.

1 Q So there would have been nothing arbitrary to be
2 interested in what the impact of the departure of the Sonics
3 would be on the City of Seattle, correct?

4 A I don't know. Arbitrary? I don't know -- It is
5 arbitrary to look at a certain set of Seattle -- of the
6 Sonics ticket holders.

7 Q Let's just go to your deposition, sir. That's fine.
8 Page 14. Starting on Line 10 you were asked: "You
9 understand the lease is with the City of Seattle?" And your
10 answer was: "I understand that." My question next was:
11 "When you say -- when you use the term arbitrary line drawing
12 in the sense of something you want to avoid, you would agree
13 it is not an arbitrary question in this case to understand
14 what the impact of the departure might mean to the City of
15 Seattle since it is a city lease and it was the city that
16 made the public subsidy investment in the arena?" Your
17 answer was: "I understand who the parties are involved in
18 the suit, yes." My question was: "So there would be nothing
19 arbitrary to be interested in what the impact is on the City
20 of Seattle, correct?" And you answered: "Correct."

21 A Okay. I understand now. Sorry.

22 Q And it is correct that the PBC did not ask you to look at
23 the impact of the departure of the Sonics on the City of
24 Seattle, correct?

25 A Correct.

1 Q They asked you to look at the Seattle MSA?

2 A Correct.

3 Q So even looking at the Seattle MSA, you acknowledge there
4 are a couple of areas where there would be a loss to the
5 Seattle MSA, let alone the City of Seattle, from the
6 departure of the Sonics, correct?

7 A Correct.

8 Q We talked about one. That is the eight percent of the
9 people who come into the Seattle MSA to see the Sonics,
10 correct?

11 A Correct.

12 Q And the other, and I think you touched on this with
13 Mr. Taylor, are the actual Sonics players and front office
14 personnel, correct?

15 A Correct.

16 Q That have a total payroll somewhere in the nature of
17 \$73.6 million for 2007-2008?

18 A Correct.

19 Q And some portion of that team payroll when the team moves
20 to Oklahoma City is lost to the Seattle metropolitan
21 statistical area, correct?

22 A Yes.

23 Q And would certainly be lost to the City of Seattle to the
24 extent the payroll is in the city?

25 A Yes.

1 Q Now, with respect to the other 92 percent of the people
2 who go to games in your view, they live within this
3 three-county area, correct?

4 A Yes.

5 Q And your view is --

6 A Season ticket holders.

7 Q Yeah, season ticket holders. That is all you looked at?

8 A That is all I looked at, correct. I don't know anything
9 about walk-up purchases.

10 Q So your basic testimony is that if I live in Bellevue and
11 come into Seattle to watch a Sonics game, and I am a person
12 that does that 41 times a year, and I can't go to the Sonics
13 41 times a year, I will just spend that dollar somewhere else
14 within the Seattle metropolitan statistical area, correct?

15 A That's correct.

16 Q So if I am that Bellevue person who used to come into
17 Seattle 41 times a year I instead go see movies in Bellevue,
18 that's a dollar that stays within the MSA, correct?

19 A Yes, that's correct.

20 Q But that dollar doesn't stay in Seattle, correct, the City
21 of Seattle?

22 A If your question is if it is spent, it clearly doesn't, if
23 it is spent in Bellevue.

24 Q You would agree then that there are some people who live
25 outside of Seattle who are season ticket holders and other

1 ticket holders who come into Seattle to see Sonics games who
2 will spend their discretionary dollars somewhere outside the
3 City of Seattle if the Sonics leave?

4 A Undoubtedly some of them will, yes.

5 Q Undoubtedly some of them will. Now, did you make any
6 effort to find out the percentage of season ticket holders
7 who live outside the City of Seattle?

8 A No.

9 Q But you were given an Excel spreadsheet by Danny Barth, I
10 believe, that had information about all the season ticket
11 holders on it?

12 A Yes. It had their zip codes where they lived.

13 Q Mr. Taylor sent that to me, correct?

14 A Yes.

15 Q So what I got was what you had?

16 A Yes.

17 Q And you said you couldn't just readily turn that into
18 information about the number of season ticket holders in
19 Seattle?

20 A No. I could.

21 Q You could? Okay. Let's see what one could have done. I
22 will use the ELMO. I don't really want to enter this as an
23 exhibit but use it because it is a long exhibit, 339, which
24 you both should have. 339 is the printout of the spreadsheet
25 that was provided to me by Mr. Taylor that supposedly was

1 given to you by Mr. Barth. Do you see that?

2 A Yes.

3 Q Now, for the purposes of privacy sake I have blacked out
4 the street address information, because we don't want to give
5 that information publicly. In addition to the zip code it
6 shows what city people live in, correct?

7 A Correct.

8 Q So the way Excel works, if you had just gone to the city
9 column and asked to put that, for example, in alphabetical
10 order, you would have all the people from Seattle in one
11 grouping, right?

12 A Correct.

13 Q Let's see what happens when you do that. Turn to 340. In
14 340 what we have done is taken that same Excel spreadsheet
15 and done it alphabetically and kept the numbering on the side
16 so we understand the numerical values. You see it starts
17 with number one and it goes to 2284, correct? 2284 is the
18 last number?

19 A Sure, I will stipulate to that.

20 Q This is from the year 2006, correct?

21 A Correct.

22 Q If you want to check you can go start looking and you see
23 the first number where Seattle shows up 1201, and the last
24 number where Seattle shows up is 2024, which I have done the
25 math to make this easy so you don't have to. So there are

1 823 Seattle season ticket holders out of 2284. Okay?

2 A Okay.

3 Q And that is the information provided by Danny Barth,
4 correct?

5 A Yes.

6 Q And that represents -- again, I did the math to make it
7 easier -- 36 percent of the season ticket holders for the
8 Seattle Sonics live in the City of Seattle, and 64 percent
9 live in the remainder of the Seattle MSA. Okay. Actually
10 some of those live outside. Eight percent live outside the
11 Seattle MSA.

12 So if we take your notion that the people who live outside
13 the Seattle MSA don't spend their discretionary Sonics
14 dollars in the Seattle MSA that you agreed to in your report,
15 and applied that to the smaller geographic area for the City
16 of Seattle, that would tell us that 64 percent of the
17 economic activity associated with the presence of the Sonics
18 in Seattle is likely to have their dollars spent somewhere
19 other than the City of Seattle within the MSA?

20 A No, it does not.

21 Q Well, a lot of that might --

22 A You didn't --

23 MR. TAYLOR: Your Honor --

24 MR. LAWRENCE: Just a second, Mr. Taylor. I didn't
25 realize he was talking --

1 THE COURT: Mr. Lawrence, talk to me.

2 MR. LAWRENCE: I apologize, your Honor, for talking
3 at the same time as the witness.

4 THE COURT: Okay. Let's back up, give him the
5 question again and give him an opportunity to respond.
6 By Mr. Lawrence:

7 Q Did you make any effort to determine what dollars
8 associated with the 64 percent of the season ticket holders
9 that live outside the City of Seattle would be spent within
10 the city or outside the city of those discretionary dollars?

11 A There is no way to know the answer to that question.

12 Q You would expect some of it would?

13 A I don't know.

14 Q So you expect that people from Snohomish County who come
15 into Seattle to watch the Sonics 41 times a year are going to
16 substitute those 41 trips with other trips to Seattle?

17 A There is just a lot of transactions going on. How do we
18 know that people who live in Seattle aren't going outside of
19 Seattle when the Sonics leave and spending their money
20 somewhere else? That is a loss to Seattle. I just have no
21 basis to make any sort of a professional opinion about where
22 these transactions are taking place because this is gross
23 economic benefit. My research is focused on net economic
24 benefit. And I believe that -- My professional opinion is,
25 and the research literature concludes, that it is these net

1 economic benefits that I have examined and not these gross
2 economic benefits which you were talking about which are the
3 important issues in answering this question.

4 Q I am sorry, sir. I thought your testimony was that if I
5 used to spend a dollar at the Sonics -- my discretionary
6 dollar at the Sonics, I might spend that somewhere else, and
7 so there is no net loss of dollars, right?

8 A That's right, in the MSA.

9 Q I am asking you now about the City of Seattle's economic
10 impact, correct?

11 A But the answer is I don't know.

12 Q Okay. Maybe we will disagree on that. You have no idea
13 what the net economic impact on the City of Seattle is if the
14 Sonics leave?

15 A I suspect it is zero.

16 Q How do you -- Have you studied any cities?

17 A Have I studied very specific geographic areas?

18 Q Any cities. We established you haven't, correct?

19 A Correct.

20 Q And your theory is that dollars -- if I have a
21 discretionary dollar to spend on the Sonics I will spend it
22 somewhere else?

23 A Yes.

24 Q And when you look at as big an area as King, Snohomish and
25 Pierce County there is a lot of places I can spend my dollars

1 if I don't spend it in Seattle and still have a net zero,
2 correct?

3 A But there is -- there are other transactions going on.

4 Q Is that -- Sorry. Go ahead.

5 A There is all sorts of -- there is quite a bit of spatial
6 complexity in economic transactions. I mean, people are
7 going across these political borders and buying stuff, goods
8 and services. It is impossible. We don't have the data to
9 answer that question. I don't know. You can make
10 assumptions. You certainly can. I don't think they would be
11 justified.

12 Q So you don't know is the answer?

13 A Yes.

14 Q And so whatever testimony you have given here today does
15 not tell us what the net economic impact on the City of
16 Seattle is from the departure of the Sonics, correct?

17 A Yes.

18 Q Thank you. Now, in fact, your research tells you that
19 professional sports teams have a net negative impact on a
20 metropolitan area, correct?

21 A That's correct.

22 Q So the City of Seattle is worse -- sorry, not the City of
23 Seattle, the Seattle metropolitan statistical area in your
24 view is worse off economically for having the Sonics,
25 correct?

1 A Or at least no better off. It could be.

2 Q It might be worse off for having the Seahawks?

3 A Could be.

4 Q It might be worse off for having the Mariners?

5 A Yes.

6 Q And in your view Oklahoma City might be worse off for
7 having the Sonics move there?

8 A Yes.

9 Q Even though you acknowledge that there is substantial
10 economic activity generated by people who attend Sonics games
11 or any professional sports games, correct?

12 A Absolutely. Yeah.

13 Q And that is related to the spectator spending hundreds of
14 dollars on tickets and concessions, significant spending
15 outside of the facilities, parking, food and drinks, hotel
16 rooms, licensed merchandise, gas and other consumer goods and
17 services?

18 A Yes.

19 Q You admit that all that economic activity takes place with
20 respect to a professional sports team?

21 A Yes, I do.

22 Q And the question is where do those dollars go when the
23 team goes?

24 A That's correct.

25 Q And the question is where do those 64 percent of the

1 Sonics season ticket holders who don't live in Seattle spend
2 their dollars when they can't go to Seattle to spend them on
3 the Sonics. That would be the question?

4 A There are more questions. That is one. When figuring out
5 the overall effect on these very small specific geographic
6 areas you need to take into account where -- not just what
7 the effect of people who go to Sonics games are but
8 potentially people who come into the city who wouldn't have
9 come into the city if the Sonics were here. There is a very
10 complicated set of transactions that are going on here and
11 not this one specific type of spending that you are focusing
12 on. This is the difference between gross and net.

13 Q So dollars might be coming into Seattle from Oklahoma
14 City?

15 A Well, some probably are.

16 Q Yeah, the ownership here is claiming they lost \$24 million
17 last year, and they had to put \$24 million into the Seattle
18 economy in order to cover that loss, right?

19 A I have no knowledge of that.

20 Q Let me ask you to assume the testimony in this case then
21 is that the Sonics lost -- actually lost \$27 million, and
22 some of that 3.5 million went to Mr. Keller's firm, but some
23 probably went to McAfee Taft in Oklahoma City. But the
24 \$24 million net, they had a loss, the owners had to put money
25 into the team, right?

1 A Yes.

2 Q And that money is flowing from Oklahoma City to Seattle
3 metropolitan statistical area?

4 A And it leaks right back out too, sure.

5 Q So maybe that is a net gain for the City?

6 A I don't know.

7 Q It could be?

8 A I don't know.

9 Q Now, your bottom line, though, is that when you look at an
10 MSA area there is no net loss from having a team -- Well,
11 you think there is a negative from having a team. But there
12 surely is no net loss with the team leaving, right?

13 A Right.

14 Q But you know, do you not, that in fact public entities
15 routinely invest in sports arenas in order to attract teams,
16 correct?

17 A Yes, they do.

18 Q And sometimes they even bring lawsuits in order to keep
19 teams?

20 A Yes.

21 Q That happened in Cleveland? You have to answer yes or no.

22 A Yes.

23 Q Certainly it is happening here. So there is -- You have
24 a conclusion as to why public entities do that, don't you?

25 A Yes, I do.

1 Q And one of the reasons that entities do things like invest
2 in arenas and bring lawsuits to keep teams there is because
3 of the intangible benefits that accrue from having a sports
4 team in your area; is that right?

5 A Yes.

6 Q And would you describe those intangible benefits as
7 community spirit? Is that one?

8 A Yes.

9 Q Local pride?

10 A Yes.

11 Q Shared commodities of experience and glories of past
12 teams?

13 A Yeah.

14 Q All sort of things that generate a lot of satisfaction for
15 individuals, correct?

16 A Yes.

17 Q Those are the type of individual -- I'm sorry, those are
18 the type of intangible benefits that sports teams bring to a
19 community, correct?

20 A Yes.

21 Q And you would agree that it is difficult to put a money
22 value on those intangible benefits, would you not?

23 A People have done it. I mean in the research literature
24 people have done it. There are many such examples of --

25 Q Can you -- Sorry. Go ahead, finish your answer.

1 A -- putting dollar values on intangible benefits like that.

2 Q Can we see Page 68 of your deposition? Starting at Line 5

3 I asked you: "Would you agree that the -- trying to place a

4 money value on those intangible benefits is difficult?" And

5 you answered: "Difficult but not impossible." I asked:

6 "Have you ever tried to do that?" And you answered: "No."

7 A That's correct.

8 Q And do you have any reason to believe that those

9 intangible benefits don't apply to Seattle with respect to

10 the Sonics? Sir?

11 A Yes.

12 Q Do you have any reason to believe --

13 A No, I don't. I still have no reason to believe it doesn't

14 apply to the Sonics.

15 Q You do agree the presence of the Sonics bring intangible

16 benefits to this community?

17 A Yes.

18 MR. LAWRENCE: Thank you. I have nothing further.

19 THE COURT: Any cross-examination -- I'm sorry,

20 redirect examination. Excuse me.

21 REDI RECT EXAMI NATION

22 BY MR. TAYLOR:

23 Q There were a lot of questions about cities versus

24 metropolitan statistical areas.

25 A Yes.

1 Q You read Mr. Hatamiya's report?

2 A Yes.

3 Q Did he select a city or the MSA for his analysis?

4 A Kind of something in between, I believe. It was
5 definitely not the City of Seattle, it was a larger area.

6 Q He went up north to Snohomish?

7 A Yeah.

8 Q Tell us briefly the difference between gross economic
9 activity and net economic benefit?

10 A Well, the net -- the important consideration here is the
11 net economic benefit is how much new activity there would be,
12 accounting for all these different sort of transactions.
13 People come into the suburbs to KeyArena and to the games,
14 and people go from Seattle out into the suburbs and spend
15 money, and all sorts of transactions like that. To focus on
16 one little piece of that, that is the gross or that is --
17 associated with that -- Net would be after we sort of net
18 out or account for all these different transactions, what
19 there is that is new, what is incremental economic benefit.

20 Q So the gross economic benefit includes the money that goes
21 back and forth across the 520 bridge?

22 A Yeah.

23 Q From Bellevue to Seattle, vice versa, up north and all
24 around town. Net, though, you are looking for is there new
25 money created that didn't otherwise exist?

1 A And not just moved around, that's right. That is the
2 important distinction here.

3 Q You were asked about money from Oklahoma City coming in.
4 You said, well, it is going to leak right back out. What
5 does that mean?

6 A If this money -- if the Sonics are making a loss that
7 means their expenses are greater than their revenues. Some
8 money has to come in to cover those expenses. Those expenses
9 go into player salaries and travel and things like that.
10 Much of that money doesn't stick around in Seattle and create
11 new net economic benefit. It just goes to pay whoever
12 provides the transportation services to get the team to away
13 games, players don't all live in the city, that money leaks
14 out, many of the things they buy is not locally produced and
15 that money leaks out. By the time all those things are sort
16 of watered down, that cash flow into town, there is not much
17 economic impact left there.

18 Q Is there a consensus in the literature as to whether it is
19 appropriate to rely on an MSA to determine the net economic
20 impact of the arrival, presence or departure of a pro sports
21 team?

22 A In the research literature that is published in
23 peer-reviewed academic journals the consensus is that the MSA
24 is the appropriate level of analysis for this sort of thing.

25 Q And that data gives you a statistical valid basis to draw

1 your conclusions?

2 A Yes.

3 Q You were asked about the player salaries. And this is
4 where we began this morning. The player salaries are going
5 to leave, money spent on the Sonics will be spent elsewhere?

6 A Yes.

7 Q And that will give more revenues to those companies?

8 A That's right. There is entertainment spending that used
9 to go to the Sonics because of these players that gets spent
10 perhaps out in the middle of Bellevue, I don't know,
11 somewhere in the city, and that provides revenues for those
12 firms to hire people and pay their salaries, and that still
13 stays around in Seattle.

14 Q So it is like water, it seeks its level?

15 A Exactly.

16 MR. TAYLOR: Nothing further.

17 RE-CROSS-EXAMINATION

18 By Mr. Lawrence:

19 Q Just so we are using the right terminology, when you say
20 it stays around in Seattle, you are talking about Seattle
21 MSA, not the City of Seattle?

22 A Yes, but some of it stays in the City of Seattle.

23 Q Some does, but some leaks out or ends up outside the City
24 of Seattle?

25 A Yes.

1 Q And the City of Seattle is 18 percent of the population of
2 the Seattle MSA?

3 A Yes.

4 MR. LAWRENCE: Thank you.

5 MR. TAYLOR: Nothing further, your Honor.

6 THE COURT: Thank you, sir. You may step down.

7 THE WITNESS: Thank you very much.

8 THE COURT: The next witness, please.

9 MR. KELLER: We are going to call Mr. Mitch Ziets.

10 Whereupon,

11 MITCHELL ZIETS

12 Called as a witness, having been first duly sworn, was
13 examined and testified as follows:

14 THE CLERK: Please state your full name for the
15 record, spelling your first and last name.

16 THE WITNESS: Mitchell Ziets, M-I-T-C-H-E-L-L,
17 Z-I-E-T-S.

18 DIRECT EXAMINATION

19 BY MR. TAYLOR:

20 Q Mr. Ziets, I am Paul Taylor and I represent the
21 Professional Basketball Club. Have you done an analysis of
22 the projection of losses for the Sonics if they stay in
23 Seattle for the two remaining years of the lease?

24 A Yes, I have.

25 Q All right. I want to talk to you at some length about

1 that. Before I do, would you tell us what you do for a
2 living, please?

3 A I run an investment banking firm called MZ Sports.
4 MZ Sports is a boutique investment bank focusing solely on
5 the sports business. And what we do principally is we advise
6 teams and team owners on building new stadiums and arenas,
7 negotiating leases and advise prospective buyers of sports
8 teams, and we also do valuations of sports teams.

9 Q Talking about potential buyers, buyers of franchises, how
10 many different franchise buyers have you worked with?

11 A Since 2001 we have worked with 30 different buyers.

12 Q Have you done anything regarding professional basketball
13 teams?

14 A Yes, we have. We have worked on a number of transactions.

15 Q Can you tell us which ones?

16 A Sure. We have represented buyers of the Cleveland
17 Cavaliers. These are in addition to our work on the Sonics.
18 Cleveland Cavaliers, Philadelphia 76ers, Portland
19 Trailblazers, Atlanta Hawks.

20 Q Any other sports?

21 A Yes, numerous deals in other sports, the Minnesota
22 Vikings, the Los Angeles Dodgers, Atlanta Braves, Anaheim
23 Ducks, the Washington Nationals.

24 Q Anaheim Ducks, that's hockey?

25 A Yes.

1 Q Nationals, that is baseball?

2 A Baseball, yes.

3 Q You say you advise them on acquiring franchises. How do
4 you do that? What do you do?

5 A First we go in and we assess the business through what is
6 called a due diligence process, so we look at all the books
7 and financial records and operations of the team. And then
8 we put together a financial model, which is really an
9 operating projection of how we expect the team to perform
10 operationally and financially over time. And then we use
11 those projections to help the team owner raise capital, which
12 is generally raising debt, either going to banks or going to
13 Wall Street to raise debt, borrow money to close on the
14 transaction.

15 Q You used a couple of phrases there, first financial models
16 and second projections. What is the tie between the two?

17 A They are basically one and the same.

18 Q When you say "financial model," tell us what it is?

19 A Sure. A financial model is a model that looks at all of
20 the team's different revenue streams, like tickets,
21 sponsorships, suites, TV deals, that kind of thing, looks at
22 all those revenues and then looks at all the team's expenses,
23 players, arena-related expenses, general front office
24 expenses, things like that. And then we take that out into
25 the future and try to project what we think the team is going

1 to do so they can go borrow money against that.

2 Q And to do that you have to look at what is happening
3 elsewhere out in the league, for example, the NBA?

4 A Typically what we do to make an assessment of what can
5 happen in the future, especially with teams whose past
6 performance can vary widely from year to year and from team
7 to team, is we will look at a number of teams in similar
8 markets, similar size markets and we will look at league
9 averages and assess what we think the team can do, can it
10 improve its operations, is it already doing better than we
11 would have expected otherwise, things like that.

12 Q You also indicated you are involved in team valuations?

13 A Yes.

14 Q What is that -- what does that entail?

15 A Typically when someone is buying a team they need to
16 understand the value of what they are buying. And so we will
17 be retained either as part of our work in assessing the
18 operations of the team or separately get hired to do a
19 valuation of the franchise. And typically in sports what
20 that -- the way we do that is we look at comparable deals,
21 how have other teams traded, how have they sold, for what
22 price over the prior four or five, six years. We can get a
23 sense of what this team should sell for using that
24 methodology.

25 THE COURT: Mr. Taylor, wait just one moment, please.

1 Go ahead.

2 MR. TAYLOR: Thank you, your Honor.

3 BY MR. TAYLOR:

4 Q How long have you been in this business, not just
5 MZ Sports but the sports business?

6 A 20 years.

7 Q How did you get started in it?

8 A I started in 1988. I went to a municipal financial
9 advisory firm in Philadelphia called Public Financial
10 Management, and we just started a sports group to focus on
11 new stadiums and arenas. That was the start of the recent
12 stadium boom in this country. So the firm had just done its
13 first stadium down in Miami, and other teams -- other teams
14 in other cities started looking at new stadium construction
15 at that point. So I joined and got put into that group that
16 was doing new stadiums and went from there.

17 Q Have you ever testified in court before?

18 A No. No, I have not.

19 Q Could the witness be shown, please, Exhibit 610?

20 MR. TAYLOR: We would offer it for illustrative
21 purposes only.

22 MR. JOHNSON: No objection, if offered for only
23 illustrative purposes.

24 THE COURT: 610 is admitted.

25 (Exhibit 610 admitted)

1 BY MR. TAYLOR:

2 Q Could we have Page 2 of 610, please? There is a phrase
3 there on sentence number one that says "lame duck." What is
4 a lame-duck situation?

5 A What we define as a lame-duck situation is a situation
6 where a team is not going to stay in its current market where
7 it plays for very much longer, and the fans know that. So it
8 is on borrowed time basically.

9 Q Kind of like a politician riding out his last years of
10 office?

11 A Yes.

12 Q What did you do in this case? I see three steps here.
13 Just tell us 20,000 feet what you did?

14 A Sure. In assessing what we thought the financial impact
15 of the last two lame duck years would be here in Seattle we
16 did three things. First, is we went out and identified
17 comparable situations.

18 Again, you mentioned the valuations earlier and asked how
19 we did that. Typically in finance we want to see things that
20 have actually happened before. So we want to understand what
21 has really gone on before. So we wanted to find comparable
22 situations. That was the first step.

23 The second step is, once we identified those situations we
24 wanted to understand what the financial impact was of those
25 teams being lame ducks.

1 And then the third is, once we understood the financial
2 impact, to apply that financial impact to the Sonics
3 situation for the last two years.

4 Q Turn to Page 3, please. "Comparable situations, selecting
5 the proper teams to evaluate." I see a number of teams
6 listed there, and a couple are highlighted. What is going on
7 in this page?

8 A What we have done there is we have identified all of the
9 relocations in the top four sports leagues since 1990. So we
10 went back and looked at all those, and there are 11 different
11 ones on this page. And then we tried to identify the ones
12 that we thought would be comparable. What we found is that
13 most of these teams announced they were leaving their host
14 city in the last year, either at the end of their last season
15 or during their last season. And when they do that we can't
16 really evaluate any financial impact because they have
17 already sold all their tickets, they sold all their suites,
18 all their sponsorships and then they leave town. So there
19 really is no financial impact. So we couldn't use those.

20 Q Stop right there. So the fact that they are leaving -- if
21 they announce they are leaving mid season -- if they announce
22 in the middle of the season that they are leaving at the end
23 of the season you didn't deem that a lame-duck situation?

24 A We didn't deem that we could figure out what the financial
25 impact was of that situation. When you pick something that

1 happens in the middle of a season we don't know how many
2 tickets they have sold before they made that announcement and
3 after they made that announcement. So we really wanted teams
4 that announced they were leaving or it became clear that they
5 were leaving with at least one year, but hopefully multiple
6 years, so we could measure their financial impact on
7 financial operations from year to year.

8 Q Now, the Sonics are in a what, two-year lame duck scenario
9 if they stay here?

10 A Yes.

11 Q Did you find any comparable two-year lame ducks?

12 A We found two. The Houston Oilers of the National Football
13 League were a two-year lame duck, and also the Charlotte
14 Hornets of the NBA were a two-year lame duck.

15 Q Let's talk about Houston for a second. Turn to Page 4,
16 please. Tell us what happened in Houston that made them a
17 two-year lame duck?

18 A The Houston Oilers were looking for a new stadium in the
19 early '90s, not unlike what has been happening here over the
20 past few years. And basically by mid 1995, the summer of
21 1995, it became clear that relocation was an option. And
22 there were a lot of articles about relocation. In fact, one
23 of the preseason game for the Oilers, I think this is the
24 first time this has ever happened, was cancelled that summer.
25 And people thought it was all part of a leverage play to try

1 to get a new stadium. A series of articles came out in
2 August of 1995 about relocation to Tennessee possibly. So we
3 felt that was the start of what we would consider to be the
4 lame-duck period. And so we felt that in 1995, which is when
5 the team actually signed to relocate to Nashville, that was
6 later in the season, we felt the '95 season, and then the
7 1996 season, which was their last season in Houston, were the
8 two lame duck years.

9 Q So they played those two seasons in Houston even though
10 everybody knew they were going to Tennessee?

11 A Yes.

12 Q Did you take a look at what happened to them financially
13 during that period?

14 A Yes, I did.

15 Q Let's take a look at Page 5, please. Tell us your overall
16 conclusion and then we will walk through how you got to it,
17 okay?

18 A Sure. My overall conclusion was that during the two-year
19 lame-duck period the team's ticket revenues declined by over
20 40 percent.

21 Q All right. Let's talk about how you got there. The first
22 line I see is "estimated 1994 ticket revenues based on actual
23 attendance figures." What does that mean?

24 A What that means is we had data for 1995. We knew the
25 team's attendance in 1995 and the team's ticket prices in

1 1995. We did not have the team's ticket prices in 1994, so
2 we had to estimate those.

3 Q Stop. Did you have attendance figures from 1994?

4 A Yes, we had attendance figures for 1994.

5 Q I see two columns there, "next estimated '94 ticket
6 revenues." One says, 18.1 million, the other says 20.4.

7 Tell us how you got the 18.1 million estimate?

8 A We knew the 1994 attendance, and we estimated the 1994
9 ticket price to be the same as the 1995 ticket price, which
10 was \$41. And when you multiply the attendance by the ticket
11 price you get \$18.1 million, which was our estimate.

12 Q And what about this \$46 per ticket, where does that come
13 from?

14 A Separately we also analyzed the estimated ticket revenues
15 in 1994, assuming a higher ticket price than \$41, and in this
16 case \$46, based on the theory that their ticket prices would
17 have dropped from 1994 to 1995 because they were losing
18 attendance.

19 Q So we knew in '95 it was 41, and you figured maybe they
20 dropped it from a slightly higher price in 1994?

21 A That's correct. Since we didn't know the exact number we
22 did a range.

23 Q Then we see the next line, "expected '96 ticket revenues
24 based on average league ticket prices and assuming no
25 attendance decline." That is a mouthful. What does that

1 mean?

2 A What that means is this is how we would have expected the
3 Oilers to perform if they performed like other National
4 Football League teams performed. In other words, if their
5 ticket prices went up at the average of other teams, which
6 was five percent a year for those two years.

7 Q It says, "assumes no attendance decline," meaning they are
8 not in a lame-duck situation?

9 A Correct, if they were a normal, ongoing franchise
10 situation in Houston.

11 Q So this middle line then tells us how we would have
12 expected them to perform if it hadn't been announced that
13 they were relocating?

14 A Correct.

15 Q What numbers do we get?

16 A We get \$20 million, assuming that they would have started
17 at \$41 per ticket, and 22.4 million if they had started at
18 \$46 a ticket.

19 Q And you assumed the same 1994 attendance figures?

20 A Yes.

21 Q Why did you do that?

22 A We assumed that they would have stayed steady in 1994.
23 Having said that, I should mention that in -- Their
24 attendance had already dropped 20 percent from 1993 to 1994,
25 but we felt that was for other factors. One thing we wanted

1 to do when we did this analysis is we didn't want to cherry
2 pick off the best numbers we could find. So their attendance
3 in 1993, again, was 20 percent higher than '94, but we
4 started with 1994.

5 Q Then we get down to actual 1996 ticket revenues. What is
6 that?

7 A The actual '96 ticket revenues is what they actually
8 earned in ticket revenues, which is clearly the same for both
9 columns because it was an actual number.

10 Q "Shortfall in ticket revenues" down there at the bottom,
11 41 percent, 48 percent. What does it mean, how did you
12 calculate it?

13 A What that means is in the first column, based on our
14 expectations in 1996, their last year, they fell 41 percent
15 short of that number. So we ascribed the 41 percent
16 financial impact due to their being a lame duck. The same
17 thing in the next column, at 48 percent.

18 Q So you compared the actual results to what they would have
19 been had they performed normally, and the difference is
20 attributable to the lame-duck status?

21 A Yes.

22 Q Let's turn to Page 6. Now, at Page 5 we were looking at
23 ticket revenues. Let's turn to Page 6. What is going on
24 with Page 6, "suite revenue decline"?

25 A On Page 6, using a similar methodology to the prior page,

1 we looked at what their suite revenues were in 1995, and then
2 what we would have expected them to be in 1996 if they grew
3 like a normal NFL team, which was around eight percent. That
4 was the league average. And then we compared that to what
5 they actually did in 1996.

6 Q So essentially the same methodology as you did with
7 tickets?

8 A Correct. With one exception, which is we did not have two
9 years worth of data, we did not have 1994 data. And I can
10 only speculate that the numbers would have -- the decrease
11 would have been worse. But we didn't assume anything for
12 1994 here.

13 Q So this is actually then a conservative approach on the
14 suites?

15 A I would have to believe so.

16 Q What was the shortfall in suite revenues then relative to
17 what you would have expected if they were not lame duck?

18 A A 50 to 50 percent decrease (sic). We would have expected
19 \$2.5 million in revenues if they operated as a normal NFL
20 team in 1996. But they only generated 1.3 million. So half.

21 Q Go to Page 7, please. "Sponsorship revenue decline."
22 What are sponsorship revenues?

23 A Sponsorship revenues are revenues that are generated with
24 corporate partners who buy signs, who have separate
25 sponsorship and promotion deals with the teams.

1 Q Do those typically decrease when a team is leaving town?

2 A Yes.

3 Q Why is that?

4 A It is because corporations don't want to align themselves
5 with a team that is leaving town.

6 Q Here again we see '95 sponsorship revenues. Why no '94?

7 A We did not have 1994 data available to us.

8 Q The same methodology here, actual sponsorship revenue, a
9 million five, and then expected revenues is not a lame duck?

10 A Yes.

11 Q The middle block?

12 A That's correct.

13 Q "Shortfall in sponsorship revenues." How do you calculate
14 that?

15 A We would have expected them to be at \$1.9 million in 1996
16 if they operated as a normal NFL team, based on growth from
17 1995. But instead they went down to 1.3 million. So that
18 was a 29 percent shortfall compared to where we expected them
19 to be.

20 Q Let's turn now to Page 8. Charlotte Hornets, are they one
21 of the other lame-duck scenarios you selected?

22 A Yes, they are.

23 Q What kind of team are the Hornets?

24 A Charlotte Hornets are a basketball team in the NBA.

25 Q Why did you pick them as a lame duck -- as a comparable

1 lame duck?

2 A Because, similar to Houston, their relocation and their
3 status as a team that was going to leave their host city
4 played out over a multiple year period of time, so we could
5 measure the impact of that.

6 Q So they were somewhat like the Sonics, they are playing
7 for two years even though the fans know for those two years
8 they are leaving?

9 A Correct.

10 Q Did you study what happened in Charlotte as a result of
11 that?

12 A Yes, I did.

13 Q Let's go to Page 9. "Charlotte Hornets attendance
14 decline." First of all, where did you get those attendance
15 figures?

16 A I got those attendance figures from the NBA.

17 Q Were you also able to get revenue figures?

18 A No, just attendance figures.

19 Q The NBA wouldn't give those out?

20 A Correct.

21 Q I see base here, 1999-2000. Why did you pick 1999-2000 as
22 your base year?

23 A The drumbeat for relocation really picked up in the summer
24 of 2000. So while it wasn't legally or officially announced
25 the team is moving, there were a series of articles about the

1 team moving. There were negotiations between the team and
2 the public sector played out very publicly in the media. The
3 team scheduled a preseason game that summer. They scheduled
4 it and then played it the following fall in New Orleans,
5 right at the height of the time they were looking at New
6 Orleans as a possible relocation city.

7 Q Well, what happened during its lame-duck years in
8 Charlotte?

9 A Well, to understand Charlotte you have to understand where
10 they were before the lame-duck years. They had a very large
11 arena, I think 22,000 seats. They came into the league in
12 1988, and led the league in attendance for like nine straight
13 years, over 20,000 people a game. It started to drop towards
14 the end of the 1990s. It dropped to about 16,500 in this
15 year. And there were a series of reasons why that is.

16 Just like Houston, we didn't pick the top point of
17 attendance. It came down for other reasons first. And then
18 we picked the year where we thought the relocation discussion
19 really heated up. So we took the 1999-2000 season as our
20 base year. At that point the attendance was 16,500 people
21 per game. In the two lame-duck years, which were the next
22 two seasons, the 2000-2001 season and the 2001-2002 season,
23 you can see the attendance dropping from 16,500 all the way
24 down to roughly 9,500.

25 Q And is that where you get your 42 percent decline?

1 A Yes, it is. Again, one thing I do want to mention on that
2 page, this is just an attendance decline, so unlike Houston,
3 because we did not have revenues, we didn't have ticket
4 prices here, we don't know exactly if they reduced their
5 ticket prices while they were losing attendance. Teams often
6 do that. Clearly Houston did do that. So we didn't even
7 factor that in. I assume the dollar loss would have been
8 greater than the attendance loss.

9 Q So using the attendance figures is actually a conservative
10 method?

11 A I believe it is.

12 Q So you got this learning from Charlotte and from Houston.
13 Let's turn to Page 10. Tell us how you worked through your
14 process applying that learning to the Seattle Sonics?

15 A Well, first of all, what we had to do, similar to the
16 other situations, is we had to determine the base year, the
17 starting year, which wasn't necessarily this past season for
18 us. We wanted to pick the right year where it was clear the
19 relocation was driving a lot of the economics.

20 Q We will talk more about base year in a second. I just
21 want a 20,000 foot picture?

22 A That is the first thing we did. Then what we did is we
23 took the information that we learned from the other two
24 comparable deals and applied it to the Sonics situation.

25 Q So you applied the percentages you learned in Houston and

1 Charlotte to the Sonics?

2 A Yes. And then what we did is, because the team's revenues
3 and expenses are much larger than just tickets and
4 sponsorships and suites, we overlaid those reductions, those
5 economics on the team's entire income statement to see what
6 the overall impact would be?

7 Q Let's focus now on step one, determining the base year.
8 Turn to Page 11, please. 2006-2007 is selected as base year.
9 Tell us why?

10 A We looked at a number of years, principally 2005-2006 and
11 2006-2007, and we determined that the 2005-2006 year, which
12 was the year after the team made the second round of the
13 playoffs and did quite well, was a bit of an aberration, in
14 other words a high point, and we didn't think it was
15 appropriate to use that as our base year. And so we looked
16 at 2006-2007 as the base year, which is more of an ongoing,
17 steady state type of year.

18 Q Turn to Page 12, please. Up at the top, "Sonics revenues
19 are expected to decline by 14 to 16 million from '06-'07 to
20 '08-'09 in certain categories. Tickets, 40 to 48 percent
21 decline." How did you get that? Why did you use 40 to
22 48 percent?

23 A The 40 to 48 percent range was based on Charlotte and
24 Houston. In Houston the range that we showed earlier was 41
25 to 48 percent on the two scenarios we ran for tickets. On

1 Charlotte I believe the number was 42 percent. So it felt
2 right in that range. We felt comfortable that a 40 to
3 48 percent ticket reduction range was appropriate.

4 Q "Concessions follows tickets." What does that mean?

5 A What that means is generally concessions are based on
6 attendance. It is based on -- well, it is based on
7 attendance of people in the building. So we felt that
8 generally you will see the same pattern in concessions as you
9 will in tickets. So while it doesn't say it here, we assume
10 the same 40 to 48 percent decline.

11 Q And this is over two years?

12 A Yes, this is over two years.

13 Q "Suites, 50 percent decline." Where do we get that from?

14 A We got that from the Houston situation where they had a
15 50 percent decline.

16 Q And what do we come out with?

17 A Sponsorships at 30 percent. When you add that in we came
18 out in total at 14 to \$16 million decline within those four
19 categories.

20 Q Turn to Page 13, please. Step three, "overall financial
21 projections for 2008-2009. Projected operating loss is 30 to
22 \$32 million." How did you get that?

23 A We took the team's financial statements and we took the
24 two-year loss for tickets, concessions, sponsorships and
25 suites.

1 Q Stop. Financial statements for the base year?

2 A Yes, for the base year 2006-2007.

3 Q I interrupted. Please continue.

4 A So we took those -- For those four categories we took the
5 numbers from 2006-2007, and then applied the declines from
6 the prior page, the 14 to \$16 million over a two-year period,
7 and then for all of the other revenue streams and expenses we
8 got the numbers that the team provided from this past season.
9 And we basically just used normal inflations for all of
10 those. We didn't make any assumptions as to unusual patterns
11 in any of the other categories.

12 Actually one thing I do want to mention. We actually had
13 the player payroll going down as opposed to increasing and
14 driving a higher loss number. The player payroll was given
15 to us by the team. And that actually goes down.

16 Q So that, again, makes it a conservative analysis as
17 opposed to an aggressive one?

18 A Yes.

19 Q So operating profit then, projected low decline, projected
20 high decline. What does that mean?

21 A That is our projection for how much money the team will
22 lose on an operating basis based on the two scenarios we ran
23 for tickets, 40 to 48 percent. This is before any debt
24 service. This is just pure operations.

25 Q Similar to EBITDA?

1 A Yes, exactly.

2 Q Turn to Page 14, please. This is the projection for the
3 2009-2010 season?

4 A Yes.

5 Q All right. It says, "no further revenue reductions are
6 assumed after '08-'09." Why not?

7 A The reason for that -- and I wrestled with this a lot, is
8 the comparable deals that we had were two-year lame duck
9 situations. And here we have a -- We used 2006-2007 as our
10 base year. That would be the third year. And we just made a
11 decision that the economic loss manifested itself in two
12 years. After that you have kind of reached steady state. So
13 that third year there is no further decline.

14 Q So by the third year the lame duck is basically dead?

15 A Yes. I don't know if that is right or not, but we didn't
16 assume another year of decline.

17 Q You figured it would hold steady once it reached that low
18 from the year before?

19 A Yes.

20 Q Tell us what is going on then from here?

21 A In this page we show the 2008-2009 years -- year from the
22 prior page, and then we had the one year 2009-2010. And
23 frankly these are driven by inflation. There was nothing
24 magical about them. And when you look at the losses, and I
25 will look on the left-hand side, you can see roughly 30 to

1 \$31 million of operating losses per year, for a total of
2 \$61 million. And then on the right-hand side of the page, a
3 total of \$65 million for those two years.

4 Q So the total loss for the last two seasons you projected
5 60.9 million to 64.9 million?

6 A Yes.

7 Q Let's come back to Page 13 for a second, 2008-2009. You
8 project a low decline of 30.1 million and a high decline of
9 32.1 million. Have you had a chance to find out from the
10 team what the operating loss for this year is expected to be?

11 A Our understanding currently is that the operating loss is
12 supposed to be in the 27 to \$30 million range.

13 Q And expected to be, that's because the fiscal year closes
14 in September?

15 A Correct.

16 Q So at least based on expected losses your methodology came
17 pretty close?

18 A Yes. For next season?

19 Q Yes.

20 A Yes. Almost like it would mirror this season. Thank you.

21 MR. TAYLOR: Nothing further. Thank you.

22 THE COURT: Any cross-examination?

23 MR. JOHNSON: Just a little, your Honor.

24 CROSS-EXAMINATION

25 BY MR. JOHNSON:

1 Q Good afternoon.

2 A Good afternoon.

3 Q Mr. Ziets, when you were picking your comparables we saw a
4 slide that there was what, 11 teams that had left their
5 cities during the time frame that you looked at?

6 A Correct.

7 Q And you looked at two of those --

8 A Correct.

9 Q -- is that right? We are going to talk about -- in fact,
10 let's do talk about it. There are a couple of teams that we
11 talked about during your deposition that you considered but
12 rejected?

13 A Yes.

14 Q Potential comparables. And I believe one of those teams
15 was the Montreal Expos. Do you remember that discussion?

16 A Yes, I do.

17 Q And there had been some talk for some period of time,
18 maybe a year or two, or maybe three even, about contraction
19 in Major League Baseball before the Montreal Expos were
20 contracted, correct?

21 A Correct.

22 Q Despite that talk of contraction, and despite the fact
23 they actually were contracted, their last two years were
24 actually two of their highest attendance years over the last
25 ten years?

1 A They were relocated not contracted.

2 Q I'm sorry, relocated.

3 A Right.

4 Q So, in fact, their last two years before relocation, even
5 though there had been talks about them being contracted,
6 those were good attendance years for that franchise in
7 Montreal?

8 A There were mitigating reasons for that.

9 Q What I want to know is why you rejected them from your
10 model?

11 A That is a fair question. After you brought that up in the
12 deposition I did go back and look at that situation. That is
13 a fair question. And we went back and looked to see what
14 happened with their attendance in the intervening years,
15 which for them was a very long period of time.

16 And basically what we saw was they had strong attendance
17 through 1997. And then for a variety of reasons well before
18 contraction -- contraction was a 2001 situation, well before
19 a contraction their attendance fell way off from roughly one
20 and a half million down to roughly 800,000 they averaged
21 after that. A lot of that had to do with their good players
22 continually leaving. There was a stadium situation that was
23 talked about there.

24 The contraction issue came up in the fall of 2001. By
25 that time the team was averaging roughly 800,000, which is

1 basically one-third of Major League Baseball's average.

2 In the last two years -- You are right, their attendance
3 did go up. The reason for that in large part is they played
4 a whole host of games in Puerto Rico, and those games helped
5 bring up the average.

6 Ut what happened was, when we looked at that after the
7 deposition after you brought that up appropriately, is they
8 had lost basically their fan base four, five, six years
9 earlier. So they were operating roughly at one-third of
10 Major League Baseball's attendance averages. In other words,
11 there was nothing left to go.

12 So for Seattle, if you were averaging one-third of what
13 the NBA averages, like 4,000 a game or 5,000 a game, that
14 would be analogous to where Montreal was at that point.

15 You are right, we should have looked at that. But there
16 was no -- They were already down so far we would have
17 rejected that as a comp.

18 Q With the other comparables what you are really doing when
19 are accepting them or rejecting them as comparables, what you
20 are saying is -- you are making a value judgment as to
21 whether the potential ticket buyers for that franchise have
22 had the opportunity to be impacted by the lame-duck status,
23 correct?

24 A That's correct.

25 Q And there is a line there -- In most situations this is

1 not a black and white case where a team announces that it is
2 going to leave, there is usually rumblings of some sort or
3 another before that, correct?

4 A That's correct.

5 Q And oftentimes it is a stadium financing effort that fails
6 or that passes, correct?

7 A Correct.

8 Q For it to fall within your model you needed to be
9 absolutely, positively, pretty darn sure that relocation is
10 going to happen, right?

11 A Yes.

12 Q And the thing that makes the Sonics fit into your model is
13 the fact that Mr. Bennett announced before last year that the
14 team was going to file for arbitration and seek to move to
15 Oklahoma City, correct?

16 A Correct.

17 Q And it was that decision that created the lame-duck effect
18 in this case?

19 A Well, we took it back one year prior. We took it back to
20 the '06-'07 season. Yeah, that would be the -- that is the
21 right time frame.

22 Q Excuse me. I need to clarify. The '06-'07 was your base
23 year?

24 A Yes.

25 Q Where you were using actuals?

1 A Yes.

2 Q From there on you are projecting, correct?

3 A That's correct.

4 Q So what created the lame-duck situation was Mr. Bennett's
5 decision to file for arbitration before last season?

6 A Correct.

7 Q And, in fact, you know a lot about the NBA, Mr. Bennett
8 didn't have to file for relocation until March of 2010,
9 correct?

10 A I believe that's correct.

11 Q If he wanted to play out his lease he wouldn't have had to
12 file for relocation until March of 2010? That's when the
13 deadline is?

14 A I believe that's when the deadline is.

15 Q When would that 2009-2010 basketball season end?

16 A The regular season ends in April.

17 Q And if the Sonics were good enough to go to the playoffs
18 in 2010?

19 A Through June.

20 Q So the decision by Mr. Bennett to announce his leave was
21 an expensive decision, wasn't it?

22 A I don't know how else you would do it. But, yes, it was
23 an expensive decision. But waiting until 2010 to then decide
24 where you are going to play three months or four months
25 later, I'm not sure how you do that.

1 Q Well, let's look at your chart, if we can. If you look at
2 Page 12 of that, Mr. Bennett's decision to announce
3 relocation early cost him between 4.4 and \$16.4 million,
4 didn't it?

5 A Correct.

6 Q And, in fact, because the City shares suite revenue with
7 Mr. Bennett, it actually cost the City money, his early
8 announcement, didn't it?

9 A Yes.

10 Q And you are not aware of anybody forcing Mr. Bennett to
11 incur this 14.5 million or 16.5 million by announcing early,
12 correct?

13 A No.

14 Q All right. Now, this lame-duck analysis that you did,
15 this is the first time you have ever done this?

16 A The first time I have ever done a lame-duck analysis, yes.

17 Q And you have never heard of anyone else doing this, or at
18 least you hadn't by the time we took your deposition?

19 A Correct.

20 Q And there is no guidelines in the field for how you do a
21 lame-duck analysis?

22 A No. Typically when you do financial analyses we look at
23 projections and we look at comparables to see if we can find
24 any similar situations in the past.

25 Q You agree this analysis is not something that is black and

1 white?

2 A Correct.

3 Q And there is room for interpretation?

4 A Yes.

5 Q And it is inexact?

6 A Yes.

7 Q And, in fact, you described this kind of analysis as more
8 art than science?

9 A Correct.

10 THE COURT: Counsel, we need to find a place to stop.

11 MR. JOHNSON: This would be great, your Honor.

12 THE COURT: All right. Ladies and gentlemen, we will
13 be at recess for 15 minutes.

14 (Court in recess.)

15

16

CROSS-EXAMINATION

17 BY MR. JOHNSON:

18 Q Could we please get Exhibit No. 177. I want to ask the
19 witness a question, if this is his report. Something written
20 in there. Focus on Exhibit No. 2, page 6. 107523.

21 Do you recognize this portion of your report, Mr. Ziets?

22 A Yes, I do.

23 Q And this is a section where you sought to anticipate
24 potential criticisms --

25 I'm sorry, Your Honor, it's page 6 at the bottom, is the

1 page number. We're focused on Exhibit No. 2.

2 This is where you were anticipating some potential
3 criticisms of this report?

4 A Yes.

5 Q I want to focus on the third issue that you raised, where
6 you say the potential criticism is that it would be
7 impossible to isolate lame-duck status versus other variables
8 impacting financial profile, such as on-court performance,
9 staffing cuts, and owner antipathy?

10 A Correct.

11 Q I think what your answer here is, that because of the
12 situation with -- with Houston and with Charlotte, those
13 weren't factors with respect to those two teams?

14 A That's correct. The way we did our analysis, correct.

15 Q Just so I understand, you were able to, in essence, come
16 to the conclusion that for the Hornets, ticket sales weren't
17 impacted by on-court performance?

18 A That is correct. In fact, they were winning, making it to
19 the second round of the playoffs. And their attendance was
20 taking a nosedive.

21 Q And in Houston, ticket sales weren't impacted by their
22 on-field performance?

23 A Similar. In fact in the first case, first time in
24 Houston's history the team did much better in those last two
25 years than in 1994 which was the base year. And, again,

1 their attendance also nose-dived. While the team was doing
2 better on the field, attendance was going the other way.

3 Q Would you agree if the Sonics' ticket sales were impacted
4 by on-court performance, these would not be good qualities in
5 the situation?

6 A Well, I felt these were good comps for the analysis we
7 were doing. I felt I was able to isolate winning
8 performance, on-court performance away -- take that out of
9 the equation because these were teams that were not losing a
10 large share of their games and losing attendance.

11 Q All right.

12 MR. JOHNSON: Your Honor, may I approach with a new
13 exhibit?

14 Admission of Exhibit No. 343.

15 MR. TAYLOR: Foundation.

16 MR. JOHNSON: My understanding is that counsel were
17 stipulating to the elements of the exhibit, their wins and
18 attendance figures. They're from Danny Barth's attendance
19 figures and the wins are a matter of public record.

20 THE COURT: Have they seen it so they know whether
21 they'll stipulate to this exhibit? I mean --

22 MR. TAYLOR: First time I have seen it is when it was
23 handed to me. I was given something that had a win/loss
24 record.

25 THE COURT: Apparently is there no stipulation.

1 Sustained.

2 BY MR. JOHNSON:

3 Q Mr. Ziets, will you take a look at this, and assume for
4 purposes of my questioning that this is --

5 MR. JOHNSON: I'll use this for impeachment, Your
6 Honor.

7 THE COURT: What are you impeaching him about?

8 MR. JOHNSON: He's claiming that his comparables were
9 appropriate comparables because there was -- he was able to
10 control for the win/loss record because those teams, even
11 though they won more games last two years, still continue to
12 lose money. That's not the situation with the Seattle
13 SuperSonics. I want to discuss that with him.

14 MR. TAYLOR: Same objection as to foundation whether
15 it's impeachment or otherwise. We don't know where it came
16 from.

17 THE COURT: Sustained.

18 MR. JOHNSON: We have a stipulation on the number of
19 wins per year. I don't need this exhibit. That's fine.

20 THE COURT: Okay. Ask another question.

21 BY MR. JOHNSON:

22 Q Mr. Ziets, you would agree that if, in fact, the Sonics
23 attendance was tracking their win/loss record that using
24 these two comparables in this kind of analysis may not be
25 appropriate, correct?

1 A I guess I view it differently. I view it that if the
2 other two teams that were comparables were losing a lot of
3 games, like the Sonics, that there is a chance that their
4 attendance losses would be greater than what we showed. I
5 don't know that. But I still think they're comparable. If
6 anything, those other teams, I believe, would have lost more
7 money. If they lost more games, like the Sonics, it would
8 only make the numbers worse.

9 Q But in fact, you've done nothing in your analysis to
10 actually try to control, for any scientific way, control for
11 win/loss record as it affects attendance?

12 A That is correct.

13 Q With respect to owner antipathy, you came to the
14 conclusion there was no owner antipathy with respect to
15 Charlotte Hornets or the Houston Oilers that could
16 have affected ticket sales.

17 A In our lame duck period, I would agree with that. Other
18 than as it relates to relocation, yes.

19 Q So if there is owner antipathy in Seattle, then it
20 wouldn't be the right kind of comparable for this kind of
21 situation?

22 A I didn't state it clearly in the report but the owner
23 antipathy as relating to relocation, which always happens.
24 So in 1995 Bud Adams was excoriated, he was the owner of
25 Houston Oilers, because of relocation. Same thing happened

1 in -- with the Hornets starting in 2000.

2 So during those lame-duck periods, we tried to be careful
3 to pick the right lame duck years. There was owner antipathy
4 as part of the relocation process as opposed to it as a
5 separate variable.

6 Q Maybe you can explain what you mean by "controlling for
7 owner antipathy." I guess I don't understand it now.

8 A We wanted to make sure we looked at the comparable
9 situations that -- as best we could, because it's not
10 perfect, that the change in the financial fortunes of the
11 team were tied to the relocation discussion and the fans'
12 feeling about relocation, period. So separate from wins and
13 losses, separate from, you know, anything that happened in
14 the front office -- let's say the front office cut half of
15 their marketing staff, so they weren't selling. Separate
16 from any other issues going on with the owner. So we really
17 tried to isolate the relocation variable from those other
18 variables.

19 Q So the fact that there is this lawsuit going on, and that
20 Mr. Bennett -- or the PBC is being accused of breaching their
21 lease, that is separate and apart from the normal owner
22 antipathy that occurs with somebody relocating at the end of
23 a lease, correct?

24 A I would say it's the same thing. Any antipathy that comes
25 about from a community towards an owner because of relocating

1 the sports franchise, that antipathy is relocation-driven.

2 Q Did you control for whether the Oilers or the Hornets had
3 recently traded away some of the team's best and most beloved
4 players?

5 A Not -- I'm trying to think what that would be. On court
6 and on the field, they were doing better. So generally, you
7 know, the fans will react to that.

8 Q And that's not case with the Sonics?

9 A That's not the case with the Sonics.

10 Q You've assisted 30 different buyers or sellers of major
11 league sports franchises?

12 A Yes.

13 Q You've been quoted in various places as to your views on
14 why someone might be interested in buying or selling a major
15 league sports franchise?

16 A Yes.

17 Q Some reasons you cited are that people who are interested
18 in buying or selling -- or buying major league sports
19 franchises are interest in the tax benefits of such a
20 transaction?

21 A Yes. That's one of the reasons.

22 Q And, in fact, the full purchase price is fully amortized
23 and subject to tax benefits, correct?

24 MR. TAYLOR: Beyond the scope, also relevance.

25 THE COURT: Sustained as beyond the scope.

1 BY MR. JOHNSON:

2 Q The other reason why folks might buy a sports franchise is
3 because the franchise appreciates?

4 A Correct.

5 MR. TAYLOR: Scope.

6 MR. JOHNSON: I object to that, Your Honor, or not
7 object, but my response is they're talking about \$60 million
8 in losses. And there's other financial reasons why people
9 buy sports franchises. That directly goes to this harm
10 they're claiming they're suffering.

11 THE COURT: That may all very well be true. But
12 that's not what this gentleman was put on the stand to
13 testify to, and he has in direct examination not touched on
14 those issues. That is what is meant by "beyond the scope".

15 MR. JOHNSON: All right.

16 BY MR. JOHNSON:

17 Q Mr. Ziets, part of the loss that you've identified, you're
18 an expert in sports franchises and finances?

19 A Yes.

20 Q And if asked, you could work on a business plan to attempt
21 to lessen those losses, couldn't you?

22 MR. TAYLOR: Scope.

23 THE COURT: Sustained.

24 BY MR. JOHNSON:

25 Q Mr. Ziets, these projections you did in this circumstance,

1 that's not the first time you've done projections for the
2 PBC, correct?

3 A That is correct.

4 Q In fact, you did projections for PBC back when they were
5 trying to get approval from the NBA for the purchase?

6 A That is correct.

7 Q Let's turn to Exhibit No. 78.

8 THE COURT: Is that one of the exhibits that was on
9 the list?

10 MR. JOHNSON: Should have been.

11 BY MR. JOHNSON:

12 Q Mr. Ziets, first of all, Your Honor move --

13 First of all, Mr. Ziets, is Exhibit No. 78 your work?

14 A Yes, it is.

15 Q It's work performed, estimates and forecast performed for
16 PBC?

17 A Yes, it is.

18 MR. JOHNSON: Move for admission of Exhibit No. 78.

19 MR. TAYLOR: No objection, Your Honor.

20 THE COURT: Exhibit No. 78 is admitted.

21 (Exhibit No. 78 admitted.)

22 BY MR. JOHNSON:

23 Q Mr. Ziets, you take your role seriously in your performing
24 your forecasting work?

25 A Yes, I do.

1 Q Always try to do the best work you can?

2 A Yes.

3 Q Most accurate work you can?

4 A Yes.

5 Q You have a reputation in the NBA?

6 A Yes, I do.

7 Q Good reputation?

8 A Yes.

9 Q And it's important that when you're trying to do work for
10 the NBA that you do the best and most accurate work you can?

11 A Yes.

12 Q And this Exhibit No. 78 was something you prepared for
13 ultimate submission to the NBA?

14 A Yes, it was.

15 Q And you prepared it for submission because the PBC needed
16 an extended forecast throughout the term of their lease in
17 order to get approval for the sale by the -- from the NBA?

18 A Yes. That was part of the approval process.

19 Q All right. So to the best of your ability you performed
20 these forecasts based on the assumption that PBC would play
21 out their lease at KeyArena, correct?

22 A Yes. And move towards a new building in Seattle.

23 Q Let's look at the -- can we focus on the EBITDA after
24 "Extraordinary," about two-thirds of the way down?

25 A Yes.

1 Q So I'm reading this right, this line item is the same line
2 item that would apply -- would be similar to the bottom line
3 loss figure and the last page of the slide show that
4 Mr. Taylor used with you?

5 A Yes.

6 Q So back in 2006 when you were trying to estimate the
7 revenue and losses for the Sonics to play throughout the term
8 of their lease at KeyArena, you estimated that for 2009 they
9 would lose \$410,000?

10 A 2008?

11 Q I'm sorry. Yeah, 2008 -- I want to focus on the same last
12 two years that we just looked at from your report. 2009 is
13 \$858,000 profit?

14 A Yes, that's correct.

15 Q And 2010 is a \$697,000 profit?

16 A Is that a 6 or an 8? Yes. That's right.

17 Q Back when you were forecasting the Sonics' revenues with
18 the assumption that they would be playing in KeyArena
19 throughout the term of their lease at the time that PBC
20 bought the team, you forecasted profits for the last two
21 years of the lease?

22 A That's correct.

23 Q All right.

24 THE COURT: Counsel, if you want this exhibit to be
25 useful, you've got to give me something I can read. It's

1 impossible to read. The print is so small. I won't have the
2 screen to blow it up.

3 MR. JOHNSON: I'd be happy to substitute the exhibit.

4 THE COURT: You'll have to do something if you want
5 those numbers to somehow be part of the record. You haven't
6 got a record because it's illegible.

7 MR. JOHNSON: I apologize. This was the way the
8 document was produced to us. If counsel will stipulate, we
9 can make it more legible.

10 BY MR. JOHNSON:

11 Q Mr. Ziets, this is an example of showing that it's
12 difficult to forecast in this business, isn't it?

13 A Yes, it is difficult.

14 Q In fact, most teams don't forecast beyond one year out
15 into the future, correct?

16 A I don't know about that. For different purposes they're
17 multiyear forecasts, yes.

18 Q Now, I understand that this forecast was based on the
19 assumption that the team would have a new building being
20 built that they would move into after the term of the lease?

21 A That is correct.

22 Q Explain to me why having a new building built would make
23 any difference.

24 A The reason it would make a difference is because the fans,
25 the ticket buyers, corporate partners -- everyone that really

1 helps the team drive revenues would know that the team is
2 staying here long term. They would react based on that. We
3 viewed this was a financial projection moving towards a new
4 building.

5 Q So even in KeyArena, the way it exists today and with the
6 lease that exists today, a team can make money according to
7 your forecast?

8 A A team can make money, yes, yes. Everything has to go
9 right. And move towards a new arena.

10 Q Now I want to turn your attention to the Exhibit No. 310.
11 Go ahead. Show Exhibit No. 310.

12 MR. TAYLOR: If we could get clarification. Our
13 record shows it's not in.

14 THE CLERK: I do not show it's been admitted.

15 BY MR. JOHNSON:

16 Q Mr. Ziets, do you recognize Exhibit No. 310?

17 A Yes.

18 Q Is this the document that you received from Mogen Company,
19 which was a commentary on your financial projections?

20 A That's correct.

21 Q Mogen Company was hired by the NBA to review your
22 projections of PBC's finances back in 2006 when they were
23 buying the team?

24 A Correct.

25 MR. JOHNSON: Move admission of 310.

1 MR. TAYLOR: Hearsay. It was not prepared by this
2 witness. It was prepared by a different company.

3 MR. JOHNSON: It's -- all right.

4 THE COURT: Do you have a response?

5 MR. JOHNSON: I was thinking of one.

6 THE COURT: Looks like hearsay to me. Sustained.

7 BY MR. JOHNSON:

8 Q Mr. Ziets, do you recall Mogen Company was hired by the
9 NBA to comment on your report?

10 A Yes.

11 Q And they commented on your report that you had
12 underestimated in their view the total losses that PBC was
13 going to suffer over the term of the lease?

14 A Yes, they did.

15 Q And they in fact thought that PBC needed to have another
16 \$28 million available at that time because there could be
17 another \$28 million in losses?

18 A That's what they believed, yes.

19 Q Did you agree or disagree with that?

20 A I disagreed with them.

21 Q So you still thought your projections at that point were
22 correct?

23 A Yes, I did.

24 Q So you disagreed at that point with Mogen Company
25 projections?

1 A Yes.

2 Q Mr. Ziets, you mentioned before the break that you didn't
3 know how Mr. Bennett could have waited to announce his intent
4 to relocate?

5 A Correct.

6 Q Didn't actually nine of the 11 teams that you used to
7 review to find potential comparators wait until end to
8 announce their intent to leave?

9 A They waited until they were in their last season. I think
10 it was because Montreal we agreed, you know, went earlier.

11 Q Those teams all waited until their last --

12 A They did. But you may not have a place to play. You take
13 your chances if you do that. They felt they had places to
14 play.

15 Q How many NBA arenas, NBA-able arenas are available in the
16 United States right now that are not occupied?

17 A Right now, there is one in Kansas City. There may be
18 others depending on business arrangements.

19 Q How about one in Oklahoma City?

20 A There is one in Oklahoma City.

21 Q How about Las Vegas?

22 A I don't believe that is a viable opportunity right now.

23 Q So there is at least two places that a team could move if
24 they wanted to announce today that they were going to leave
25 for next year?

1 A For next year?

2 Q Yeah.

3 A Right. That is true. By 2010 there could be other teams
4 playing in those buildings.

5 Q Could be?

6 A I would be nervous about that as a business person.

7 Q Thank you.

8 THE COURT: Any redirect?

9 MR. TAYLOR: Yes, Your Honor.

10 REDI RECT EXAMI NATION

11 BY MR. TAYLOR:

12 Q The 2006 projections that you were asked about where it
13 actually projected potentially making money as opposed to
14 losing money, what were those based on? What assumption?

15 A We assumed the team would be in this market and have an
16 agreement for a new arena and moving towards a new arena
17 situation here. They would be here long term.

18 Q It was PBC who asked you to prepare projections that
19 assumed they would be getting a new building here?

20 A That is correct.

21 Q And you said something about sponsors?

22 A You assumed a lot more sponsors for that scenario. Yes.

23 Q Why?

24 A For a number of reasons. One is sponsors would have a
25 positive view of the team because the team would be viewed

1 positively, because it's going to be staying in the region.

2 And then also, a lot of times sponsors will sign on while
3 you're in your old building prior to getting your new
4 building because they want to form relationships. For a lot
5 of reasons. It could be when you move to new building you
6 have preferential treatment. Could be for relationship
7 purposes. But you often see an uptick while a team is in an
8 old building before the new building.

9 Q Uptick all the way across the board? Sponsorships --

10 A Yes.

11 Q You were asked whether you factored in a lawsuit impact
12 into your analysis, and you said no. If you factored that
13 in, what do you think would have happened to the numbers?

14 A The numbers -- numbers would have gone down. We
15 actually -- we actually just looked at the comparables and
16 took the exact same behavior patterns that happened in the
17 comparables as opposed to even thinking about what was going
18 on here with the lawsuit or with the wins and losses. All of
19 that would have made the numbers -- you know, the losses
20 bigger. We didn't do any of that.

21 Q You took a conservative approach?

22 A Yes.

23 MR. TAYLOR: Nothing further.

24 MR. LAWRENCE: Your Honor, for a second, I don't want
25 to interrupt the proceeding, but on page 260 of the

1 transcript on June 17 indicates Exhibit No. 310 was admitted.
2 If we could clarify that.

3 THE COURT: Do you want to do that right now?

4 MR. LAWRENCE: Yes. On June 17, page 360, Exhibit
5 No. 310 was admitted. I would like the record to reflect 310
6 is admitted in this proceeding.

7 THE CLERK: I have it on the docket sheet.

8 THE COURT: Yes.

9 MR. LAWRENCE: No further questions.

10 MR. KELLER: Thank you.

11 THE COURT: You may step down.

12 MR. KELLER: We'll call as our next witness

13 Ms. Deborah Jay.

14 DEBORAH JAY

15 The witness, after being duly sworn, testified as follows:

16 THE WITNESS: Evelyn Deborah Jay. E-V-E-L-Y-N,
17 J-A-Y.

18 DIRECT EXAMINATION

19 BY MR. WEBB:

20 Q You have a Ph.D., correct?

21 A Yes.

22 Q I will call you Dr. Jay if that's all right with you?

23 A Yes.

24 Q What work did the owners of the Sonics ask you to do for
25 them?

1 A I was asked to conduct an independent objective survey
2 with a representative sample of adults in the Seattle
3 metropolitan area and in the City of Seattle to determine
4 whether it would or would not make a difference if the
5 SuperSonics or Sonics were to leave Seattle.

6 Q Generally speaking, how is what you did any different than
7 walking into a grocery store and asking people what they
8 think?

9 A First of all, the demographic of a grocery store would
10 skew towards women. Wouldn't necessarily be representative
11 of adults in the Seattle metropolitan area or the City of
12 Seattle.

13 What we did was a scientific survey where adults in
14 households in Seattle would have a known probability of
15 selection. It would be random which is very different from
16 arbitrary. It would be projectable and also have a known
17 error rate with respect to sampling error and the precision
18 of the estimate.

19 Q When you say "arbitrary," in my example of going into a
20 grocery store, the arbitrary would happen on the aisle that
21 you were on; that you were talking to?

22 A Correct. It's very difficult to do a probability sample
23 to even project the customers of a single store. If you were
24 just intercepting people in that store, for example, if you
25 intercepted people in front of the frozen pizza you might get

1 a different demographic than if you intercepted people in the
2 fresh-vegetable aisle.

3 Q Before we go into the details of the work that you did for
4 my client, I want to have you tell the Court about yourself.

5 What do you do for a living?

6 A I am the President and Chief Executive Officer of Field
7 Research Corporation, one of the oldest public opinion and
8 marketing research firms in the United States, which was
9 started by Marvin Field.

10 Q Generally speaking, what does that company do?

11 A We do approximately 300,000 interviews a year. We do
12 surveys for government agencies such as the Centers For
13 Disease Control, the State of California, we do work for
14 private corporations such as Microsoft and Starbucks. And we
15 do work in the -- for law firms in intellectual property
16 cases and employment litigation and cases such as this.

17 Q What is your academic background?

18 A I have a bachelors degree in psychology and political
19 science from the University of California at Los Angeles. I
20 have a Ph.D. degree from the University of California at
21 Berkeley. The Ph.D. is in political science with an emphasis
22 on psychology, survey methods, and statistics.

23 Q How long have you been working in this field?

24 A I have been working in the area of survey research for
25 over 30 years beginning at the University of California at

1 Berkeley. Also I worked at SRI International. It was
2 founded by Stanford University at Stanford Research
3 Institution, and now Field Research Corporation since 1991.

4 Q You talked about doing work for law firms. Do you do
5 consulting expert work for law firms?

6 A I have been a consulting expert as a testifying expert in
7 connection with litigation.

8 Q In fact, you've done work for the predecessor firms to
9 K&L Gates, haven't you?

10 A Yes. I have been retained by -- I was retained multiple
11 times by Preston Gates Ellis and Kirkpatrick Lockhart.

12 Q How much of your work is litigation related?

13 A About 15 percent of Field Research Corporation's work is
14 related to litigation. About half of my project work is
15 related to litigation and the other half I work for private
16 corporations and for government agencies and nonprofit
17 foundations.

18 Q The work that you did for my client, approximately how
19 many hours of effort went into that work?

20 A About -- approximately 2,000 hours.

21 Q You don't work for free, do you?

22 A Field Research does not work for free.

23 Q And approximately how much did my client pay your company
24 for the work that was done in this case?

25 A Approximately \$100,000.

1 Q How many different people -- actual individuals -- did you
2 interview as part of this process?

3 A We interviewed 604 adults. That would include -- we
4 started with an initial random sample of 402 adults in the
5 Seattle metropolitan area in King County, Snohomish County,
6 and Pierce County. And then we did an over-sample, an
7 additional 202 interviews in the City of Seattle. So we had
8 402 interviews that were projectable to the three counties.
9 That initial sample included 74 adults in the City of
10 Seattle. So we had 276 adults who were projectable to the
11 City of Seattle.

12 Q Based upon your expertise, is that a sufficient number of
13 people to talk to get the information you were after?

14 A Yes. Because of the way the sample was selected and the
15 interviews were conducted, it was a random selection,
16 telephone numbers were randomly generated. And within
17 households, we randomly selected adults to interview.

18 Q Did you prepare a short slide show to help the Court
19 understand your testimony here today?

20 A Yes, I did.

21 MR. WEBB: I would ask permission to pull up Exhibit
22 No. 614 for illustrative purposes only, please.

23 MR. JOHNSON: No objection, Your Honor.

24 THE COURT: 614 admitted.

25 (Exhibit No. 614 admitted.)

1 BY MR. WEBB:

2 Q Dr. Jay, tell us what we're seeing on this first page of
3 Exhibit No. 614.

4 A Right. This includes some of the questions that were
5 included in the field survey that was conducted. The
6 questions specifically relating to what residents, adults age
7 18 and older in the Seattle metropolitan area, whether they
8 thought they would be better off, it would make no
9 difference, or they would be worse off if various teams were
10 to leave Seattle. And so I listed professional teams as well
11 a fictitious team, the Seattle Needles, just to get a gauge
12 on guessing.

13 Also response categories -- the order was randomized
14 across respondents, so categories A, B, and C in that first
15 question would sometimes B would be first and sometimes C
16 would be first and so on. To make sure there was no order
17 effect, similarly the order in which the various teams were
18 read was also randomized across respondents.

19 If a respondent said that they would be better off or
20 worse off, we asked how much better off or worse off they
21 thought they would be. And, again, the categories were
22 slightly, somewhat, and much better off or worse off. And
23 those categories were also the order was rotated.

24 So for approximately half of the respondents it would be
25 slightly somewhat better. And for the other half it would

1 be -- I mean, slightly, somewhat, much better or much worse.

2 And then it would be in reverse order for other respondents.

3 Q So what you just talked about in an earlier, you said in

4 the top part of this page the A, B, and C would be put in

5 different orders. Why do you do that?

6 A I wanted to make sure that there were no primacy or

7 recency effects. Primacy effects go to a response bias where

8 people tend to select the first category they're read or a

9 recency bias where people tend to select the last category

10 they're read. And every possible combination of A, B, and C

11 were used in this survey.

12 Q Who decided specifically what words to use when these

13 questions were asked?

14 A I did.

15 Q How did you go about doing that?

16 A First of all, I tried to understand what the issue was to

17 be addressed in the survey and then based upon my 30 years of

18 experience designing surveys looking at various issues, I

19 formulated questions.

20 The survey itself included a wide variety of questions and

21 this question I thought was a balance question that people

22 could say they were better off or they could say they were

23 worse off or that it made no difference to them if a team

24 were to leave Seattle.

25 Q As you're formulating those questions, is it important

1 that you make the question fair?

2 A Yes.

3 Q Is it important that you make it objective?

4 A Yes.

5 Q Is it important you make it clear?

6 A Yes.

7 Q Let's go to the next slide.

8 What did you find in response to the questions that we
9 just looked at on the last page?

10 A Okay. This is a summary of the results with respect to
11 the SuperSonics, for both Seattle metropolitan area and City
12 of Seattle. So 58 percent of the 402 respondents in the
13 Seattle metropolitan area said it would make no difference if
14 the SuperSonics were to leave Seattle.

15 The comparable percentage for the City of Seattle was
16 54 percent. And that would be 54 percent of the 276
17 respondents. The percentage for better off was 7 percent for
18 the Seattle metropolitan area, 12 percent said they would be
19 better off if the SuperSonics were to leave the City of
20 Seattle.

21 Then percentage for -- who said they would be worse off in
22 the Seattle metropolitan area was 31 percent. A similar
23 percentage in the City of Seattle said they would be worse
24 off, 33 percent. The remaining two percentages relate to the
25 percent who said they did not know or have an opinion as to

1 whether they would be better off or worse off or whether it
2 would make a difference. Or they did not -- I believe one
3 person in the Seattle metropolitan area didn't answer the
4 question, refused to answer it.

5 Q At the top of these columns there are numbers and it says
6 "N equals 402."

7 A N just relates to the size of the sample. So again for
8 the Seattle metropolitan area, those percentages are based on
9 402 respondents, and for the City of Seattle it's based on
10 276 respondents.

11 Q So if I'm reading this correctly, out of 402 respondents
12 for the Seattle metropolitan area, 65 percent said it would
13 make no difference or they would be better off if the Sonics
14 left?

15 A Yes.

16 Q And similarly for the City of Seattle, out of the 276
17 respondents 66 percent said it would make no difference or
18 they would be better off if the Sonics left?

19 A Yes.

20 Q How did these results compare to the other teams that you
21 were looking at, other professional teams in Seattle?

22 If you need we change to the next slide you have given us.

23 A I have a slide which summarizes the results for all of the
24 actual professional teams. My control question isn't up
25 there. But only two -- one to two percent said that it would

1 make a difference if the Seattle Needles were to leave
2 Seattle. So it shows there was a very small amount of
3 guessing in connection with the survey.

4 So the SuperSonics, the results who said they would be
5 worse off, the screen is split, is 33 percent in the City of
6 Seattle, and actually that is quite close to the percent who
7 said they would be worse off for the Storm, which was 30
8 percent.

9 The results for the SuperSonics -- the percent who said
10 they would be worse off is a little higher than for the
11 Storm. It's 31 percent versus 23 percent. But it's
12 considerably less than for the Mariners in the Seattle
13 metropolitan area where 57 percent said they would be worse
14 off. And similarly in the City of Seattle, the 33 percent
15 while -- who said they would be worse off for SuperSonics.
16 While that is very similar to the percentage who would be
17 worse off if the Storm were to leave, it's considerably lower
18 than the percent who said they would be worse off if the
19 Mariners left which was 56 percent.

20 And then with respect to the Seahawks, again, 57 percent,
21 a majority in the Seattle metropolitan area thought they
22 would be worse off and not quite half, 49 percent in the City
23 of Seattle said they would be worse off if the Seahawks were
24 to leave.

25 Q When you asked the questions, why didn't you ask yes or no

1 questions, such as would it make a difference to you if the
2 Sonics left Seattle?

3 A Well, typically in a litigation survey you're concerned
4 about all kinds of response, effects, or just as I mentioned
5 recency effects and primacy effects, where there is a
6 tendency for some people to take the first category or the
7 last category.

8 There is a concern in asking yes or no questions with
9 respect to attitudes that you might get what is known as a
10 yea-saying or acquiescence, so that people just are lazy in
11 answering questions. So they just say yes to yes no
12 questions. That is why often when you're measuring
13 attitudes, in particularly where you don't want people to
14 guess, you want them to think about their answer, you ask
15 multiple choice questions.

16 Q Looking back on your 30 years of experience on this survey
17 that you did, do you think you asked the right questions?

18 A I think the questions provide a representative and
19 reliable measure of whether people in the Seattle
20 metropolitan area and in the City of Seattle believe it would
21 or would not make a difference to them if the SuperSonics
22 were to leave. And based on my survey, I believe that it's
23 clear that a majority believes that either it would make no
24 difference to them or they would be better off if the Sonics
25 were to leave Seattle.

1 MR. WEBB: Thank you, Dr. Jay. I have no further
2 questions.

3 CROSS-EXAMINATION

4 BY MR. JOHNSON:

5 Q Good afternoon, Doctor.

6 A Good afternoon.

7 Q So, Dr. Jay, your firm has been around for a long time.

8 Do you do opinion polls, field research polls?

9 A We do all kinds of surveys at Field Research.

10 Q One of things you do is the field report opinion poll,
11 correct?

12 A We do the field poll.

13 Q Another thing you do, as you mentioned in your direct, is
14 you do marketing polls for companies like Microsoft for
15 marketing research, correct?

16 A Yes. We do marketing research.

17 Q And another thing you do is you prepare reports for
18 lawsuits like this, correct?

19 A Yes.

20 Q You agreed with your counsel that survey questions should
21 be clear, correct?

22 A Yes.

23 Q Objective? They should be understood by most people the
24 same way?

25 A Yes.

1 Q And it should be unambiguous?

2 A Yes.

3 Q And let's go ahead and look at the actual -- the full
4 question that you asked respondents in this case.

5 Can we get Exhibit No. 333, the cutout at page 11.

6 Dr. Jay --

7 MR. WEBB: I don't know whether this exhibit has been
8 admitted.

9 MR. JOHNSON: I'm using it for impeachment. They
10 gave a partial section of her report. They didn't have her
11 full question. I think the record ought to reflect her full
12 question.

13 MR. WEBB: Exhibit No. 33 is that thick (indicating).
14 It's not a question. It's a snippet. It's out of her entire
15 report which is this thick. If he wants to take a snippet
16 out of a snippet, I don't think that's appropriate.

17 MR. JOHNSON: I would like to move to admit Exhibit
18 No. 333, excerpts of Dr. Jay's opinions.

19 THE COURT: Who did the excerpts, Counsel? Can you
20 lay some foundation here?

21 MR. JOHNSON: Your Honor, the main report, and one of
22 the exhibits to the report which deals with the answers to
23 the specific questions posed for the Sonics. I didn't we
24 needed to have the answers to the questions for the Mariners
25 and the Needles and the Seahawks --

1 THE COURT: So you prepared this document?

2 MR. JOHNSON: Yes.

3 THE COURT: 333.

4 MR. JOHNSON: Is there an objection?

5 THE COURT: There is an objection.

6 MR. JOHNSON: In my note there was not an objection
7 listed on the exhibit list. I apologize.

8 MR. WEBB: I don't have a objection if they want to
9 include the entire report. Under Rule 106, I think that's
10 the appropriate way to do it, not take a portion that they
11 want and put it in as an exhibit.

12 MR. JOHNSON: That is what I was moving for.

13 MR. WEBB: For the entire report or for 333? That is
14 what I'm trying to figure out.

15 MR. JOHNSON: If the Court needs some answers to
16 questions about the Needles and Mariners, I will move for
17 inclusion of the entire report and we'll have that. I was
18 trying to make this easier.

19 THE COURT: Do you want to move the full report in?

20 MR. JOHNSON: Yes, Your Honor.

21 THE COURT: Let's give it a number and we'll move it
22 in. That, however, is not 333. So does this document have
23 an exhibit number?

24 MR. WEBB: Does not.

25 THE COURT: What's the next number.

1 MR. WEBB: They can substitute the entire report
2 for --

3 THE COURT: How about we substitute 333 with the
4 entire report. And we'll admit it. Admitted. Go ahead.

5 (Exhibit No. 333 admitted.)

6 MR. JOHNSON: For demonstrative purposes, do you mind
7 if we work off one?

8 MR. WEBB: No problem.

9 BY MR. JOHNSON:

10 Q Dr. Jay, in your slide show, you excerpted just the last
11 section of this question, correct, the second bullet point?

12 A Well, that was the question. There was an introduction
13 and there was actually an introduction to the entire
14 questionnaire. So there were several questions that came
15 before the question, including this transition, the bullet
16 point that comes before this series of questions.

17 So there is an introduction to the whole survey, and there
18 are several questions that precede this. And this is one of
19 the questions that comes before the question that was in the
20 slide.

21 Q This instruction is read to everyone who takes the survey
22 immediately before the bullet above is read, immediately
23 before the bullet below, correct?

24 A Yes.

25 Q That was read to everyone who took this survey, correct?

1 A Yes.

2 Q What you wanted to do in this survey is figure out whether
3 or not the residents of the Seattle area cared if the Sonics
4 moved, correct?

5 A I wanted to determine whether they cared or thought it
6 would make a difference or whether it would have an impact.

7 MR. JOHNSON: Could I get page 21, line 2 of your
8 deposition. I move to publish the deposition, Your Honor.
9 Page 21, line 2 through line 6.

10 THE WITNESS: Excuse me, I'm trying to find where my
11 deposition --

12 MR. JOHNSON: It's on the screen.

13 THE WITNESS: I'm sorry.

14 BY MR. JOHNSON:

15 Q I took your deposition not more than a few weeks ago,
16 Dr. Jay, and asked you the question, whether they care: So
17 you believed that your survey does measure whether adults in
18 City of Seattle want the Sonics to leave the city.

19 Your answer: Whether they care, I measured whether they
20 care, whether the Sonics leave the city.

21 Do you remember that?

22 A Yes. I believe that is what I just said I did. That I
23 measured whether they care whether they thought there would
24 be a difference or whether it would impact them.

25 Q That is actually not what you said. Would you like to

1 read that again. You're throwing in the word "impact."
2 That's not what you said.

3 MR. WEBB: Objection, argumentative.

4 THE COURT: Pose a new question. You posed two
5 questions.

6 BY MR. JOHNSON:

7 Q Your survey measured whether the people surveyed care if
8 the Sonics leave the city, correct?

9 A Yes.

10 Q In fact, the survey absolutely unequivocally measures
11 whether local residents care whether the Seattle Sonics leave
12 Seattle, correct?

13 A Yes.

14 Q You didn't ask them that, did you?

15 A I did not use those exact words. But I measured whether
16 they cared whether the Sonics leave the City of Seattle. I
17 believe that if the residents of the Seattle metropolitan
18 area and the City of Seattle cared, they would say it would
19 make a difference to them.

20 Q Thank you. Can we go back to her report.

21 This is question you asked them.

22 You asked them: I would like to ask you what you think
23 the impact would be on you if any, if the following Seattle
24 sports teams were to leave Seattle. Once again, if you do
25 not know the answer to the question, or do not have an

1 opinion, just say so.

2 All right.

3 Then you give them three options. They can say whether
4 they would be better off, whether they would be worse off, or
5 whether it makes no difference, correct?

6 A Yes.

7 Q All right.

8 You think that's a fair way of getting at whether people
9 care?

10 A Yes.

11 Q Let's get Exhibit No. 329, please.

12 MR. JOHNSON: Move admission for 329, Your Honor.

13 MR. WEBB: Objection. Hearsay and its relevance.

14 MR. JOHNSON: The only objection in the record is
15 relevance is an impeachment document, using it for
16 impeachment.

17 MR. WEBB: Then it doesn't come in as an exhibit. I
18 object on relevance grounds.

19 THE COURT: I'm not understanding what impeachment
20 this would go to. Where is this from?

21 MR. JOHNSON: Let me lay the foundation, Your Honor.

22 THE COURT: Okay.

23 BY MR. JOHNSON:

24 Q Dr. Jay, this Exhibit No. 329 comes from your website.

25 It's an example of the field poll, correct?

1 A That's what you indicated it looks like it. I didn't
2 prepare this. It appears to be prepared by Mark DeCamillo
3 (phonetic) and Marvin Field. I know some of our press
4 releases for the field poll are on our website. Mark
5 DeCamillo directs the field poll. So this would be on our
6 website.

7 Q You are CEO of the company?

8 A Yes.

9 Q You have been putting out this field poll since 1947, your
10 company has been. Correct?

11 A Yes.

12 Q And it's a public opinion poll that is well known,
13 correct?

14 A Field poll is well known.

15 Q Yes.

16 And you advertised these polls as being very reliable
17 because they're independent, correct?

18 A These polls are independent. That's one part of the work
19 that Field does. It's less than ten percent of the work that
20 Field Research Corporation does. Mark DeCamillo directs the
21 field poll and it's a part of the Field Research Corporation.

22 Q You market this poll as an independent nonpartisan
23 objective poll, correct?

24 MR. WEBB: Objection. We're laying a foundation for
25 an irrelevant document. Objection is relevance, not

1 foundational .

2 THE COURT: Sustained.

3 BY MR. JOHNSON:

4 Q When you're asking a question in your field polls, you
5 know how to ask a question trying to get to the public's
6 opinion, don't you?

7 A Again, Mark DeCamillo directs the field poll. These are
8 done as part of a new service, not for a litigation survey.
9 They're done often in the context of an election with all the
10 constraints of an election.

11 They're done for news stories. They're done for a very
12 different purpose, under a variety of different constraints.
13 They tend to try to maximize opinions where surveys and
14 litigation as is stated in the reference manual on scientific
15 evidence are to try to minimize guessing. And so it's a very
16 excellent device to do election polling. It is independent
17 and nonpartisan.

18 But Mark DeCamillo directs that poll. And he designs them
19 for the news service that it's done for.

20 Q He designs them to get out people's opinions, correct?

21 THE COURT: I'm not understanding the reference. The
22 name of her firm is Field. Are you talking about any study
23 that her field does? Are you talking about a specific study?

24 MR. JOHNSON: Maybe I can get to this another way.

25 BY MR. JOHNSON:

1 Q Your company regularly conducts public opinion polling in
2 the State of California, and it is well known for doing that?

3 A Yes.

4 Q You have regularly made those polls available on your
5 website to the media, correct?

6 A The field poll does regularly make available results from
7 publicly released surveys that are done in connection with
8 the news service.

9 Q When you want to find out people's opinions on things in
10 those field polls, you ask questions like, Do you approve or
11 disprove of something. Correct?

12 MR. WEBB: Objection. We're still laying the same
13 foundation for an irrelevant document.

14 MR. JOHNSON: I'm not talking about the document.
15 I'm asking her about what these questions are --

16 THE COURT: Counsel, I'm trying to follow what you're
17 trying to do here. It is my understanding a field poll is a
18 specific kind of forum.

19 MR. JOHNSON: I'm sorry. A Field Poll is a brand
20 named poll that they're famous for in California.

21 THE COURT: She didn't do a Field Poll.

22 MR. JOHNSON: I know.

23 THE COURT: So I'm not understanding why we're going
24 into what a field poll does when that's not what she did.

25 MR. JOHNSON: Because the questions asked in a Field

1 Poll are straightforward and get to the answers and they
2 differs from the questions she asked here.

3 MR. WEBB: Your Honor, she said it's for a completely
4 different purpose, and going from Field Polls that she didn't
5 even take part in.

6 THE COURT: All right. Objection is sustained.
7 Let's ask another question.

8 BY MR. JOHNSON:

9 Q Dr. Jay, you asked this question. What you didn't ask is
10 people -- you didn't ask people whether they care whether the
11 Sonics leave Seattle, correct?

12 A I did not use those exact words. But I believe that the
13 questions measured whether people care. Because I believe if
14 people cared they would have said it would make a difference
15 to them. But they would not have said it would make no
16 difference, that they would have said either they cared and
17 that they would be better off or either they cared and they
18 would be worse off.

19 Q What you really asked people is whether it impacted them.
20 You didn't ask them whether they would be worse off, better
21 off if the Sonics left. You didn't ask them whether they
22 approved or disprove of the Sonics leaving. You didn't ask
23 them whether they favor or oppose the Sonics leaving?

24 MR. WEBB: Objection, compound.

25 THE COURT: Sustained.

1 BY MR. JOHNSON:

2 Q Those are all questions you ask when you're trying to get
3 someone's opinion, correct?

4 A You rattled off a lot of different questions. The
5 questions that you formulate relate to the purpose of the
6 survey. And this question is a balance question. It
7 measures whether it does or doesn't make a difference, and if
8 it makes a difference whether you would be -- you think you
9 would be better off or worse off. It's a question that
10 measures the impact or whether you care whether the Sonics
11 leave Seattle.

12 Q Can we get -- you got answers to some verbatim answers to
13 these questions?

14 A We ask respondents who said they would be better off and
15 respondents who said they would be worse off. The reasons
16 why they thought they would be better off and the reasons why
17 they thought they would be worse off.

18 Q Could we look at PBC 107493 which is page -- in Appendix 0
19 of Exhibit No. 333.

20 MR. WEBB: Can I get a clarification on the document
21 we're going from 333?

22 MR. JOHNSON: For right now, it's Appendix 0, 107493.

23 THE COURT: What's the page again?

24 MR. JOHNSON: I'm sorry, Your Honor. It's page 1 of
25 Appendix 0.

1 BY MR. JOHNSON:

2 Q Dr. Jay, this middle column, 10-C, indicates the responses
3 that you got to the questions you asked.

4 A Actually, you're not showing the questions that were asked
5 for those responses. It was a later bullet point on the
6 page.

7 Q Right. These are people that said they would be better
8 off if the Sonics left. These are the people that want the
9 Sonics to leave down, right?

10 A Yes.

11 Q And this is what they said?

12 A Yes. But it's a response to different bullet points than
13 you have on the screen.

14 Q No. But you asked both of those bullet points on the
15 screen before you got to that another question, correct?

16 A Yes. But neither of those questions are C-10-C, and
17 you're not showing the question that comes below it. That is
18 a response to -- I'm just pointing out that is a response to
19 a question that followed those first two bullet points.

20 Q What these people thought you were asking them is what --
21 how the Sonics leaving would impact them financially?

22 MR. WEBB: Objection, speculation, calls for absolute
23 speculation on this witness's part.

24 BY MR. JOHNSON:

25 Q You can look through the four pages of responses and

1 virtually everyone talks about it's going to cost them money
2 if the Sonics stay?

3 THE COURT: Counsel, do you want a response to the
4 objection?

5 MR. JOHNSON: No, Your Honor.

6 THE COURT: Then sustained.

7 BY MR. JOHNSON:

8 Q Despite the fact that we can disagree about whether the
9 question you asked is the appropriate one, let's -- we can
10 agree on one thing: This is the population you were
11 measuring?

12 MR. WEBB: Objection, foundation.

13 BY MR. JOHNSON:

14 Q In your deposition you told me you were looking at -- I
15 think it's in your report -- King, Pierce and Snohomish
16 Counties, correct?

17 A I was looking at King, Pierce and Snohomish counties, but
18 the -- I was looking at adults age 18 and older. And I used
19 census data. You have a different set of population numbers.
20 This does not match data on www.census.gov website that I
21 looked at with respect to the adult population age 18 and
22 older.

23 Q What was the population of Seattle that you thought you
24 were measuring?

25 A Approximately 2.5 million adults.

1 Q That was for the metropolitan region, I think, is what you
2 meant to say and I think you said 500,000?

3 A I'm sorry. 2.5 million for the three counties. Adult
4 population age 18 and older and approximately a half million
5 for the City of Seattle. So again, my numbers that I recall
6 from my files don't exactly match these numbers.

7 Q So I will take your numbers. Given your numbers and your
8 poll, at least 165,000 residents of Seattle feel like they
9 would be worse off in Sonics leave, correct? That's a third
10 of the population of the City of Seattle. You said 33
11 percent of the population of the City of Seattle feels like
12 they would be worse off?

13 THE COURT: Counsel, you have to -- you have to wait
14 for an answer before you ask the next question.

15 MR. JOHNSON: All right.

16 THE COURT: You have two questions in front of her.
17 Which one do you want answered?

18 MR. JOHNSON: The first.

19 THE COURT: Pose it again.

20 BY MR. JOHNSON:

21 Q A third of the citizens of Seattle that are adults,
22 according to your poll, feel like they would be worse off if
23 the Sonics left?

24 A Yes.

25 Q That's approximately 165,000?

1 A Yes.

2 Q And for the regional metropolitan area, it's about
3 775,000, correct?

4 A Yes.

5 Q Feel like they would be worse off?

6 A Yes.

7 Q Thank you.

8 MR. WEBB: Nothing further. Thank you.

9 THE COURT: You may step down.

10

11 (Court adjourned.)

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C E R T I F I C A T E

We certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

/S/ Barry L. Fanning, CCR, RMR, CRR

/S/ Nichol e Rhynard, CCR, RMR, CRR