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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

SANTA BARBARA CHANNELKEEPER, a)
California non-profit)
organization,)
Petitioner,)

VS.) NO. 19STCP01176

STATE WATER RESOURCES CONTROL,)
a California State Agency;)
et al.,)
Respondents.)

_____)
AND RELATED CROSS-ACTIONS.)
_____)

TRANSCRIPT OF VIDEOCONFERENCE HEARING BEFORE
HONORABLE WILLIAM HIGHBERGER
WEDNESDAY, FEBRUARY 16, 2022
8:44 A.M.

REPORTED BY:
Sari M. Knudsen
CSR No. 13109

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APPEARANCES:

HONORABLE WILLIAM HIGHBERGER, JUDGE
LOS ANGELES SUPERIOR COURT, DEPARTMENT 10
312 North Spring Street
Los Angeles, California 90012

APPEARANCES OF COUNSEL:

FOR THE CROSS-DEFENDANTS COLLECTIVE KNOWN AS THE EAST
OJAI GROUP:

MUSICK, PEELER & GARRETT LLP
BY: GREGORY PATTERSON, ESQ.
2801 Townsgate Road, Suite 200
Westlake Village, California 91361
805-418-3100
(VIA VIDEOCONFERENCE)

1 APPEARANCES OF COUNSEL: (CONTINUED)

2

3 FOR THE PROPOSED INTERVENOR CALIFORNIA DEPARTMENT OF
4 FISH & WILDFIRE:

5 ATTORNEY GENERAL OFFICE

6 BY: NOAH GOLDEN KRASNER, ESQ.

7 DEPUTY ATTORNEY GENERAL

8 300 South Spring Street

9 Los Angeles, California 90013

10 213-269-6343

11 (VIA VIDEOCONFERENCE)

12

13 FOR THE RESPONDENT AND INTERVENOR STATE WATER RESOURCES
14 CONTROL BOARD:

15 ATTORNEY GENERAL'S OFFICE

16 BY: MARC MELNICK, ESQ.

17 DEPUTY ATTORNEY GENERAL

18 1515 Clay Street, 20th Floor

19 Oakland, California 94612

20 510-879-0750

21 (VIA VIDEOCONFERENCE)

22

23

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APPEARANCES OF COUNSEL: (CONTINUED)

FOR THE RESPONDENT AND CROSS-COMPLAINANT CITY OF SAN
BUENAVENTURA:

BEST BEST & KRIEGER LLP
BY: CHRISTOPHER PISANO, ESQ.
300 South Grand Avenue, 25th Floor
Los Angeles, California 90071
213-617-8100
(VIA VIDEOCONFERENCE)

FOR THE CROSS-DEFENDANT VENTURA COUNTY WATERSHED
PROTECTION DISTRICT AND COUNTY OF VENTURA:

HANSON BRIDGETT LLP
BY: NATHAN A. METCALF, ESQ.
425 Market Street, 26th Floor
San Francisco, California 94015
415-777-3200
(NOT PRESENT)

1 APPEARANCES OF COUNSEL: (CONTINUED)

2

3 FOR THE CROSS-DEFENDANT WOOD CLAEVSSSENS FOUNDATION:

4 BROWNSTEIN HYATT FARBER SCHRECK LLP

5 BY: CHRISTOPHER GUILLEN, ESQ.

6 1021 Anacapa Street, 2nd Floor

7 Santa Barbara, California 93101

8 805-963-7000

9 (VIA VIDEOCONFERENCE)

10

11 FOR THE CROSS-DEFENDANT CASITAS MUNICIPAL WATER

12 DISTRICT:

13 RUTAN & TUCKER, LLP

14 BY: JEREMY JUNGREIS, ESQ.

15 18575 Jamboree Road, 9th Floor

16 Irvine, California 92612

17 714-641-5100

18 (NOT PRESENT)

19

20

21

22

23

24

25

1 APPEARANCES OF COUNSEL: (CONTINUED)

2

3 FOR THE CROSS-DEFENDANT CITY OF OJAI:

4 BARTKIEWICZ KRONICK & SHANAHAN, PC

5 BY: HOLLY JACOBSON, ESQ.

6 1011 Twenty-Second Street

7 Sacramento, California 95816

8 916-446-4254

9 (VIA VIDEOCONFERENCE)

10

11 FOR THE CROSS-DEFENDANTS ANDREW WHITMAN AND HEIDI

12 WHITMAN; NANCY WHITMAN, JOHN WHITMAN AND NANCY L.

13 WHITMAN FAMILY TRUST:

14 ANDREW K. WHITMAN, ESQ.

15 821 North Signal Street

16 Ojai, California 93023

17 805-444-5671

18 (NOT PRESENT)

19

20

21

22

23

24

25

1 APPEARANCES OF COUNSEL: (CONTINUED)

2

3 FOR THE CROSS-DEFENDANTS MEINERS OAKS WATER DISTRICT

4 AND VENTURA RIVER WATER DISTRICT:

5 HERUM CRABTREE SUNTAG

6 BY: JEANNE ZOLEZZI, ESQ.

7 5757 Pacific Avenue, Suite 222

8 Stockton, California 95207

9 209-472-7700

10 (NOT PRESENT)

11

12 FOR THE CROSS-DEFENDANTS GREGG GARRISON, ROSANNA

13 GARRISON, EMILY V. BROWN, TRUSTEE OF THE RESTATED

14 EMILY V. BROWN INTERVIVOS TRUST, ROE 37, AND DENISE

15 WIZMAN, AS TRUSTEE OF THE DENISE WIZMAN REVOCABLE

16 TRUST, CARTY OJAI, LLC:

17 GARRISON LAW CORPORATION

18 BY: GREGG SCOTT GARRISON, ESQ.

19 12986 MacDonald Drive

20 Ojai, California 93023

21 650-726-1111

22 (VIA VIDEOCONFERENCE)

23

24

25

1 ALSO PRESENT :

2 TREVOR QUIRK

3 BRANDON HANSON

4 CLAUDE BAGGERLY

5 ROBIN SANCHEZ

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1 LOS ANGELES, CALIFORNIA

2 WEDNESDAY, FEBRUARY 16, 2022; 8:44 A.M.

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HONORABLE JUDGE HIGHBERGER: We're on the record in
7 19STCP01176, Santa Barbara Channelkeepers, and
8 conducting informal discovery conference as authorized
9 by California Code of Civil Procedure 2016.080.

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The question presented, as I understand it, is
the possible inclusion of video recording of
previously-noted depositions for certain experts in
this case. The matter had been discussed on the record
in the court on Monday of this week when Mr. Trevor
Quirk, a cross-defendant who is representing himself as
a licensed attorney, raised the question of trying to
get the previously-noted expert depositions to be
recorded in video fashion.

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Mr. Quirk on Monday had expressed the thought
that the margin of cost would be quite small. We dealt
with it after fashion on Monday with me authorizing
your attempts to do an informal recording of the
depositions on Tuesday and Wednesday of this week with
Mr. Quirk presumably giving formal notice that the
depositions on Thursday of this week and thereafter

Page 10

1 would be formally recorded for possibly use at the time
2 of trial.

3 Apparently Veritext, your outside vendor, that
4 had been authorized to do the stenographic depositions
5 was not willing to do an informal recording via Zoom of
6 the deposition scheduled for yesterday, and apparently
7 while they have staff available to do a recording by
8 video of the deposition scheduled for today, the cost
9 apparently is more than trivial which has led to some
10 apparent dispute about whether there will be a video
11 recording of the expert depositions occurring today and
12 hereafter.

13 Is that a fair summation of where we are at,
14 Mr. Pisano?

15 MR. PISANO: I believe it is, Your Honor. Thank
16 you

17 HONORABLE JUDGE HIGHBERGER: Mr. Quirk?

18 MR. QUIRK: With the exception that I did give
19 formal notice on still pending File and Serve's
20 acceptance of my application --

21 (Whereupon the reporter asked for
22 clarification)

23 MR. QUIRK: With the exception that I did give
24 formal notice, my application with File and Serve is
25 still pending. I spoke with them this morning and I've

1 yet to be added to File and Serve.

2 HONORABLE JUDGE HIGHBERGER: Thank you, sir.

3 So on Monday, as I recollect, several people
4 expressed a willingness or at least I think it was two
5 people to share this expensive video recording with
6 Mr. Quirk.

7 Mr. Quirk, is my memory right on that? And if
8 so, who were the apparent willing partners who would
9 share the expense?

10 MR. QUIRK: I believe it was -- I'd have to check
11 my notes. But I believe one of them was Mr. Garrison
12 and his 20 or so odd clients and there was one other --
13 one other person, and the way I understood your order,
14 judge, was that you -- we had two depositions set short
15 of the three-day time period. So in between the 15th
16 and 17th, there were a couple depositions. You had
17 ordered Veritext to click record on the Zoom, and if
18 they had any problems, to call you. Apparently they
19 won't do that.

20 I can explain to the court why because I know
21 and I've had experience with Veritext. After the 17th
22 was when the formal videographer was going to be
23 implemented and do the read-on and that we could use
24 for trial purposes because we would be able to comply
25 with the three-day Code of Civil Procedure requirement.

1 HONORABLE JUDGE HIGHBERGER: So Mr. Garrison, do
2 you agree that you had on Monday agreed to share
3 marginal expense of the videographer with Mr. Quirk?

4 MR. GARRISON: This is Gregg Scott Garrison.

5 No, Your Honor. At that time we thought it
6 was a nominal \$25 fee. We had no idea it was going to
7 be a \$2,000 fee and that's expressly not authorized by
8 my clients.

9 HONORABLE JUDGE HIGHBERGER: Fair enough. Do you
10 remember, Mr. Garrison, who on Monday in addition to
11 you expressed theoretical interest in sharing a nominal
12 expense besides Mr. Quirk?

13 MR. GARRISON: There were a number of people, Your
14 Honor, that expressed that they didn't object to the
15 depositions being recorded. But there was no
16 discussion in fee sharing because we didn't know what
17 the fee sharing would be beyond the \$25 nominal fee. I
18 believe the parties that did not object were
19 Ms. Jacobson and Mr. Patterson.

20 HONORABLE JUDGE HIGHBERGER: Mr. Patterson, do you
21 remember if on Monday you expressed any willingness in
22 sharing a nominal fee?

23 MR. PATTERSON: No. Well, no. Because we had
24 scheduled these depositions without a video recorder
25 and I don't have approval from my clients to pay. What

1 I found out -- you know, Your Honor, it was happening
2 realtime. So we had the hearing on Monday during the
3 break I called Veritext. I had been told repeatedly by
4 Veritext that -- the court reporter service that we are
5 using -- that they will not just simply turn on the
6 recorder on Zoom, and that you have to pay for a
7 videographer. And for a full day deposition, the cost
8 is somewhere in the neighborhood of \$2,000.

9 So yesterday with the -- one of the
10 depositions, we basically suspended the deposition
11 until we can clear this up.

12 HONORABLE JUDGE HIGHBERGER: Thank you.

13 So my perception of where things stand is that
14 I can't force Veritext to do what Veritext doesn't want
15 to do, and by the same token, if it's important to have
16 a video recording of the deposition, Veritext for a
17 certain price is willing to do it if somebody will pay
18 them. And so who, if anybody, this morning has a
19 willingness to pay the actual cost to cause a video
20 recording to be made that would be official and
21 admissible at time of trial?

22 Do you any desire to do so, Mr. Quirk?

23 MR. QUIRK: For today's deposition, no.

24 HONORABLE JUDGE HIGHBERGER: Are there any other
25 depositions that have been noticed in the future that

1 you view as being important enough that you would
2 consider paying without anybody else sharing the
3 expense the cost of videographer, Mr. Quirk?

4 MR. QUIRK: Perhaps. Yes. One in particular. But
5 if I may elaborate a little bit on this issue and
6 explain kind of what is going on with Veritext and my
7 issue with the way this has come before the court --

8 HONORABLE JUDGE HIGHBERGER: Go ahead, sir.

9 MR. QUIRK: So prior to the COVIN hitting, Judge,
10 as you know, most of the depositions were done in
11 person. Right? We had a court reporter there, and if
12 we wanted to videotape something, the reporting service
13 would offer a videographer. So you had two people and
14 the court reporter got to bill for two folks.

15 Well, during COVIN, everything goes via Zoom.
16 And the code explicitly authorizes a person -- a lawyer
17 like me taking a lay witness deposition to videorecord
18 my own depositions. And I used to do it all the time before
19 COVID. I would bring my own camera.

20 So what lawyers started doing is, just like
21 you could do with this hearing, you just click record
22 on the Zoom. There's a little button at the bottom.
23 If you are the one that set up this Zoom, you click
24 record.

25 And so lawyers would ask the court reporting

1 companies, hey, I'm taking this deposition. It's
2 remote. Give me the hosting capabilities and let me
3 record it. And Veritext said okay. Initially. But
4 then they quickly figured out they were losing a couple
5 grand a day in court reporting fees. So they put a
6 kibosh on that and said we are not going to allow that
7 anymore. Even though for lay witness depositions, it's
8 explicitly authorized.

9 So what my firm did is we went with a couple
10 other court reporting agencies who do do that. Because
11 they want the business. They will give you hosting
12 capabilities. So Judge, if you are the lawyer taking a
13 deposition at the court reporting agency, I just give
14 you the controls and you click record and save to your
15 desktop just like you are saving a picture.

16 So I told this to the lawyers yesterday
17 noticing the deposition. I said you don't have to use
18 Veritext. They are going to charge everybody a couple
19 grand simply because they want to make the money to do
20 it. They want the couple thousand dollars to literally
21 click record on a Zoom.

22 I've got the names of a couple other court
23 reporting agencies who will do this. And they -- they
24 said "Well, it doesn't work that way in our firm.
25 We've got to have a whole bunch of decisions made

1 before we can switch court reporting agencies."

2 So I think to put the burden on an individual
3 defendant like me and my wife who are sued and have had
4 to spend, as you know, the filing fees come late to
5 this game, I've already missed six depositions. I've
6 got to pay for those deposition transcripts because
7 parties aren't going to give them to me. And now I
8 have to bear the couple thousand dollars in court
9 reporting fees because these lawyers won't even
10 entertain talking to another court reporting agency.

11 It's unfair and putting an unfair burden on me
12 as an individual. And I recognize, Judge, yes, if I'm
13 the one that wants to use the transcript at trial and
14 cut it up and impeach the experts, I should bear the
15 costs. But you know what is going to happen? They are
16 all going to request a transcript. They are all going
17 to want the video recording. If that's the case, pay
18 for the cost and allow me to talk to these other court
19 reporting agencies and say, hey, all it is is literally
20 e-mailing you the Zoom. That's all these agencies do.
21 It allows you to click record. That's not a
22 couple-thousand-dollar job.

23 So sorry for the long-winded explanation. But
24 that's my feeling this morning. And I feel it's an
25 unfair burden that I as an individual defendant should

1 have to pay.

2 HONORABLE JUDGE HIGHBERGER: Now, remind me who
3 noticed the deposition for today and all the future
4 depositions? Was it only one lawyer, one office or was
5 the noticing of the deposition scattered about
6 according to whether the expert was friend or foe?

7 MR. PISANO: The latter, Your Honor. I believe --
8 I have noticed the deposition for today. Mr. Patterson
9 had noticed the deposition for yesterday. And he has
10 noticed the deposition for Friday and then I -- my
11 recollection is there are two depositions next week and
12 I have noticed both of those. And then that's it for
13 the expert depositions.

14 HONORABLE JUDGE HIGHBERGER: So to my
15 understanding, the party who notices the deposition has
16 a prerogative of picking a court reporter.

17 Is that square with your understanding of the
18 practice of law at this time, Mr. Quirk?

19 MR. QUIRK: Yes.

20 HONORABLE JUDGE HIGHBERGER: Is that your
21 understanding also, Mr. Pisano?

22 MR. PISANO: Yes, Your Honor.

23 HONORABLE JUDGE HIGHBERGER: Mr. Patterson
24 likewise?

25 MR. PATTERSON: Yes, Your Honor.

1 HONORABLE JUDGE HIGHBERGER: So Mr. Pisano and
2 Mr. Patterson, do you have any comments in response to
3 Mr. Quirk's assertion that you should be more nimble
4 and willing to contemplate an alternative to Veritext
5 in order to facilitate a more cost-effective creation
6 of a videorecord of the deposition? Mr. Pisano first.

7 MR. PISANO: Yes, Your Honor. My comments in
8 response are yesterday after hearing what Mr. Quirk had
9 said in court on Monday, I had a staff member contact
10 two other court reporting companies that we use. One
11 of whom is First Legal. They are the ones who were
12 using for all the in-court reporting and both reporting
13 companies said the same thing. They will not hit play
14 or record, and then if you want an official video
15 transcription or video recording, you have to use a
16 videographer who charges an hourly rate plus their fees
17 associated with getting the video.

18 So you know, I don't have the experience that
19 Mr. Quirk does in talking and -- with court reporters
20 who are willing to just let you do it on your own. I
21 don't have that experience.

22 I would also say that Mr. Patterson and I, who
23 noticed the overwhelming majority, if not all -- there
24 may have been one or two depositions noticed by one -- by
25 other parties. But by and large, these deposition

1 notices have been done by Mr. Patterson and I. And we
2 opted for Veritext for these depositions because they
3 do a very good job in assisting you with exhibit
4 presentation, setting up the Zoom. Because they are a
5 hybrid, they also work with us on setting up the
6 conference room so that there's a laptop for the
7 witness. There's a big screen where the people in the
8 conference room can see the people on the screen. It's
9 very easy to share documents.

10 Frankly, I love using Veritext for these
11 hybrid depositions because they do such a great job and
12 they take all the worry off your plate for things that
13 pre-COVID you used to take for granted which you would
14 sit around a conference room and just pass out the
15 copies of the exhibits to everybody. You can't do
16 that. So that's why we're relying on the technical
17 expertise of Veritext. I'm hesitant and frankly
18 reluctant to use another service at this point. I'll
19 let Mr. Patterson speak to it. But that's my
20 perspective on the issue, Your Honor.

21 HONORABLE JUDGE HIGHBERGER: Mr. Patterson.

22 MR. PATTERSON: Well, I would echo what Mr. Pisano
23 said, Your Honor. I mean, we use these services as a
24 law firm because we have a relationship with them and
25 we can work with them on these issues that have all

1 challenged us during this COVID time period. And I
2 have the -- I think, the absolute right to pick the
3 court reporter service that I want to use.

4 Now if someone wants to videotape -- if I
5 decide not to, you know, videorecord the deposition,
6 that's my prerogative, I think. And if somebody else
7 wants to do that, I don't have any objection to that.
8 But they are going to have to pay for it. My clients
9 are not going to pay for it. I don't have any
10 authority to do that.

11 HONORABLE JUDGE HIGHBERGER: And I guess
12 theoretically, Mr. Quirk or some other party in the
13 case could bring in an independent videographer to work
14 along with the stenographer, according to whatever
15 financial terms is acceptable to that videographer, but
16 that videographer would then show up in person with a
17 camera and do what they do, and they probably aren't
18 going to do it for a small amount because they have
19 true out-of-pocket expenses to put a human in the room
20 with the hardware.

21 Correct, Mr. Quirk?

22 MR. QUIRK: Correct.

23 HONORABLE JUDGE HIGHBERGER: Okay. Mr. Quirk, so
24 far, I don't see any path other than you paying when
25 you want for the videographer by Veritext or put your

1 own videographer in the room that is authorized to do
2 it in a more formal rather than clicking on the record
3 button on Zoom.

4 MR. QUIRK: Sounds good.

5 HONORABLE JUDGE HIGHBERGER: So proceed with
6 today's deposition and you are waiving any demand for
7 videographer today, Mr. Quirk?

8 MR. QUIRK: Correct.

9 HONORABLE JUDGE HIGHBERGER: And as to the witness
10 yesterday, would you waive any demand for videographer
11 for that witness when that's reset?

12 MR. QUIRK: No. Because that's a -- will be reset
13 with the -- and we'll be able to get the proper
14 three-day notice for that person. So the reason I'm
15 waiving it for today is I don't think we can comply
16 with the Code of Civil Procedure that requires we give
17 the proper three-day notice.

18 HONORABLE JUDGE HIGHBERGER: Okay. And that
19 witness may be of sufficient importance that you would
20 incur the marginal expense to have it done with
21 videographer. Right, Mr. Quirk?

22 MR. QUIRK: That's correct. And Judge, if I'm
23 understanding what you said correctly, if
24 Mr. Patterson, for example, is the one noticing the
25 deposition and he doesn't want to pay, I can bring my

1 own videographer or hire my own court reporting agency
2 that will videorecord these depositions and these folks
3 can't preclude me from doing that. That seems natural.
4 What is going to then happen, as I anticipate, once
5 I've got that video and these folks want it, and they
6 want a copy --

7 HONORABLE JUDGE HIGHBERGER: Well, presumably if
8 you brought in a properly-certified videographer to
9 work in tangent with the stenographer, even if they are
10 from different shops, they will occupy the same
11 conference room. Correct so far, Mr. Quirk?

12 MR. QUIRK: Yes.

13 HONORABLE JUDGE HIGHBERGER: Correct, Mr. Pisano?

14 MR. PISANO: I believe that's correct, Your Honor.

15 HONORABLE JUDGE HIGHBERGER: Correct,
16 Mr. Patterson?

17 MR. PATTERSON: Yes, Your Honor. That is.

18 HONORABLE JUDGE HIGHBERGER: So the videographer
19 hired by Mr. Quirk will be there making official
20 videorecord of the event. Mr. Quirk will have to have
21 front-end expenditures for making it happen, and then I
22 assume the provision of copies of what has been
23 obtained through Mr. Quirk's efforts will be subject to
24 the commercial relations between Mr. Quirk and the
25 videographer he hires because just like the

1 stenographic transcription aren't giving away, I assume
2 access to the video would be according to such pricing
3 as the videographer believes can lawfully be charged to
4 the parties in the case.

5 Correct, Mr. Quirk?

6 MR. QUIRK: I don't think so because I think it's
7 what I would deem that I should charge these guys
8 because I've incurred the time and expense and labor in
9 securing all these videos. If they want the video,
10 they are going to write me an e-mail or letter saying
11 give me a copy of the video and I can say here's your
12 copy. But you have the chance to get your own
13 videographer and my fee for this videographer is X
14 amount. As long as --

15 HONORABLE JUDGE HIGHBERGER: I'm not sure what the
16 code provides and I was basically leading you there,
17 but I believe I thought it's sort of between you and
18 your independent videographer to have your videographer
19 essentially reduce the expense to you by transferring a
20 portion of the expense to the next buyer?

21 MR. QUIRK: Okay. I'm following you.

22 HONORABLE JUDGE HIGHBERGER: But I assume absent
23 the discord that is emerged in this case, there are
24 traditional practices about how these costs get divvied
25 up when there's a second or third or fourth or 20th

1 purchaser of the same resource.

2 MR. QUIRK: Yes. I do it all the time. We don't
3 have problems.

4 HONORABLE JUDGE HIGHBERGER: And I assume that
5 those practices would be what controls how it's priced,
6 with you basically, once other people show up and ask,
7 start reducing your out-of-pocket expense because
8 prorated it's being divvied up in shares according to
9 whatever terms you and your videographer arrange.

10 MR. QUIRK: Sounds like we can cross that bridge
11 when we get there, Judge. So I won't take up the
12 court's time. Hopefully we won't have that problem.

13 HONORABLE JUDGE HIGHBERGER: And insofar as you
14 care to do some but not all of them, please be as clear
15 as you can as quickly as you can, Mr. Quirk, as to what
16 you are going to arrange to videorecord because you
17 also need to know the physical premises so your person
18 can show up at the right time at the right place with
19 the right hardware.

20 MR. QUIRK: As soon as I get on File and Serve, I
21 will handle it.

22 HONORABLE JUDGE HIGHBERGER: Is there anything you
23 need from the court to expedite your inclusion to File
24 and Serve? I hadn't heard of people being slow-walked
25 trying to get onto File and Serve in the past.

1 MR. QUIRK: According to the representative I spoke
2 to this person, because I'm a self-represented
3 defendant, they won't give me certain security
4 concerns. They have given me a ticket number and
5 elevated it. I have no idea, Judge. If there is a
6 problem, I'll reach out to the court somehow.

7 HONORABLE JUDGE HIGHBERGER: One moment.

8 I would urge you, Mr. Quirk, to contact Gina,
9 G-I-N-A, Cervino, C-E-R-V-I-N-O, client manager at File
10 and Serve. Her e-mail address is
11 ginacervino@fileandserve.com. Phone No. 972-893-6556.

12 I've met her in person. She claims to be the
13 client rep to work with the judges in L.A. and have her
14 do what she can to expedite your joinder. Particularly
15 because you are a practicing lawyer with an active
16 practice, they shouldn't treat you like you are some
17 kind of a suspect commodity. You know, given that you
18 do this all the time and ought to be able to tell them
19 that you are engaging in an active practice even if for
20 this case you are representing yourself. Okay.

21 MR. QUIRK: Related issue, Judge. If I may.

22 HONORABLE JUDGE HIGHBERGER: One moment. I need to
23 step aside due to a family member. I'll be with you in
24 about 60 seconds.

25 MR. QUIRK: Thanks.

1 (Whereupon a discussion was held
2 off the record)

3 HONORABLE JUDGE HIGHBERGER: Thank you for your
4 patience. Mr. Quirk.

5 MR. QUIRK: Since we are talking about recordings,
6 I was curious to see if the court would be so inclined
7 to record all future hearings that we are conducting
8 via Zoom and publish them or give the recordings to
9 the -- to whoever is managing the Ventura website so
10 that the public -- I'm getting a lot of inquiries from
11 my friends -- can watch these hearings and see what is
12 going on. Is that an option that's available?

13 HONORABLE JUDGE HIGHBERGER: Probably not. This is
14 unique because this was done on Zoom. When the trial
15 comes, I certainly, based on what I said in the
16 tentative on Monday -- I'm interested in at least
17 having a realtime access to Zoom of trial sessions.
18 Whether that means a trial session is recorded is
19 another question that you and the other lawyers ought
20 to take up.

21 Normally when we do court sessions, apart from
22 trial, we do it on the L.A. Court Connect platform, and
23 I don't believe that that has any ready records and
24 post function to it electronically. You are welcome to
25 make inquiry of Los Angeles Superior Court Management

1 and otherwise, but I haven't seen that done. I do
2 understand public access, Mr. Quirk. I'm not trying to
3 be hindrance to it. I'm trying to deal with some of
4 the practical realities.

5 MR. QUIRK: Thank you.

6 HONORABLE JUDGE HIGHBERGER: I previously offered
7 to conduct trial in Simi Valley but I think at the
8 moment -- because I have a large court that will be
9 able to accommodate people. If I had a tenant in the
10 Ventura Court, Simi Valley, I probably wouldn't have
11 such a large courtroom.

12 The idea of relocating court sessions to Simi
13 Valley Courthouse probably has got more detriment than
14 gain. Particularly because the only offer would have
15 been Simi Valley, which is not exactly near Ojai.

16 Okay. Mr. Quirk, anything else you want to
17 take up with the court this morning?

18 MR. QUIRK: Thank you for your time, Judge.
19 Nothing.

20 HONORABLE JUDGE HIGHBERGER: Mr. Pisano?

21 MR. PISANO: Your Honor, just so we have a clear
22 record and understanding on this, I'm relieved of my
23 obligation to videorecord today's deposition. Is that
24 correct?

25 HONORABLE JUDGE HIGHBERGER: You are.

1 MR. PISANO: Thank you.

2 HONORABLE JUDGE HIGHBERGER: Any video recording
3 that will happen will happen based on the notice
4 Mr. Quirk has given or intends to give. I do view your
5 oral notice given on Monday, Mr. Quirk, as legally
6 sufficient for a deposition on the 17th or thereafter
7 even though you haven't been able to get through the
8 portal of File and Serve express for bureaucratic
9 reasons.

10 So you gave verbal notice of that. I view
11 that as fair game. I've given you Ms. Cervino's name.
12 I'll try to reach out to you and they ought to damn
13 well let you in the door sooner rather than later
14 because there's no reason you should held back.

15 MR. QUIRK: I sent her an e-mail. Thank you.

16 HONORABLE JUDGE HIGHBERGER: Mr. Pisano, give
17 notice that the court discusses the issues of the cost
18 of video recording and determines that the person who
19 gives notice of video recording will have to bear the
20 expense but that the provision of copies of the video
21 recording will be subject to the -- any applicable
22 rules of procedure and otherwise subject to the
23 discretion of the vendor, and Mr. Quirk is the party
24 who hired the vendor.

25 And yes, City of Ventura is relieved of any

1 obligation to informally record the depositions noticed
2 for yesterday and today.

3 MR. PISANO: Thank you, Your Honor.

4 HONORABLE JUDGE HIGHBERGER: Okay. Anybody else
5 have anything you want to take up with the court at
6 this time?

7 Thank you for your time.

8 Ms. Knudsen, thank you for your flexibility.
9 With that, court is in recess.

10 MR. PISANO: Thank you, Your Honor.

11 MR. PATTERSON: Thank you, Your Honor.

12 HONORABLE JUDGE HIGHBERGER: Okay. Be safe.

13 (Whereupon the proceedings concluded
14 at 9:12 A.M.)

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I, SARI M. KNUDSEN, CSR NO. 13109, in and for the State of California, do hereby certify:

That said hearing was taken before me at the time and place therein set forth, and was taken down by me stenographically and thereafter transcribed via computer-aided transcription under my direction and is a true record of the testimony given;

I further certify that I am neither counsel for, nor related to, any party to said action, nor interested in the outcome thereof;

IN WITNESS WHEREOF, I have hereunto subscribed my name this 2nd day of March, 2022.



SARI M. KNUDSEN, CSR NO. 13109

[& - basically]

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