

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO COURTHOUSE

DENNIS RICHARDS, an
individual; RACHEL SWANN, an
individual; SIX DOGS LLC, a
California Limited Liability
Company,

CASE NO. 3:20-cv-01242

Plaintiffs,

vs.

DEPARTMENT OF BUILDING
INSPECTION OF THE CITY AND
COUNTY OF SAN FRANCISCO; CITY
AND COUNTY OF SAN FRANCISCO,
a Municipal Corporation;
EDWARD SWEENEY, an
individual; and MAURICO
HERNANDEZ, an individual,
Defendants.

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REMOTE DEPOSITION OF
CITY AND COUNTY OF SAN FRANCISCO'S
PERSON MOST KNOWLEDGEABLE
DONAL DUFFY
October 5, 2020

Reported by: HANNAH KAUFMAN & ASSOCIATES, INC.
Stephanie D. Plaskett
CSR No. 9799

Certified Shorthand Reporters

150 Executive Park Boulevard

Suite 4600

San Francisco, CA 94134
(415) 337-2077

Hannah Kaufman & Associates, Inc.

<p>1 REMOTE APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 MOSCONE EMBLIDGE & RUBENS LLP</p> <p>5 By: G. SCOTT EMBLIDGE, Attorney at Law</p> <p>6 By: MATTHEW K. YAN, Attorney at Law</p> <p>7 220 Montgomery Street, Suite 2100</p> <p>8 San Francisco, California 94104</p> <p>9 415.362.3599</p> <p>10 emblidge@mosconelaw.com</p> <p>11 yan@mosconelaw.com</p> <p>12</p> <p>13 FOR THE DEFENDANTS:</p> <p>14 OFFICE OF SAN FRANCISCO ATTORNEY</p> <p>15 By: EDMUND T. WANG, Deputy City Attorney</p> <p>16 By: REBECCA BERS, Deputy City Attorney</p> <p>17 1390 Market Street, 6th Floor</p> <p>18 San Francisco, California 94102</p> <p>19 415.554.4224</p> <p>20 edmund.wang@sfcityatty.org</p> <p>21 rebecca.bers@sfcityatty.org</p> <p>22</p> <p>23 ALSO PRESENT:</p> <p>24 DENNIS RICHARDS</p> <p>25</p> <p>2</p>	<p>1 INDEX OF EXHIBITS* (cont)</p> <p>2 NUMBER DESCRIPTION INTRO'D:</p> <p>3 Exhibit 10 City and County of San Francisco</p> <p>4 Department of Building Inspection</p> <p>5 Office Policy and Procedures for</p> <p>6 Issuing Notices of Violation</p> <p>7 (CCSF-RICHARDS_00463 - 479) 99</p> <p>8 Exhibit 11 Complaint Handling Procedures for</p> <p>9 the Building, Electrical, and</p> <p>10 Plumbing Inspection Divisions</p> <p>11 (BID/EID/PID)</p> <p>12 (CCSF-RICHARDS_000513 - 518) 32</p> <p>13 Exhibit 12 Records Request Form</p> <p>14 (CCSF-RICHARDS_000526 - 528) 62</p> <p>15</p> <p>16 Exhibit 13 Document entitled "Assessment Tab"</p> <p>17 (CCSF-RICHARDS_000529 - 570) 34</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25 * All exhibits were provided electronically to the court reporter prior to the start of the deposition.</p> <p>4</p>
<p>1 INDEX OF EXAMINATION</p> <p>2</p> <p>3 EXAMINATION BY: PAGE:</p> <p>4 MR. EMBLIDGE 5</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10 INDEX OF EXHIBITS*</p> <p>11 NUMBER DESCRIPTION INTRO'D:</p> <p>12 Exhibit 1 San Francisco Department of Building</p> <p>13 Inspection, Code Enforcement Division</p> <p>14 organizational chart (1 page) 23</p> <p>15 Exhibit 2 San Francisco Department of Building</p> <p>16 Inspection, Building Inspection</p> <p>17 Division organizational</p> <p>18 chart and District Map (2 pages) 43</p> <p>19</p> <p>20 Exhibit 3 Complaint Data Sheet for</p> <p>21 7 Seymour Street (1 page) 117</p> <p>22 Exhibit 4 Complaint Data Sheet for</p> <p>23 457 Roosevelt Way (2 pages) 124</p> <p>24</p> <p>25 Exhibit 5 Complaint Data Sheet for</p> <p>310 Montcalm Street (1 page) 128</p> <p>26 Exhibit 6 Complaint Data Sheet for</p> <p>2465 Mission Street (2 pages) 128</p> <p>27</p> <p>28 Exhibit 7 Complaint Data Sheet for</p> <p>29 531 33rd Avenue (2 pages) 129</p> <p>30 Exhibit 8 Complaint Data Sheet for</p> <p>25 17th Avenue (2 pages) 131</p> <p>31</p> <p>32 Exhibit 9 Complaint Data Sheet for</p> <p>2046 Filbert Street (1 page) 133</p> <p>33</p> <p>3</p>	<p>1 BE IT REMEMBERED that, pursuant to Notice of</p> <p>2 Taking Deposition, and on Monday, the 5th day of October,</p> <p>3 2020, commencing at the hour of 10:06 a.m. thereof,</p> <p>4 remotely and before me, STEPHANIE D. PLASKETT, a Certified</p> <p>5 Shorthand Reporter in the State of California, remotely</p> <p>6 appeared,</p> <p>7 DONAL DUFFY,</p> <p>8 called as a witness herein; and the said witness, being by</p> <p>9 me first duly sworn, was thereupon examined and testified</p> <p>10 as is hereinafter set forth:</p> <p>11</p> <p>12 EXAMINATION BY MR. EMBLIDGE</p> <p>13 BY MR. EMBLIDGE:</p> <p>14 Q. Good morning, Mr. Duffy. Could you state your</p> <p>15 full name for the record.</p> <p>16 A. Donal Joseph Duffy.</p> <p>17 Q. And Donal is D-O-N-A-L?</p> <p>18 A. That's correct.</p> <p>19 Q. Great.</p> <p>20 My wife tells me I've met you before, but I don't</p> <p>21 remember it, but maybe I met you in Joe Duffy's office</p> <p>22 once in some matter a long time ago, but I'm the attorney</p> <p>23 representing -- I'm Scott Emblidge. I'm the attorney</p> <p>24 representing the plaintiffs in this case.</p> <p>25 Have you ever had your deposition taken before?</p> <p>5</p>

<p>1 A. Yes. 2 Q. About how many times? 3 A. At least ten. 4 Q. Oh, goodness. All -- all in the capacity as an 5 employee of the Department of Building Inspection? 6 A. That is correct. 7 Q. Can you tell me the types of cases where you've 8 been deposed? What were the cases about in -- 9 A. Regarding Notice of Violation that I had issued, 10 regarding properties within -- in San Francisco with 11 complaints. 12 Q. Okay. So you've been through this a few times. 13 Have you ever been through one of these on Zoom? 14 A. Never have, no. 15 Q. So the same rules apply, but in some ways, even 16 more so. And what I mean by that is the court reporter 17 can only take down one person talking. So there are times 18 you can probably already hear in my pattern of speech 19 where I sort of hesitate a little bit but I might not be 20 done with my question. So make sure you let me finish my 21 question before you give me an answer so the court 22 reporter doesn't have us both talking at once. Okay? 23 A. I understand. 24 Q. Great. 25 And you're represented here by one of the best</p> <p style="text-align: right;">6</p>	<p>1 A. I graduated high school and then went to -- 2 started an apprentice program as a carpenter. I attended 3 technical college and obtained certain technical 4 certificates pertaining to construction. 5 Q. Was the high school in San Francisco? 6 A. It was in Northern Ireland. 7 Q. And how about the apprenticeship? 8 A. That was also in Northern Ireland. 9 Q. And how about the technical college? 10 A. Again, in Northern Ireland. 11 Q. And what kind of certificate did you obtain from 12 the technical college relating to construction? 13 A. One was in carpentry generally. Another was in 14 construction management. Those are the two that I 15 remember. 16 Q. And approximately when was that? Ten years? 17 Twenty years? Thirty years ago? 18 A. Forty-five years ago. 19 Q. Got it. 20 Okay. And have you had any formal education 21 since then? 22 A. No, just continuing education through the 23 Department of Building Inspection. 24 Q. When did you start working at DBI? 25 A. 1997.</p> <p style="text-align: right;">8</p>
<p>1 legal offices in the country. So you've got great 2 representation. They may make objections, but unless they 3 instruct you not to answer, do you understand you need to 4 answer my questions to the best of your ability? 5 A. I understand. 6 Q. Great. 7 Prior to appearing here for your deposition 8 today, did you have any role in searching for or providing 9 documents in response to the plaintiffs' document requests 10 in this case? 11 A. I believe I obtained a copy of the Office Policy 12 and Procedure regarding Notices of Violation. 13 Q. Okay. Do you have in front of you the exhibits 14 that were circulated this morning? 15 A. I do. 16 Q. Could you look at Exhibit 10 and tell me if 17 that's the document you were referring to? 18 A. That is the document. 19 Q. Okay. Do you remember anything else you did in 20 terms of searching for documents or providing documents to 21 the City Attorney's Office in response to requests for 22 documents by the plaintiffs? 23 A. No. That was the only document. 24 Q. All right. Could you tell me briefly your 25 educational background?</p> <p style="text-align: right;">7</p>	<p>1 Q. Why did you seek employment there? 2 A. It was a good opportunity. I was a construction 3 manager. I also did carpentry, and it was time. My body 4 was feeling the effects of 25 years in construction, and I 5 figured I would use my brain rather than my brawn. 6 Q. Understood. 7 Before -- I could ask you about every job you've 8 had, you know, in your life, and that could take us a long 9 time. Can you summarize -- well, first of all, when did 10 you come to the United States? 11 A. In 1980. 12 Q. All right. So let's say from 1980 to 1997, can 13 you generally describe for me your employment history 14 during that time period? 15 A. Yes. I worked for a construction company in Noe 16 Valley from 1982 until 1997. 17 Q. Oh, that's easy. 18 What was the name of the company? 19 A. Wallace Construction. 20 Q. Does it still exist? 21 A. It does under the name Wallace Remodelling. 22 Q. And who was it owned or operated by? 23 A. It's operated by Kevin Wallace. Would you like 24 the address? 25 Q. Why not? Thank you.</p> <p style="text-align: right;">9</p>

<p>1 A. 400 Day Street, San Francisco.</p> <p>2 Q. Day, as in D-A-Y?</p> <p>3 A. Correct.</p> <p>4 Q. I thought I knew San Francisco. Where is Day</p> <p>5 Street?</p> <p>6 A. Day is -- 29th Street, Day Street, 30th Street.</p> <p>7 Q. Got it.</p> <p>8 And so what -- in general, what was your role at</p> <p>9 Wallace Construction from 1982 to 1997?</p> <p>10 A. Started as a carpenter and then became a</p> <p>11 construction foreman, project manager.</p> <p>12 Q. Did Wallace do residential and commercial, or did</p> <p>13 it have a specialty?</p> <p>14 A. Most -- I would say 70, maybe 80 percent</p> <p>15 residential; some commercial.</p> <p>16 Q. Got it.</p> <p>17 At the time you moved over to DBI, did you know</p> <p>18 anyone who had worked there?</p> <p>19 A. I knew -- I knew most of the inspectors. Through</p> <p>20 my work, I would meet with inspectors on a regular basis.</p> <p>21 Q. What about socially? Were you friends with any</p> <p>22 of them socially before you moved over to DBI?</p> <p>23 A. Socially, I would say not really.</p> <p>24 Q. Okay. And so when you went to DBI, what position</p> <p>25 were you hired -- oh, go ahead. It looked like you wanted</p> <p style="text-align: right;">10</p>	<p>1 title today?</p> <p>2 A. I am a building inspector.</p> <p>3 Q. Okay. So did your title or position -- let me</p> <p>4 change that.</p> <p>5 Did your title change at any time from 1997 to</p> <p>6 the present?</p> <p>7 A. Yes. For approximately two years or maybe three</p> <p>8 years, I was an acting senior building inspector.</p> <p>9 Q. And approximately when was that?</p> <p>10 A. 2014 to 2016 maybe.</p> <p>11 Q. Okay. All right. So you -- when you started</p> <p>12 out, you think you reported to Todd Jackson. Did that</p> <p>13 change at some point?</p> <p>14 A. I would have to -- I did report to various senior</p> <p>15 building inspectors.</p> <p>16 Q. Can you recall the names of any of them?</p> <p>17 A. Marvin Ruiz, Rafael Torres-Gil, Andrew Greene,</p> <p>18 Carla Johnson.</p> <p>19 Q. Tara, T-A-R-A?</p> <p>20 A. C-A-R-L-A, Carla.</p> <p>21 Q. Oh, C-A-R-L-A.</p> <p>22 Who do you report to today?</p> <p>23 A. Today, I report to Maurico Hernandez.</p> <p>24 Q. And when did that relationship start, reporting</p> <p>25 relationship?</p> <p style="text-align: right;">12</p>
<p>1 to clarify something.</p> <p>2 A. Yes. I just wanted to clarify that my</p> <p>3 father-in-law previously worked for the Bureau of Building</p> <p>4 Inspection. I don't believe he worked for the Department</p> <p>5 of Building Inspection.</p> <p>6 Q. Okay. What was his name?</p> <p>7 A. John Greene.</p> <p>8 Q. With an E at the end?</p> <p>9 A. E at the end, correct.</p> <p>10 Q. I always wondered, are you and Joe Duffy related</p> <p>11 at all?</p> <p>12 A. Not at all.</p> <p>13 Q. Okay. You have much more hair.</p> <p>14 A. I'll tell him that.</p> <p>15 Q. Please don't.</p> <p>16 So you started at DBI in 1997 in what position?</p> <p>17 A. As a building inspector.</p> <p>18 Q. And who did you report to?</p> <p>19 A. At the time, I reported to, I believe, Todd</p> <p>20 Jackson.</p> <p>21 Q. And did that change at some point?</p> <p>22 A. He was --</p> <p>23 Q. Go ahead.</p> <p>24 A. He was a senior building inspector at the time.</p> <p>25 Q. And what position do you have today? What's your</p> <p style="text-align: right;">11</p>	<p>1 A. I believe three years ago, maybe. Not quite</p> <p>2 sure.</p> <p>3 Q. Before you reported to Maurico Hernandez, to whom</p> <p>4 did you report?</p> <p>5 A. I reported to Patrick O'Riordan.</p> <p>6 Q. And before Patrick O'Riordan, to whom did you</p> <p>7 report?</p> <p>8 A. I believe it was Carla Johnson.</p> <p>9 Q. During the time you've been employed by DBI, have</p> <p>10 you been employed by anyone else?</p> <p>11 A. No.</p> <p>12 Q. Do you know if -- or are you aware of any rules</p> <p>13 DBI has governing outside employment by DBI building</p> <p>14 inspectors?</p> <p>15 A. Yes. It's the --</p> <p>16 MR. WANG: Objection. Beyond the scope.</p> <p>17 Go ahead. Sorry.</p> <p>18 THE WITNESS: I believe it's the incompatible</p> <p>19 activities. It's in the Code of Ethics.</p> <p>20 BY MR. EMBLIDGE:</p> <p>21 Q. What do you understand the rule to be about</p> <p>22 outside employment by DBI building inspectors?</p> <p>23 MR. WANG: The same objection.</p> <p>24 THE WITNESS: I don't believe we're allowed to</p> <p>25 have outside employment, but I've never had any, so I</p> <p style="text-align: right;">13</p>

<p>1 don't really -- you know -- 2 (Interruption by the court reporter.) 3 THE WITNESS: I've never had any outside 4 employment, so I don't have any incompatible activities. 5 BY MR. EMBLIDGE: 6 Q. Have you ever held any professional licenses in 7 the United States, a contractor's license, for example? 8 A. No. 9 Q. Okay. Well, you are here today in part to talk 10 about the DBI complaint procedure. 11 Are you aware of that? 12 A. I am. 13 Q. So let's just start at the beginning. 14 From whom does DBI receive complaints? How do 15 complaints come in? 16 A. They come in by phone. They come in by e-mail. 17 They come in by the web, by 311. 18 Q. And does DBI receive complaints -- I assume those 19 type of complaints are often from members of the public, 20 correct? 21 A. That is correct. 22 Q. Does DBI also receive complaints from others, 23 departments or other members of the public? 24 A. I'm trying to think of who else besides members 25 of the public. We receive from the Board of Supervisors;</p> <p style="text-align: right;">14</p>	<p>1 contact to make a complaint? 2 A. I -- I don't know the e-mail address. Sorry. 3 Q. So how do you obtain these complaints that come 4 in by e-mail? 5 A. The complaints are -- 90 percent of the 6 complaints are handled by the support staff. 7 (Interruption by the court reporter.) 8 THE COURT REPORTER: You said, "90 percent of the 9 complaints are handled by the support staff"? 10 THE WITNESS: That is correct. 11 BY MR. EMBLIDGE: 12 Q. And then I think you said, "They intake the 13 complaints"? 14 A. They intake the complaints, that is correct. 15 Q. So they intake complaints that come in both by 16 phone and in person and by e-mail? 17 A. Yes. 18 Q. Does the support staff report to Mr. Hernandez? 19 A. The support staff report to various chief 20 inspectors within DBI: Plumbing, Electrical, Housing, 21 Code Enforcement and Building. 22 Q. Okay. So then how does a complaint get to you? 23 A. They are sent to me by Chief Hernandez. 24 Q. Pardon me? 25 A. They are sent to me by Chief Building Inspector</p> <p style="text-align: right;">16</p>
<p>1 various other city agencies: police, fire, public health, 2 Department of Public Works. 3 Q. What about Planning? 4 A. Planning, we do receive complaints from Planning, 5 that's correct. 6 Q. The complaints from other public entities, other 7 city departments, how do those come in to DBI? 8 A. They -- they may come in by e-mail. They may 9 come in by phone. They may come in in person. 10 Q. Okay. So by e-mail, let's talk about that. Is 11 there a specific address that one is supposed to use to 12 make complaints to DBI? 13 MR. WANG: Objection. Vague as to whether from 14 public or otherwise. 15 Go ahead. 16 BY MR. EMBLIDGE: 17 Q. So you said complaints come in by e-mail. Tell 18 me more about how they come in by e-mail. To what 19 address? 20 A. I believe they would have come in to 1660 Mission 21 Street, which was our previous address, and now it's 22 49 Van Ness Avenue. 23 Q. But if I'm sending in an e-mail complaint, I'm 24 not sending it to a physical address. How -- are the 25 e-mail addresses that I would, as a member of the public,</p> <p style="text-align: right;">15</p>	<p>1 Maurico Hernandez. 2 Q. So you don't get them directly from the support 3 staff; you get them through the chief building inspector? 4 A. Correct. 5 Q. And has that been the case for the last five 6 years or so? 7 A. It has. And previous to that, part of my role as 8 acting building inspector was to triage the complaints and 9 send them to where they had to go. 10 Q. Got it. 11 A. And I believe Chief Hernandez performs that role 12 now. 13 Q. And you performed that role in about 2014 to 2016 14 when you were an acting senior; is that right? 15 A. That is correct. 16 Q. And you used the word "triage." What does that 17 mean in this context? 18 A. So if I've got a list of complaints, I would read 19 the wording of the complaint and, to the best of my 20 ability, ascertain as to what division that complaint 21 should be assigned. 22 Q. Meaning, if it looks like it's a complaint about 23 a plumbing issue, you assign it to Plumbing; if it's a 24 complaint about building, you assign it to BID; is that 25 correct?</p> <p style="text-align: right;">17</p>

<p>1 A. That's correct. If it's a maintenance issue 2 possibly in an apartment building, we refer it to the 3 housing inspectors. 4 Q. Okay. So there's the Building Inspection 5 Division, and then there's the Code Enforcement Division. 6 Why would some complaints be handled in the Building 7 Inspection Division and others be handled in the Code 8 Enforcement Division? 9 A. The Building Inspection Division mostly -- and I 10 believe mostly handled complaints pertaining to, if a 11 permit is issued on a property, the complaint would be 12 assigned to the building inspector for that project. If 13 it was a complaint regarding work without permit, then the 14 complaint would be referred to the Code Enforcement 15 inspector. 16 Q. Okay. So if you've got a project where permits 17 have been issued and a complaint comes in about that 18 project, you would generally route those complaints to the 19 building inspector who has been involved in the project in 20 the past; is that correct? 21 A. That is correct. 22 Q. And if a complaint comes in about a project and 23 you look on the system and it appears there are no permits 24 for work to be performed there, then you would assign it 25 to Code Enforcement?</p> <p style="text-align: right;">18</p>	<p>1 talking about Building Inspection Division or the Code 2 Enforcement. 3 Go ahead. 4 MR. EMBLIDGE: Building Inspection. Thank you, 5 Ed. 6 THE WITNESS: I've known in the past where 7 workloads in certain districts -- I believe there are 18 8 districts in the city, and some districts are more busy 9 than others. And it's been known to happen for a district 10 inspector in a less busy district to have to do 11 inspections in a busier district just to make sure that 12 the level of inspections are kept to a certain time 13 period. 14 MR. EMBLIDGE: Right. 15 BY MR. EMBLIDGE: 16 Q. So if the workload is really heavy in one 17 particular district, sometimes building inspectors from 18 other districts will chip in and do some work in that 19 district? 20 A. That is correct. And also, Code Enforcement 21 inspectors as well. 22 Q. Okay. 23 A. Code enforcement inspectors will perform 24 inspections. 25 Q. So sometimes Code Enforcement inspectors will</p> <p style="text-align: right;">20</p>
<p>1 A. Correct. 2 Q. All right. How do you know -- so you've got a 3 project. You look on the system. It looks like there 4 have been permits issued. There are permits issued. 5 Maybe there are inspections by multiple building 6 inspectors. How do you decide which building inspector to 7 contact about a complaint regarding work outside the 8 permits? 9 A. That would be assigned to the district building 10 inspector. 11 Q. Okay. And so there are geographic districts, is 12 that correct, that building inspectors are responsible 13 for? 14 A. That is correct. 15 Q. And do -- let me -- let me tell you what I'm 16 trying to ask right now, and then I'll try to ask it in a 17 better way. I'm trying to understand, like, how strict it 18 is. 19 You know, if I was assigned to District 10, do I 20 ever get to go -- do I ever have to go look at something 21 in District 7 -- let me try my question. 22 If you are assigned to a geographic area, do you 23 sometimes deal with permits or complaints outside of that 24 geographic area? 25 MR. WANG: Objection. Vague as to whether we are</p> <p style="text-align: right;">19</p>	<p>1 respond to complaints about work done outside of the scope 2 of permits in addition to work without permits? 3 A. Yes, and also do routine inspections as well. 4 Q. How long -- 5 A. It's all based on the workload of the department. 6 Q. How often would you say that happens, that Code 7 Enforcement inspectors are called upon to respond to 8 complaints about work being done outside the scope of 9 permits? 10 A. I can't say how often, but it has happened. 11 Q. Is it regular? Is it often? Is it rare? 12 A. That's -- I really couldn't say, but I do know it 13 happens. 14 Q. And are -- are you a Code Enforcement inspector 15 right now or a building inspector? 16 A. I'm a building -- 17 MR. WANG: Objection. Vague. 18 THE WITNESS: I'm a building inspector assigned 19 to the Code Enforcement Division. 20 BY MR. EMBLIDGE: 21 Q. Okay. And so when we talk about Code Enforcement 22 inspectors, we are talking about building inspectors 23 assigned to the Code Enforcement Division; is that 24 correct? 25 A. That is correct.</p> <p style="text-align: right;">21</p>

<p>1 Q. There's not some separate category of people that 2 are just Code Enforcement inspectors, right?</p> <p>3 A. No. We're certified building inspectors.</p> <p>4 Q. Okay. Okay. When you say "certified building 5 inspectors," what do you mean by "certified"?</p> <p>6 A. There's a certification from the -- it's CalBO. 7 It's the California -- I have to look up what CalBO meant, 8 but it -- to be a building inspector in San Francisco, one 9 has to be certified in that role. So there is a 10 professional certification that one has to obtain to be a 11 building inspector.</p> <p>12 Q. Do you have to renew that, or do you just get it 13 once and you've got it?</p> <p>14 A. It's renewed, I believe, every three years. I'm 15 a certified building inspector, plans examiner and 16 accessibility inspector.</p> <p>17 Q. When you were acting senior building inspector 18 and doing the triaging, did you assign complaints to 19 yourself or was your job to assign complaints to others?</p> <p>20 MR. WANG: Objection. Outside the scope.</p> <p>21 THE WITNESS: I would assign complaints to 22 myself.</p> <p>23 BY MR. EMBLIDGE:</p> <p>24 Q. All right. So are you familiar with the 25 information that the support staff asks for when</p> <p style="text-align: right;">22</p>	<p>1 A. Yes.</p> <p>2 Q. Is the position you are talking about, is that in 3 here somewhere?</p> <p>4 A. We see support staff, and this is from Code 5 Enforcement, but the support staff who handle complaints 6 are not on this list.</p> <p>7 Q. Ah. Where would I find them? On what 8 organizational chart?</p> <p>9 A. I don't see it in 1.</p> <p>10 And now I'm going to Exhibit 2, and it's not 11 there either. It would be on another -- another chart.</p> <p>12 Q. Okay. So there's a group of support staff that 13 are responsible for the intake of complaints, and they are 14 supervised by a supervisor?</p> <p>15 A. Correct.</p> <p>16 Q. Do you know who that person is today?</p> <p>17 A. I believe Suzanna Wong is one supervisor. And 18 Giles -- and I don't want to make -- his last name -- he's 19 Sri Lankan, and I don't want to make a --</p> <p>20 Q. Just give me your best shot at spelling.</p> <p>21 A. His last name -- it's S-A-M-A-R-A-S-I-N-G-H-E, 22 perhaps.</p> <p>23 Q. Okay.</p> <p>24 A. But Giles and Suzanna are the supervisor for 25 support staff. And not only do they handle complaints,</p> <p style="text-align: right;">24</p>
<p>1 complaints come in either by e-mail or in person or over 2 the phone?</p> <p>3 A. Sorry. Could you repeat?</p> <p>4 Q. So we're going back to the complaint process. 5 And you told me that the intake of complaints is handled 6 by support staff that report to the senior building 7 inspector, correct?</p> <p>8 A. That is correct.</p> <p>9 Q. And so are you familiar with what the support 10 staff asks for from a complainant when a complainant calls 11 in on the phone or comes to the desk or sends in an 12 e-mail?</p> <p>13 A. I'm not aware, no.</p> <p>14 Q. Who would be the best person to answer questions 15 about that subject?</p> <p>16 A. It would be the supervisor of the support staff.</p> <p>17 Q. Okay. Who at this point in time?</p> <p>18 A. It's Mr. Hernandez. No. Mr. Hernandez is chief 19 building inspector.</p> <p>20 Q. Okay.</p> <p>21 A. The support staff -- the supervisor of support 22 staff would be -- it's a clerical position. 23 (Exhibit 1 introduced.)</p> <p>24 BY MR. EMBLIDGE:</p> <p>25 Q. Could you look at Exhibit 1, please?</p> <p style="text-align: right;">23</p>	<p>1 they also take requests for inspections.</p> <p>2 Q. And to whom do Suzanna and Giles report?</p> <p>3 A. I don't know.</p> <p>4 Q. Okay. But the people most knowledgeable about 5 the complaint intake procedure, you believe, would be 6 Giles and Suzanna; is that correct?</p> <p>7 A. Correct.</p> <p>8 Q. I'm gonna ask you some questions about the intake 9 procedure, and your answer might be you don't know, but 10 you're here, so I've got to ask you.</p> <p>11 I know the complaints can be anonymous, right?</p> <p>12 A. That is correct.</p> <p>13 Q. And are they anonymous within DBI as well as 14 anonymous to the public? In other words, if John Smith 15 makes a complaint, does DBI keep information about the 16 fact that John Smith made the complaint even though it 17 doesn't let the public know that John Smith made the 18 complaint?</p> <p>19 A. I have seen Complaint Data Sheets, which is the 20 complaint form, and there may be a name and a phone 21 number, and it's -- it may say, "Wish to remain 22 anonymous." Yes.</p> <p>23 Q. Okay. Does DBI keep those Complaint Data Sheets?</p> <p>24 A. Yes.</p> <p>25 Q. And do you know for how long DBI keeps those</p> <p style="text-align: right;">25</p>

<p>1 records?</p> <p>2 A. I don't know.</p> <p>3 Q. When you were the acting -- acting senior</p> <p>4 building inspector, were you involved in directly</p> <p>5 communicating with the support staff that brings -- that</p> <p>6 intakes complaints?</p> <p>7 MR. WANG: Objection. Beyond the scope.</p> <p>8 THE WITNESS: Yes, I was.</p> <p>9 BY MR. EMBLIDGE:</p> <p>10 Q. Okay. So in this triaging process, are there</p> <p>11 occasions where support staff, in conjunction with their</p> <p>12 supervisor, would consider a complaint to be not worth</p> <p>13 following up on, you know, crazy, off the wall, not worth</p> <p>14 following up on?</p> <p>15 A. To my knowledge, no.</p> <p>16 Q. Okay. So you've never had experience with a</p> <p>17 situation where you just say, "This is -- you know, this</p> <p>18 person's hearing voices. You know, we're not gonna follow</p> <p>19 up on this"? That hasn't -- that hasn't occurred to you?</p> <p>20 MR. WANG: Objection. Beyond the scope.</p> <p>21 Go ahead.</p> <p>22 THE WITNESS: I've never not followed up a</p> <p>23 complaint.</p> <p>24 BY MR. EMBLIDGE:</p> <p>25 Q. Are you aware of others that have not?</p> <p>26</p>	<p>1 BY MR. EMBLIDGE:</p> <p>2 Q. If you received a complaint that included</p> <p>3 structural calculations that allegedly showed a problem at</p> <p>4 a jobsite, would DBI take those structural calculations at</p> <p>5 face value or do its own analysis?</p> <p>6 MR. WANG: Objection. Beyond the scope.</p> <p>7 Incomplete hypothetical.</p> <p>8 THE WITNESS: Would we take the structural</p> <p>9 calculations at face value; is that the question?</p> <p>10 MR. EMBLIDGE: Yeah, right.</p> <p>11 BY MR. EMBLIDGE:</p> <p>12 Q. If somebody says, "I've done some structural</p> <p>13 calculations, and I think they're -- there's insufficient</p> <p>14 shoring next door," or something to that effect, and would</p> <p>15 DBI do its own analysis or just rely on the analysis that</p> <p>16 came with the complaint?</p> <p>17 MR. WANG: Objection. Incomplete hypothetical.</p> <p>18 THE WITNESS: I've never had that -- I've never</p> <p>19 come across that, so I can't answer that.</p> <p>20 MR. EMBLIDGE: Fair enough.</p> <p>21 BY MR. EMBLIDGE:</p> <p>22 Q. So you said there's something called a Complaint</p> <p>23 Data Sheet, correct?</p> <p>24 A. That is correct.</p> <p>25 Q. Is that a piece of paper, or is that a computer</p> <p>28</p>
<p>1 MR. WANG: Objection. Beyond the scope.</p> <p>2 THE WITNESS: I can't speak for others.</p> <p>3 BY MR. EMBLIDGE:</p> <p>4 Q. Well, I know you can't speak for others, but I</p> <p>5 can ask you if you are aware of what others have done or</p> <p>6 not done.</p> <p>7 A. No, I am not aware.</p> <p>8 Q. Do the complaints sometimes have documentation</p> <p>9 associated with them?</p> <p>10 A. Yes.</p> <p>11 Q. Like, I imagine sometimes you get photographs</p> <p>12 from a neighbor saying, "Look at this work being done next</p> <p>13 door," correct?</p> <p>14 A. That is correct.</p> <p>15 Q. Have you ever handled the complaint where</p> <p>16 somebody provides you with architectural drawings as part</p> <p>17 of the complaint process?</p> <p>18 MR. WANG: Objection. Beyond the scope. Vague.</p> <p>19 THE WITNESS: I don't know. I don't recall</p> <p>20 having a complaint with plans associated with it, no.</p> <p>21 BY MR. EMBLIDGE:</p> <p>22 Q. Have you ever had a complaint with structural</p> <p>23 calculations associated with it?</p> <p>24 MR. WANG: The same objections.</p> <p>25 THE WITNESS: Not that I'm aware.</p> <p>27</p>	<p>1 screen?</p> <p>2 A. It's a -- well, it's on the computer screen, but</p> <p>3 I print it out to take with me on a daily basis.</p> <p>4 Q. Okay. So what I want to get at here is, when</p> <p>5 complaints come in, how does DBI record the information</p> <p>6 that comes in from complainants?</p> <p>7 A. So the clerical staff would create a complaint</p> <p>8 number. So that -- that complaint would be assigned a</p> <p>9 number, a Complaint Data Sheet, and that would be entered</p> <p>10 into the computer, and a paper copy of the Complaint Data</p> <p>11 Sheet would be given to the inspector assigned to that</p> <p>12 complaint.</p> <p>13 Q. And what -- if there were photographs or other</p> <p>14 documents associated with the complaint, where would those</p> <p>15 documents be kept?</p> <p>16 A. If there's photographs attached to a complaint,</p> <p>17 those photographs would also be given to the inspector</p> <p>18 assigned to the complaint.</p> <p>19 Q. And are they uploaded to a computer database?</p> <p>20 A. I can't answer that. I don't know.</p> <p>21 Q. All right. So then where does the inspector keep</p> <p>22 those documents?</p> <p>23 A. Each complaint -- in -- in a file.</p> <p>24 Q. Okay. So in 2018, John Smith makes a complaint</p> <p>25 about his neighbor on Noe Street, and -- and he includes</p> <p>29</p>

<p>1 in the complaint some photographs of what he thinks is 2 improper construction. Those would go to the building 3 inspector for the district and they would go in a file 4 with the complaint number and they would be maintained 5 there; is that accurate? 6 A. That is correct. 7 Q. And how long does DBI maintain those files? 8 MR. WANG: Objection. Beyond the scope. 9 THE WITNESS: I don't know. 10 BY MR. EMBLIDGE: 11 Q. Well, how long do you maintain files for 12 complaints that are assigned to you? 13 MR. WANG: Objection. Beyond the scope. 14 THE WITNESS: I still have -- I still have 15 complaints possibly ten years old, and still have the 16 file. 17 BY MR. EMBLIDGE: 18 Q. Do you ever send files to storage or send them -- 19 do you ever dispose of files of complaints? 20 MR. WANG: Objection. Beyond the scope. Vague. 21 THE WITNESS: On resolution of a complaint, I 22 would make notations in the -- in the file that would be 23 given to support staff, and I'm not -- I'm not sure what 24 support staff do with that file after that. 25 ///</p> <p style="text-align: right;">30</p>	<p>1 BY MR. EMBLIDGE: 2 Q. Have you ever attended RBA events? 3 MR. WANG: Beyond the scope. 4 THE WITNESS: No. 5 BY MR. EMBLIDGE: 6 Q. Never gone to their golf tournament? 7 MR. WANG: The same objection. 8 THE WITNESS: Never. 9 MR. EMBLIDGE: Okay. So let's go -- oh, one 10 point about depositions, taking breaks. 11 So, Stephanie, you are going to wave if I'm going 12 too long? 13 THE COURT REPORTER: Thank you. 14 MR. EMBLIDGE: And, Mr. Duffy, if you ever want 15 to take a break, just let me know. Okay? 16 THE WITNESS: No problem. 17 BY MR. EMBLIDGE: 18 Q. Could you look at Exhibit 11, please. 19 A. Yes. 20 (Exhibit 11 introduced.) 21 BY MR. EMBLIDGE: 22 Q. Are you familiar with that document? 23 A. I'm not. 24 Q. Do you think you've ever seen it before? 25 A. I've never seen it before.</p> <p style="text-align: right;">32</p>
<p>1 BY MR. EMBLIDGE: 2 Q. What's the -- what is the Residential Builders 3 Association? 4 MR. WANG: Objection. Beyond the scope. 5 THE WITNESS: I actually didn't hear the 6 question. 7 MR. EMBLIDGE: I'm sorry. 8 BY MR. EMBLIDGE: 9 Q. What is the Residential Building -- Builders 10 Association? 11 MR. WANG: The same objection. 12 THE WITNESS: I believe it's an organization of 13 contractors. 14 BY MR. EMBLIDGE: 15 Q. You're familiar with it being called "the RBA"? 16 A. That is correct. 17 Q. Have you ever been a member of the RBA? 18 MR. WANG: Objection. Beyond the scope. 19 Sorry. Go ahead. 20 THE WITNESS: No, I have not. 21 BY MR. EMBLIDGE: 22 Q. To your knowledge, has anyone employed at DBI 23 been a member of the RBA? 24 MR. WANG: Objection. Beyond the scope. 25 THE WITNESS: To my knowledge, no.</p> <p style="text-align: right;">31</p>	<p>1 MR. WANG: Could we just read the title into the 2 record just to make sure we're all looking at the same 3 document? 4 MR. EMBLIDGE: Sure. 5 Exhibit 11 is entitled "Complaint Handling 6 Procedures for the Building, Electrical and Plumbing 7 Inspection Divisions," the first page of which is 8 Bates-stamped 000513. 9 MR. WANG: Okay. Great. Thank you. 10 BY MR. EMBLIDGE: 11 Q. So, I'm sorry, Mr. Duffy, is it your testimony 12 that you don't believe you've ever seen this document 13 before? 14 A. I don't believe I've ever seen this document, no. 15 Q. Are you aware of any other documents that -- or 16 rules or procedures that DBI has for the handling of 17 complaints? 18 MR. WANG: Objection to the extent it's 19 mischaracterizing Exhibit 11. 20 THE WITNESS: Just the Office Policy and 21 Procedure regarding Notices of Violation. 22 BY MR. EMBLIDGE: 23 Q. Okay. Again, is that Exhibit 10? 24 A. 10, correct. 25 Q. Could you look at Exhibit 13, please. 13 is kind</p> <p style="text-align: right;">33</p>

<p>1 of a long document. It might include maybe a PowerPoint 2 presentation. It's not clear to me. 3 (Exhibit 13 introduced.) 4 MR. EMBLIDGE: For the record, the first page 5 says "Assessment Tab." And Exhibit 13 is composed of 6 documents Bates-stamped 000529 to 000569. 7 BY MR. EMBLIDGE: 8 Q. Take a second to look through those, please, 9 Mr. Duffy. 10 A. Okay. 11 Q. Are you familiar with this document at all? 12 A. No. 13 Q. Do you have any idea what it is? 14 A. It appears to be Code Enforcement procedures 15 after -- it appears, after the final warning letter has 16 been sent. 17 Q. But this is -- did you ever maybe, like, go to a 18 training session where they had slides like this? 19 A. I haven't, no. 20 Q. Okay. All right. Let's go back to Exhibit 1. 21 That is the organizational chart for the Code 22 Enforcement Division. 23 Do you see that? 24 A. I do. 25 Q. Is this chart current?</p> <p style="text-align: right;">34</p>	<p>1 building inspectors, including you, on the right-hand 2 side. Then we've got building inspectors on the left-hand 3 side. 4 What's the difference between those two arms of 5 this organizational chart in terms of duties and 6 responsibilities? 7 A. So let's say -- on the right-hand side, myself 8 and the three names below, we would handle complaints 9 regarding, you know, alternative permits, unsafe 10 buildings. If we write a Notice of Violation and give a 11 property owner or a contractor a 10-day to comply with 12 that notice and they don't comply, what's known as a final 13 warning letter is issued. 14 And in that case, it's then transferred to John 15 Hinchion's side of the chart, if you see it. And then he 16 would assign that case to one of the inspectors below him 17 for processing, for whatever actions has to be taken after 18 that. 19 Q. Okay. So the inspectors who report to John 20 Hinchion -- Stephanie, that's H-I-N-C-H-I-O-N -- they -- 21 are they involved in issuing Notices of Violation or just 22 dealing with Notices of Violation that have not been 23 complied with? 24 A. Dealing with Notices of Violation that haven't 25 been complied with.</p> <p style="text-align: right;">36</p>
<p>1 A. No. 2 Q. Okay. What about it has changed that you are 3 aware of? 4 A. James Li retired. Chris Schroeder has been 5 reassigned to another role in DBI. But for the 6 Maintenance, it's the same. 7 Q. Where was Mr. Schroeder reassigned? 8 MR. WANG: Objection. Beyond the scope. 9 THE WITNESS: Technical Services Division. 10 BY MR. EMBLIDGE: 11 Q. What does the Technical Services Division do? 12 MR. WANG: Objection. Beyond the scope. 13 THE WITNESS: The Technical Services Division 14 within DBI answers code questions. 15 MR. EMBLIDGE: Oh, okay. 16 BY MR. EMBLIDGE: 17 Q. So somebody calls in and says, "Do I need a 18 permit for a deck?" and they answer questions about what 19 the code requires? 20 A. That's correct. 21 Q. And do you know why Mr. Schroeder was reassigned 22 from the Code Enforcement Division to the Technical 23 Services Division? 24 A. I don't. 25 Q. So what is the -- looking at Exhibit 1, we've got</p> <p style="text-align: right;">35</p>	<p>1 Q. I see. 2 And you mentioned that sometimes Code Enforcement 3 inspectors would be asked to respond to complaints when 4 the workloads of building inspectors required that; am I 5 correct? 6 A. That is correct. 7 Q. Are there any other reasons why a complaint for 8 work exceeding the scope of permits would be assigned to a 9 Code Enforcement inspector instead of a building inspector 10 other than the fact that the building inspector's workload 11 was too high? 12 A. To my knowledge, no. 13 Q. Okay. So on the right-hand side, then, under 14 your name, it says, "Complaints/Task Force." 15 Is that one term, like there's something called 16 the "Complaints/Task Force," or is there -- what does 17 "task force" mean? 18 A. Task forces are normally -- actually, they're 19 normally City Attorney-initiated task forces. So there's 20 a problem property. The City Attorney will 21 mobilate (phonetic) a task force inspection. That could 22 involve DBI, Planning, Fire, Health, the police, whatever 23 agencies are needed for that task force. 24 Q. So there's a -- let's say there's a residential 25 hotel that is not being kept up to code and the City</p> <p style="text-align: right;">37</p>

<p>1 Attorney is very concerned about that. There would be a 2 task force associated with that building, and you would be 3 the person from DBI that would be involved with that task 4 force? 5 MR. WANG: Objection. Beyond the scope. 6 THE WITNESS: Residential hotel, no. That would 7 be a housing inspector rather than building. 8 BY MR. EMBLIDGE: 9 Q. So what types of things would -- what type of 10 task forces would you be involved in? 11 MR. WANG: The same objection. 12 THE WITNESS: I've done illegal nightclub, 13 cannabis grows, problem properties, single-family 14 residences, those type of things. 15 BY MR. EMBLIDGE: 16 Q. And then it says "Floater." 17 What would a floater be? 18 A. A floater could be handling inspections based on 19 the workload of the various inspectors. 20 Q. Okay. And Mr. Malchow, Mr. Keane or Mr. -- 21 uh-oh, how do you pronounce Jimmy's last name? 22 A. Jimmy G. 23 Q. Okay. Do Mr. Malchow, Mr. Keane or Jimmy G. 24 report to you, or do they all report directly to 25 Mr. Hernandez?</p> <p style="text-align: right;">38</p>	<p>1 Q. I see. 2 It says Mr. Hernandez reports to Ed Sweeney. 3 So how long has Ed Sweeney been the deputy 4 director of the Code Enforcement Division? 5 MR. WANG: Objection. Beyond the scope. 6 THE WITNESS: I don't know. 7 BY MR. EMBLIDGE: 8 Q. What's your best estimate? 9 MR. WANG: The same objection. 10 THE WITNESS: About four, five -- I really don't 11 know. 12 BY MR. EMBLIDGE: 13 Q. Well, do you -- 14 A. I'm trying to think. 15 Q. Okay. Take your time. 16 A. Yes. So there are two deputy directors. Dan 17 Lowrey is one, and Ed Sweeney is the other. And I know Ed 18 Sweeney was deputy director in charge of permit services, 19 and Dan Lowrey was deputy director for inspection 20 services. And they flip-flopped. When, I don't know. 21 Q. Okay. Do you have regular dealings with 22 Mr. Sweeney in your job? 23 MR. WANG: Objection. Beyond the scope. 24 THE WITNESS: No. 25 ///</p> <p style="text-align: right;">40</p>
<p>1 A. Directly to Mr. Hernandez. 2 Q. And how are things split up among the four of 3 you? 4 A. It's -- it's whatever the workload of complaints 5 is; whatever Chief Hernandez determines to be, you know, 6 the volume of complaints coming in. Like today, I don't 7 have any complaints. Somebody is picking up my load 8 today. 9 Q. Okay. But it's not like the building inspectors 10 with geographic assignments? 11 A. No. No. 12 Q. To the best of your recollection, when did 13 Mr. Hernandez become the chief building inspector in 14 charge of Code Enforcement Division? 15 A. I'm not quite sure, but within the last four 16 years, anyway. But I don't know when. 17 Q. And before Mr. Hernandez was in that position, 18 you were reporting to Mr. O'Riordan; is that right? 19 MR. WANG: Objection. Beyond the scope. 20 THE WITNESS: That is correct. 21 BY MR. EMBLIDGE: 22 Q. And -- 23 A. Just to clarify that, because the complaint 24 inspectors weren't in Code Enforcement. We were actually 25 in the Building Inspection Division.</p> <p style="text-align: right;">39</p>	<p>1 BY MR. EMBLIDGE: 2 Q. I assume you have regular interaction with 3 Mr. Hernandez, though? 4 A. That is correct. 5 Q. On a daily basis, would you say? 6 A. Pre COVID, yes. 7 Q. Good point. 8 And is -- would you say Mr. Hernandez is a friend 9 of yours? 10 MR. WANG: Objection. Beyond the scope. 11 THE WITNESS: Work colleague. 12 BY MR. EMBLIDGE: 13 Q. Do you see him socially outside of work? 14 MR. WANG: The same objection. 15 THE WITNESS: No. 16 BY MR. EMBLIDGE: 17 Q. What about Mr. Sweeney? 18 MR. WANG: The same objection. 19 THE WITNESS: No. 20 MR. EMBLIDGE: Okay. Let's go to Exhibit -- 21 actually, let's take a five-minute break, and then we'll 22 walk through Exhibit 2. 23 (Break taken from 11:04 until 11:16.) 24 MS. BERS: So just to clarify for the record, we 25 received an Amended Deposition Notice for Person Most</p> <p style="text-align: right;">41</p>

<p>1 Knowledgeable. And I think all of the categories remain 2 the same as the original notice. And I would just note 3 that our objections and responses should be carried over 4 in spite of the new date. 5 MR. EMBLIDGE: Oh. The objections you -- the 6 objections you made to the Amended Deposition Notice 7 should apply even though we didn't take the deposition on 8 the date in the original Deposition Notice; is that what 9 you are saying? 10 MS. BERS: Well, I think we only served the 11 objections once to the original Deposition Notice and not 12 again to the amended notice. Just making sure we're not 13 waiving objections by not reasserting them formally. 14 MR. EMBLIDGE: No way. You have not waived 15 anything, Rebecca. 16 MS. BERS: Thank you, Scott. 17 MR. EMBLIDGE: Okay. 18 BY MR. EMBLIDGE: 19 Q. Mr. Duffy, have you ever heard of a document 20 called the "Department of Building Inspection Code of 21 Professional Conduct"? 22 MR. WANG: Objection. Beyond the scope. 23 THE WITNESS: No. 24 BY MR. EMBLIDGE: 25 Q. Okay. So let's go to Exhibit 1 -- oh, no, 2, the</p> <p style="text-align: right;">42</p>	<p>1 A. That's correct. 2 Q. Okay. Any other changes to Exhibit 2? 3 A. That I'm aware of, no. 4 Q. All right. Forgive me if you answered this 5 before, but have you always been in the Code Enforcement 6 Division, or were you ever in the Building Inspection 7 Division? 8 A. I was in Building Inspection Division, and I 9 believe I moved to Code Enforcement -- there was a 10 reorganization maybe two, three years ago, when we moved 11 the complaints inspectors from Building Inspection 12 Division to Code Enforcement. 13 So if you see the chart, where it says "Matthew 14 Green, Acting Senior Building Inspector"? 15 Q. Yes. 16 A. So in 2014, if you saw a chart then, my name 17 would be there. 18 Q. And would your role have been the same as you 19 have today or different? 20 A. In that respect, it would have been complaint -- 21 complaint inspector investigation as well. And the 22 inspectors that you see there in the Code Enforcement 23 section dealing with complaints, the right-hand line, they 24 would be on the right-hand line on -- on -- on Exhibit 25 No. 2.</p> <p style="text-align: right;">44</p>
<p>1 Building Inspection Division org chart. 2 (Exhibit 2 introduced.) 3 BY MR. EMBLIDGE: 4 Q. Is this org chart current as of today, as far as 5 you are aware? 6 MR. WANG: Beyond the scope. 7 THE WITNESS: As far as I am aware, no. 8 MR. EMBLIDGE: Okay. 9 BY MR. EMBLIDGE: 10 Q. What changes should be made? 11 A. Mr. Steve Hajnal under Kevin McHugh -- do you see 12 Steve Hajnal, H-A-J-N-A-H? 13 Q. Yes. 14 A. I believe he's retired. 15 Q. Any other changes? 16 A. Braulio Tienda, I believe he should be in Code 17 Enforcement and in the right-hand -- the right-hand file. 18 Do you see that? In the -- 19 (Interruption by the court reporter.) 20 THE WITNESS: Mr. Tienda, his name should be in 21 Code Enforcement in the right-hand file -- in the 22 right-hand line. 23 BY MR. EMBLIDGE: 24 Q. So on the side of the Code Enforcement 25 organization chart where you are listed?</p> <p style="text-align: right;">43</p>	<p>1 Q. I see. 2 Have you ever had a role at DBI other than the 3 building inspector that investigates complaints? 4 A. When I -- when I started in the department, I was 5 a district building inspector. 6 Q. And how long were you in that role, 7 approximately? 8 A. I believe until 2003, 2004. 9 Q. And then you became -- 10 A. Prior to -- 11 Q. -- building inspector? I'm sorry, let me -- I'll 12 be quiet and let you finish. 13 A. Go ahead. 14 Prior to that date, any complaints beyond the 15 scope of a permit or within a permit would be handled by 16 the district inspector solely. There was no complaint 17 investigators. And then in 2003 or 2004 -- I'm not sure 18 of the correct year -- I became the complaint inspector. 19 Q. Okay. So it was around 2003 or 2004 that this 20 division was created between investigating complaints 21 about work outside of the scope of permits and complaints 22 about work without permits; is that fair? 23 A. That is correct. 24 Q. When you talked about triaging of complaints, I 25 assume there are some types of complaints that DBI gives a</p> <p style="text-align: right;">45</p>

<p>1 higher priority than others; is that correct?</p> <p>2 A. That is correct.</p> <p>3 MR. WANG: Objection.</p> <p>4 BY MR. EMBLIDGE:</p> <p>5 Q. And so, for example, a complaint about, it</p> <p>6 appears this building is about to fall down the hillside,</p> <p>7 a public safety issue, would that be top priority?</p> <p>8 MR. WANG: Objection. Vague. Incomplete</p> <p>9 hypothetical.</p> <p>10 THE WITNESS: It would take a high priority over</p> <p>11 other complaints, yes.</p> <p>12 BY MR. EMBLIDGE:</p> <p>13 Q. And so is there a document somewhere that</p> <p>14 describes how you're supposed to triage these different</p> <p>15 types of complaints, what is a higher priority, what's a</p> <p>16 lower priority?</p> <p>17 MR. WANG: Objection. Vague.</p> <p>18 THE WITNESS: That I'm aware of, no.</p> <p>19 BY MR. EMBLIDGE:</p> <p>20 Q. In practice, how do you prioritize complaints?</p> <p>21 A. By using my judgment.</p> <p>22 Q. Okay.</p> <p>23 A. The wording of the complaint.</p> <p>24 Q. I'm sorry. I cut you off.</p> <p>25 A. The wording of the complaint.</p> <p style="text-align: right;">46</p>	<p>1 BY MR. EMBLIDGE:</p> <p>2 Q. Okay. I think you've answered some of this, but</p> <p>3 let me just make sure I understand.</p> <p>4 When complaints come in, they come in to the</p> <p>5 support staff. The support staff processes the complaint,</p> <p>6 and then it goes to the senior building inspector or chief</p> <p>7 building inspector, and that individual decides to whom a</p> <p>8 complaint will be assigned; is that correct?</p> <p>9 A. That has been the practice -- not all the</p> <p>10 complaints. It's, as I said previously, 80 percent of the</p> <p>11 complaints come in through the support staff, but</p> <p>12 individual inspectors receive complaints themselves over</p> <p>13 the phone or by e-mail or by -- in person without the</p> <p>14 support staff being aware of it.</p> <p>15 Q. How are those complaints processed?</p> <p>16 A. If it -- let's just use a hypothetical. You come</p> <p>17 into the department. I think you've been on the third</p> <p>18 floor at 1660 Mission. And I was at the counter, and you</p> <p>19 wanted to make a complaint. I would take a complaint</p> <p>20 form. You would fill it out. And I would -- I would take</p> <p>21 it in and give it to the support staff.</p> <p>22 Q. Okay. But as far as that complaint being</p> <p>23 assigned, it goes through the same process; it goes to the</p> <p>24 senior person, who then assigns it perhaps by district or</p> <p>25 perhaps by subject matter: plumbing, electrical, that</p> <p style="text-align: right;">48</p>
<p>1 Q. Okay. So --</p> <p>2 A. If -- if -- if a complaint said "imminent</p> <p>3 hazard," an appendage is falling off the building, that</p> <p>4 would take a greater priority than somebody building,</p> <p>5 let's say, a fence in the rear yard without a permit, yes.</p> <p>6 Q. Okay. And is there any training given to you or</p> <p>7 other inspectors about how to prioritize complaints?</p> <p>8 A. That I'm aware of, no.</p> <p>9 Q. Does DBI have a support organization, like</p> <p>10 Friends of DBI? There's Friends of Rec and Park. There's</p> <p>11 the Friends of Planning. Does DBI have that kind of</p> <p>12 organization?</p> <p>13 MR. WANG: Objection. Vague.</p> <p>14 THE WITNESS: To my knowledge, no.</p> <p>15 BY MR. EMBLIDGE:</p> <p>16 Q. You are not aware of any sort of support group</p> <p>17 that helps DBI fund some of DBI's activities or pay for</p> <p>18 Christmas parties or things like that?</p> <p>19 MR. WANG: Objection. Beyond the scope.</p> <p>20 THE WITNESS: Not that I'm aware of.</p> <p>21 BY MR. EMBLIDGE:</p> <p>22 Q. Are you aware of that ever being the case?</p> <p>23 MR. WANG: The same objection.</p> <p>24 THE WITNESS: No.</p> <p>25 ///</p> <p style="text-align: right;">47</p>	<p>1 type of thing?</p> <p>2 A. That's correct.</p> <p>3 Q. Have you ever heard of certain building</p> <p>4 inspectors being assigned to projects that -- at the</p> <p>5 request of a contractor or an engineer or project sponsor?</p> <p>6 A. To my knowledge, no.</p> <p>7 MR. WANG: Objection. Beyond the scope.</p> <p>8 MR. EMBLIDGE: Did you get that, Stephanie?</p> <p>9 THE COURT REPORTER: (Nods head.)</p> <p>10 BY MR. EMBLIDGE:</p> <p>11 Q. You've never heard of "This is a Smith Company</p> <p>12 project, and Inspector Jones is the one that we like to</p> <p>13 have on Smith Company projects," something like that?</p> <p>14 MR. WANG: Objection. Incomplete hypothetical.</p> <p>15 THE WITNESS: I haven't heard of that.</p> <p>16 BY MR. EMBLIDGE:</p> <p>17 Q. Are you aware of any rules against that?</p> <p>18 MR. WANG: Objection. Beyond the scope.</p> <p>19 THE WITNESS: To my knowledge, no.</p> <p>20 BY MR. EMBLIDGE:</p> <p>21 Q. Have you ever been aware of certain contractors,</p> <p>22 engineers or project sponsors that are social friends of</p> <p>23 DBI personnel?</p> <p>24 MR. WANG: Objection. Beyond the scope. Vague.</p> <p>25 THE WITNESS: To my knowledge, no.</p> <p style="text-align: right;">49</p>

<p>1 BY MR. EMBLIDGE: 2 Q. Have you ever heard that some contractors or 3 engineers or project sponsors have given money to DBI 4 personnel apart from paying for permit fees? 5 MR. WANG: Objection. Beyond the scope. 6 Incomplete hypothetical. Irrelevant. 7 THE WITNESS: To my knowledge, no. 8 BY MR. EMBLIDGE: 9 Q. Are you aware of any rules against that? 10 MR. WANG: The same objections. 11 THE WITNESS: I do believe there are rules 12 against that, yes. 13 BY MR. EMBLIDGE: 14 Q. And where would I find those? 15 MR. WANG: The same objections. 16 THE WITNESS: Incompatible activities, I believe. 17 It would be the Code of Ethics, and definitely, one would 18 get it on the DBI website. 19 BY MR. EMBLIDGE: 20 Q. Are you trained in what kind of activities are 21 incompatible with your position as a building inspector? 22 MR. WANG: Objection. Beyond the scope. Vague. 23 THE WITNESS: I am -- I have to declare, every 24 year, whether I've been involved in any incompatible 25 activities.</p> <p style="text-align: right;">50</p>	<p>1 BY MR. EMBLIDGE: 2 Q. Have you ever heard that some contractors or 3 engineers or sponsors have given gifts to DBI personnel? 4 MR. WANG: Objection. Beyond the scope. 5 THE WITNESS: To my knowledge, no. 6 BY MR. EMBLIDGE: 7 Q. Okay. Have you ever heard that some contractors, 8 engineers or project sponsors have performed work for DBI 9 personnel on their personal property -- 10 MR. WANG: Objection. Beyond the scope. 11 BY MR. EMBLIDGE: 12 Q. -- personal project belonging to DBI personnel? 13 MR. WANG: I'm sorry. Objection. Beyond the 14 scope. Vague. 15 THE WITNESS: To my knowledge, no. 16 MR. EMBLIDGE: Ed, do you want to have a 17 continuing objection on "beyond the scope" just to make it 18 easier, or do you want to object to each question? 19 MR. WANG: I think I'll just stick with the 20 objections for now. 21 BY MR. EMBLIDGE: 22 Q. Does DBI ever refer complaints to another City 23 agency? 24 A. Yes. 25 Q. Could you describe the circumstances?</p> <p style="text-align: right;">52</p>
<p>1 BY MR. EMBLIDGE: 2 Q. You fill out a Form 700? 3 A. Correct. 4 MR. WANG: Objection. Beyond the scope. 5 BY MR. EMBLIDGE: 6 Q. Apart from filling out a Form 700 every year, do 7 you receive any kind of formal instruction or training 8 about what are and what are not incompatible activities? 9 MR. WANG: Objection. Beyond the scope. Vague. 10 THE WITNESS: There is a video which has been put 11 out by the City Attorney's office regarding incompatible 12 activities, and we have to review that video, I believe 13 it's yearly. 14 BY MR. EMBLIDGE: 15 Q. All right. When did that start? 16 MR. WANG: The same objections. 17 THE WITNESS: When did it start? 18 MR. EMBLIDGE: Yeah. 19 Q. When did you start being asked to review this 20 video? 21 MR. WANG: Objection. Beyond the scope. Vague. 22 THE WITNESS: As long as I could remember. 23 Sorry. 24 MR. EMBLIDGE: Great. 25 THE WITNESS: I don't know the year.</p> <p style="text-align: right;">51</p>	<p>1 A. It could be that the complaint was -- I know I've 2 referred cases to Planning. I'm trying to think of any 3 other agencies, but definitely, I've referred cases to 4 Planning where there is both a Building and a Planning 5 component to the complaint. 6 Q. So what would be the type of issue that would 7 come in to you that you would refer to Planning? 8 A. An addition being built without a permit, a deck 9 being built without a permit. Something that -- something 10 that's under the purview of the Planning Department. 11 Q. So something that should not only receive a 12 permit from the Building Department, but something that 13 would have required Planning Department approval before it 14 was constructed? 15 A. That is correct. 16 Q. Okay. So these complaints come in. They get 17 assigned. How do you decide if a site visit is necessary 18 in order to process a complaint? Do you always do a site 19 visit? Maybe sometimes you do, sometimes you don't? 20 A. It would depend on what the complaint is. 21 Q. What's an example of a complaint that wouldn't 22 require a site visit? 23 A. I can't think of one. I believe they all require 24 site inspections. 25 Q. Okay. And is the -- so Mr. Hernandez assigns</p> <p style="text-align: right;">53</p>

<p>1 complaints. Somebody to -- to -- to building inspectors 2 on the complaint side of the organization chart. 3 Do those building inspectors sometimes assign 4 site visits to somebody else, or does it stick with that 5 one building inspector from the assignment till the end? 6 A. Speaking for myself, I can't ever remember giving 7 a complaint to somebody else to handle. 8 Q. What about somebody else giving it to you? 9 A. To my recollection, I can't remember. 10 Q. But if a -- if a complaint comes in and there's 11 already a building inspector who's been involved in a 12 project, the complaint would get routed to that building 13 inspector to do site inspections associated with the 14 complaint; is that correct? 15 MR. WANG: Objection. Vague. 16 THE WITNESS: Well, when -- I know when I was 17 triaging complaints and a complaint came in, I would just 18 assign to a district inspector. So whoever the district 19 inspector is for that project, that's who the complaint 20 should be assigned to. 21 BY MR. EMBLIDGE: 22 Q. Okay. Is there only one -- I'm sorry. 23 Is there only one inspector for each district? 24 A. There is, yes. 25 Q. Okay. So if a complaint comes in about a project</p> <p style="text-align: right;">54</p>	<p>1 to be done at 521 Market, "And so, Mr. Duffy, will you 2 please look in to that?" Is that correct? 3 A. That's correct. 4 Q. If there -- if Mr. Hernandez sees that there are 5 permits for work to be done at 521 Market, does he 6 terminate the complaint or does he do something else? 7 MR. WANG: I'm sorry. Could I have that read 8 back. I missed the middle portion of that. 9 MR. EMBLIDGE: Sorry. 10 BY MR. EMBLIDGE: 11 Q. So a complaint comes in saying that there is work 12 being done at 521 Market. Mr. Hernandez looks into the 13 permit tracking system and sees there are actually permits 14 in effect for work being done at that address. What does 15 Mr. Hernandez do next? 16 A. My practice was that that complaint would be 17 assigned to the district building inspector to follow up 18 and make sure that whatever work was being done compared 19 with the permits that they have. So I would not 20 automatically, in my role as acting senior, just close the 21 complaint. 22 Q. Right. You would not just close the complaint. 23 You would assign it to an inspector for the district to 24 make sure whatever work is actually being done at the site 25 is consistent with the --</p> <p style="text-align: right;">56</p>
<p>1 that is ongoing in a particular district, it would get 2 assigned to the district inspector for that district to 3 follow up on the complaint; is that correct? 4 A. Best of my knowledge, correct, yes. 5 Q. So if you get a complaint -- if a complaint comes 6 in about work being done without permits, is it the 7 support staff that first checks the permit tracking system 8 to see if there are permits, or is it you, the building 9 inspector, who gets assigned to that complaint that first 10 checks the permits in the tracking system? 11 A. No. That would be the -- the -- when I was 12 acting senior, I would check each address to determine 13 whether there was permits or not. So it's not the support 14 staff. It's -- actually, it was me when I was doing it, 15 and I believe now it's Chief Hernandez. 16 Q. Okay. So somebody makes a complaint saying, 17 "There's work being done at 521 Market Street, and I don't 18 think they have permission to do that." That comes in to 19 a support staff, support staff sends it to Mr. Hernandez, 20 and Mr. Hernandez then sees whether or not there are, in 21 fact, permits to be doing work at 521 Market; is that 22 correct? 23 A. That is correct. 24 Q. And so it would only get to you then if 25 Mr. Hernandez concluded that there are no permits for work</p> <p style="text-align: right;">55</p>	<p>1 A. That's correct. 2 THE COURT REPORTER: I'm sorry sir, "Consistent 3 with the..." 4 MR. EMBLIDGE: -- permits for the site? 5 Gosh. I wish I could do something to make this 6 sound better. 7 THE COURT REPORTER: If we could go off record 8 just real. 9 (Off the record.) 10 MR. EMBLIDGE: I'm sorry. What was the last 11 question and answer? 12 THE WITNESS: It was, when I was acting senior, 13 just close the complaint or I would assign it to the 14 district building inspector to investigate or take action 15 or close the complaint himself or herself. 16 BY MR. EMBLIDGE: 17 Q. And the answer was you would -- you would assign 18 it, correct? 19 A. That's correct. 20 Q. So it seems like -- I'm gonna get to a question 21 here, but I'm gonna tell you what I'm trying to get at and 22 then try to ask a decent question. 23 Your job is a little easier, because you get a 24 complaint that there's work being done without a permit 25 and there's no permit. So you go out and you see if work</p> <p style="text-align: right;">57</p>

<p>1 is really being done, and that's kind of the -- then you 2 give an NOV. But then the building inspector who gets a 3 complaint about work being done beyond the scope of 4 permits has to look at all the permits and look at all the 5 drawings and compare the work that's being done to the 6 permits and figure out whether it's outside the scope. 7 So my question is: Is there investigation that 8 you need to do that is other than going to the jobsite and 9 seeing if, in fact, work is being done, given that there 10 are no permits for that address? 11 A. No, because I have to -- I have to perform a 12 permit search and possibly print previous plans that were 13 approved prior to going to the site. You know, it all 14 depends on what the complaint is. Let's say a 15 single-family home somebody had -- 16 (Interruption by the court reporter.) 17 THE WITNESS: Let's imagine that somebody had 18 added an illegal dwelling unit on the ground floor. So I 19 would perform a permit search to see what permits were 20 obtained for the property. And let's say, in 2008, there 21 was a permit to add rooms on the ground floor. I would 22 print that permit and the plans for that permit prior to 23 going to the site to perform the site inspection. 24 MR. EMBLIDGE: Got it. 25 ///</p> <p>58</p>	<p>1 MR. WANG: Objection. Beyond the scope. 2 BY MR. EMBLIDGE: 3 Q. If you answered, I didn't hear you. I'm sorry. 4 A. No. 5 Q. So it's a limited number of people? 6 MR. WANG: The same objection. 7 THE WITNESS: It is a limited number of people. 8 BY MR. EMBLIDGE: 9 Q. And -- 10 A. I was given access to it due to the nature of my 11 job. 12 Q. What do you mean by that? 13 A. I was given access because of -- of what we do in 14 complaints, that instead of filling out a records request, 15 which could take several weeks, I was given access to this 16 program. So I was able to do it more expeditiously. 17 Q. And is that same access given to Mr. Malchow and 18 Mr. Keane and Jimmy G.? 19 A. No. 20 Q. Why -- why not? 21 MR. WANG: Beyond the scope. 22 THE WITNESS: Because they were not -- they were 23 not inspectors at the time I was granted access to 24 PaperVision. 25 ///</p> <p>60</p>
<p>1 BY MR. EMBLIDGE: 2 Q. So you talked about plans. How would you get a 3 copy of those plans? 4 A. I have access to the PaperVision, which is a 5 computer program coordinated with the Records Management 6 Division of DBI. And I'm able to review permits and plans 7 for -- for permits. 8 Q. What was the name of that? You said something 9 "Vision"? 10 A. Paper, P-a-p-e-r. PaperVision. 11 Q. All right. So you have access -- PaperVision is 12 a computer program or computer -- what is PaperVision? 13 MR. WANG: Beyond the scope. 14 THE WITNESS: It's a computer program. 15 BY MR. EMBLIDGE: 16 Q. Okay. And you have access to both view historic 17 plans on PaperVision, and you can also print them out? 18 A. Yes. 19 Q. Who, in DBI, has access to PaperVision in that 20 way? 21 MR. WANG: Objection. Beyond the scope. 22 THE WITNESS: I'm actually not sure how many 23 people have access. 24 BY MR. EMBLIDGE: 25 Q. All building inspectors?</p> <p>59</p>	<p>1 BY MR. EMBLIDGE: 2 Q. Were you granted access when you were an acting 3 senior? 4 A. Prior to that. 5 Q. While you might not know the precise number of 6 people who have access to PaperVision, could you give me 7 an estimate? Was it more -- do you believe it's more than 8 five? More than ten? More than 20? 9 MR. WANG: Objection. Beyond the scope. 10 THE WITNESS: I don't know. 11 BY MR. EMBLIDGE: 12 Q. Okay. Does the public have access to 13 PaperVision? 14 A. To my knowledge, no. 15 Q. Does the public have access to historic plans? 16 MR. WANG: Objection. Beyond the scope. 17 THE WITNESS: I believe the public can go to 18 Records Management and request to review the plans, but I 19 don't believe they're allowed to print the plans. 20 BY MR. EMBLIDGE: 21 Q. Okay. So to the best of your knowledge, the 22 public has a means by which they could review plans but 23 not a means by which they could obtain copies of plans 24 from DBI; is that correct? 25 MR. WANG: Objection. Beyond the scope.</p> <p>61</p>

<p>1 THE WITNESS: That is correct, to the best of my 2 knowledge. 3 BY MR. EMBLIDGE: 4 Q. Could you look at Exhibit 12, please. 5 A. 12. 6 (Exhibit 12 introduced.) 7 BY MR. EMBLIDGE: 8 Q. Have you ever seen that document before? It's -- 9 it's a three-page document entitled "Records Request 10 Form." 11 A. I've never seen this before, no. 12 Q. Do you know whether there's some other kind of 13 document the public would use or fill out if it wanted -- 14 if a member of the public wanted to view plans? 15 A. No. 16 MR. WANG: Objection. Beyond the scope. 17 BY MR. EMBLIDGE: 18 Q. If you answered, we didn't hear you. 19 A. I'm sorry. I'm not aware, no. 20 Q. Okay. 21 A. This is a similar document to the one -- prior to 22 me having access to PaperVision, there's an internal 23 records request form. It's similar to this but -- where I 24 would request copies of plans. 25 Q. Okay. So this is similar to the form that was</p> <p style="text-align: right;">62</p>	<p>1 A. It would be the same procedure. Permit research. 2 Q. And again, can you think of a reason you would 3 not do a site visit relating to a complaint for work being 4 done outside the scope of permits? 5 MR. WANG: Objection. Incomplete hypothetical. 6 THE WITNESS: I cannot think of a case where one 7 would not do a site inspection. 8 BY MR. EMBLIDGE: 9 Q. So can we -- can you go to Exhibit 11, please. 10 I know you told me you've not seen this document 11 before, but I want to ask you about some terms in this 12 document. 13 If you look at the second page, at the top, under 14 7, it refers to -- it says, "Once the complaint is 15 assigned to a district inspector or the Complaint 16 Investigation Team." 17 Do you know what it's referring to there, in 18 capital letters, "Complaint Investigation Team"? 19 MR. WANG: Objection. Calls for speculation. 20 THE WITNESS: The Complaint Investigation Team -- 21 if one goes to Exhibit 1, on the right-hand side where my 22 name is, that is the Complaint -- that is the CIT, the 23 Complaint Investigation -- sorry. Complaint Investigation 24 Team is the four inspectors that one sees there in 25 Exhibit 1.</p> <p style="text-align: right;">64</p>
<p>1 used internally within DBI when DBI members would seek 2 copies of plans from the Records Division; is that 3 correct? 4 A. It's -- it's similar, yes. 5 Q. Are you aware -- when a member of the public 6 seeks to view plans, what record is kept of that person's 7 name or that person's request? 8 MR. WANG: Objection. Beyond the scope. Vague. 9 THE WITNESS: I have no knowledge, no. 10 BY MR. EMBLIDGE: 11 Q. Do you occasionally get assigned to investigate 12 complaints about work being done outside the scope of 13 permits? 14 A. I'm trying to think of the -- the last time I -- 15 it's happened, but I'm trying to think the last time I did 16 it. I have done it in the past, yes, but I just cannot 17 give you a specific case. 18 Q. That's fine. 19 So you mentioned, when you are investigating a 20 complaint about work done without permits, you do some 21 investigation of the history of the building and prior 22 plans and prior permits. 23 What do you do to investigate before doing a site 24 visit relating to a complaint for work done beyond the 25 scope of permits?</p> <p style="text-align: right;">63</p>	<p>1 BY MR. EMBLIDGE: 2 Q. If you go to page 5 of the document, about a 3 third of the way down, it talks about blue dots. 4 Do you have an understanding what that's 5 referring to? 6 MR. WANG: Objection. Calls for speculation. 7 THE WITNESS: I don't. 8 BY MR. EMBLIDGE: 9 Q. Really? Okay. It sounds like it's a big deal. 10 So it says, "A blue dot affixed on the Notice of 11 Violation indicates that it's a high prior matter." 12 You are not aware of a practice of identifying 13 high priority matters with a blue dot? 14 MR. WANG: Objection. Calls for speculation. 15 THE WITNESS: Not that I'm aware of. 16 BY MR. EMBLIDGE: 17 Q. Me either, but it sure sounds interesting. 18 Okay. 19 A. Yeah, I've never assigned blue dots. No. 20 Q. Hang on just one sec. 21 All right. So this distinction between work done 22 without a permit and work done beyond the scope of 23 permits, how do you decide which is which? 24 A. By doing a permit search. 25 Q. Okay. So let's say somebody obtained a permit to</p> <p style="text-align: right;">65</p>

<p>1 remodel a bathroom, but they got -- they did some wiring 2 work relating to the bathroom remodel but didn't get an 3 electrical permit. Is that considered work done outside 4 the scope of a permit or work done without a permit? 5 A. I would consider that work done without a permit, 6 and that complaint would be assigned to the Electrical 7 Inspection Division. 8 Q. Okay. Then what is -- what's an example of work 9 done outside the scope of a permit? 10 A. Let's say one obtains a permit to do a kitchen 11 remodel but one actually remodels the bathroom as well 12 or -- 13 Q. Okay. 14 A. -- adds windows that are not part of the scope of 15 the permit. 16 Q. Okay. So let's say I get a permit to do a 17 bathroom remodel, but I end up remodeling three bathrooms 18 in the house instead of one. That's considered work done 19 outside the scope of the permit? 20 A. Correct. 21 Q. And if I get a permit to replace four windows but 22 I replace six windows instead, similarly, that's work done 23 outside the scope of the permit as opposed to work done 24 without a permit? 25 A. In my opinion, that would be correct, yes.</p> <p style="text-align: right;">66</p>	<p>1 or project sponsors by e-mail or -- by e-mail? 2 A. As my initial response? 3 Q. Yes. 4 A. No. My first reaction would be to go to the 5 site. 6 Q. Okay. And then let's say you reach somebody at 7 the site, and then you are having further communications 8 about the work. Do you sometimes follow up with people 9 via e-mail? 10 A. In response to an e-mail or initiate the -- 11 Q. Either way. 12 A. I would respond to e-mails, yes. 13 Q. Okay. And what about texts? Do you ever 14 communicate with project sponsors or property owners via 15 texting? 16 A. I have not. 17 Q. And do you ever -- well, I assume you do 18 communicate by phone? 19 A. Correct. 20 Q. Okay. Does the department issue you a telephone? 21 MR. WANG: Objection. Beyond the scope. 22 THE WITNESS: Yes. 23 BY MR. EMBLIDGE: 24 Q. When you communicate with contractors or 25 engineers or project sponsors, do you always use the</p> <p style="text-align: right;">68</p>
<p>1 Q. And so is the distinction when I don't have the 2 type of permit that I need, like I don't have an 3 electrical permit or I don't have a plumbing permit, is 4 that when you call it work done without a permit? 5 A. Well, that would be electrical work done without 6 a permit or plumbing work done without a permit, yes. But 7 if one had a building permit to remodel the bathroom, if 8 one didn't do anything beyond the bathroom remodel, for 9 the building inspector, that would not be beyond the scope 10 of that building permit. 11 Q. Okay. So a complaint comes in, you do your 12 investigation, and then at some point, do you communicate 13 with the owner of the building or the contractor or the, 14 you know, project manager? 15 A. Yes. 16 Q. So walk me through that. How does that happen? 17 How do you reach out to -- 18 A. So I'm assigned a complaint on whatever address. 19 So I would go to the -- I would go to the property -- to 20 the address of the complaint and attempt to communicate 21 with whoever is there. 22 Q. So your first attempt would typically be to go to 23 the site and knock on the door? 24 A. Correct. 25 Q. All right. Do you ever reach out to contractors</p> <p style="text-align: right;">67</p>	<p>1 department-issued telephone, or do you sometimes use your 2 own personal phone? 3 MR. WANG: Objection. Beyond the scope. 4 THE WITNESS: Sometimes I use my own phone. 5 BY MR. EMBLIDGE: 6 Q. What would be the circumstances? 7 MR. WANG: Objection. Beyond the scope. 8 THE WITNESS: Sometimes I may not have the 9 company phone with me. 10 BY MR. EMBLIDGE: 11 Q. And what about e-mail? Do you communicate with 12 project sponsors and engineers and contractors via the 13 department e-mail address that you have? 14 MR. WANG: Objection. Beyond the scope. 15 THE WITNESS: Yes. 16 BY MR. EMBLIDGE: 17 Q. Do you ever communicate with them using a 18 personal e-mail address? 19 MR. WANG: The same objection. 20 THE WITNESS: No. 21 BY MR. EMBLIDGE: 22 Q. Do you know whether DBI has any rules or policies 23 or procedures about the means by which building inspectors 24 are supposed to communicate with the public, including 25 contractors, engineers and project sponsors?</p> <p style="text-align: right;">69</p>

<p>1 MR. WANG: Objection. Beyond the scope. 2 THE WITNESS: I'm not aware, no. 3 BY MR. EMBLIDGE: 4 Q. Are there certain contractors, engineers or 5 project sponsors that have your personal phone number as 6 opposed to your DBI phone number? 7 MR. WANG: Objection. Beyond the scope. Calls 8 for speculation. 9 THE WITNESS: There are -- I'm trying to think. 10 In relation to my work, is that the question? 11 MR. EMBLIDGE: (Coughs.) Excuse me. 12 THE WITNESS: In relation to my work? 13 MR. EMBLIDGE: Yes, sir. 14 THE WITNESS: No. 15 MR. EMBLIDGE: Okay. 16 BY MR. EMBLIDGE: 17 Q. But you are drawing the distinction in relation 18 to your work and what? 19 A. Well, there are contractors that I know socially 20 who have my phone number. 21 Q. I see. 22 But as far as calling you up about a work-related 23 question, you're not aware of contractors, project 24 sponsors or engineers that have your personal phone 25 number; is that correct?</p> <p style="text-align: right;">70</p>	<p>1 THE WITNESS: I see him at DBI periodically. 2 BY MR. EMBLIDGE: 3 Q. Have you ever talked to him? 4 MR. WANG: Objection. Beyond the scope. 5 THE WITNESS: I have. 6 BY MR. EMBLIDGE: 7 Q. Is he somebody that you ever socialized with? 8 MR. WANG: Objection. Beyond the scope. 9 THE WITNESS: No. 10 BY MR. EMBLIDGE: 11 Q. So your only dealings with Mr. Pollard have been 12 professional? 13 MR. WANG: Objection. Beyond the scope. 14 THE WITNESS: That's correct. 15 MR. WANG: Assumes facts. 16 BY MR. EMBLIDGE: 17 Q. Have you ever inspected projects in which 18 Mr. Pollard has been involved? 19 MR. WANG: Objection. Beyond the scope. 20 MR. EMBLIDGE: I'm happy to give you a continuing 21 objection, Ed. 22 MR. WANG: I prefer, just for the record, to make 23 my objections when I feel they're appropriate. Thank you, 24 though. 25 THE WITNESS: I believe I have.</p> <p style="text-align: right;">72</p>
<p>1 A. That's correct. 2 MR. WANG: Objection. Beyond the scope. Calls 3 for speculation. 4 THE WITNESS: Correct. 5 MR. EMBLIDGE: Okay. Can we go off the record 6 for a second. 7 (Break taken from 12:04 until 12:14.) 8 BY MR. EMBLIDGE: 9 Q. Mr. Duffy, when complaints get assigned to one 10 building inspector, do they ever get reassigned to a 11 different building inspector? 12 A. I'm trying to think. To my knowledge, no, but 13 that's best of my knowledge, no. 14 Q. Can you recall a time when you were investigating 15 a particular complaint and you were told, "This is now 16 going to be investigated by a different inspector"? 17 A. I cannot, to the best of my recollection. 18 Q. Are you familiar with a gentleman named John 19 Pollard, P-O-L-L-A-R-D? 20 MR. WANG: Objection. Beyond the scope. 21 THE WITNESS: I know a John Pollard. He's a 22 contractor, I believe. 23 BY MR. EMBLIDGE: 24 Q. How do you know him? 25 MR. WANG: Objection. Beyond the scope.</p> <p style="text-align: right;">71</p>	<p>1 BY MR. EMBLIDGE: 2 Q. What do you recall about projects you've 3 inspected in which Mr. Pollard has been involved? 4 MR. WANG: The same objection. 5 THE WITNESS: I believe, yes. 6 BY MR. EMBLIDGE: 7 Q. No. I said what do you recall about those 8 projects? 9 A. Oh. One was a complaint regarding -- it was 10 formerly a church on the corner of Fillmore and Fell, I 11 believe. I'm trying to think if it's called Sacred Heart. 12 We got complaints regarding, I believe it was an unsafe 13 condition. It was being used for -- I want to say it was 14 being used as a roller skating rink. Plaster was falling 15 from a ceiling. And I believe Mr. Pollard -- he may have 16 owned the property. I believe. But I had dealings with 17 him regarding that. 18 Q. Approximately when was that? 19 MR. WANG: Objection. Beyond the scope. 20 THE WITNESS: Within the last five years. 21 BY MR. EMBLIDGE: 22 Q. Have you had other -- 23 A. More than three years ago, I would say. 24 Q. Have you had other professional dealings with 25 Mr. Pollard?</p> <p style="text-align: right;">73</p>

<p>1 MR. WANG: The same objections. 2 THE WITNESS: He has called me in relation to 3 Notices of Violation that I've issued for work being done 4 without a permit and that he was going to essentially get 5 the permits to correct the Notices of Violation. 6 BY MR. EMBLIDGE: 7 Q. Regarding what project or projects? 8 MR. WANG: Objection. Beyond the scope. 9 THE WITNESS: Addresses, I can't think off the 10 top of my head. 11 BY MR. EMBLIDGE: 12 Q. What do you recall about those projects? 13 MR. WANG: Objection. Beyond the scope. 14 THE WITNESS: That owners were performing work 15 without permits. Notice of Violation issued. Corrective 16 action with final permit within a certain time period. 17 And I believe Mr. Pollard obtained the permits. 18 BY MR. EMBLIDGE: 19 Q. Do you recall anything about the nature of the 20 scope that was being performed without permits? 21 MR. WANG: Objection. Beyond the scope. 22 THE WITNESS: I do recall one was, I believe, a 23 retaining wall on a slope without a permit. I issued a 24 Notice of Violation, and Mr. Pollard called me up and said 25 he was hired by the property owner to take care if there</p> <p style="text-align: right;">74</p>	<p>1 call the deposition short. We are wasting his entire day 2 for this deposition. And I would appreciate it if it were 3 kept to what he's actually designated for. 4 MR. EMBLIDGE: I'm sorry, you are gonna cut the 5 deposition short? 6 MR. WANG: If you continue down this path of 7 going beyond the scope of the notice on which we've 8 designated him as a witness, then yes. I don't want to 9 sit here for hours talking about stuff that he isn't 10 designated for. 11 MR. EMBLIDGE: Do you understand that the rule in 12 the Northern District is that you can't terminate a 13 deposition based on going beyond the scope of the 30(b)(6) 14 letter? 15 MR. WANG: We had a discussion with Judge Spero 16 about the scope of the discovery in this case. We haven't 17 completed that discussion. And I think a lot of the 18 topics you are getting into now will exceed the scope of 19 discovery in this case that we will agree upon or that 20 Judge Spero will order. 21 And I understand your position here, but he is 22 designated here for a very specific topic that you guys 23 noticed in order to help us determine what the overall 24 scope of this -- discovery in this case is going to be. 25 I think you've gone well beyond that. It's</p> <p style="text-align: right;">76</p>
<p>1 was a violation. 2 BY MR. EMBLIDGE: 3 Q. Do you recall any others? 4 MR. WANG: The same objection. 5 THE WITNESS: To my knowledge, no. 6 BY MR. EMBLIDGE: 7 Q. Does he have your personal phone number? 8 MR. WANG: Objection. Beyond the scope. Calls 9 for speculation. 10 THE WITNESS: No. 11 BY MR. EMBLIDGE: 12 Q. Do you believe that Mr. Pollard is somebody that 13 is generally well liked by the inspectors at DBI? 14 MR. WANG: Objection. Beyond the scope. 15 THE WITNESS: I have no knowledge as to what 16 inspectors think of -- 17 MR. WANG: I hate to interrupt, but I just want 18 to object and say that this line of questioning is 19 irrelevant, in addition to beyond the scope. If we are 20 going to keep the witness here for many more hours, I'd 21 prefer that we focus on the topic he's actually designated 22 for in addition to topics that are relevant to this case. 23 I think -- if you are not going to focus on these 24 things that are irrelevant and not within the scope of the 25 notice and what he's designated here for, I'm going to</p> <p style="text-align: right;">75</p>	<p>1 fishing into irrelevant topics, and I'm just trying to 2 look out for Mr. Duffy's time here. 3 MR. EMBLIDGE: So I'll refer you to a case your 4 office was involved in. Detoy, D-E-T-O-Y, versus City and 5 County of San Francisco, 196 F.R.D. 862 [sic], that sets 6 the rule in Northern District, and it was adopted by 7 virtually every magistrate. And it says what you are 8 doing right now is completely improper. And I am -- 9 MR. WANG: I'm not cutting off the deposition 10 right now. 11 MR. EMBLIDGE: Excuse me. I'm talking. 12 And I am allowed to ask questions about knowledge 13 that this witness might have of -- of things that aren't 14 specifically spelled out in the Deposition Notice. If you 15 are gonna say that I can't do that, then let's terminate 16 the deposition now. We'll move to compel. 17 MR. WANG: I'd like an estimate of how many hours 18 we're going to be talking about topics that we think are 19 likely going to be held beyond the scope of this case. 20 MR. EMBLIDGE: I have no idea what you think is 21 beyond the scope of this case, so I can't tell you that. 22 I think I've got two or three more hours of questioning. 23 MR. WANG: And how much of it will actually focus 24 on the topics for which he's been designated? 25 MR. EMBLIDGE: I think they all focus on that.</p> <p style="text-align: right;">77</p>

<p>1 MS. BERS: Mr. Emblidge, I'd just like to point 2 out that there is a difference between percipient witness 3 knowledge, which I think is discussed in the case that you 4 referred to, and hypotheticals that you're asking about. 5 Social interactions between people are completely 6 unrelated to the projects at issue. 7 I mean, this is very far afield from the 8 allegations in the complaint. And I'd really appreciate 9 if you could give us some connection between the -- the 10 exploration that you're making regarding John Pollard, for 11 example, and the purpose of this PMK deposition. 12 MR. EMBLIDGE: No, I'm not gonna debate that with 13 you here in a deposition. That's not what depositions are 14 for. If you -- if you think my questioning is improper, 15 go ahead, terminate the deposition, and we'll move to 16 compel. And I'm not going to engage in a debate with you. 17 MS. BERS: Well, there is a line between 18 terminating a deposition and allowing a deposition to go 19 on unimpeded regarding any topic you desire. I believe it 20 is within our rights to seek review of a magistrate if 21 this deposition continues to go far afield. 22 MR. EMBLIDGE: Well, let's do it, then. 23 Terminate the depo. We'll seek a review in front of the 24 magistrate. 25 MS. BERS: I think -- I think what Mr. Wang is</p> <p style="text-align: right;">78</p>	<p>1 deposition now, but it is what Ms. Bers said, which is 2 we'll see how long this goes on for, but we may have to 3 suspend this deposition and seek relief from a magistrate 4 if it goes on too long. That was my only point. 5 As long as there are still some topics you want 6 to cover that are actually, you know, at issue and that 7 he's been designated for, I'd appreciate it if we got to 8 those topics first. 9 BY MR. EMBLIDGE: 10 Q. Mr. Duffy, are you aware of anybody at DBI that 11 has given Mr. Pollard any kind of special or favorable 12 treatment? 13 MR. WANG: Objection. Beyond the scope. Vague. 14 THE WITNESS: To my knowledge, no. 15 BY MR. EMBLIDGE: 16 Q. Do you know Annabel McClellon? 17 MR. WANG: Objection. Beyond the scope. 18 THE WITNESS: Sorry. What was the name? 19 MR. EMBLIDGE: Annabel McClellon. She's an 20 associate of Mr. Pollard's. 21 THE WITNESS: Never heard of that name at all. 22 BY MR. EMBLIDGE: 23 Q. You don't think you've ever dealt with her? 24 A. Annabel McClellon. 25 Q. McClellon, M-C, capital C-E-L-L-O-N, I believe.</p> <p style="text-align: right;">80</p>
<p>1 suggesting is that we proceed with the deposition, and if 2 you continue in this line, that perhaps we suspend the 3 deposition in order to obtain guidance from the 4 magistrate. 5 We're not threatening to terminate the 6 deposition, but I think suspending the deposition in order 7 to get a ruling from the magistrate regarding this line of 8 questioning would be appropriate if it continues on this 9 way. 10 MR. EMBLIDGE: Okay. Continues on what way? I 11 mean, I'm going to keep asking him questions about people 12 that are involved in projects Mr. Richards was criticizing 13 and that resulted in retaliation against Mr. Richards. If 14 you think that's out of line, then let's not waste any 15 more of Mr. Duffy's time today. 16 MR. WANG: So do you have any more questions that 17 are related to the topics for which he's been designated 18 here to testify about, or is it all going to focus on 19 projects that Mr. Richards had in his mind when he made 20 statements at a Planning Commission hearing? 21 MR. EMBLIDGE: No, it's not all going to focus on 22 projects that Mr. Richards brought to the attention of the 23 Planning Commission and the public. 24 MR. WANG: Okay. Well, I've -- it was -- what's 25 the best way to phrase it? I'm not terminating the</p> <p style="text-align: right;">79</p>	<p>1 A. To my knowledge, no. 2 Q. Do you know Rodrigo Santos? 3 MR. WANG: Objection. Beyond the scope. 4 THE WITNESS: I do know Rodrigo Santos. 5 BY MR. EMBLIDGE: 6 Q. Is he somebody that you dealt with 7 professionally? 8 MR. WANG: Objection. Beyond the scope. 9 THE WITNESS: I'm trying to think of any project 10 that he was part of when I was involved in that. To the 11 best of my recollection, no. 12 BY MR. EMBLIDGE: 13 Q. How do you know him? 14 MR. WANG: Objection. Beyond the scope. 15 THE WITNESS: I see him from time to time at 16 Department of Building Inspection. 17 BY MR. EMBLIDGE: 18 Q. But how do you know who he is? 19 MR. WANG: Objection. Beyond the scope. 20 THE WITNESS: He was on the Building Inspection 21 Commission. So I know what he looks like. 22 BY MR. EMBLIDGE: 23 Q. Okay. So do you know him in any other capacity 24 besides having been a former member of the Building 25 Inspection Commission?</p> <p style="text-align: right;">81</p>

<p>1 MR. WANG: Objection. Beyond the scope. 2 THE WITNESS: As a person who obtained building 3 permits? 4 MR. EMBLIDGE: Fair enough. 5 THE WITNESS: Yes. 6 BY MR. EMBLIDGE: 7 Q. Do you know him socially at all? 8 A. I do. 9 MR. WANG: Objection. Beyond the scope. 10 MR. EMBLIDGE: All right. 11 BY MR. EMBLIDGE: 12 Q. Is Mr. Santos somebody that you believe is 13 generally well liked by the building inspectors at DBI? 14 MR. WANG: Objection. Beyond the scope. Vague. 15 Calls for speculation. 16 THE WITNESS: I have no knowledge as to what 17 inspectors or anyone at DBI thinks about Rodrigo Santos. 18 BY MR. EMBLIDGE: 19 Q. What about your supervisors? Do you know of any 20 relationship any of your supervisors had with Mr. Santos? 21 A. To my knowledge -- 22 MR. WANG: Objection. Calls for speculation. 23 Beyond the scope. 24 BY MR. EMBLIDGE: 25 Q. And you are going to need to repeat your answer</p> <p style="text-align: right;">82</p>	<p>1 A. The issue was the stability of a hill. 2 Q. And how did it get resolved? 3 A. I believe it was resolved by an additional permit 4 to install shoring, I believe. 5 Q. Do you -- have you had any other professional 6 involvement with Mr. Urrutia? 7 MR. WANG: Objection. Beyond the scope. 8 THE WITNESS: I believe I met him on another 9 complaint investigation, a retaining wall failure at the 10 corner of Divisadero and Washington Street. 11 BY MR. EMBLIDGE: 12 Q. And what do you recall about the resolution of 13 that problem? 14 MR. WANG: Objection. Beyond the scope. 15 THE WITNESS: There is no resolution as of yet. 16 BY MR. EMBLIDGE: 17 Q. It's an ongoing problem? 18 A. It's an ongoing problem with multiple property 19 owners. 20 Q. Have you socialized at all with Mr. Urrutia? 21 MR. WANG: Objection. Beyond the scope. 22 THE WITNESS: I have not. 23 BY MR. EMBLIDGE: 24 Q. Are there any other projects in which Mr. Urrutia 25 has been involved besides the two you referenced?</p> <p style="text-align: right;">84</p>
<p>1 again. Sorry. 2 A. To my knowledge, no. 3 Q. Are you aware of Mr. Santos receiving any kind of 4 favorable treatment at DBI at any time? 5 MR. WANG: Objection. Beyond the scope. Calls 6 for speculation. Vague and ambiguous. 7 THE WITNESS: To the best of my knowledge, no. 8 BY MR. EMBLIDGE: 9 Q. Do you know Albert Urrutia? The last name is 10 spelled capital U-R-R-I-T-I-A [sic]. 11 A. I do know Albert Urrutia. 12 MR. WANG: Objection. Beyond the scope. 13 BY MR. EMBLIDGE: 14 Q. How do you know him? How do you know 15 Mr. Urrutia? 16 MR. WANG: The same objection. 17 THE WITNESS: I know him professionally. There 18 was a project sometime back that he was involved in, and I 19 met him at the project. I'm trying to think where the 20 project was. 21 BY MR. EMBLIDGE: 22 Q. Take your time. (Coughs.) Excuse me. 23 A. It was in Mira Loma Park. I know that. I cannot 24 think of the address. 25 Q. What was the issue?</p> <p style="text-align: right;">83</p>	<p>1 MR. WANG: Objection. Beyond the scope. Calls 2 for speculation. 3 THE WITNESS: Those two are the only two that I 4 can recall. 5 BY MR. EMBLIDGE: 6 Q. Are you aware of anyone at DBI giving favorable 7 treatment to Mr. Urrutia? 8 MR. WANG: Objection. Beyond the scope. Vague. 9 Calls for speculation. 10 THE WITNESS: I'm not aware. 11 BY MR. EMBLIDGE: 12 Q. Do you know Patricia Urrutia? 13 MR. WANG: Objection. Beyond the scope. 14 THE WITNESS: What was the first name? 15 MR. EMBLIDGE: Patricia. 16 THE WITNESS: I don't know a Patricia Urrutia, 17 no. 18 BY MR. EMBLIDGE: 19 Q. How about Tim Brown? 20 MR. WANG: Objection. Beyond the scope. 21 THE WITNESS: Jim Brown? 22 BY MR. EMBLIDGE: 23 Q. Tim, T-I-M. 24 A. Oh, Tim Brown. No. 25 Q. Have you been involved in inspecting any projects</p> <p style="text-align: right;">85</p>

<p>1 where Mr. Brown was the project sponsor or the developer? 2 MR. WANG: Objection. Beyond the scope. Calls 3 for speculation. 4 THE WITNESS: I don't know Mr. Brown. 5 BY MR. EMBLIDGE: 6 Q. What about Angus McCarthy? 7 MR. WANG: Objection. Beyond the scope. 8 THE WITNESS: Angus McCarthy on the Building 9 Inspection Commission? 10 MR. EMBLIDGE: Correct. 11 THE WITNESS: I know Mr. McCarthy. 12 BY MR. EMBLIDGE: 13 Q. Do you know him -- have any relationship with him 14 apart from the fact that you've seen him on the Building 15 Inspection Commission? 16 MR. WANG: Objection. Beyond the scope. 17 THE WITNESS: No. 18 BY MR. EMBLIDGE: 19 Q. You've never socialized with him? 20 MR. WANG: Objection. Beyond the scope. 21 THE WITNESS: No. 22 BY MR. EMBLIDGE: 23 Q. What about Sean Keegan? 24 MR. WANG: The same objection. 25 THE WITNESS: Sean Keegan with the Residential</p> <p style="text-align: right;">86</p>	<p>1 BY MR. EMBLIDGE: 2 Q. How do you know him? 3 MR. WANG: The same objections. 4 (Interruption by the court reporter.) 5 THE WITNESS: Professionally. 6 BY MR. EMBLIDGE: 7 Q. Mr. Duffy, maybe you should just give a little 8 pause after I ask a question to let your attorney object 9 so that it doesn't cut off your answer. Okay? 10 A. Very good. 11 Q. All right. You know him professionally. What do 12 you mean by that? 13 A. I've seen him on occasion at DBI where he may 14 have been hired to take care of complaints when there's a 15 violation that I issued, or he may actually be filing 16 complaints on behalf of somebody that he wants 17 investigated. 18 Q. Okay. Have you ever investigated complaints that 19 Mr. Boscovich has made about projects? 20 MR. WANG: Objection. Calls -- beyond the scope 21 and calls for speculation. 22 THE WITNESS: I do believe I have. 23 BY MR. EMBLIDGE: 24 Q. What do you recall about that? 25 MR. WANG: The same objections.</p> <p style="text-align: right;">88</p>
<p>1 Builders? 2 MR. EMBLIDGE: Yes. 3 THE WITNESS: I don't know him socially, no. 4 BY MR. EMBLIDGE: 5 Q. Have you ever dealt with him professionally? 6 MR. WANG: Objection. Beyond the scope. 7 THE WITNESS: No. 8 BY MR. EMBLIDGE: 9 Q. He's never talked to you about projects that 10 you've been involved in in inspecting? 11 MR. WANG: Objection. Beyond the scope. Asked 12 and answered. 13 THE WITNESS: To my knowledge, no. 14 BY MR. EMBLIDGE: 15 Q. Has Mr. McCarthy ever talked to you about 16 projects that you're inspecting outside the scope of 17 Building Inspection Commission meetings? 18 MR. WANG: Objection. Beyond the scope. Asked 19 and answered. 20 THE WITNESS: To the best of my recollection, no. 21 BY MR. EMBLIDGE: 22 Q. Do you know Patrick Boscovich? 23 MR. WANG: Objection. Beyond the scope. 24 THE WITNESS: I do. 25 ///</p> <p style="text-align: right;">87</p>	<p>1 THE WITNESS: Specifically, I can't recall. I 2 would have to attempt to actually remember some cases, but 3 I do -- I do believe that I've investigated complaints 4 that Mr. Boscovich has made. 5 BY MR. EMBLIDGE: 6 Q. Have you ever investigated complaints about 7 projects in which Mr. Boscovich has been involved? 8 MR. WANG: Objection. Beyond the scope. Calls 9 for speculation. 10 THE WITNESS: I cannot recall, no. 11 BY MR. EMBLIDGE: 12 Q. Do you believe Mr. Boscovich has been given 13 favorable treatment by anyone at DBI? 14 MR. WANG: Objection. Beyond the scope. Calls 15 for speculation. Vague. 16 THE WITNESS: To my knowledge, no. 17 BY MR. EMBLIDGE: 18 Q. Do you consider Mr. Boscovich to be somebody 19 that's knowledgeable about the Building Code? 20 MR. WANG: Objection. Beyond the scope. Vague. 21 Calls for speculation. 22 THE WITNESS: I believe he is, yes. 23 BY MR. EMBLIDGE: 24 Q. Do you have any reason to question 25 Mr. Boscovich's honesty?</p> <p style="text-align: right;">89</p>

<p>1 MR. WANG: Objection. Incomplete hypothetical -- 2 or vague. Beyond the scope. Calls for speculation. 3 THE WITNESS: No. 4 BY MR. EMBLIDGE: 5 Q. Do you have any opinion about the quality of 6 Mr. Boscovich's engineering work? 7 MR. WANG: Objection. Calls for speculation. 8 Beyond the scope. Calls for improper expert opinion. 9 THE WITNESS: I don't have any opinion, no. 10 BY MR. EMBLIDGE: 11 Q. Do you have any opinion about the accuracy of 12 documentation Mr. Boscovich has submitted to the 13 Department of Building Inspection associated with projects 14 that you have investigated? 15 MR. WANG: Objection. Beyond the scope. Assumes 16 facts. Calls for speculation. Vague. 17 THE WITNESS: I don't have any opinion, no. 18 BY MR. EMBLIDGE: 19 Q. Do you know Rachel Swann? That's S-W-A-N-N. 20 A. To my knowledge, no. 21 Q. Do you know Dennis Richards? 22 A. Dennis Richards that was on the Planning 23 Commission? 24 Q. Correct. 25 A. That's how I know him.</p> <p style="text-align: right;">90</p>	<p>1 should be issuing an NOV. 2 A. After the NOV has been issued? 3 Q. Before. 4 A. No. 5 Q. What about after? 6 A. Yes. 7 Q. Can you describe a situation that comes to mind, 8 please? 9 A. Let's say I issue a Notice of Violation 10 regarding -- regarding somebody constructing a fence in 11 the rear yard that is six feet in height but it's on top 12 of a retaining wall; that, you know, the Building Code 13 says you can build a fence in your rear yard six feet or 14 less without a permit, but if I -- from the neighbor's 15 side, there's a three-foot high retaining wall and a 16 six-foot fence on top of that. 17 So my conclusion is that the permit required, but 18 the -- there is an interpretation that the six-foot fence 19 begins -- really begins at the adjacent grade of the 20 property in question. So it may be less than six feet in 21 height to the person who built the fence, but the neighbor 22 is looking at this nine-foot tall wall. 23 So we have a conversation whereby, you know, the 24 fence did not require a permit, and so the NOV is invalid. 25 That's an example.</p> <p style="text-align: right;">92</p>
<p>1 Q. Have you ever met him? 2 A. No. 3 Q. Have you ever had any dealings with him either 4 socially or professionally? 5 A. No. 6 Q. Do you have any reason to question his honesty? 7 MR. WANG: Objection. Vague. Calls for 8 speculation. 9 THE WITNESS: No. 10 BY MR. EMBLIDGE: 11 Q. In handling complaints at DBI, have you ever been 12 asked to change the way in which you were handling a 13 complaint either by a supervisor or a superior at DBI? 14 MR. WANG: Objection. Vague. 15 THE WITNESS: To my knowledge, no. 16 BY MR. EMBLIDGE: 17 Q. Have you ever been asked to change the conclusion 18 you came to about whether a Notice of Violation should be 19 issued? 20 A. To the best of my recollection, no. 21 Q. You can't recall a time where you felt a Notice 22 of Violation should be issued and a supervisor of yours 23 told you they didn't think an NOV was warranted? 24 A. To overturn the conclusions of my NOV? 25 Q. To -- to -- to tell you that they don't think you</p> <p style="text-align: right;">91</p>	<p>1 Q. Okay. And so how would that come about? How 2 would you -- you issue an NOV based on your judgment of -- 3 A. Right. 4 Q. -- of what the Code means, and how would it end 5 up reaching a supervisor? 6 MR. WANG: Objection. Vague. It calls for 7 speculation. 8 THE WITNESS: The complainant believes that the 9 Notice of Violation is invalid, and I would tell any 10 person I issue a Notice of Violation to that they can 11 appeal to my superior. That's standard practice. 12 BY MR. EMBLIDGE: 13 Q. Okay. So -- right, there's -- and so there's a 14 formal process that one can go through to appeal an NOV, 15 correct? 16 A. There's a formal process, and there's also an 17 informal process. 18 Q. You read my mind. 19 So what is the informal process? 20 A. The formal process, that the person who receives 21 the Notice of Violation can appear at the director's 22 hearing to say that the Notice of Violation is invalid. 23 Q. That's the formal process, right? 24 A. That's the formal process, correct. 25 Q. And what's the informal process?</p> <p style="text-align: right;">93</p>

<p>1 A. The complainant reaches out to me and says, "I 2 don't believe this Notice of Violation is valid." 3 And I would say, "Here's my superior's phone 4 number. You could give that person a call, and you can 5 have the discussion with him." 6 Q. So sometimes those issues get resolved informally 7 without a director's hearing; is that correct? 8 A. That is correct. 9 Q. Has anyone at DBI asked you not to issue an NOV 10 when you thought an NOV should be issued? 11 MR. WANG: Objection. Vague. 12 THE WITNESS: To my knowledge, no. 13 BY MR. EMBLIDGE: 14 Q. Do you know Darryl Honda? 15 MR. WANG: Objection. Beyond the scope. 16 THE WITNESS: Darryl Honda who is on the Board of 17 Appeals? 18 MR. EMBLIDGE: Correct. 19 THE WITNESS: That's how I know him. 20 BY MR. EMBLIDGE: 21 Q. Have you ever spoken with him? 22 MR. WANG: Objection. Beyond the scope. 23 THE WITNESS: No. 24 BY MR. EMBLIDGE: 25 Q. Have you ever socialized with him?</p> <p style="text-align: right;">94</p>	<p>1 THE WITNESS: Maurico Hernandez in relation to 2 the people that you referred to? 3 BY MR. EMBLIDGE: 4 Q. Right. Would you like me to read the names 5 again? 6 A. No, that's fine. To my knowledge, no. 7 Q. Have you ever heard that Mr. Sweeney gives 8 certain contractors, engineers or project sponsors better 9 treatment than other contractors, engineers or project 10 sponsors? 11 MR. WANG: Objection. Beyond the scope. 12 THE WITNESS: Not that I'm aware of. 13 BY MR. EMBLIDGE: 14 Q. Have you ever heard -- well, when you say not 15 that you are aware of, I'm not asking you now whether you 16 have personal knowledge of the better treatment. I'm 17 asking whether you ever have heard that, heard allegations 18 to that effect? 19 MR. WANG: The same objections. 20 THE WITNESS: No. No. 21 BY MR. EMBLIDGE: 22 Q. Have you ever heard that Mr. Hernandez gives 23 contractors, engineers or project sponsors better 24 treatment than some other contractors, engineers or 25 project sponsors?</p> <p style="text-align: right;">96</p>
<p>1 MR. WANG: Objection. Beyond the scope. 2 THE WITNESS: No. 3 BY MR. EMBLIDGE: 4 Q. Has he ever contacted you about a property that 5 you were investigating? 6 MR. WANG: Objection. Beyond the scope. 7 THE WITNESS: No. 8 BY MR. EMBLIDGE: 9 Q. Has anyone associated with the RBA contacted you 10 as a representative of the RBA about a project you were 11 investigating? 12 MR. WANG: Objection. Beyond the scope. Calls 13 for speculation. 14 THE WITNESS: To my knowledge, no. 15 BY MR. EMBLIDGE: 16 Q. I'm going to try to make this quick. 17 Are you aware of any relationship Ed Sweeney has 18 with John Pollard, Annabel McClellon, Rodrigo Santos, 19 Albert Urrutia, Patricia Urrutia or Darryl Honda? 20 MR. WANG: Objection. Beyond the scope. 21 Compound. Calls for speculation. 22 THE WITNESS: To my knowledge, no. 23 BY MR. EMBLIDGE: 24 Q. What about Maurico Hernandez? 25 MR. WANG: The same objections.</p> <p style="text-align: right;">95</p>	<p>1 MR. WANG: The same objections. 2 THE WITNESS: I have not heard that, no. 3 BY MR. EMBLIDGE: 4 Q. Have you ever heard that Mr. Sweeney gives 5 certain contractors, engineers or project sponsors worse 6 treatment than other contractors, engineers or project 7 sponsors? 8 MR. WANG: The same objections. 9 THE WITNESS: I have not. 10 BY MR. EMBLIDGE: 11 Q. What about Mr. Hernandez? 12 MR. WANG: The same objections. 13 THE WITNESS: I have not. 14 BY MR. EMBLIDGE: 15 Q. Are there particular contractors, engineers or 16 project sponsors that you've heard that DBI personnel 17 believes should be -- shouldn't be treated in the same 18 manner as other contractors, engineers or project 19 sponsors? 20 MR. WANG: Objection. Beyond the scope. Vague. 21 THE WITNESS: No. 22 BY MR. EMBLIDGE: 23 Q. What's the difference between a Notice of 24 Violation and a Notice of Correction? 25 A. A Correction Notice or Notice of Correction is --</p> <p style="text-align: right;">97</p>

<p>1 it's an -- it's a form given by a building inspector to a 2 contractor regarding minor construction deficiencies that 3 had to be corrected prior to the -- to the next 4 inspection. 5 A Notice of Violation is a more formal document 6 related to probably more serious things maybe beyond the 7 scope of permits, et cetera. 8 Q. So what's the line that you draw between minor 9 things that involve a Correction Notice and more 10 significant things that involve an NOV? 11 A. The Correction Notice, I would say, would -- 12 would deal with -- let's -- let's say a framing 13 inspection, there were framing deficiencies. You know, 14 the -- if I go to do a framing inspection, these items are 15 not -- haven't been addressed yet. Whereas a Notice of 16 Violation is, "Here's your permit, but there may be other 17 permits required." Like, I wouldn't issue a Correction 18 Notice saying, "You must obtain another permit." I would 19 issue a Notice of Violation. I believe that's the 20 difference. 21 Q. And do you issue Correction Notices? 22 A. I haven't issued a correction notice since I 23 stopped becoming a district building inspector. 24 Q. Which -- I'm sorry, which was approximately when? 25 A. 2003, 2004.</p> <p style="text-align: right;">98</p>	<p>1 It's the second page of the exhibit, but at the 2 bottom, it says, "Page 1 of 16." 3 Do you see that? 4 A. I do. 5 Q. So under "Discussion," the second sentence says, 6 "This differs," meaning differs from Notices of 7 Violation -- I'm sorry, Notices of Violation "differs from 8 Correction Notices in that Correction Notices are issued 9 as part of the inspection process where construction 10 deficiencies and code violations are noted for work in 11 progress under a valid permit." 12 So is it correct that a Correction Notice could 13 also encompass what are perceived to be code violations 14 involved in ongoing work? 15 A. Correct. 16 Q. Now, if you go down a few paragraphs, there's a 17 paragraph that starts, "The first Notice of Violation 18 shall be issued by the District Inspector." 19 Do you see that? 20 A. I see that, yes. 21 Q. Now, am I correct that's not always true, right? 22 Because sometimes you -- you would be the person issuing a 23 first Notice of Violation? 24 A. That is correct. 25 Q. So why...</p> <p style="text-align: right;">100</p>
<p>1 Q. Okay. So in your job as a Code Enforcement 2 inspector, you don't issue Correction Notices, correct? 3 A. That is correct. 4 Q. Were there policies that DBI has written down 5 about when a Correction Notice is appropriate versus a 6 Notice of Violation? 7 A. That may be in the OPP regarding Notices of 8 Violation, the Office Policy and Procedure, but I would 9 have to refer to that. 10 Q. That's Exhibit 10? 11 A. Exhibit 10, yes. 12 (Exhibit 10 introduced.) 13 BY MR. EMBLIDGE: 14 Q. Okay. Exhibit 10 is entitled "Office Policies 15 and Procedures for Issuing Notices of Violation." And it 16 seems to be dated November 1st, 2013. 17 Do you know whether it has been amended or 18 updated since 2013? 19 A. To my knowledge, I'm not aware. 20 Q. So this is the only written document you are 21 aware of where DBI might discuss the differences between 22 issuing Notices of Correction and Notices of Violation; is 23 that correct? 24 A. To my knowledge, yes. 25 Q. Okay. So let's look at page 2 of Exhibit 10.</p> <p style="text-align: right;">99</p>	<p>1 Are there -- are there other circumstances where 2 a Notice of Violation gets issued by someone other than a 3 district inspector or a Code Enforcement inspector? 4 A. Notices of Violation could be issued by a senior 5 building inspector, chief building inspector, deputy 6 director. 7 Q. Do you have any idea, then, why this document 8 says, "The first Notice of Violation shall be issued by 9 the District Inspector"? 10 MR. WANG: Objection. Calls for speculation. 11 THE WITNESS: I don't. 12 BY MR. EMBLIDGE: 13 Q. Okay. Let's go to the next page and look at 14 paragraph D, "Time Limits." 15 It says, "Violations shall be given the following 16 time limits for the owner to respond: 17 "Work without permit which will not result in 18 life/safety hazards: 30 days." 19 Do you see that? 20 A. I do. 21 Q. And is that consistent with your practice, that 22 typically, when you issue a Notice of Violation, you give 23 an owner 30 days to respond? 24 A. My normal procedure is for a final building 25 permit, within 30 days; final permit.</p> <p style="text-align: right;">101</p>

<p>1 Q. And -- and when you say your normal procedure, 2 are there times when you do something other than that 3 normal procedure? 4 A. Yes, in emergency situations. 5 Q. Other than life/safety emergency situations, are 6 there other times when you give someone less than 30 days 7 to address the NOV? 8 A. To my recollection, no. 9 Q. Okay. So go, please, to the next page. And you 10 will see Subsection F, "Notices of Violation." 11 Do you see that? 12 A. I do. 13 Q. So it talks about work without a permit, 9X 14 penalty, and for work exceeding scope of work -- sorry -- 15 for exceeding scope of work of a permit, 2X penalty. 16 How do you decide, in your judgment, whether a 17 penalty of nine or a penalty of two is appropriate? 18 A. If there are active permits on the property -- if 19 there are no active permits, it would be a 9 times 20 penalty. If there are active permits on the property, 21 then it would be a two times penalty. 22 Q. If you're inspecting a site in response to a 23 complaint for work done without permits, are there -- are 24 there times when you decide, "Well, there's work that's 25 been done here, but it's so minor that I don't need to</p> <p style="text-align: right;">102</p>	<p>1 my judgment. If it was a minor patch, I would say no 2 permit required. 3 BY MR. EMBLIDGE: 4 Q. And are there -- 5 A. That's cases where I use my judgment. 6 Q. Right. 7 Are there any rules or procedures written down 8 about how to use your judgment in those circumstances? 9 A. Not that I'm aware of. 10 Q. What about when you are deciding whether to issue 11 a Notice of Violation for work that is outside of a scope 12 of a permit? Are there sometimes where you observe the 13 work and the work that arguably is outside of the scope of 14 the permit it's so minor and you use your judgment and 15 decide an NOV is not warranted? 16 MR. WANG: Objection. Vague. Incomplete 17 hypothetical. 18 THE WITNESS: To the best of my recollection and 19 knowledge, I can't recall doing that. 20 MR. EMBLIDGE: Okay. We've reached 1:00. So why 21 don't we take a break here. 22 (Lunch break taken from 1:00 until 1:31.) 23 MR. EMBLIDGE: So back on the record. 24 BY MR. EMBLIDGE: 25 Q. Stop work. So when -- when an NOV is issued, is</p> <p style="text-align: right;">104</p>
<p>1 issue an NOV?" 2 MR. WANG: Objection. Incomplete hypothetical. 3 THE WITNESS: That require a permit? 4 MR. EMBLIDGE: Right. 5 THE WITNESS: If something was done that required 6 a permit, then a Notice of Violation would be issued. 7 BY MR. EMBLIDGE: 8 Q. So there's no -- 9 A. There are things in the Building Code that don't 10 require permits. 11 Q. So there's -- there's a dividing line in your 12 mind, then, if the work required a permit, I've got to 13 issue an NOV; if the work didn't require a permit, I 14 wouldn't issue an NOV, correct? 15 A. That's correct. 16 Q. But there's -- is there any gray area in your 17 mind about whether work that might require a permit was so 18 minor, that you might use your judgment and say, "I'm not 19 going to issue an NOV here"? 20 MR. WANG: Objection. Vague. Incomplete 21 hypothetical. 22 THE WITNESS: There have been cases where, 23 let's -- hypothetically, somebody was painting the 24 interior of a house and they had cracked plaster and they 25 wanted to patch the plaster with drywall. I'll just use</p> <p style="text-align: right;">103</p>	<p>1 all work on a project supposed to stop? 2 A. No. 3 Q. Okay. What work is allowed to continue? What 4 work should stop? 5 A. Generally, work that is permitted could continue 6 and work that is not permitted that may be beyond the 7 scope of that permit should stop until the permit is 8 issued. That's one instance. 9 Another instance may be there are various permits 10 on the project and the Planning Department want to suspend 11 a permit, not all permits. The stop work would just be 12 confined to the permit that is under suspension. The rest 13 of the work, I believe, could continue. Those are for 14 instance. 15 Q. So to use an example you used earlier, if you got 16 a permit to remodel your kitchen, if you decided that, 17 since you had a contractor around, why not remodel the 18 bathroom, an NOV would say, "Stop work on the bathroom 19 until you get a permit," but it wouldn't stop you from 20 completing work on the kitchen which was properly 21 permitted; is that correct? 22 MR. WANG: Objection. Incomplete hypothetical. 23 Calls for speculation. 24 THE WITNESS: That would be my take, yes. 25 ///</p> <p style="text-align: right;">105</p>

<p>1 BY MR. EMBLIDGE: 2 Q. Have you ever heard of the term "serial 3 permitting"? 4 A. Serial permitting? 5 Q. Yeah, S-E-R-I-A-L, serial permitting. 6 A. I've heard of it various times on the Planning 7 Commission. I believe that may be the only place I've 8 heard it. 9 Q. What do you understand it to mean? 10 A. I don't -- sorry. I don't believe I've heard it 11 at DBI, but the way the Planning Commission were talking, 12 where is there's -- most of all permits on a project, 13 rather than somebody coming in for a permit, to 14 consolidate it, you know, to do it. So that's my 15 understanding. 16 Q. Okay. Does that -- does the practice of having 17 multiple permits on a project, is that a problem from a 18 Building Department perspective? 19 MR. WANG: Objection. Vague. 20 THE WITNESS: Not that I'm aware of. 21 BY MR. EMBLIDGE: 22 Q. Okay. Who has the authority to revoke permits? 23 A. The chief building inspector. I believe the 24 Building Code says the building official, but from what I 25 gather in practice, it is the chief building inspector who</p> <p style="text-align: right;">106</p>	<p>1 MR. WANG: Objection. Vague. 2 THE WITNESS: I actually don't know. 3 BY MR. EMBLIDGE: 4 Q. Are you aware of any written materials at DBI 5 that talk about when it is proper or required to revoke 6 permits? 7 A. Just in Chapter 1 in the Administrative section 8 of the San Francisco Building Code. 9 Q. Okay. And what does that tell you? 10 A. It says the building official may revoke permits. 11 Q. You are not aware of any guidance that's given 12 anywhere in writing in any DBI documents about when the 13 chief building inspector should exercise discretion to 14 revoke permits? 15 A. That I'm aware of, no. 16 Q. Have you been involved in projects where permits 17 have been revoked? 18 A. Yes. 19 Q. Under what circumstances? 20 A. As a -- when I was acting senior building 21 inspector, when -- I believe there was a case where 22 somebody submitted a permit and the permit was not an 23 inaccurate reflection of what the work was, and that 24 permit was revoked, and the final inspection was 25 rescinded, and the project sponsor or homeowner had to</p> <p style="text-align: right;">108</p>
<p>1 revokes permits. 2 Q. Okay. Who is that today? 3 A. Today we have two chief building inspectors, 4 Mauricio Hernandez, and we have an acting chief building 5 inspector in the Building Inspection Division, and that's 6 Joseph Duffy. 7 Q. And how long has Mr. Hernandez been in that 8 position, as far as you are aware? 9 A. As far as I'm aware, three, maybe four years, but 10 I'm not quite sure. 11 Q. So you, as the building inspector, don't have the 12 authority to revoke permits? 13 A. I do not. 14 Q. What -- as opposed to an NOV, if -- if permits on 15 a project are revoked, does that mean all work at the 16 project is supposed to cease? 17 A. That would be my understanding. If the building 18 permits are revoked, then there is no valid building 19 permit to work. So, yes, all work should cease. 20 Q. And then if the permits are revoked, work at that 21 project couldn't begin until new permits were applied for 22 and approved by DBI, correct? 23 A. That would be my understanding. 24 Q. What do you understand to be the circumstances 25 under which it is proper to revoke permits?</p> <p style="text-align: right;">107</p>	<p>1 obtain another permit to accurately reflect what was done. 2 Q. Do you recall the address of that property or the 3 street? 4 A. I don't. 5 Q. What was your involvement in that project? 6 A. I believe I wrote the initial Notice of 7 Violation. The person came in and got a permit and got 8 that permit finalized. 9 And the complainant said, "How -- how could this 10 happen? This is not accurate." 11 And further analysis showed that, yes, the permit 12 was not issued correctly. The permit was revoked, and the 13 final inspection was rescinded. 14 Q. Okay. So you issued the NOV? 15 A. I did. 16 Q. And the NOV was for what? What was the 17 violation? 18 A. I believe it was for a new deck at the rear of a 19 property. 20 Q. Okay. So they had built the deck at the rear of 21 the property without a permit? 22 A. Yes. 23 Q. Okay. And so then they came in, and they got -- 24 what was wrong with the permit they, then, obtained for 25 the deck?</p> <p style="text-align: right;">109</p>

<p>1 A. They obtained a permit, I believe, for the repair 2 of an existing deck. 3 Q. Oh. Even though you'd already issued an NOV 4 saying they've constructed a deck without a permit? 5 A. I believe nobody looked at a Notice of Violation. 6 And that happens. That happens. It was overlooked. 7 Q. So that -- that deck permit was rescinded, and 8 they had to apply for a new permit to essentially legalize 9 the deck that they had built without a permit; is that a 10 fair -- 11 A. That is my understanding, correct, yes. 12 Q. Can you think of any other -- 13 A. Sorry. That's the only instance where I believe 14 I was involved with the revocation of a permit on the 15 recission of the final inspection. 16 Q. Okay. Who actually revoked that permit? 17 A. That was the chief building inspector, Patrick 18 O'Riordan. 19 Q. And just to be clear, then, you don't recall 20 being involved in any other project in which permits were 21 revoked; is that correct? 22 A. That is correct. 23 Q. Do you have any knowledge about how permit fees 24 are calculated? 25 A. No.</p> <p style="text-align: right;">110</p>	<p>1 Violation. The Notice of Violation says, "Obtain a permit 2 and get it inspected." 3 So the person comes in, obtains a building 4 permit, gets that permit signed off, and the case would be 5 closed based on the final building inspection. 6 Q. And would you close it or would somebody else 7 close it? 8 A. Let's say I issued the Notice of Violation 9 saying, "You replaced these windows without a permit." I 10 issued the Notice of Violation. I keep track of the 11 complaint. I see that actually the building permit has 12 been obtained prior to the final notice. I will then 13 transfer that case to the district inspector who will, 14 one, sign off the building permit to comply with the 15 notice and, two, close the case. 16 Q. Okay. And when you transfer that case, is that 17 something you do on a computer, or you actually physically 18 take a file over to the building inspector? How does that 19 transfer occur? 20 A. I actually take the file, make a referral, put it 21 in an inbox. The chief inspector will review that file; 22 see that, yes, this permit does comply with this Notice of 23 Violation, and he will transfer it to the district 24 inspector. So it's -- it's done by the chief inspector, 25 and it's also done by his clerical staff.</p> <p style="text-align: right;">112</p>
<p>1 Q. The penalties you referred to earlier, nine times 2 penalty and the two times penalty, does anyone have any 3 authority at DBI to waive those penalties? 4 A. I'm not sure of waive, but I have known cases 5 where the penalty was reduced from nine times to two 6 times. 7 Q. Okay. And who has the authority to make that 8 decision? 9 A. I believe that's senior building inspector or 10 senior inspector or both. 11 Q. Are you familiar with any situations in which a 12 nine times penalty was assessed and subsequently reduced 13 to a two times penalty? 14 A. I cannot think of a particular project, but I -- 15 I -- I know that it happens, yes. 16 Q. And closing a complaint -- so -- so now we've 17 gone through the process of how the complaint comes in, 18 how it goes to the chief inspector who assigns it to the 19 building inspector, and that inspector goes out and 20 investigates it. 21 How do complaints get closed or resolved or the 22 various ways that that happens? 23 A. Well, let's say the work was work without a 24 permit. Let's say a window replacement. So I go out. 25 Window's replaced without a permit. I issue a Notice of</p> <p style="text-align: right;">111</p>	<p>1 Q. I'm sorry. I didn't catch the rest of that. 2 A. It's also -- the clerical staff would also input 3 that into the computer, that a permit has been issued, 4 referred to district inspector. 5 Q. Okay. You are reading my mind. I was gonna ask 6 you, do you ever go into the computer and enter that kind 7 of data? 8 A. That's normally the support staff. 9 Q. But sometimes it's you? 10 A. Sometimes it's me, yes. Yes. 11 Q. What would be -- 12 A. Especially now in these COVID times. 13 Q. How do you -- how do you track complaints that 14 you are -- that are assigned to you? So -- okay. Let me 15 try that again. 16 I'm just trying to get a sort of, like, case 17 management, right? 18 A. Okay. 19 Q. So I've got a whole bunch of different matters 20 here that are assigned to me as, you know, legal matters, 21 and I have my way of keeping track of what's hot, what's 22 not, what do I get -- what do I need to get done. 23 How do you keep track of the status of matters 24 that are assigned to you? 25 A. So I've got -- well, it's just my own particular</p> <p style="text-align: right;">113</p>

<p>1 method, is -- so I've got cases where I have not actually 2 gotten admission to a property. Let's say somebody -- 3 (Interruption by the court reporter.) 4 THE WITNESS: Let's say somebody installed 5 windows without a building permit. That's the complaint 6 description. So I attempt to get entry into the property, 7 but I can't. So that is one type of complaint. 8 Another type of complaint is, I issued a Notice 9 of Violation, and there are time periods for that Notice 10 of Violation. So I've got, you know, little notes telling 11 me when certain things are due. You know, the complaint 12 would be -- I put on a door hanger saying, "Call me within 13 three days." Well, if nobody calls me within three days, 14 then we send an inspection request saying, "Call me within 15 seven days." 16 Let's say they don't. Then I send a second 17 inspection request, another seven days, and then a final 18 warning letter saying, "Call me within seven days." 19 So that's an active complaint with no out -- not 20 without -- not with no action, but there are certain 21 actions. 22 The others are Notice of Violations, and there's 23 time periods attached to those. You will file the permit 24 within 30 days. I'll know when the 30 days are up and 25 whether to take action or not.</p> <p style="text-align: right;">114</p>	<p>1 determine whether or not to issue a Notice of Violation or 2 how long it should take before you close the complaint, 3 anything like that? 4 A. Not that I'm aware of. 5 Q. And is the 72 hours, is that written down 6 somewhere, that a site inspection should occur within 7 72 hours? 8 A. I don't... I think maybe in a bullet point 9 presentation that we received saying they should be 10 responded to within 72 hours, but I'm not quite sure. I 11 know 72 hours in my head. 12 Q. Right. 13 And if that -- sometimes you are able to do it 14 quicker; sometimes it takes longer than 72 hours? 15 A. Sometimes it's quicker. Actually, most times 16 it's quicker. 17 Q. Most times it's quicker. Does it ever take 18 longer than 72 hours? 19 A. To my knowledge, not in any complaints that I've 20 handled, no. I try to do it -- I believe I've done it 21 within the time period. 22 Q. Great. 23 Could you look at Exhibit 3, please. 24 A. Three. 25 Q. Yes.</p> <p style="text-align: right;">116</p>
<p>1 BY MR. EMBLIDGE: 2 Q. But how would you keep track of that? So you put 3 the door hanger out there, and that says, "Hey, get in 4 touch with me within seven days." Do you then enter 5 something onto the computer that says -- 6 A. Yes, I do. 7 Q. Okay. 8 A. That's actually done on the computer, yes. 9 Q. Okay. Got it. 10 Are there rules about how long it is supposed to 11 take to resolve complaints? 12 A. Complaints would be responded to within 72 hours 13 of the complaint being received. 14 Q. And responded to in that context means what? 15 A. Would be a site inspection. 16 Q. Okay. Are there any other rules about the time 17 parameters for processing complaints? 18 A. I'm not quite sure of the question. 19 Processing -- 20 Q. Okay. So there's this general idea that we need 21 to get out there and inspect within 72 hours of a 22 complaint, right? 23 A. Correct. 24 Q. And then are there guidelines or policies about 25 after an inspection, how long should it take before you</p> <p style="text-align: right;">115</p>	<p>1 Okay. I'm gonna ask you some questions about a 2 series of these Complaint Data Sheets. 3 (Exhibit 3 introduced.) 4 BY MR. EMBLIDGE: 5 Q. So first of all, looking at Exhibit 3, can you 6 tell what it is? 7 A. It's a Complaint Data Sheet. This would that -- 8 this is the printout that -- the Complaint Data Sheet -- 9 that's the internal DBI data sheet. This is the one that 10 the public could -- could look at. 11 Q. What's the difference between this printout and 12 the -- the printout that's accessible to you at DBI? 13 A. The owner data is suppressed and the complaint 14 data is suppressed. I'm sorry. The complainant data is 15 suppressed. 16 Q. Okay. 17 A. Both of those would appear on the DBI Complaint 18 Data Sheet. 19 Q. Even if the complainant wanted to be anonymous? 20 A. Yes. 21 Q. Okay. So are there any other differences between 22 Exhibit 3 and the type of form that you -- you would find 23 internally at DBI for complaints about -- this one is 24 7 Seymour, S-E-Y-M-O-U-R, Street? 25 A. The language used is essentially the same, yes.</p> <p style="text-align: right;">117</p>

<p>1 Q. Okay. Okay. So "Assigned to," you see -- well, 2 if you go about ten lines down -- first of all, it says, 3 "Complaint Source: Web Form." 4 Do you see that? 5 A. "Complaint Source"? 6 Q. Then it says, "Web Form." 7 A. Oh, "Web Form," yes. Sorry. 8 Q. All right. And what does that mean to you? 9 A. That -- that the complaint came in by -- by web. 10 Q. So something over the internet? 11 A. Something over the internet, correct. 12 Q. And looking at this document, how much of the 13 document typically is filled out by the support staff at 14 the time of intake and how much of it is filled out by 15 people after that? 16 A. I believe that's all support staff. 17 Q. Even -- even the things in the boxes associated 18 with "Complaint Status and Comments"? 19 A. The comments, again, I would say it's mostly 20 support staff, but some could be inputted by the inspector 21 themselves. 22 Q. Do you have access to the Complaint Data Sheet to 23 input information if you choose to? 24 A. Yes. 25 Q. Okay. I notice up at the top, under "Date</p> <p style="text-align: right;">118</p>	<p>1 there, it says "Inspector Information," and then it says 2 "BID," which is the Building Inspection Division, correct? 3 A. Yes. 4 Q. Then it gives the name of an inspector, Kelly. 5 And I assume that's an I.D. that is specific to 6 Mr. Kelly? 7 A. I believe so, yes. 8 Q. And then it identifies his district, right? 9 A. Yes. 10 Q. Okay. So then you go down to the next box and 11 you look under "Inspector," and Kelly's name doesn't 12 appear, but there's the name of Mr. or Mrs. Cummins and 13 then Berrios and then Gonzalez and then Barnes. 14 Why is Kelly identified as the inspector above 15 but then four different people are listed as the 16 inspectors below? 17 A. I believe Inspector Kelly is the district 18 inspector in this District 10 now. And that's why his 19 name is there. I don't believe he has any -- anything to 20 do with this particular complaint. He is the district 21 inspector in District 10. 22 Q. Okay. But if he's the district inspector in 23 District 10 and this is a complaint relating to a project 24 in District 10, why wouldn't he be listed as the person 25 that went out and inspected it?</p> <p style="text-align: right;">120</p>
<p>1 Filed," it's blank. 2 Typically, would somebody have logged in the date 3 that a complaint was filed? 4 A. On the Complaint Data Sheet that -- the internal 5 Complaint Data Sheet, the file date is -- is not blank. 6 Q. Is not blank? 7 A. It's not blank, no. 8 Q. So internally, by look- -- if I were you and I 9 had access to the internal files for 7 Seymour Street, I'd 10 be able to see the owner -- the owner data, the date filed 11 and the complainant identification? 12 A. If there is such -- if there is complainant 13 information. It may just say, "Anonymous." 14 Q. Under what circumstances would it just say 15 "anonymous" versus have complainant data? 16 A. Well, somebody just doesn't want to give their 17 name. Some people do give their name and phone number. 18 Some don't. 19 Q. And there's no way for me to tell, looking at 20 this form, Exhibit 3, whether in this case, the 21 complainant did give a name and phone number and it's 22 suppressed or whether the complainant asked to be kept 23 anonymous; is that correct? 24 A. That's correct. 25 Q. All right. So if you go down to the first box</p> <p style="text-align: right;">119</p>	<p>1 MR. WANG: Objection. Calls for speculation. 2 Assumes facts. 3 THE WITNESS: I don't even believe he was the 4 building inspector in 2016. 5 BY MR. EMBLIDGE: 6 Q. Well, wait a second. How could he be the 7 building inspector for District 10 if he wasn't a building 8 inspector? 9 A. He's the building inspector in District 10 now, 10 presently. 11 Q. Yeah. 12 A. I believe that's what that refers to. 13 Q. Why would it refer to the -- why would it refer 14 to the inspector of that district today rather than refer 15 to the inspector at the time inspections were done? 16 MR. WANG: Objection. Calls for speculation. 17 THE WITNESS: And I don't know that. 18 BY MR. EMBLIDGE: 19 Q. Okay. So what I'm trying to get at is -- you 20 were really helpful before. You said if -- there's one 21 inspector assigned to each district, right? 22 A. Correct. 23 Q. And so this inspection -- this complaint would 24 come in and presumably would be assigned to the district 25 inspector. That inspector would go out and check it out.</p> <p style="text-align: right;">121</p>

<p>1 But here, under "Inspector," first, we have Kelly's name, 2 and then we have four names in the graph below. 3 So under what circumstances would it bounce 4 around among different inspectors? 5 A. It appears to me that in July of 2016, Inspector 6 Cummins was the district building inspector for 7 District 10. So ahead -- before it's assigned to her, I 8 confirm it on the property, and she was assigned the case. 9 So it appears, on the 21st of July, an inspector, 10 Michael Chan, issued the Notice of Violation, and it could 11 be that Inspector Cummins was not available and Inspector 12 Chan was filling in. 13 Q. Okay. You see the column that says "DIV"? 14 A. See which column? I'm sorry. 15 Q. At the top, it says "DIV," "Division." "DIV." 16 A. Yes. Yes. 17 Q. And then under it, sometimes it says "BID," and 18 sometimes it says "INS." 19 Do you know why it would say BID on one hand or 20 INS on the other? 21 A. I don't know. I don't know. 22 Q. Darn. 23 A. You know, INS and BID are probably 24 interchangeable to the same thing. You know, CES is a 25 different branch of DBI. It may be an internal thing.</p> <p style="text-align: right;">122</p>	<p>1 Cummins based on he wrote the note as a violation. 2 Kim McHugh was the senior inspector for -- for 3 that district. 4 Q. And you see the last entry in September of 2018, 5 it says, "Case continued." 6 Do you understand what that means? 7 A. That the case has not been resolved yet. 8 Q. So by looking at this document, which I'll tell 9 you I printed off a couple days ago, can I tell looking at 10 this document whether there's still an ongoing violation 11 there or whether this has been resolved? 12 A. It still -- it's still unresolved when it says 13 "Case continued." 14 Q. Okay. 15 A. You don't see "Case closed" yet. 16 Q. Got it. Let's go to Exhibit 4, please. 17 This may be boring for you, but it's very helpful 18 for me to understand this. 19 (Exhibit 4 introduced.) 20 BY MR. EMBLIDGE: 21 Q. So again, the owner data, complainant data and 22 date filed are not there, but that might be there on the 23 internal database, correct? 24 A. Correct. 25 Q. And it says, "Complaint Source: 311 Internet</p> <p style="text-align: right;">124</p>
<p>1 I'm not sure. 2 Q. Okay. So it comes in to Cummins. Cummins goes 3 in and does an inspection. And then, for some reason, 4 Michael Chan issues an NOV. How does it get to Berrios? 5 MR. WANG: Objection. Calls for speculation. 6 THE WITNESS: I don't know. 7 BY MR. EMBLIDGE: 8 Q. And then you see next to the date for Berrios, 9 there's some notes, and at the end of those notes are the 10 letters, small case J, small case J. 11 Is that typically where somebody would put their 12 initials? 13 A. Yes. And that -- I believe that's clerical 14 staff. 15 Q. And then there seems to be a couple of references 16 to Mr. McHugh, M-C, cap H-U-G-H. 17 In your experience, why would -- why would an 18 investigation like this involve so many people: Cummins, 19 Chan, Berrios, McHugh, Gonzalez, Barnes? 20 A. I would say Cummins was the district building 21 inspector in 2016. And there was possibly a change in 22 rotation of inspectors, and Inspector Gonzalez became the 23 district inspector. That's why the names are there. 24 Why Berrios is there, I'm not quite sure. 25 Michael Chan I believe was covering for Inspector</p> <p style="text-align: right;">123</p>	<p>1 Referral." 2 Is that different from the prior one that said 3 "Web form"? 4 A. Yes. I believe the web -- the web was solely 5 sent to DBI. 311 is the citywide, you know, complaint 6 portal. And they are the ones who would -- who would pass 7 judge as to what agency should receive that complaint, 8 from what I understand. 9 Q. Okay. And so this one, it looks like it's 10 assigned to your division, CES, correct? 11 A. Yes. 12 Q. Oh. And there's Giles' name. Now we know how to 13 spell Giles' last name. 14 A. There you go. 15 Q. So first of all, are you familiar with this 16 particular problem at 457 Roosevelt Way? 17 A. I am not. 18 MR. WANG: Beyond the scope. 19 BY MR. EMBLIDGE: 20 Q. Okay. So do you know why Mr. Hinchion's name is 21 listed under "Inspector Information" but then when you go 22 down to "Complaint Status and Comments," Mr. Hernandez's 23 name is listed and Mr. or Ms. Gutierrez and -- and -- do 24 you know why there's a difference there? 25 A. Yes. The complaint originated in BID, but</p> <p style="text-align: right;">125</p>

<p>1 because of nonaction on somebody's part, the case was 2 referred to Code Enforcement. And Inspector Hinchion is 3 the senior inspector in Code Enforcement, which is why I 4 believe his name is there. 5 Q. You say the complaint originated in BID, but this 6 data sheet says the complaint is assigned to CES. Why 7 would that be? 8 A. It's assigned to -- it's in CES now. 9 Q. Okay. So that would have changed? Like, 10 initially, this would have said, "Assigned to BID," but 11 once it gets reassigned to CES, somebody would have 12 changed that? 13 A. That's correct. 14 Q. Also, on the right-hand side, toward the top, 15 about eight lines down, it says, "Division: PID." 16 Is that referring to support staff? 17 A. "Division: BID" [sic]? 18 Q. Yeah. Under -- you see it's under "Adora 19 Canotal," C-A-N-O-T-A-L? 20 A. Adora, she's no longer there, but she was support 21 staff. And actually, her main role was assigning 22 inspections for the Plumbing Inspection Division. 23 Q. Okay. So "PID" is Plumbing Inspection Division? 24 A. Correct. 25 Q. So is that just identifying where Adora is</p> <p style="text-align: right;">126</p>	<p>1 questions Mr. Hinchion? 2 A. I believe he would, yes. 3 Q. All right. Let's go to Exhibit 5, please. 4 (Exhibit 5 introduced.) 5 BY MR. EMBLIDGE: 6 Q. Exhibit 5 is a Complaint Data Sheet relating to 7 the address 310 Montcalm Street, M-O-N-T-C-A-L-M. 8 So here, under "Complaint Source," it says, 9 "Field Observation." 10 So is this an example of where the complaint 11 actually didn't come from the public; it came from a 12 building inspector who went out and saw something that was 13 concerning? 14 A. Looking at it, it could be a case of the building 15 inspector going out on a routine inspection and seeing 16 something that was beyond the scope of the permit that he 17 was reviewing. 18 Q. And toward the bottom of this document, it refers 19 to "OOA." 20 That refers to Order of Abatement; is that 21 correct? 22 A. That's correct. 23 Q. Okay. That was a quick one. Let's go to 24 Exhibit 6. 25 (Exhibit 6 introduced.)</p> <p style="text-align: right;">128</p>
<p>1 assigned as opposed to where this complaint came from or 2 went to? 3 A. It's where Adora is assigned, yes. Yes. 4 MR. WANG: Oh, Scott, if you are talking -- you 5 are on mute. You've been on mute for a bit. 6 MR. EMBLIDGE: Thank you. Sorry about that. 7 BY MR. EMBLIDGE: 8 Q. If you are looking at the -- the main table, it 9 lists Inspector Hernandez both as being in the BID 10 Division and the INS Division. You believe that that's 11 just referring both -- both those references, BID and INS, 12 refer to the Building Inspection Division? 13 A. Yes. 14 Q. So why, then, if BID is having trouble dealing 15 with this, does it end up going to CES? 16 A. Because they did not complain the Notice of 17 Violation. 18 Q. And does everything that goes to CES result in 19 getting the City Attorney involved, or is there a -- is 20 there sort of a level at CES of enforcement before getting 21 the City Attorney involved? 22 A. I don't know what level the City Attorney gets 23 involved. I don't know what cases -- to why a case is 24 referred to the City Attorney, no. 25 Q. Is the best person to answer those types of</p> <p style="text-align: right;">127</p>	<p>1 BY MR. EMBLIDGE: 2 Q. Okay. So Exhibit 6, under "Complaint Source," it 3 says, "DCP Referral." 4 Is that Department of City Planning? 5 A. It is. 6 Q. Okay. You see "Referral Information." Is that 7 identifying the planner that referred it over to CES? 8 A. I believe so, yes. 9 Q. Now, there's an Inspector Duffy listed here a few 10 times. Can you tell from this whether that's you or Joe 11 or some other Duffy? 12 A. There's myself and Joseph Duffy, but I don't know 13 which one. The address doesn't look familiar, but it 14 could be me. I'm not sure. 15 Q. Yeah, I should have said, for the record, the 16 address is 2465 Mission Street. 17 Okay. And again, this goes from Building 18 Inspection to Code Enforcement, correct, in about February 19 of 2018? 20 A. That's correct. 21 Q. Okay. Exhibit 7, please. 22 (Exhibit 7 introduced.) 23 BY MR. EMBLIDGE: 24 Q. Okay. I've got another one, a different type 25 where this complaint comes in by telephone. Then it has</p> <p style="text-align: right;">129</p>

<p>1 "Referral Information," "Referred by Sylvia Thai," 2 T-H-A-I, "to CES." 3 Do you know who Sylvia Thai is? 4 A. Sylvia Thai was a support staff at DBI in 2017. 5 She's no longer there. 6 Q. Okay. When a complaint comes in by telephone, 7 what records are kept of that -- the nature of the 8 complaint? Anything other than this document, the 9 Complaint Data Sheet? 10 A. I -- I can't answer that. I don't know. 11 Q. And when a complaint comes from the Department of 12 City Planning, do you know what records are kept of that? 13 MR. WANG: Objection. Beyond the scope. 14 THE WITNESS: I've seen e-mails from Department 15 of City Planning. I've also seen letters requesting, you 16 know, permit suspension from City Planning. That would be 17 part of the record. 18 BY MR. EMBLIDGE: 19 Q. When a complaint comes in over the internet, do 20 you know what records are maintained of that complaint? 21 A. I'm not sure, no. 22 Q. About three lines up from the bottom on 23 Exhibit 7, on the right-hand side, you'll see it says, 24 "9MMF to," and then it gives the date 5/30/18. 25 In your experience, do you know what that might</p> <p style="text-align: right;">130</p>	<p>1 January 17th, 2017, and then the case flagged on 2 January 24th, 2017. 3 What does "case flagged" refer to, in your 4 experience? 5 A. I've never seen that term before, "flagged." 6 Q. Toward the bottom, it talks about a "DH referral" 7 and a "DH date" and a "DH posting." 8 Does that refer to a director's hearing? 9 A. That is correct. 10 Q. And again, if one looks at this, does it appear 11 to you that this complaint has been resolved? 12 A. No. It's still active. 13 Q. Now, I'm curious, if you look at the end, though, 14 it says, on June 3rd, 2020, "Permit reinstated," and then 15 the next thing is August 3rd, 2020, "No progress to 16 report." 17 If the permit was reinstated, why would there 18 need to be progress to report? 19 MR. WANG: Objection. Calls for speculation. 20 THE WITNESS: I don't know. 21 BY MR. EMBLIDGE: 22 Q. Do you know who DRH is? 23 A. I believe that would be the inspector, Helminiak. 24 His first name is Daniel. 25 Q. Thank you. Okay.</p> <p style="text-align: right;">132</p>
<p>1 refer to? 2 A. That "MMF" is a monthly monitoring fee. So it's 3 a charge that goes on each case per month. It's -- I'm 4 not sure what it. I'm not sure, but looking at this, it 5 looks as if Inspector Guttierrez has assessed nine months 6 of the monthly monitoring fee. 7 Q. Oh, nine months? Not nine times, nine months? 8 A. Nine months. 9 Q. Okay. Exhibit 8, please. 10 (Exhibit 8 introduced.) 11 BY MR. EMBLIDGE: 12 Q. Exhibit 8 is a Complaint Data Sheet relating to 13 25 17th Avenue. 14 Do you have any familiarity with this particular 15 project? 16 MR. WANG: Objection. Beyond the scope. 17 THE WITNESS: I don't. 18 BY MR. EMBLIDGE: 19 Q. Okay. And who -- under "Inspector Information," 20 it says -- I'm gonna spell this one -- H-E-L-M-I-N-I-A-K. 21 Do you know that inspector? 22 A. Inspector Helminiak, I believe he's the district 23 inspector of District 5, which is the Richmond. 24 Q. So then you go down to the table under "Complaint 25 Status and Comments." First, we have the case opened on</p> <p style="text-align: right;">131</p>	<p>1 Let's go to Exhibit 9, please. 2 (Exhibit 9 introduced.) 3 BY MR. EMBLIDGE: 4 Q. Exhibit 9 is a Complaint Data Sheet from 5 2046 Filbert Street. It came in to Inspector 6 Birmingham -- or it was assigned to Inspector Birmingham, 7 and then it went from Birmingham and was inspected, it 8 appears, on a few occasions by an Inspector Duffy. 9 Do you recall being involved in an inspection at 10 2046 Filbert Street? 11 MR. WANG: Objection. Beyond the scope. 12 THE WITNESS: I don't believe I was involved in 13 an inspection at this property. 14 BY MR. EMBLIDGE: 15 Q. So you think it must have been Joseph Duffy? 16 A. No. No. I believe it was me, but if we look at 17 the chronology -- so when it came in, it was a case in 18 District 4, which would mean it would be assigned to, 19 automatically, Inspector Birmingham. He was the district 20 inspector in District 4. 21 But I'm looking -- the case has been reviewed by 22 the senior on the same day. "Per MH" would be Mauricio 23 Hernandez. He reviewed the case and saw that there was no 24 permit on the property, so it was assigned to the head 25 investigation team, and I believe that's me.</p> <p style="text-align: right;">133</p>

<p>1 It was received by me on the 5th, but I note that 2 a permit had been issued, and it may be that a permit was 3 issued that day and then it was assigned to -- back to the 4 district building inspector. That appears to be the 5 chronology. 6 Q. Okay. So this was something that you handled, 7 but you don't think you performed a site inspection; is 8 that correct? 9 A. That's correct. 10 Q. Okay. And after Maurico Hernandez's initials, 11 there's the initials "SLW." 12 Do you know what that refers to? 13 A. I would say that's somebody in the clerical 14 staff. 15 Q. Oh, yeah. Probably Sylvia -- SL Wong, the -- 16 A. Yeah, Suzanna Wong, I imagine, yes. 17 Q. Suzanna, okay. 18 A. Yes. 19 So the case was referred to me, but on the same 20 day that the complaint came in, a permit was actually 21 issued. Because if you look at work being done under 22 permit number 201904047152 -- 23 Q. Yes. 24 A. -- do you see that? 25 Q. Yes.</p> <p style="text-align: right;">134</p>	<p>1 THE WITNESS: No. 2 BY MR. EMBLIDGE: 3 Q. What was your -- okay. 4 Have you ever tried to discourage a member of the 5 public from filing a complaint about a project? 6 A. No. 7 Q. Do you know of any rules at DBI or policies or 8 procedures about whether or not it would be proper to try 9 to discourage a member of the public from filing a 10 complaint? 11 A. I would -- I would imagine it's improper. I'm 12 not aware of any policy. 13 Q. Nothing in writing that you are aware of? 14 A. Not that I'm aware of, no. 15 Q. Had you ever been aware of DBI personnel warning 16 members of the public that if they make complaints, there 17 could be consequences for themselves? 18 A. Not that I'm aware of. 19 MR. EMBLIDGE: All right. Thank you very much 20 for your time today, Mr. Duffy. I have no other 21 questions. 22 THE WITNESS: Okay. Thank you. 23 MR. WANG: Nothing from us. 24 THE COURT REPORTER: Mr. Wang, did you need a 25 copy of the transcript?</p> <p style="text-align: right;">136</p>
<p>1 A. So the "2019" is the year. And then if you go 2 "0404," which would be the date that the permit was 3 actually issued, which is the same date that the complaint 4 came in. 5 Q. Okay. And then it says -- on the one hand, it 6 says, under "Status," "Case closed," but under "Comment," 7 it says, "Progress inspections to follow." 8 Why would the case be closed if there were still 9 further inspections to follow? 10 A. I can't answer that. 11 Q. And after "to follow," it has the initials "CM." 12 Do you know who that might be? 13 A. That may be -- no, I'm not gonna speculate. It 14 would just be speculation. 15 Q. Okay. Don't speculate. 16 A. Right. 17 MR. EMBLIDGE: All right. Let's take a brief 18 break. Let's take a ten-minute break, and we're almost 19 done. 20 (Break taken from 2:24 until 2:35.) 21 BY MR. EMBLIDGE: 22 Q. Mr. Duffy, have you had any role in personnel 23 decisions at DBI, hiring or firing or disciplining of DBI 24 personnel? 25 MR. WANG: Objection. Beyond the scope.</p> <p style="text-align: right;">135</p>	<p>1 MR. WANG: Yes, please. 2 (Whereupon, the deposition was concluded at 3 2:37 p.m.) 4 5 6 _____ 7 DONAL DUFFY 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">137</p>

REPORTER'S CERTIFICATE

I, STEPHANIE D. PLASKETT, CSR No. 9799, a
Certified Shorthand Reporter, do hereby certify:

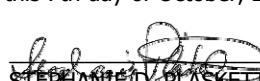

That the foregoing proceedings were taken before
me at the time and place therein set forth, at which time
the witness was by me duly sworn to testify the truth, the
whole truth, and nothing but the truth in the
within-entitled cause;

That the testimony of the witness, the questions
propounded, and all objections and statements made at the
time of the examination were recorded stenographically by
me, a Certified Shorthand Reporter and disinterested
person, and at the time and place therein stated, and was,
under my supervision, thereafter transcribed into
typewriting; that a review of the transcript by the
deponent was requested; that the foregoing is a true and
correct transcript of my shorthand notes so taken.

I further certify that I am not a relative or
employee of any attorney of the parties, nor financially
interested in the action.

I declare under penalty of perjury under the laws
of California that the foregoing is true and correct.

Dated this 7th day of October, 2020


STEPHANIE D. PLASKETT, CSR No. 9799

STEPHANIE D. PLASKETT, CSR No. 9799

<p>A</p> <p>a.m 5:3</p> <p>Abatement 128:20</p> <p>ability 7:4 17:20</p> <p>able 59:6 60:16 116:13 119:10</p> <p>access 59:4,11,16,19 59:23 60:10,13,15 60:17,23 61:2,6,12 61:15 62:22 118:22 119:9</p> <p>accessibility 22:16</p> <p>accessible 117:12</p> <p>accuracy 90:11</p> <p>accurate 30:5 109:10</p> <p>accurately 109:1</p> <p>acting 12:8 17:8,14 22:17 26:3,3 44:14 55:12 56:20 57:12 61:2 107:4 108:20</p> <p>action 57:14 74:16 114:20,25 138:20</p> <p>actions 36:17 114:21</p> <p>active 102:18,19,20 114:19 132:12</p> <p>activities 13:19 14:4 47:17 50:16,20,25 51:8,12</p> <p>add 58:21</p> <p>added 58:18</p> <p>addition 21:2 53:8 75:19,22</p> <p>additional 84:3</p> <p>address 9:24 15:11 15:19,21,24 16:2 55:12 56:14 58:10 67:18,20 69:13,18 83:24 102:7 109:2 128:7 129:13,16</p> <p>addressed 98:15</p> <p>addresses 15:25 74:9</p> <p>adds 66:14</p> <p>adjacent 92:19</p> <p>Administrative 108:7</p> <p>admission 114:2</p> <p>adopted 77:6</p> <p>Adora 126:18,20,25 127:3</p> <p>affixed 65:10</p>	<p>afield 78:7,21</p> <p>agencies 15:1 37:23 53:3</p> <p>agency 52:23 125:7</p> <p>ago 5:22 8:17,18 13:1 44:10 73:23 124:9</p> <p>agree 76:19</p> <p>Ah 24:7</p> <p>ahead 10:25 11:23 13:17 15:15 20:3 26:21 31:19 45:13 78:15 122:7</p> <p>Albert 83:9,11 95:19</p> <p>allegations 78:8 96:17</p> <p>allegedly 28:3</p> <p>allowed 13:24 61:19 77:12 105:3</p> <p>allowing 78:18</p> <p>alternative 36:9</p> <p>ambiguous 83:6</p> <p>amended 41:25 42:6 42:12 99:17</p> <p>analysis 28:5,15,15 109:11</p> <p>Andrew 12:17</p> <p>Angus 86:6,8</p> <p>Annabel 80:16,19,24 95:18</p> <p>anonymous 25:11 25:13,14,22 117:19 119:13,15,23</p> <p>answer 6:21 7:3,4 23:14 25:9 28:19 29:20 35:18 57:11 57:17 82:25 88:9 127:25 130:10 135:10</p> <p>answered 44:4 48:2 60:3 62:18 87:12 87:19</p> <p>answers 35:14</p> <p>anybody 80:10</p> <p>anyway 39:16</p> <p>apart 50:4 51:6 86:14</p> <p>apartment 18:2</p> <p>appeal 93:11,14</p> <p>Appeals 94:17</p> <p>appear 93:21 117:17 120:12 132:10</p>	<p>appeared 5:6</p> <p>appearing 7:7</p> <p>appears 18:23 34:14 34:15 46:6 122:5,9 133:8 134:4</p> <p>appendage 47:3</p> <p>applied 107:21</p> <p>apply 6:15 42:7 110:8</p> <p>appreciate 76:2 78:8 80:7</p> <p>apprentice 8:2</p> <p>apprenticeship 8:7</p> <p>appropriate 72:23 79:8 99:5 102:17</p> <p>approval 53:13</p> <p>approved 58:13 107:22</p> <p>approximately 8:16 12:7,9 45:7 73:18 98:24</p> <p>architectural 27:16</p> <p>area 19:22,24 103:16</p> <p>arguably 104:13</p> <p>arms 36:4</p> <p>ascertain 17:20</p> <p>asked 37:3 51:19 87:11,18 91:12,17 94:9 119:22</p> <p>asking 78:4 79:11 96:15,17</p> <p>asks 22:25 23:10</p> <p>assessed 111:12 131:5</p> <p>Assessment 4:10 34:5</p> <p>assign 17:23,24 18:24 22:18,19,21 36:16 54:3,18 56:23 57:13,17</p> <p>assigned 17:21 18:12 19:9,19,22 21:18,23 29:8,11 29:18 30:12 37:8 48:8,23 49:4 53:17 54:20 55:2,9 56:17 63:11 64:15 65:19 66:6 67:18 71:9 113:14,20,24 118:1 121:21,24 122:7,8 125:10 126:6,8,10 127:1,3 133:6,18</p>	<p>133:24 134:3</p> <p>assigning 126:21</p> <p>assignment 54:5</p> <p>assignments 39:10</p> <p>assigns 48:24 53:25 111:18</p> <p>associate 80:20</p> <p>associated 27:9,20 27:23 29:14 38:2 54:13 90:13 95:9 118:17</p> <p>ASSOCIATES 1:20</p> <p>Association 31:3,10</p> <p>assume 14:18 41:2 45:25 68:17 120:5</p> <p>Assumes 72:15 90:15 121:2</p> <p>attached 29:16 114:23</p> <p>attempt 67:20,22 89:2 114:6</p> <p>attended 8:2 32:2</p> <p>attention 79:22</p> <p>attorney 2:5,6,14,15 2:16 5:22,23 37:20 38:1 88:8 127:19 127:21,22,24 138:19</p> <p>Attorney's 7:21 51:11</p> <p>Attorney-initiated 37:19</p> <p>August 132:15</p> <p>authority 106:22 107:12 111:3,7</p> <p>automatically 56:20 133:19</p> <p>available 122:11</p> <p>Avenue 3:22,23 15:22 131:13</p> <p>aware 13:12 14:11 23:13 26:25 27:5,7 27:25 33:15 35:3 43:5,7 44:3 46:18 47:8,16,20,22 48:14 49:17,21 50:9 62:19 63:5 65:12,15 70:2,23 80:10 83:3 85:6,10 95:17 96:12,15 99:19,21 104:9 106:20 107:8,9</p>	<p>108:4,11,15 116:4 136:12,13,14,15,18</p> <p>B</p> <p>B 3:9 4:1</p> <p>back 23:4 34:20 56:8 83:18 104:23 134:3</p> <p>background 7:25</p> <p>Barnes 120:13 123:19</p> <p>based 21:5 38:18 76:13 93:2 112:5 124:1</p> <p>basis 10:20 29:3 41:5</p> <p>Bates-stamped 33:8 34:6</p> <p>bathroom 66:1,2,11 66:17 67:7,8 105:18,18</p> <p>bathrooms 66:17</p> <p>becoming 98:23</p> <p>beginning 14:13</p> <p>begins 92:19,19</p> <p>behalf 88:16</p> <p>believe 7:11 11:4,19 13:1,8,18,24 15:20 17:11 18:10 20:7 22:14 24:17 25:5 31:12 33:12,14 43:14,16 44:9 45:8 50:11,16 51:12 53:23 55:15 61:7 61:17,19 71:22 72:25 73:5,11,12 73:15,16 74:17,22 75:12 78:19 80:25 82:12 84:3,4,8 88:22 89:3,12,22 94:2 98:19 105:13 106:7,10,23 108:21 109:6,18 110:1,5 110:13 111:9 116:20 118:16 120:7,17,19 121:3 121:12 123:13,25 125:4 126:4 127:10 128:2 129:8 131:22 132:23 133:12,16 133:25</p> <p>believes 93:8 97:17</p> <p>belonging 52:12</p>
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<p>Berrios 120:13 123:4 123:8,19,24 Bers 2:16 41:24 42:10,16 78:1,17 78:25 80:1 best 6:25 7:4 17:19 23:14 24:20 39:12 40:8 55:4 61:21 62:1 71:13,17 79:25 81:11 83:7 87:20 91:20 104:18 127:25 better 19:17 57:6 96:8,16,23 beyond 13:16 26:7 26:20 27:1,18 28:6 30:8,13,20 31:4,18 31:24 32:3 35:8,12 38:5 39:19 40:5,23 41:10 42:22 43:6 45:14 47:19 49:7 49:18,24 50:5,22 51:4,9,21 52:4,10 52:13,17 58:3 59:13,21 60:1,21 61:9,16,25 62:16 63:8,24 65:22 67:8 67:9 68:21 69:3,7 69:14 70:1,7 71:2 71:20,25 72:4,8,13 72:19 73:19 74:8 74:13,21 75:8,14 75:19 76:7,13,25 77:19,21 80:13,17 81:3,8,14,19 82:1,9 82:14,23 83:5,12 84:7,14,21 85:1,8 85:13,20 86:2,7,16 86:20 87:6,11,18 87:23 88:20 89:8 89:14,20 90:2,8,15 94:15,22 95:1,6,12 95:20 96:11 97:20 98:6 105:6 125:18 128:16 130:13 131:16 133:11 135:25 BID 17:24 120:2 122:17,19,23 125:25 126:5,10,17 127:9,11,14 BID/EID/PID 4:7</p>	<p>big 65:9 Birmingham 133:6,6 133:7,19 bit 6:19 127:5 blank 119:1,5,6,7 blue 65:3,10,13,19 Board 14:25 94:16 body 9:3 boring 124:17 Boscovich 87:22 88:19 89:4,7,12,18 90:12 Boscovich's 89:25 90:6 bottom 100:2 128:18 130:22 132:6 Boulevard 1:22 bounce 122:3 box 119:25 120:10 boxes 118:17 brain 9:5 branch 122:25 Braulio 43:16 brawn 9:5 break 32:15 41:21 41:23 71:7 104:21 104:22 135:18,18 135:20 breaks 32:10 brief 135:17 briefly 7:24 brings 26:5 brought 79:22 Brown 85:19,21,24 86:1,4 build 92:13 Builders 31:2,9 87:1 building 1:8 3:11,13 3:13 4:3,6 6:5 8:23 11:3,5,17,24 12:2,8 12:15 13:13,22 16:21,25 17:3,8,24 18:2,4,6,9,12,19 19:5,6,9,12 20:1,4 20:17 21:15,16,18 21:22 22:3,4,8,11 22:15,17 23:6,19 26:4 30:2 31:9 33:6 36:1,2 37:4,9 37:10 38:2,7 39:9 39:13,25 42:20</p>	<p>43:1 44:6,8,11,14 45:3,5,11 46:6 47:3 47:4 48:6,7 49:3 50:21 53:4,12 54:1 54:3,5,11,12 55:8 56:17 57:14 58:2 59:25 63:21 67:7,9 67:10,13 69:23 71:10,11 81:16,20 81:24 82:2,13 86:8 86:14 87:17 89:19 90:13 92:12 98:1 98:23 101:5,5,24 103:9 106:18,23,24 106:24,25 107:3,4 107:5,11,17,18 108:8,10,13,20 110:17 111:9,19 112:3,5,11,14,18 114:5 120:2 121:4 121:7,7,9 122:6 123:20 127:12 128:12,14 129:17 134:4 buildings 36:10 built 53:8,9 92:21 109:20 110:9 bullet 116:8 bunch 113:19 Bureau 11:3 busier 20:11 busy 20:8,10</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>C 2:1 C-A-N-O-T-A-L 126:19 C-A-R-L-A 12:20,21 C-E-L-L-O-N 80:25 CA 1:24 CalBO 22:6,7 calculated 110:24 calculations 27:23 28:3,4,9,13 California 1:2,5 2:8 2:18 5:5 22:7 138:22 call 67:4 76:1 94:4 114:12,14,18 called 5:8 21:7 28:22 31:15 37:15 42:20 73:11 74:2,24</p>	<p>calling 70:22 calls 23:10 35:17 64:19 65:6,14 70:7 71:2 75:8 82:15,22 83:5 85:1,9 86:2 88:20,21 89:8,14 89:21 90:2,7,8,16 91:7 93:6 95:12,21 101:10 105:23 114:13 121:1,16 123:5 132:19 cannabis 38:13 Canotal 126:19 cap 123:16 capacity 6:4 81:23 capital 64:18 80:25 83:10 care 74:25 88:14 Carla 12:18,20 13:8 carpenter 8:2 10:10 carpentry 8:13 9:3 carried 42:3 case 1:6 5:24 7:10 17:5 36:14,16 47:22 63:17 64:6 75:22 76:16,19,24 77:3,19,21 78:3 108:21 112:4,13,15 112:16 113:16 119:20 122:8 123:10,10 124:5,7 124:13,15 126:1 127:23 128:14 131:3,25 132:1,3 133:17,21,23 134:19 135:6,8 cases 6:7,8 53:2,3 89:2 103:22 104:5 111:4 114:1 127:23 catch 113:1 categories 42:1 category 22:1 cause 138:8 CCSF-RICHARDS... 4:8 CCSF-RICHARDS... 4:9 CCSF-RICHARDS... 4:11 CCSF-RICHARDS... 4:5 cease 107:16,19</p>	<p>ceiling 73:15 certain 8:3 20:7,12 49:3,21 70:4 74:16 96:8 97:5 114:11 114:20 certificate 8:11 138:1 certificates 8:4 certification 22:6,10 certified 1:21 5:4 22:3,4,5,9,15 138:3 138:12 certify 138:3,18 CES 122:24 125:10 126:6,8,11 127:15 127:18,20 129:7 130:2 cetera 98:7 Chan 122:10,12 123:4,19,25 change 11:21 12:4,5 12:13 91:12,17 123:21 changed 35:2 126:9 126:12 changes 43:10,15 44:2 Chapter 108:7 charge 39:14 40:18 131:3 chart 3:12,14 24:8 24:11 34:21,25 36:5,15 43:1,4,25 44:13,16 54:2 check 55:12 121:25 checks 55:7,10 chief 16:19,23,25 17:3,11 23:18 39:5 39:13 48:6 55:15 101:5 106:23,25 107:3,4 108:13 110:17 111:18 112:21,24 chip 20:18 choose 118:23 Chris 35:4 Christmas 47:18 chronology 133:17 134:5 church 73:10 circulated 7:14 circumstances</p>
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<p>52:25 69:6 101:1 104:8 107:24 108:19 119:14 122:3 CIT 64:22 city 1:9,9,16 2:15,16 4:3 7:21 15:1,7 20:8 37:19,20,25 51:11 52:22 77:4 127:19,21,22,24 129:4 130:12,15,16 citywide 125:5 clarify 11:1,2 39:23 41:24 clear 34:2 110:19 clerical 23:22 29:7 112:25 113:2 123:13 134:13 close 56:20,22 57:13 57:15 112:6,7,15 116:2 closed 111:21 112:5 124:15 135:6,8 closing 111:16 CM 135:11 code 3:11 13:19 16:21 18:5,7,14,25 20:1,20,23,25 21:6 21:14,19,21,23 22:2 24:4 34:14,21 35:14,19,22 37:2,9 37:25 39:14,24 40:4 42:20 43:16 43:21,24 44:5,9,12 44:22 50:17 89:19 92:12 93:4 99:1 100:10,13 101:3 103:9 106:24 108:8 126:2,3 129:18 colleague 41:11 college 8:3,9,12 column 122:13,14 come 9:10 14:15,16 14:16,17 15:7,8,9,9 15:17,18,20 16:3 16:15 23:1 28:19 29:5 48:4,4,11,16 53:7,16 93:1 121:24 128:11 comes 18:17,22 23:11 29:6 54:10 54:25 55:5,18</p>	<p>56:11 67:11 92:7 111:17 112:3 123:2 129:25 130:6,11,19 coming 39:6 106:13 commencing 5:3 Comment 135:6 comments 118:18 118:19 125:22 131:25 commercial 10:12 10:15 Commission 79:20 79:23 81:21,25 86:9,15 87:17 90:23 106:7,11 communicate 67:12 67:20 68:14,18,24 69:11,17,24 communicating 26:5 communications 68:7 company 1:6 9:15 9:18 49:11,13 69:9 compare 58:5 compared 56:18 compel 77:16 78:16 complain 127:16 complainant 23:10 23:10 93:8 94:1 109:9 117:14,19 119:11,12,15,21,22 124:21 complainants 29:6 complaint 3:15,17 3:18,20,21,23,24 4:6 14:10 15:23 16:1,22 17:19,20 17:22,24 18:11,13 18:14,17,22 19:7 23:4 25:5,15,16,18 25:19,20,23 26:12 26:23 27:15,17,20 27:22 28:2,16,22 29:7,8,9,10,12,14 29:16,18,23,24 30:1,4,21 33:5 37:7 39:23 44:20,21 45:16,18 46:5,23 46:25 47:2 48:5,8 48:19,19,22 53:1,5 53:18,20,21 54:2,7</p>	<p>54:10,12,14,17,19 54:25 55:3,5,5,9,16 56:6,11,16,21,22 57:13,15,24 58:3 58:14 63:20,24 64:3,14,15,18,20 64:22,23,23 66:6 67:11,18,20 71:15 73:9 78:8 84:9 91:13 102:23 111:16,17 112:11 114:5,7,8,11,19 115:13,22 116:2 117:2,7,8,13,17 118:3,5,9,18,22 119:3,4,5 120:20 120:23 121:23 124:25 125:5,7,22 125:25 126:5,6 127:1 128:6,8,10 129:2,25 130:6,8,9 130:11,19,20 131:12,24 132:11 133:4 134:20 135:3 136:5,10 complaints 6:11 14:14,15,18,19,22 15:4,6,12,17 16:3,5 16:6,9,13,14,15 17:8,18 18:6,10,18 19:23 21:1,8 22:18 22:19,21 23:1,5 24:5,13,25 25:11 26:6 27:8 29:5 30:12,15,19 33:17 36:8 37:3 39:4,6,7 44:11,23 45:3,14 45:20,21,24,25 46:11,15,20 47:7 48:4,10,11,12,15 52:22 53:16 54:1 54:17 60:14 63:12 71:9 73:12 88:14 88:16,18 89:3,6 91:11 111:21 113:13 115:11,12 115:17 116:19 117:23 136:16 Complaints/Task 37:14,16 completed 76:17 completely 77:8</p>	<p>78:5 completing 105:20 complied 36:23,25 comply 36:11,12 112:14,22 component 53:5 composed 34:5 Compound 95:21 computer 28:25 29:2,10,19 59:5,12 59:12,14 112:17 113:3,6 115:5,8 concerned 38:1 concerning 128:13 concluded 55:25 137:2 conclusion 91:17 92:17 conclusions 91:24 condition 73:13 Conduct 42:21 confined 105:12 confirm 122:8 conjunction 26:11 connection 78:9 consequences 136:17 consider 26:12 66:5 89:18 considered 66:3,18 consistent 56:25 57:2 101:21 consolidate 106:14 constructed 53:14 110:4 constructing 92:10 construction 8:4,12 8:14 9:2,4,15,19 10:9,11 30:2 98:2 100:9 cont 4:1 contact 16:1 19:7 contacted 95:4,9 context 17:17 115:14 continue 76:6 79:2 105:3,5,13 continued 124:5,13 continues 78:21 79:8,10 continuing 8:22 52:17 72:20</p>	<p>contractor 36:11 49:5 67:13 71:22 98:2 105:17 contractor's 14:7 contractors 31:13 49:21 50:2 52:2,7 67:25 68:24 69:12 69:25 70:4,19,23 96:8,9,23,24 97:5,6 97:15,18 conversation 92:23 coordinated 59:5 copies 61:23 62:24 63:2 copy 7:11 29:10 59:3 136:25 corner 73:10 84:10 Corporation 1:10 correct 5:18 6:6 10:3 11:9 14:20,21 15:5 16:10,14 17:4 17:15,25 18:1,20 18:21 19:1,12,14 20:20 21:24,25 23:7,8 24:15 25:6,7 25:12 27:13,14 28:23,24 30:6 31:16 33:24 35:20 37:5,6 39:20 41:4 44:1 45:18,23 46:1 46:2 48:8 49:2 51:3 53:15 54:14 55:3,4,22,23 56:2,3 57:1,18,19 61:24 62:1 63:3 66:20,25 67:24 68:19 70:25 71:1,4 72:14 74:5 86:10 90:24 93:15 93:24 94:7,8,18 99:2,3,23 100:12 100:15,21,24 103:14,15 105:21 107:22 110:11,21 110:22 115:23 118:11 119:23,24 120:2 121:22 124:23,24 125:10 126:13,24 128:21 128:22 129:18,20 132:9 134:8,9 138:17,22 corrected 98:3</p>
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<p>correction 97:24,25 97:25 98:9,11,17 98:21,22 99:2,5,22 100:8,8,12 Corrective 74:15 correctly 109:12 Coughs 70:11 83:22 counter 48:18 country 7:1 County 1:9,10,16 4:3 77:5 couple 123:15 124:9 court 1:1 4:24 6:16 6:21 14:2 16:7,8 32:13 43:19 49:9 57:2,7 58:16 88:4 114:3 136:24 COURTHOUSE 1:3 cover 80:6 covering 123:25 COVID 41:6 113:12 cracked 103:24 crazy 26:13 create 29:7 created 45:20 criticizing 79:12 CSR 1:21 138:2,25 138:25 Cummins 120:12 122:6,11 123:2,2 123:18,20 124:1 curious 132:13 current 34:25 43:4 cut 46:24 76:4 88:9 cutting 77:9</p> <hr/> <p>D</p> <p>D 1:21 3:1,9 4:1 5:4 101:14 138:2,25,25 D-A-Y 10:2 D-E-T-O-Y 77:4 D-O-N-A-L 5:17 daily 29:3 41:5 Dan 40:16,19 Daniel 132:24 Darn 122:22 Darryl 94:14,16 95:19 data 3:15,17,18,20 3:21,23,24 25:19 25:23 28:23 29:9 29:10 113:7 117:2</p>	<p>117:7,8,9,13,14,14 117:18 118:22 119:4,5,10,15 124:21,21 126:6 128:6 130:9 131:12 133:4 database 29:19 124:23 date 42:4,8 45:14 118:25 119:2,5,10 123:8 124:22 130:24 132:7 135:2 135:3 dated 99:16 138:23 day 5:2 10:1,2,4,6,6 76:1 133:22 134:3 134:20 138:23 days 101:18,23,25 102:6 114:13,13,15 114:17,18,24,24 115:4 124:9 DBI 8:24 10:17,22,24 11:16 13:9,13,13 13:22 14:10,14,18 14:22 15:7,12 16:20 25:13,15,23 25:25 28:4,15 29:5 30:7 31:22 33:16 35:5,14 37:22 38:3 45:2,25 47:9,10,11 47:17 49:23 50:3 50:18 52:3,8,12,22 59:6,19 61:24 63:1 63:1 69:22 70:6 72:1 75:13 80:10 82:13,17 83:4 85:6 88:13 89:13 91:11 91:13 94:9 97:16 99:4,21 106:11 107:22 108:4,12 111:3 117:9,12,17 117:23 122:25 125:5 130:4 135:23 135:23 136:7,15 DBI's 47:17 DCP 129:3 deal 19:23 65:9 98:12 dealing 36:22,24 44:23 127:14 dealings 40:21 72:11 73:16,24</p>	<p>91:3 dealt 80:23 81:6 87:5 debate 78:12,16 decent 57:22 decide 19:6 53:17 65:23 102:16,24 104:15 decided 105:16 decides 48:7 deciding 104:10 decision 111:8 decisions 135:23 deck 35:18 53:8 109:18,20,25 110:2 110:4,7,9 declare 50:23 138:21 Defendants 1:13 2:13 deficiencies 98:2,13 100:10 definitely 50:17 53:3 Dennis 1:4 2:24 90:21,22 department 1:8 3:11,13 4:3 6:5 8:23 11:4 15:2 21:5 42:20 45:4 48:17 53:10,12,13 68:20 69:13 81:16 90:13 105:10 106:18 129:4 130:11,14 department-issued 69:1 departments 14:23 15:7 depend 53:20 depends 58:14 depo 78:23 deponent 138:16 deposed 6:8 deposition 1:15 4:25 5:2,25 7:7 41:25 42:6,7,8,11 76:1,2 76:5,13 77:9,14,16 78:11,13,15,18,18 78:21 79:1,3,6,6 80:1,3 137:2 depositions 32:10 78:13</p>	<p>deputy 2:15,16 40:3 40:16,18,19 101:5 describe 9:13 52:25 92:7 describes 46:14 description 3:10 4:2 114:6 designated 75:21,25 76:3,8,10,22 77:24 79:17 80:7 desire 78:19 desk 23:11 determine 55:12 76:23 116:1 determines 39:5 Detoy 77:4 developer 86:1 DH 132:6,7,7 difference 36:4 78:2 97:23 98:20 117:11 125:24 differences 99:21 117:21 different 44:19 46:14 71:11,16 113:19 120:15 122:4,25 125:2 129:24 differs 100:6,6,7 directly 17:2 26:4 38:24 39:1 director 40:4,18,19 101:6 director's 93:21 94:7 132:8 directors 40:16 disciplining 135:23 discourage 136:4,9 discovery 76:16,19 76:24 discretion 108:13 discuss 99:21 discussed 78:3 discussion 76:15,17 94:5 100:5 disinterested 138:12 dispose 30:19 distinction 65:21 67:1 70:17 district 1:1,2 3:14 19:9,19,21 20:9,10</p>	<p>20:11,17,19 30:3 45:5,16 48:24 54:18,18,23 55:1,2 55:2 56:17,23 57:14 64:15 76:12 77:6 98:23 100:18 101:3,9 112:13,23 113:4 120:8,17,18 120:20,21,22,23,24 121:7,9,14,21,24 122:6,7 123:20,23 124:3 131:22,23 133:18,19,20 134:4 districts 19:11 20:7 20:8,8,18 DIV 122:13,15,15 dividing 103:11 Divisadero 84:10 division 3:11,14 17:20 18:5,5,7,8,9 20:1 21:19,23 34:22 35:9,11,13 35:22,23 39:14,25 40:4 43:1 44:6,7,8 44:12 45:20 59:6 63:2 66:7 107:5 120:2 122:15 125:10 126:15,17 126:22,23 127:10 127:10,12 Divisions 4:7 33:7 document 4:10 7:9 7:17,18,23 32:22 33:3,12,14 34:1,11 42:19 46:13 62:8,9 62:13,21 64:10,12 65:2 98:5 99:20 101:7 118:12,13 124:8,10 128:18 130:8 documentation 27:8 90:12 documents 7:9,20 7:20,22 29:14,15 29:22 33:15 34:6 108:12 DOGS 1:5 doing 22:18 55:14 55:21 63:23 65:24 77:8 104:19 Donal 1:18 5:7,16,17 137:6</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>door 27:13 28:14 67:23 114:12 115:3 dot 65:10,13 dots 65:3,19 draw 98:8 drawing 70:17 drawings 27:16 58:5 DRH 132:22 drywall 103:25 due 60:10 114:11 Duffy 1:18 5:7,14,16 11:10 32:14 33:11 34:9 42:19 56:1 71:9 80:10 88:7 107:6 129:9,11,12 133:8,15 135:22 136:20 137:6 Duffy's 5:21 77:2 79:15 duly 5:9 138:6 duties 36:5 dwelling 58:18</p> <hr/> <p>E</p> <p>E 2:1,1,1,1 3:1,1,9,9 4:1,1 11:8,9 e-mail 14:16 15:8,10 15:17,18,23,25 16:2,4,16 23:1,12 48:13 68:1,1,9,10 69:11,13,18 e-mails 68:12 130:14 earlier 105:15 111:1 easier 52:18 57:23 easy 9:17 Ed 20:5 40:2,3,17,17 52:16 72:21 95:17 EDMUND 2:15 edmund.wang@s... 2:20 education 8:20,22 educational 7:25 EDWARD 1:11 effect 28:14 56:14 96:18 effects 9:4 eight 126:15 either 23:1 24:11 65:17 68:11 91:3 91:13 electrical 4:6 16:20</p>	<p>33:6 48:25 66:3,6 67:3,5 electronically 4:24 Emblidge 2:4,5 3:4 5:12,13,23 13:20 14:5 15:16 16:11 20:4,14,15 21:20 22:23 23:24 26:9 26:24 27:3,21 28:1 28:10,11,20,21 30:10,17 31:1,7,8 31:14,21 32:1,5,9 32:14,17,21 33:4 33:10,22 34:4,7 35:10,15,16 38:8 38:15 39:21 40:7 40:12 41:1,12,16 41:20 42:5,14,17 42:18,24 43:3,8,9 43:23 46:4,12,19 47:15,21 48:1 49:8 49:10,16,20 50:1,8 50:13,19 51:1,5,14 51:18,24 52:1,6,11 52:16,21 54:21 56:9,10 57:4,10,16 58:24 59:1,15,24 60:2,8 61:1,11,20 62:3,7,17 63:10 64:8 65:1,8,16 68:23 69:5,10,16 69:21 70:3,11,13 70:15,16 71:5,8,23 72:2,6,10,16,20 73:1,6,21 74:6,11 74:18 75:2,6,11 76:4,11 77:3,11,20 77:25 78:1,12,22 79:10,21 80:9,15 80:19,22 81:5,12 81:17,22 82:4,6,10 82:11,18,24 83:8 83:13,21 84:11,16 84:23 85:5,11,15 85:18,22 86:5,10 86:12,18,22 87:2,4 87:8,14,21 88:1,6 88:23 89:5,11,17 89:23 90:4,10,18 91:10,16 93:12 94:13,18,20,24 95:3,8,15,23 96:3</p>	<p>96:13,21 97:3,10 97:14,22 99:13 101:12 103:4,7 104:3,20,23,24 106:1,21 108:3 115:1 117:4 121:5 121:18 123:7 124:20 125:19 127:6,7 128:5 129:1,23 130:18 131:11,18 132:21 133:3,14 135:17,21 136:2,19 emblidge@mosco... 2:10 emergency 102:4,5 employed 13:9,10 31:22 employee 6:5 138:19 employment 9:1,13 13:13,22,25 14:4 encompass 100:13 enforcement 3:11 16:21 18:5,8,14,25 20:2,20,23,25 21:7 21:14,19,21,23 22:2 24:5 34:14,22 35:22 37:2,9 39:14 39:24 40:4 43:17 43:21,24 44:5,9,12 44:22 99:1 101:3 126:2,3 127:20 129:18 engage 78:16 engineer 49:5 engineering 90:6 engineers 49:22 50:3 52:3,8 68:25 69:12,25 70:4,24 96:8,9,23,24 97:5,6 97:15,18 enter 113:6 115:4 entered 29:9 entire 76:1 entities 15:6 entitled 4:10 33:5 62:9 99:14 entry 114:6 124:4 Especially 113:12 essentially 74:4 110:8 117:25</p>	<p>estimate 40:8 61:7 77:17 et 98:7 Ethics 13:19 50:17 events 32:2 examination 3:3 5:12 138:11 examined 5:9 examiner 22:15 example 14:7 46:5 53:21 66:8 78:11 92:25 105:15 128:10 exceed 76:18 exceeding 37:8 102:14,15 Excuse 70:11 77:11 83:22 Executive 1:22 exercise 108:13 exhibit 3:11,13,15 3:17,18,20,21,23 3:24 4:3,6,9,10 7:16 23:23,25 24:10 32:18,20 33:5,19,23,25 34:3 34:5,20 35:25 41:20,22 42:25 43:2 44:2,24 62:4,6 64:9,21,25 99:10 99:11,12,14,25 100:1 116:23 117:3 117:5,22 119:20 124:16,19 128:3,4 128:6,24,25 129:2 129:21,22 130:23 131:9,10,12 133:1 133:2,4 exhibits 4:24 7:13 exist 9:20 existing 110:2 expeditiously 60:16 experience 26:16 123:17 130:25 132:4 expert 90:8 exploration 78:10 extent 33:18</p> <hr/> <p>F</p> <p>F 3:1,9 4:1 102:10 F.R.D 77:5</p>	<p>face 28:5,9 fact 25:16 37:10 55:21 58:9 86:14 facts 72:15 90:16 121:2 failure 84:9 fair 28:20 45:22 82:4 110:10 fall 46:6 falling 47:3 73:14 familiar 22:24 23:9 31:15 32:22 34:11 71:18 111:11 125:15 129:13 familiarity 131:14 far 43:4,7 48:22 70:22 78:7,21 107:8,9 father-in-law 11:3 favorable 80:11 83:4 85:6 89:13 February 129:18 fee 131:2,6 feel 72:23 feeling 9:4 fees 50:4 110:23 feet 92:11,13,20 Fell 73:10 felt 91:21 fence 47:5 92:10,13 92:16,18,21,24 Field 128:9 figure 58:6 figured 9:5 Filbert 3:25 133:5,10 file 29:23 30:3,16,22 30:24 43:17,21 112:18,20,21 114:23 119:5 filed 119:1,3,10 124:22 files 30:7,11,18,19 119:9 filing 88:15 136:5,9 fill 48:20 51:2 62:13 filled 118:13,14 filling 51:6 60:14 122:12 Fillmore 73:10 final 34:15 36:12 74:16 101:24,25 108:24 109:13</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>110:15 112:5,12 114:17 finaled 109:8 financially 138:19 find 24:7 50:14 117:22 fine 63:18 96:6 finish 6:20 45:12 fire 15:1 37:22 firing 135:23 first 5:9 9:9 33:7 34:4 55:7,9 67:22 68:4 80:8 85:14 100:17,23 101:8 117:5 118:2 119:25 122:1 125:15 131:25 132:24 fishing 77:1 five 17:5 40:10 61:8 73:20 five-minute 41:21 flagged 132:1,3,5 flip-flopped 40:20 floater 38:16,17,18 floor 2:17 48:18 58:18,21 focus 75:21,23 77:23 77:25 79:18,21 follow 26:18 55:3 56:17 68:8 135:7,9 135:11 followed 26:22 following 26:13,14 101:15 force 37:14,16,17,21 37:23 38:2,4 forces 37:18,19 38:10 foregoing 138:4,16 138:22 foreman 10:11 Forgive 44:4 form 4:9 25:20 48:20 51:2,6 62:10,23,25 98:1 117:22 118:3 118:6,7 119:20 125:3 formal 8:20 51:7 93:14,16,20,23,24 98:5 formally 42:13 former 81:24</p>	<p>formerly 73:10 forth 5:10 138:5 Forty-five 8:18 four 39:2,15 40:10 64:24 66:21 107:9 120:15 122:2 framing 98:12,13,14 Francisco 1:3,9,10 1:24 2:8,14,18 3:11 3:13 4:3 6:10 8:5 10:1,4 22:8 77:5 108:8 FRANCISCO'S 1:16 friend 41:8 friends 10:21 47:10 47:10,11 49:22 front 7:13 78:23 full 5:15 fund 47:17 further 68:7 109:11 135:9 138:18</p> <hr/> <p>G</p> <p>G 2:5 38:22,23 60:18 gather 106:25 general 10:8 115:20 generally 8:13 9:13 18:18 75:13 82:13 105:5 gentleman 71:18 geographic 19:11,22 19:24 39:10 getting 76:18 127:19 127:20 gifts 52:3 Giles 24:18,24 25:2,6 Giles' 125:12,13 give 6:21 24:20 36:10 48:21 58:2 61:6 63:17 72:20 78:9 88:7 94:4 101:22 102:6 119:16,17,21 given 29:11,17 30:23 47:6 50:3 52:3 58:9 60:10,13,15 60:17 80:11 89:12 98:1 101:15 108:11 gives 45:25 96:7,22 97:4 120:4 130:24 giving 54:6,8 85:6 go 10:25 11:23 13:17</p>	<p>15:15 17:9 19:20 19:20 20:3 26:21 30:2,3 31:19 32:9 34:17,20 41:20 42:25 45:13 57:7 57:25 61:17 64:9 65:2 67:19,19,22 68:4 71:5 78:15,18 78:21 93:14 98:14 100:16 101:13 102:9 111:24 113:6 118:2 119:25 120:10 121:25 124:16 125:14,21 128:3,23 131:24 133:1 135:1 goes 48:6,23,23 64:21 80:2,4 111:18,19 123:2 127:18 129:17 131:3 going 23:4 24:10 32:11,11 58:8,13 58:23 71:16 74:4 75:20,23,25 76:7 76:13,24 77:18,19 78:16 79:11,18,21 82:25 95:16 103:19 127:15 128:15 golf 32:6 gonna 25:8 26:18 57:20,21 76:4 77:15 78:12 113:5 117:1 131:20 135:13 Gonzalez 120:13 123:19,22 good 5:14 9:2 41:7 88:10 goodness 6:4 Gosh 57:5 gotten 114:2 governing 13:13 grade 92:19 graduated 8:1 granted 60:23 61:2 graph 122:2 gray 103:16 great 5:19 6:24 7:1,6 33:9 51:24 116:22 greater 47:4 Green 44:14</p>	<p>Greene 11:7 12:17 ground 58:18,21 group 24:12 47:16 grows 38:13 guidance 79:3 108:11 guidelines 115:24 Gutierrez 125:23 131:5 guys 76:22</p> <hr/> <p>H</p> <p>H 3:9 4:1 H-A-J-N-A-H 43:12 H-E-L-M-I-N-I-A-K 131:20 H-I-N-C-H-I-O-N 36:20 H-U-G-H 123:16 hair 11:13 Hajnal 43:11,12 hand 122:19 135:5 handle 24:5,25 36:8 54:7 handled 16:6,9 18:6 18:7,10 23:5 27:15 45:15 116:20 134:6 handling 4:6 33:5,16 38:18 91:11,12 Hang 65:20 hanger 114:12 115:3 HANNAH 1:20 happen 20:9 67:16 109:10 happened 21:10 63:15 happens 21:6,13 110:6,6 111:15,22 happy 72:20 hate 75:17 hazard 47:3 hazards 101:18 head 49:9 74:10 116:11 133:24 health 15:1 37:22 hear 6:18 31:5 60:3 62:18 heard 42:19 49:3,11 49:15 50:2 52:2,7 80:21 96:7,14,17 96:17,22 97:2,4,16 106:2,6,8,10</p>	<p>hearing 26:18 79:20 93:22 94:7 132:8 Heart 73:11 heavy 20:16 height 92:11,21 held 14:6 77:19 Helminiak 131:22 132:23 help 76:23 helpful 121:20 124:17 helps 47:17 hereinafter 5:10 Hernandez 1:12 12:23 13:3 16:18 16:23 17:1,11 23:18,18 38:25 39:1,5,13,17 40:2 41:3,8 53:25 55:15 55:19,20,25 56:4 56:12,15 95:24 96:1,22 97:11 107:4,7 127:9 133:23 Hernandez's 125:22 134:10 hesitate 6:19 Hey 115:3 high 8:1,5 37:11 46:10 65:11,13 92:15 higher 46:1,15 hill 84:1 hillside 46:6 Hinchion 36:20 126:2 128:1 Hinchion's 36:15 125:20 hired 10:25 74:25 88:14 hiring 135:23 historic 59:16 61:15 history 9:13 63:21 home 58:15 homeowner 108:25 Honda 94:14,16 95:19 honesty 89:25 91:6 hot 113:21 hotel 37:25 38:6 hour 5:3 hours 75:20 76:9</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

77:17,22 115:12,21 116:5,7,10,11,14 116:18 house 66:18 103:24 housing 16:20 18:3 38:7 hypothetical 28:7 28:17 46:9 48:16 49:14 50:6 64:5 90:1 103:2,21 104:17 105:22 hypothetically 103:23 hypotheticals 78:4	125:21 129:6 130:1 131:19 initial 68:2 109:6 initially 126:10 initials 123:12 134:10,11 135:11 initiate 68:10 input 113:2 118:23 inputted 118:20 INS 122:18,20,23 127:10,11 inspect 115:21 inspected 72:17 73:3 112:2 120:25 133:7 inspecting 85:25 87:10,16 102:22 inspection 1:9 3:11 3:13,13 4:3,7 6:5 8:23 11:4,5 18:4,7 18:9 20:1,4 33:7 37:21 39:25 40:19 42:20 43:1 44:6,8 44:11 58:23 64:7 66:7 81:16,20,25 86:9,15 87:17 90:13 98:4,13,14 100:9 107:5 108:24 109:13 110:15 112:5 114:14,17 115:15,25 116:6 120:2 121:23 123:3 126:22,23 127:12 128:15 129:18 133:9,13 134:7 inspections 19:5 20:11,12,24 21:3 25:1 38:18 53:24 54:13 121:15 126:22 135:7,9 inspector 11:17,24 12:2,8 16:25 17:3,8 18:12,15,19 19:6 19:10 20:10 21:14 21:15,18 22:8,11 22:15,16,17 23:7 23:19 26:4 29:11 29:17,21 30:3 37:9 37:9 38:7 39:13 44:14,21 45:3,5,11 45:16,18 48:6,7 49:12 50:21 54:5	54:11,13,18,19,23 55:2,9 56:17,23 57:14 58:2 64:15 67:9 71:10,11,16 98:1,23 99:2 100:18 101:3,3,5,5 101:9 106:23,25 107:5,11 108:13,21 110:17 111:9,10,18 111:19,19 112:13 112:18,21,24,24 113:4 118:20 120:1 120:4,11,14,17,18 120:21,22 121:4,7 121:8,9,14,15,21 121:25,25 122:1,5 122:6,9,11,11 123:21,22,23,25 124:2 125:21 126:2 126:3 127:9 128:12 128:15 129:9 131:5 131:19,21,22,23 132:23 133:5,6,8 133:19,20 134:4 inspector's 37:10 inspectors 10:19,20 12:15 13:14,22 16:20 18:3 19:6,12 20:17,21,23,25 21:7,22,22 22:2,3,5 36:1,2,16,19 37:3,4 38:19 39:9,24 44:11,22 47:7 48:12 49:4 54:1,3 59:25 60:23 64:24 69:23 75:13,16 82:13,17 107:3 120:16 122:4 123:22 install 84:4 installed 114:4 instance 105:8,9,14 110:13 instruct 7:3 instruction 51:7 insufficient 28:13 intake 16:12,14,15 23:5 24:13 25:5,8 118:14 intakes 26:6 interaction 41:2 interactions 78:5	interchangeable 122:24 interested 138:20 interesting 65:17 interior 103:24 internal 62:22 117:9 119:4,9 122:25 124:23 internally 63:1 117:23 119:8 internet 118:10,11 124:25 130:19 interpretation 92:18 interrupt 75:17 Interruption 14:2 16:7 43:19 58:16 88:4 114:3 INTRO'D 3:10 4:2 introduced 23:23 32:20 34:3 43:2 62:6 99:12 117:3 124:19 128:4,25 129:22 131:10 133:2 invalid 92:24 93:9 93:22 investigate 57:14 63:11,23 investigated 71:16 88:17,18 89:3,6 90:14 investigates 45:3 111:20 investigating 45:20 63:19 71:14 95:5 95:11 investigation 44:21 58:7 63:21 64:16 64:18,20,23,23 67:12 84:9 123:18 133:25 investigators 45:17 involve 37:22 98:9 98:10 123:18 involved 18:19 26:4 36:21 38:3,10 50:24 54:11 72:18 73:3 77:4 79:12 81:10 83:18 84:25 85:25 87:10 89:7 100:14 108:16 110:14,20 127:19	127:21,23 133:9,12 involvement 84:6 109:5 Ireland 8:6,8,10 irrelevant 50:6 75:19,24 77:1 issue 17:23 18:1 46:7 53:6 68:20 78:6 80:6 83:25 84:1 92:9 93:2,10 94:9 98:17,19,21 99:2 101:22 103:1 103:13,14,19 104:10 111:25 116:1 issued 6:9 18:11,17 19:4,4 36:13 74:3 74:15,23 88:15 91:19,22 92:2 94:10 98:22 100:8 100:18 101:2,4,8 103:6 104:25 105:8 109:12,14 110:3 112:8,10 113:3 114:8 122:10 134:2 134:3,21 135:3 issues 94:6 123:4 issuing 4:4 36:21 92:1 99:15,22 100:22 items 98:14
I I.D 120:5 idea 34:13 77:20 101:7 115:20 identification 119:11 identified 120:14 identifies 120:8 identifying 65:12 126:25 129:7 illegal 38:12 58:18 imagine 27:11 58:17 134:16 136:11 imminent 47:2 improper 30:2 77:8 78:14 90:8 136:11 inaccurate 108:23 inbox 112:21 include 34:1 included 28:2 includes 29:25 including 36:1 69:24 incompatible 13:18 14:4 50:16,21,24 51:8,11 Incomplete 28:7,17 46:8 49:14 50:6 64:5 90:1 103:2,20 104:16 105:22 indicates 65:11 individual 1:4,5,11 1:12 48:7,12 informal 93:17,19,25 informally 94:6 information 22:25 25:15 29:5 118:23 119:13 120:1				J J 123:10,10 Jackson 11:20 12:12 James 35:4 January 132:1,2 Jim 85:21 Jimmy 38:22,23 60:18 Jimmy's 38:21 job 9:7 22:19 40:22 57:23 60:11 99:1 jobsite 28:4 58:8 Joe 5:21 11:10 129:10 John 11:7 25:14,16 25:17 29:24 36:14 36:19 71:18,21 78:10 95:18 Johnson 12:18 13:8 Jones 49:12

<p>Joseph 5:16 107:6 129:12 133:15 judge 76:15,20 125:7 judgment 46:21 93:2 102:16 103:18 104:1,5,8,14 July 122:5,9 June 132:14</p> <hr/> <p>K</p> <p>K 2:6 KAUFMAN 1:20 Keane 38:20,23 60:18 Keegan 86:23,25 keep 25:15,23 29:21 75:20 79:11 112:10 113:23 115:2 keeping 113:21 keeps 25:25 Kelly 120:4,6,14,17 Kelly's 120:11 122:1 kept 20:12 29:15 37:25 63:6 76:3 119:22 130:7,12 Kevin 9:23 43:11 Kim 124:2 kind 8:11 33:25 47:11 50:20 51:7 58:1 62:12 80:11 83:3 113:6 kitchen 66:10 105:16,20 knew 10:4,19,19 knock 67:23 know 9:8 10:17 13:12 14:1 16:2 19:2,19 21:12 24:16 25:3,9,11,17 25:25 26:2,13,17 26:18 27:4,19 29:20 30:9 32:15 35:21 36:9 39:5,16 40:6,11,17,20 51:25 53:1 54:16 58:13 61:5,10 62:12 64:10,17 67:14 69:22 70:19 71:21,24 80:6,16 81:2,4,13,18,21,23 82:7,19 83:9,11,14</p>	<p>83:14,17,23 85:12 85:16 86:4,11,13 87:3,22 88:2,11 90:19,21,25 92:12 92:23 94:14,19 98:13 99:17 106:14 108:2 111:15 113:20 114:10,11 114:24 116:11 121:17 122:19,21 122:21,23,24 123:6 125:5,12,20,24 127:22,23 129:12 130:3,10,12,16,20 130:25 131:21 132:20,22 134:12 135:12 136:7 knowledge 26:15 31:22,25 37:12 47:14 49:6,19,25 50:7 52:5,15 55:4 61:14,21 62:2 63:9 71:12,13 75:5,15 77:12 78:3 80:14 81:1 82:16,21 83:2 83:7 87:13 89:16 90:20 91:15 94:12 95:14,22 96:6,16 99:19,24 104:19 110:23 116:19 knowledgeable 1:17 25:4 42:1 89:19 known 20:6,9 36:12 111:4</p> <hr/> <p>L</p> <p>language 117:25 Lankan 24:19 Law 2:5,6 laws 138:21 left-hand 36:2 legal 7:1 113:20 legalize 110:8 let's 9:12 14:13 15:10 32:9 34:20 36:7 37:24 41:20 41:21 42:25 47:5 48:16 58:14,17,20 65:25 66:10,16 68:6 77:15 78:22 79:14 92:9 98:12</p>	<p>98:12 99:25 101:13 103:23 111:23,24 112:8 114:2,4,16 124:16 128:3,23 133:1 135:17,18 letter 34:15 36:13 76:14 114:18 letters 64:18 123:10 130:15 level 20:12 127:20 127:22 Li 35:4 Liability 1:5 license 14:7 licenses 14:6 life 9:8 life/safety 101:18 102:5 liked 75:13 82:13 limited 1:5 60:5,7 limits 101:14,16 line 43:22 44:23,24 75:18 78:17 79:2,7 79:14 98:8 103:11 lines 118:2 126:15 130:22 list 17:18 24:6 listed 43:25 120:15 120:24 125:21,23 129:9 lists 127:9 little 6:19 57:23 88:7 114:10 LLC 1:5 LLP 2:4 load 39:7 logged 119:2 Loma 83:23 long 5:22 9:8 21:4 25:25 30:7,11 32:12 34:1 40:3 45:6 51:22 80:2,4,5 107:7 115:10,25 116:2 longer 116:14,18 126:20 130:5 look 7:16 18:23 19:3 19:20 22:7 23:25 27:12 32:18 33:25 34:8 56:2 58:4,4 62:4 64:13 77:2 99:25 101:13</p>	<p>116:23 117:10 120:11 129:13 132:13 133:16 134:21 look- 119:8 looked 10:25 110:5 looking 33:2 35:25 92:22 117:5 118:12 119:19 124:8,9 127:8 128:14 131:4 133:21 looks 17:22 19:3 56:12 81:21 125:9 131:5 132:10 lot 76:17 lower 46:16 Lowrey 40:17,19 Lunch 104:22</p> <hr/> <p>M</p> <p>M 2:1 3:1 M-C 80:25 123:16 M-O-N-T-C-A-L-M 128:7 magistrate 77:7 78:20,24 79:4,7 80:3 main 126:21 127:8 maintain 30:7,11 maintained 30:4 130:20 maintenance 18:1 35:6 making 42:12 78:10 Malchow 38:20,23 60:17 management 8:14 59:5 61:18 113:17 manager 9:3 10:11 67:14 manner 97:18 Map 3:14 Market 2:17 55:17 55:21 56:1,5,12 Marvin 12:17 materials 108:4 matter 5:22 48:25 65:11 matters 65:13 113:19,20,23 Matthew 2:6 44:13 Maurico 1:11 12:23</p>	<p>13:3 17:1 95:24 96:1 107:4 133:22 134:10 McCarthy 86:6,8,11 87:15 McClellon 80:16,19 80:24,25 95:18 McHugh 43:11 123:16,19 124:2 mean 6:16 17:17 22:5 37:17 60:12 78:7 79:11 88:12 106:9 107:15 118:8 133:18 meaning 17:22 100:6 means 61:22,23 69:23 93:4 115:14 124:6 meant 22:7 meet 10:20 meetings 87:17 member 15:25 31:17 31:23 62:14 63:5 81:24 136:4,9 members 14:19,23 14:24 63:1 136:16 mentioned 37:2 63:19 met 5:20,21 83:19 84:8 91:1 method 114:1 MH 133:22 Michael 122:10 123:4,25 middle 56:8 mind 79:19 92:7 93:18 103:12,17 113:5 minor 98:2,8 102:25 103:18 104:1,14 Mira 83:23 mischaracterizing 33:19 missed 56:8 Mission 3:20 15:20 48:18 129:16 MMF 131:2 mobilate 37:21 Monday 5:2 money 50:3 monitoring 131:2,6</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>Montcalm 3:19 128:7 Montgomery 2:7 month 131:3 monthly 131:2,6 months 131:5,7,7,8 morning 5:14 7:14 MOSCONE 2:4 move 77:16 78:15 moved 10:17,22 44:9,10 multiple 19:5 84:18 106:17 Municipal 1:10 mute 127:5,5</p> <hr/> <p>N</p> <p>N 2:1 3:1,1,1,9 4:1 name 5:15 9:18,21 11:6 24:18,21 25:20 37:14 38:21 43:20 44:16 59:8 63:7 64:22 80:18 80:21 83:9 85:14 119:17,17,21 120:4 120:11,12,19 122:1 125:12,13,20,23 126:4 132:24 named 71:18 names 12:16 36:8 96:4 122:2 123:23 nature 60:10 74:19 130:7 necessary 53:17 need 7:3 35:17 58:8 67:2 82:25 102:25 113:22 115:20 132:18 136:24 needed 37:23 neighbor 27:12 29:25 92:21 neighbor's 92:14 Ness 15:22 never 6:14 13:25 14:3 26:16,22 28:18,18 32:6,8,25 49:11 62:11 65:19 80:21 86:19 87:9 132:5 new 42:4 107:21 109:18 110:8 nightclub 38:12</p>	<p>nine 102:17 111:1,5 111:12 131:5,7,7,7 131:8 nine-feet 92:22 Nods 49:9 Noe 9:15 29:25 nonaction 126:1 normal 101:24 102:1 102:3 normally 37:18,19 113:8 Northern 1:2 8:6,8 8:10 76:12 77:6 notations 30:22 note 42:2 124:1 134:1 noted 100:10 notes 114:10 123:9,9 138:17 notice 5:1 6:9 36:10 36:12 41:25 42:2,6 42:8,11,12 65:10 74:15,24 75:25 76:7 77:14 91:18 91:21 92:9 93:9,10 93:21,22 94:2 97:23,24,25,25 98:5,9,11,15,18,19 98:22 99:5,6 100:12,17,23 101:2 101:8,22 103:6 104:11 109:6 110:5 111:25 112:1,8,10 112:12,15,22 114:8 114:9,22 116:1 118:25 122:10 127:16 noticed 76:23 Notices 4:4 7:12 33:21 36:21,22,24 74:3,5 98:21 99:2,7 99:15,22,22 100:6 100:7,8,8 101:4 102:10 NOV 58:2 91:23,24 92:1,2,24 93:2,14 94:9,10 98:10 102:7 103:1,13,14 103:19 104:15,25 105:18 107:14 109:14,16 110:3 123:4</p>	<p>November 99:16 number 3:10 4:2 25:21 29:8,9 30:4 60:5,7 61:5 70:5,6 70:20,25 75:7 94:4 119:17,21 134:22</p> <hr/> <p>O</p> <p>O 2:1 3:1,1,9 4:1 O'Riordan 13:5,6 39:18 110:18 object 52:18 75:18 88:8 objection 13:16,23 15:13 19:25 21:17 22:20 26:7,20 27:1 27:18 28:6,17 30:8 30:13,20 31:4,11 31:18,24 32:7 33:18 35:8,12 38:5 38:11 39:19 40:5,9 40:23 41:10,14,18 42:22 46:3,8,17 47:13,19,23 49:7 49:14,18,24 50:5 50:22 51:4,9,21 52:4,10,13,17 54:15 59:21 60:1,6 61:9,16,25 62:16 63:8 64:5,19 65:6 65:14 68:21 69:3,7 69:14,19 70:1,7 71:2,20,25 72:4,8 72:13,19,21 73:4 73:19 74:8,13,21 75:4,8,14 80:13,17 81:3,8,14,19 82:1,9 82:14,22 83:5,12 83:16 84:7,14,21 85:1,8,13,20 86:2,7 86:16,20,24 87:6 87:11,18,23 88:20 89:8,14,20 90:1,7 90:15 91:7,14 93:6 94:11,15,22 95:1,6 95:12,20 96:11 97:20 101:10 103:2 103:20 104:16 105:22 106:19 108:1 121:1,16 123:5 130:13 131:16 132:19</p>	<p>133:11 135:25 objections 7:2 27:24 42:3,5,6,11,13 50:10,15 51:16 52:20 72:23 74:1 88:3,25 95:25 96:19 97:1,8,12 138:10 Observation 128:9 observe 104:12 obtain 8:11 16:3 22:10 61:23 79:3 98:18 109:1 112:1 obtained 7:11 8:3 58:20 65:25 74:17 82:2 109:24 110:1 112:12 obtains 66:10 112:3 occasion 88:13 occasionally 63:11 occasions 26:11 133:8 occur 112:19 116:6 occurred 26:19 October 1:19 5:2 138:23 office 2:14 4:4 5:21 7:11,21 33:20 51:11 77:4 99:8,14 offices 7:1 official 106:24 108:10 oh 6:4 9:17 10:25 12:21 32:9 35:15 42:5,25 73:9 85:24 110:3 118:7 125:12 127:4 131:7 134:15 okay 6:12,22 7:13,19 8:20 10:24 11:6,13 12:3,11 14:9 15:10 16:22 18:4,16 19:11 20:22 21:21 22:4,4 23:17,20 24:12,23 25:4,23 26:10,16 29:4,24 32:9,15 33:9,23 34:10,20 35:2,15 36:19 37:13 38:20 38:23 39:9 40:15 40:21 41:20 42:17 42:25 43:8 44:2 45:19 46:22 47:1,6</p>	<p>48:2,22 52:7 53:16 53:25 54:22,25 55:16 59:16 61:12 61:21 62:20,25 65:9,18,25 66:8,13 66:16 67:11 68:6 68:13,20 70:15 71:5 79:10,24 81:23 88:9,18 93:1 93:13 99:1,14,25 101:13 102:9 104:20 105:3 106:16,22 107:2 108:9 109:14,20,23 110:16 111:7 112:16 113:5,14,18 115:7,9,16,20 117:1,16,21 118:1 118:1,25 120:10,22 121:19 122:13 123:2 124:14 125:9 125:20 126:9,23 128:23 129:2,6,17 129:21,24 130:6 131:9,19 132:25 134:6,10,17 135:5 135:15 136:3,22 old 30:15 once 5:22 6:22 22:13 42:11 64:14 126:11 ones 125:6 ongoing 55:1 84:17 84:18 100:14 124:10 OOA 128:19 opened 131:25 operated 9:22,23 opinion 66:25 90:5,8 90:9,11,17 OPP 99:7 opportunity 9:2 opposed 66:23 70:6 107:14 127:1 order 53:18 76:20,23 79:3,6 128:20 org 43:1,4 organization 31:12 43:25 47:9,12 54:2 organizational 3:12 3:14 24:8 34:21 36:5 original 42:2,8,11</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>originated 125:25 126:5 outside 13:13,22,25 14:3 19:7,23 21:1,8 22:20 41:13 45:21 58:6 63:12 64:4 66:3,9,19,23 87:16 104:11,13 overall 76:23 overlooked 110:6 overturn 91:24 owned 9:22 73:16 owner 36:11 67:13 74:25 101:16,23 117:13 119:10,10 124:21 owners 68:14 74:14 84:19</p> <hr/> <p>P</p> <p>P 2:1,1 P-a-p-e-r 59:10 P-O-L-L-A-R-D 71:19 p.m 137:3 page 3:3,12,16,19,25 33:7 34:4 64:13 65:2 99:25 100:1,2 101:13 102:9 pages 3:14,17,20,22 3:23 painting 103:23 paper 28:25 29:10 59:10 PaperVision 59:4,10 59:11,12,17,19 60:24 61:6,13 62:22 paragraph 100:17 101:14 paragraphs 100:16 parameters 115:17 Pardon 16:24 Park 1:22 47:10 83:23 part 14:9 17:7 27:16 66:14 81:10 100:9 126:1 130:17 particular 20:17 55:1 71:15 97:15 111:14 113:25 120:20 125:16</p>	<p>131:14 parties 47:18 138:19 pass 125:6 patch 103:25 104:1 path 76:6 Patricia 85:12,15,16 95:19 Patrick 13:5,6 87:22 110:17 pattern 6:18 pause 88:8 pay 47:17 paying 50:4 penalties 111:1,3 penalty 102:14,15 102:17,17,20,21 111:2,2,5,12,13 138:21 people 22:1 25:4 59:23 60:5,7 61:6 68:8 78:5 79:11 96:2 118:15 119:17 120:15 123:18 perceived 100:13 percent 10:14 16:5,8 48:10 percipient 78:2 perform 20:23 58:11 58:19,23 performed 17:13 18:24 52:8 74:20 134:7 performing 74:14 performs 17:11 period 9:14 20:13 74:16 116:21 periodically 72:1 periods 114:9,23 perjury 138:21 permission 55:18 permit 18:11,13 35:18 40:18 45:15 45:15 47:5 50:4 53:8,9,12 55:7 56:13 57:24,25 58:12,19,21,22,22 64:1 65:22,24,25 66:3,4,4,5,9,10,15 66:16,19,21,23,24 67:2,3,3,4,6,6,7,10 74:4,16,23 84:3 92:14,17,24 98:16</p>	<p>98:18 100:11 101:17,25,25 102:13,15 103:3,6 103:12,13,17 104:2 104:12,14 105:7,7 105:11,12,16,19 106:13 107:19 108:22,22,24 109:1 109:7,8,11,12,21 109:24 110:1,4,7,8 110:9,14,16,23 111:24,25 112:1,4 112:4,9,11,14,22 113:3 114:5,23 128:16 130:16 132:14,17 133:24 134:2,2,20,22 135:2 permits 18:16,23 19:4,4,8,23 21:2,2 21:9 36:9 37:8 45:21,22 55:6,8,10 55:13,21,25 56:5 56:13,19 57:4 58:4 58:4,6,10,19 59:6,7 63:13,20,22,25 64:4 65:23 74:5,15 74:17,20 82:3 98:7 98:17 102:18,19,20 102:23 103:10 105:9,11 106:12,17 106:22 107:1,12,14 107:18,20,21,25 108:6,10,14,16 110:20 permitted 105:5,6 105:21 permitting 106:3,4,5 person 1:17 6:17 15:9 16:16 23:1,14 24:16 38:3 41:25 48:13,24 82:2 92:21 93:10,20 94:4 100:22 109:7 112:3 120:24 127:25 138:13 person's 26:18 63:6 63:7 personal 52:9,12 69:2,18 70:5,24 75:7 96:16 personnel 49:23</p>	<p>50:4 52:3,9,12 97:16 135:22,24 136:15 perspective 106:18 pertaining 8:4 18:10 phone 14:16 15:9 16:16 23:2,11 25:20 48:13 68:18 69:2,4,9 70:5,6,20 70:24 75:7 94:3 119:17,21 phonetic 37:21 photographs 27:11 29:13,16,17 30:1 phrase 79:25 physical 15:24 physically 112:17 picking 39:7 PID 126:15,23 piece 28:25 place 106:7 138:5,13 plaintiffs 1:7 2:2 5:24 7:22 plaintiffs' 7:9 planner 129:7 Planning 15:3,4,4 37:22 47:11 53:2,4 53:4,7,10,13 79:20 79:23 90:22 105:10 106:6,11 129:4 130:12,15,16 plans 22:15 27:20 58:12,22 59:2,3,6 59:17 61:15,18,19 61:22,23 62:14,24 63:2,6,22 Plaskett 1:21 5:4 138:2,25,25 plaster 73:14 103:24 103:25 please 11:15 23:25 32:18 33:25 34:8 56:2 62:4 64:9 92:8 102:9 116:23 124:16 128:3 129:21 131:9 133:1 137:1 plumbing 4:7 16:20 17:23,23 33:6 48:25 67:3,6 126:22,23 PMK 78:11</p>	<p>point 11:21 12:13 23:17 32:10 41:7 67:12 78:1 80:4 116:8 police 15:1 37:22 policies 69:22 99:4 99:14 115:24 136:7 policy 4:4 7:11 33:20 99:8 136:12 Pollard 71:19,21 72:11,18 73:3,15 73:25 74:17,24 75:12 78:10 80:11 95:18 Pollard's 80:20 portal 125:6 portion 56:8 position 10:24 11:16 11:25 12:3 23:22 24:2 39:17 50:21 76:21 107:8 possibly 18:2 30:15 58:12 123:21 posting 132:7 PowerPoint 34:1 practice 46:20 48:9 56:16 65:12 93:11 101:21 106:16,25 Pre 41:6 precise 61:5 prefer 72:22 75:21 present 2:23 12:6 presentation 34:2 116:9 presently 121:10 presumably 121:24 previous 15:21 17:7 58:12 previously 11:3 48:10 print 29:3 58:12,22 59:17 61:19 printed 124:9 printout 117:8,11,12 prior 4:25 7:7 45:10 45:14 58:13,22 61:4 62:21 63:21 63:22 65:11 98:3 112:12 125:2 prioritize 46:20 47:7 priority 46:1,7,10,15 46:16 47:4 65:13</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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<p>probably 6:18 98:6 122:23 134:15 problem 28:3 32:16 37:20 38:13 84:13 84:17,18 106:17 125:16 procedure 7:12 14:10 25:5,9 33:21 64:1 99:8 101:24 102:1,3 procedures 4:4,6 33:6,16 34:14 69:23 99:15 104:7 136:8 proceed 79:1 proceedings 138:4 process 23:4 26:10 27:17 48:23 53:18 93:14,16,17,19,20 93:23,24,25 100:9 111:17 processed 48:15 processes 48:5 processing 36:17 115:17,19 professional 14:6 22:10 42:21 72:12 73:24 84:5 professionally 81:7 83:17 87:5 88:5,11 91:4 program 8:2 59:5,12 59:14 60:16 progress 100:11 132:15,18 135:7 project 10:11 18:12 18:16,18,19,22 19:3 49:5,12,22 50:3 52:8,12 54:12 54:19,25 67:14 68:1,14,25 69:12 69:25 70:5,23 74:7 81:9 83:18,19,20 86:1 95:10 96:8,9 96:23,25 97:5,6,16 97:18 105:1,10 106:12,17 107:15 107:16,21 108:25 109:5 110:20 111:14 120:23 131:15 136:5 projects 49:4,13</p>	<p>72:17 73:2,8 74:7 74:12 78:6 79:12 79:19,22 84:24 85:25 87:9,16 88:19 89:7 90:13 108:16 pronounce 38:21 proper 107:25 108:5 136:8 properly 105:20 properties 6:10 38:13 property 18:11 36:11 37:20 52:9 58:20 67:19 68:14 73:16 74:25 84:18 92:20 95:4 102:18 102:20 109:2,19,21 114:2,6 122:8 133:13,24 propounded 138:10 provided 4:24 provides 27:16 providing 7:8,20 public 14:19,23,25 15:1,2,6,14,25 25:14,17 46:7 61:12,15,17,22 62:13,14 63:5 69:24 79:23 117:10 128:11 136:5,9,16 purpose 78:11 pursuant 5:1 purview 53:10 put 51:10 112:20 114:12 115:2 123:11</p> <hr/> <p>Q</p> <p>quality 90:5 question 6:20,21 19:21 28:9 31:6 52:18 57:11,20,22 58:7 70:10,23 88:8 89:24 91:6 92:20 115:18 questioning 75:18 77:22 78:14 79:8 questions 7:4 23:14 25:8 35:14,18 77:12 79:11,16 117:1 128:1 136:21</p>	<p>138:9 quick 95:16 128:23 quicker 116:14,15 116:16,17 quiet 45:12 quite 13:1 39:15 107:10 115:18 116:10 123:24</p> <hr/> <p>R</p> <p>R 2:1,1 Rachel 1:4 90:19 Rafael 12:17 rare 21:11 RBA 31:15,17,23 32:2 95:9,10 reach 67:17,25 68:6 reached 104:20 reaches 94:1 reaching 93:5 reaction 68:4 read 17:18 33:1 56:7 93:18 96:4 reading 113:5 real 57:8 really 10:23 14:1 20:16 21:12 40:10 58:1 65:9 78:8 92:19 121:20 rear 47:5 92:11,13 109:18,20 reason 64:2 89:24 91:6 123:3 reasons 37:7 reasserting 42:13 reassigned 35:5,7 35:21 71:10 126:11 Rebecca 2:16 42:15 rebecca.bers@sfc... 2:21 Rec 47:10 recall 12:16 27:19 71:14 73:2,7 74:12 74:19,22 75:3 84:12 85:4 88:24 89:1,10 91:21 104:19 109:2 110:19 133:9 receive 14:14,18,22 14:25 15:4 48:12 51:7 53:11 125:7 received 28:2 41:25</p>	<p>115:13 116:9 134:1 receives 93:20 receiving 83:3 recission 110:15 recollection 39:12 54:9 71:17 81:11 87:20 91:20 102:8 104:18 record 5:15 29:5 33:2 34:4 41:24 57:7,9 63:6 71:5 72:22 104:23 129:15 130:17 recorded 138:11 records 4:9 26:1 59:5 60:14 61:18 62:9,23 63:2 130:7 130:12,20 reduced 111:5,12 refer 18:2 52:22 53:7 77:3 99:9 121:13,13,14 127:12 131:1 132:3 132:8 referenced 84:25 references 123:15 127:11 referral 112:20 125:1 129:3,6 130:1 132:6 referred 18:14 53:2 53:3 78:4 96:2 111:1 113:4 126:2 127:24 129:7 130:1 134:19 referring 7:17 64:17 65:5 126:16 127:11 refers 64:14 121:12 128:18,20 134:12 reflect 109:1 reflection 108:23 regarding 6:9,10 7:12 18:13 19:7 33:21 36:9 51:11 73:9,12,17 74:7 78:10,19 79:7 92:10,10 98:2 99:7 regular 10:20 21:11 40:21 41:2 reinstated 132:14 132:17 related 11:10 79:17</p>	<p>98:6 relating 8:12 63:24 64:3 66:2 120:23 128:6 131:12 relation 70:10,12,17 74:2 96:1 relationship 12:24 12:25 82:20 86:13 95:17 relative 138:18 relevant 75:22 relief 80:3 rely 28:15 remain 25:21 42:1 remember 5:21 7:19 8:15 51:22 54:6,9 89:2 REMEMBERED 5:1 remodel 66:1,2,11 66:17 67:7,8 105:16,17 remodeling 66:17 Remodelling 9:21 remodels 66:11 REMOTE 1:15 remotely 5:4,5 renew 22:12 renewed 22:14 reorganization 44:10 repair 110:1 repeat 23:3 82:25 replace 66:21,22 replaced 111:25 112:9 replacement 111:24 report 11:18 12:14 12:22,23 13:4,7 16:18,19 23:6 25:2 36:19 38:24,24 132:16,18 reported 1:20 11:19 12:12 13:3,5 reporter 4:25 5:5 6:16,22 14:2 16:7,8 32:13 43:19 49:9 57:2,7 58:16 88:4 114:3 136:24 138:3 138:12 REPORTER'S 138:1 Reporters 1:21 reporting 12:24</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>39:18 reports 40:2 representation 7:2 representative 95:10 represented 6:25 representing 5:23 5:24 request 4:9 49:5 60:14 61:18 62:9 62:23,24 63:7 114:14,17 requested 138:16 requesting 130:15 requests 7:9,21 25:1 require 53:22,23 92:24 103:3,10,13 103:17 required 37:4 53:13 92:17 98:17 103:5 103:12 104:2 108:5 requires 35:19 rescinded 108:25 109:13 110:7 research 64:1 residences 38:14 residential 10:12,15 31:2,9 37:24 38:6 86:25 resolution 30:21 84:12,15 resolve 115:11 resolved 84:2,3 94:6 111:21 124:7,11 132:11 respect 44:20 respond 21:1,7 37:3 68:12 101:16,23 responded 115:12 115:14 116:10 response 7:9,21 68:2,10 102:22 responses 42:3 responsibilities 36:6 responsible 19:12 24:13 rest 105:12 113:1 result 101:17 127:18 resulted 79:13 retaining 74:23 84:9 92:12,15 retaliation 79:13</p>	<p>retired 35:4 43:14 review 51:12,19 59:6 61:18,22 78:20,23 112:21 138:15 reviewed 133:21,23 reviewing 128:17 revocation 110:14 revoke 106:22 107:12,25 108:5,10 108:14 revoked 107:15,18 107:20 108:17,24 109:12 110:16,21 revokes 107:1 Richards 1:4 2:24 79:12,13,19,22 90:21,22 Richmond 131:23 right 7:24 9:12 12:11 17:14 19:2,16 20:14 21:15 22:2 22:24 25:11 28:10 29:21 34:20 39:18 44:4 51:15 56:22 59:11 65:21 67:25 77:8,10 82:10 88:11 93:3,13,23 96:4 100:21 103:4 104:6 113:17 115:22 116:12 118:8 119:25 120:8 121:21 128:3 135:16,17 136:19 right-hand 36:1,7 37:13 43:17,17,21 43:22 44:23,24 64:21 126:14 130:23 rights 78:20 rink 73:14 Rodrigo 81:2,4 82:17 95:18 role 7:8 10:8 17:7,11 17:13 22:9 35:5 44:18 45:2,6 56:20 126:21 135:22 roller 73:14 rooms 58:21 Roosevelt 3:17 125:16 rotation 123:22</p>	<p>route 18:18 routed 54:12 routine 21:3 128:15 RUBENS 2:4 Ruiz 12:17 rule 13:21 76:11 77:6 rules 6:15 13:12 33:16 49:17 50:9 50:11 69:22 104:7 115:10,16 136:7 ruling 79:7</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>S 2:1 3:9 4:1 S-A-M-A-R-A-S-I... 24:21 S-E-R-I-A-L 106:5 S-E-Y-M-O-U-R 117:24 S-W-A-N-N 90:19 Sacred 73:11 safety 46:7 San 1:3,9,10,16,24 2:8,14,18 3:11,13 4:3 6:10 8:5 10:1,4 22:8 77:5 108:8 Santos 81:2,4 82:12 82:17,20 83:3 95:18 saw 44:16 128:12 133:23 saying 27:12 42:9 55:16 56:11 98:18 110:4 112:9 114:12 114:14,18 116:9 says 28:12 34:5 35:17 37:14 38:16 40:2 44:13 64:14 65:10 77:7 92:13 94:1 100:2,5 101:8 101:15 106:24 108:10 112:1 115:3 115:5 118:2,6 120:1,1 122:13,15 122:17,18 124:5,12 124:25 126:6,15 128:8 129:3 130:23 131:20 132:14 135:5,6,7 school 8:1,5 Schroeder 35:4,7,21</p>	<p>scope 13:16 21:1,8 22:20 26:7,20 27:1 27:18 28:6 30:8,13 30:20 31:4,18,24 32:3 35:8,12 37:8 38:5 39:19 40:5,23 41:10 42:22 43:6 45:15,21 47:19 49:7,18,24 50:5,22 51:4,9,21 52:4,10 52:14,17 58:3,6 59:13,21 60:1,21 61:9,16,25 62:16 63:8,12,25 64:4 65:22 66:4,9,14,19 66:23 67:9 68:21 69:3,7,14 70:1,7 71:2,20,25 72:4,8 72:13,19 73:19 74:8,13,20,21 75:8 75:14,19,24 76:7 76:13,16,18,24 77:19,21 80:13,17 81:3,8,14,19 82:1,9 82:14,23 83:5,12 84:7,14,21 85:1,8 85:13,20 86:2,7,16 86:20 87:6,11,16 87:18,23 88:20 89:8,14,20 90:2,8 90:15 94:15,22 95:1,6,12,20 96:11 97:20 98:7 102:14 102:15 104:11,13 105:7 125:18 128:16 130:13 131:16 133:11 135:25 Scott 2:5 5:23 42:16 127:4 screen 29:1,2 Sean 86:23,25 search 58:12,19 65:24 searching 7:8,20 sec 65:20 second 34:8 64:13 71:6 100:1,5 114:16 121:6 section 44:23 108:7 see 24:4,9 34:23 36:15 37:1 40:1</p>	<p>41:13 43:11,18 44:13,22 45:1 55:8 57:25 58:19 70:21 72:1 80:2 81:15 100:3,19,20 101:19 102:10,11 112:11 112:22 118:1,4 119:10 122:13,14 123:8 124:4,15 126:18 129:6 130:23 134:24 seeing 58:9 128:15 seek 9:1 63:1 78:20 78:23 80:3 seeks 63:6 seen 25:19 32:24,25 33:12,14 62:8,11 64:10 86:14 88:13 130:14,15 132:5 sees 55:20 56:4,13 64:24 send 17:9 30:18,18 114:14,16 sending 15:23,24 sends 23:11 55:19 senior 11:24 12:8,14 17:14 22:17 23:6 26:3 44:14 48:6,24 55:12 56:20 57:12 61:3 101:4 108:20 111:9,10 124:2 126:3 133:22 sent 16:23,25 34:16 125:5 sentence 100:5 separate 22:1 September 124:4 serial 106:2,4,5 series 117:2 serious 98:6 served 42:10 services 35:9,11,13 35:23 40:18,20 session 34:18 set 5:10 138:5 sets 77:5 seven 114:15,17,18 115:4 Seymour 3:16 117:24 119:9 sheet 3:15,17,18,20 3:21,23,24 28:23</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>29:9,11 117:7,8,9 117:18 118:22 119:4,5 126:6 128:6 130:9 131:12 133:4 Sheets 25:19,23 117:2 shoring 28:14 84:4 short 76:1,5 shorthand 1:21 5:5 138:3,12,17 shot 24:20 showed 28:3 109:11 sic 77:5 83:10 126:17 side 36:2,3,7,15 37:13 43:24 54:2 64:21 92:15 126:14 130:23 sign 112:14 signed 112:4 significant 98:10 similar 62:21,23,25 63:4 similarly 66:22 single-family 38:13 58:15 sir 57:2 70:13 sit 76:9 site 53:17,18,22,24 54:4,13 56:24 57:4 58:13,23,23 63:23 64:3,7 67:23 68:5,7 102:22 115:15 116:6 134:7 situation 26:17 92:7 situations 102:4,5 111:11 six 1:5 66:22 92:11 92:13,20 six-foot 92:16,18 skating 73:14 SL 134:15 slides 34:18 slope 74:23 SLW 134:11 small 123:10,10 Smith 25:14,16,17 29:24 49:11,13 social 49:22 78:5 socialized 72:7 84:20 86:19 94:25</p>	<p>socially 10:21,22,23 41:13 70:19 82:7 87:3 91:4 solely 45:16 125:4 somebody 27:16 28:12 35:17 39:7 47:4 54:1,4,7,8 55:16 58:15,17 65:25 68:6 72:7 75:12 81:6 82:12 88:16 89:18 92:10 103:23 106:13 108:22 112:6 114:2 114:4 119:2,16 123:11 126:11 134:13 somebody's 126:1 sorry 13:17 16:2 23:3 31:7,19 33:11 45:11 46:24 51:23 52:13 54:22 56:7,9 57:2,10 60:3 62:19 64:23 76:4 80:18 83:1 98:24 100:7 102:14 106:10 110:13 113:1 117:14 118:7 122:14 127:6 sort 6:19 47:16 113:16 127:20 sound 57:6 sounds 65:9,17 Source 118:3,5 124:25 128:8 129:2 speak 27:2,4 Speaking 54:6 special 80:11 specialty 10:13 specific 15:11 63:17 76:22 120:5 specifically 77:14 89:1 speculate 135:13,15 speculation 64:19 65:6,14 70:8 71:3 75:9 82:15,22 83:6 85:2,9 86:3 88:21 89:9,15,21 90:2,7 90:16 91:8 93:7 95:13,21 101:10 105:23 121:1,16 123:5 132:19</p>	<p>135:14 speech 6:18 spell 125:13 131:20 spelled 77:14 83:10 spelling 24:20 Spero 76:15,20 spite 42:4 split 39:2 spoken 94:21 sponsor 49:5 86:1 108:25 sponsors 49:22 50:3 52:3,8 68:1,14,25 69:12,25 70:5,24 96:8,10,23,25 97:5 97:7,16,19 Sri 24:19 stability 84:1 staff 16:6,9,18,19 17:3 22:25 23:6,10 23:16,21,22 24:4,5 24:12,25 26:5,11 29:7 30:23,24 48:5 48:5,11,14,21 55:7 55:14,19,19 112:25 113:2,8 118:13,16 118:20 123:14 126:16,21 130:4 134:14 standard 93:11 start 4:25 8:24 12:24 14:13 51:15,17,19 started 8:2 10:10 11:16 12:11 45:4 starts 100:17 state 5:5,14 stated 138:13 statements 79:20 138:10 States 1:1 9:10 14:7 status 113:23 118:18 125:22 131:25 135:6 stenographically 138:11 Stephanie 1:21 5:4 32:11 36:20 49:8 138:2,25,25 Steve 43:11,12 stick 52:19 54:4 stop 104:25 105:1,4 105:7,11,18,19</p>	<p>stopped 98:23 storage 30:18 street 2:7,17 3:16,19 3:20,25 10:1,5,6,6 10:6 15:21 29:25 55:17 84:10 109:3 117:24 119:9 128:7 129:16 133:5,10 strict 19:17 structural 27:22 28:3,4,8,12 stuff 76:9 subject 23:15 48:25 submitted 90:12 108:22 Subsection 102:10 subsequently 111:12 suggesting 79:1 Suite 1:23 2:7 summarize 9:9 superior 91:13 93:11 superior's 94:3 supervised 24:14 supervision 138:14 supervisor 23:16,21 24:14,17,24 26:12 91:13,22 93:5 supervisors 14:25 82:19,20 support 16:6,9,18,19 17:2 22:25 23:6,9 23:16,21,21 24:4,5 24:12,25 26:5,11 30:23,24 47:9,16 48:5,5,11,14,21 55:7,13,19,19 113:8 118:13,16,20 126:16,20 130:4 supposed 15:11 46:14 69:24 105:1 107:16 115:10 suppressed 117:13 117:14,15 119:22 sure 6:20 13:2 20:11 30:23 33:2,4 39:15 42:12 45:17 48:3 56:18,24 59:22 65:17 107:10 111:4 115:18 116:10 123:1,24 129:14 130:21 131:4,4</p>	<p>suspend 79:2 80:3 105:10 suspending 79:6 suspension 105:12 130:16 Suzanna 24:17,24 25:2,6 134:16,17 Swann 1:4 90:19 Sweeney 1:11 40:2 40:3,17,18,22 41:17 95:17 96:7 97:4 sworn 5:9 138:6 Sylvia 130:1,3,4 134:15 system 18:23 19:3 55:7,10 56:13</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>T 2:1,15 3:1,9 4:1 T-A-R-A 12:19 T-H-A-I 130:2 T-I-M 85:23 Tab 4:10 34:5 table 127:8 131:24 take 6:17 9:8 25:1 28:4,8 29:3 32:15 34:8 40:15 41:21 42:7 46:10 47:4 48:19,20 57:14 60:15 74:25 83:22 88:14 104:21 105:24 112:18,20 114:25 115:11,25 116:2,17 135:17,18 taken 5:25 36:17 41:23 71:7 104:22 135:20 138:4,17 takes 116:14 talk 14:9 15:10 21:21 108:5 talked 45:24 59:2 72:3 87:9,15 talking 6:17,22 20:1 21:22 24:2 76:9 77:11,18 106:11 127:4 talks 65:3 102:13 132:6 tall 92:22 Tara 12:19 task 37:17,18,19,21</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>37:23 38:2,3,10 team 64:16,18,20,24 133:25 technical 8:3,3,9,12 35:9,11,13,22 telephone 68:20 69:1 129:25 130:6 tell 6:7 7:16,24 11:14 15:17 19:15 57:21 77:21 91:25 93:9 108:9 117:6 119:19 124:8,9 129:10 telling 114:10 tells 5:20 ten 6:3 8:16 30:15 61:8 118:2 ten-minute 135:18 term 37:15 106:2 132:5 terminate 56:6 76:12 77:15 78:15 78:23 79:5 terminating 78:18 79:25 terms 7:20 36:5 64:11 testified 5:9 testify 79:18 138:6 testimony 33:11 138:9 texting 68:15 texts 68:13 Thai 130:1,3,4 Thank 9:25 20:4 32:13 33:9 42:16 72:23 127:6 132:25 136:19,22 thereof 5:3 thing 49:1 122:24,25 132:15 things 38:9,14 39:2 47:18 75:24 77:13 98:6,9,10 103:9 114:11 118:17 think 12:12 14:24 16:12 28:13 32:24 40:14 42:1,10 48:2 48:17 52:19 53:2 53:23 55:18 63:14 63:15 64:2,6 70:9 71:12 73:11 74:9</p>	<p>75:16,23 76:17,25 77:18,20,22,25 78:3,14,25,25 79:6 79:14 80:23 81:9 83:19,24 91:23,25 110:12 111:14 116:8 133:15 134:7 thinks 30:1 82:17 third 48:17 65:3 Thirty 8:17 thought 10:4 94:10 threatening 79:5 three 12:7 13:1 22:14 36:8 44:10 66:17 73:23 77:22 107:9 114:13,13 116:24 130:22 three-foot 92:15 three-page 62:9 Tienda 43:16,20 till 54:5 Tim 85:19,23,24 time 5:22 9:3,9,14 10:17 11:19,24 12:5 13:9 20:12 23:17 40:15 60:23 63:14,15 71:14 74:16 77:2 79:15 81:15,15 83:4,22 91:21 101:14,16 114:9,23 115:16 116:21 118:14 121:15 136:20 138:5,5,11,13 times 6:2,12,17 102:2,6,19,21,24 106:6 111:1,2,5,6 111:12,13 113:12 116:15,17 129:10 131:7 title 12:1,3,5 33:1 today 7:8 11:25 12:1 12:22,23 14:9 24:16 39:6,8 43:4 44:19 79:15 107:2 107:3 121:14 136:20 Todd 11:19 12:12 told 23:5 64:10 71:15 91:23 top 46:7 64:13 74:10 92:11,16 118:25</p>	<p>122:15 126:14 topic 75:21 76:22 78:19 topics 75:22 76:18 77:1,18,24 79:17 80:5,8 Torres-Gil 12:17 touch 115:4 tournament 32:6 track 112:10 113:13 113:21,23 115:2 tracking 55:7,10 56:13 trained 50:20 training 34:18 47:6 51:7 transcribed 138:14 transcript 136:25 138:15,17 transfer 112:13,16 112:19,23 transferred 36:14 treated 97:17 treatment 80:12 83:4 85:7 89:13 96:9,16,24 97:6 triage 17:8,16 46:14 triaging 22:18 26:10 45:24 54:17 tried 136:4 trouble 127:14 true 100:21 138:16 138:22 truth 138:6,7,7 try 19:16,21 57:22 95:16 113:15 116:20 136:8 trying 14:24 19:16 19:17 40:14 53:2 57:21 63:14,15 70:9 71:12 73:11 77:1 81:9 83:19 113:16 121:19 Twenty 8:17 two 8:14 12:7 36:4 40:16 44:10 77:22 84:25 85:3,3 102:17,21 107:3 111:2,5,13 112:15 type 14:19 38:9,14 49:1 53:6 67:2 114:7,8 117:22</p>	<p>129:24 types 6:7 38:9 45:25 46:15 127:25 typewriting 138:15 typically 67:22 101:22 118:13 119:2 123:11</p> <hr/> <p>U</p> <p>U-R-R-I-T-I-A 83:10 uh-oh 38:21 understand 6:23 7:3 7:5 13:21 19:17 48:3 76:11,21 106:9 107:24 124:6 124:18 125:8 understanding 65:4 106:15 107:17,23 110:11 Understood 9:6 unimpeded 78:19 unit 58:18 United 1:1 9:10 14:7 unrelated 78:6 unresolved 124:12 unsafe 36:9 73:12 updated 99:18 uploaded 29:19 Urrutia 83:9,11,15 84:6,20,24 85:7,12 85:16 95:19,19 use 9:5 15:11 48:16 62:13 68:25 69:1,4 103:18,25 104:5,8 104:14 105:15</p> <hr/> <p>V</p> <p>vague 15:13 19:25 21:17 27:18 30:20 46:8,17 47:13 49:24 50:22 51:9 51:21 52:14 54:15 63:8 80:13 82:14 83:6 85:8 89:15,20 90:2,16 91:7,14 93:6 94:11 97:20 103:20 104:16 106:19 108:1 valid 94:2 100:11 107:18 Valley 9:16</p>	<p>value 28:5,9 Van 15:22 various 12:14 15:1 16:19 38:19 105:9 106:6 111:22 versus 77:4 99:5 119:15 video 51:10,12,20 view 59:16 62:14 63:6 violation 4:4 6:9 7:12 33:21 36:10 36:21,22,24 65:11 74:3,5,15,24 75:1 88:15 91:18,22 92:9 93:9,10,21,22 94:2 97:24 98:5,16 98:19 99:6,8,15,22 100:7,7,17,23 101:2,4,8,22 102:10 103:6 104:11 109:7,17 110:5 112:1,1,8,10 112:23 114:9,10 116:1 122:10 124:1 124:10 127:17 violations 100:10,13 101:15 114:22 virtually 77:7 Vision 59:9 visit 53:17,19,22 63:24 64:3 visits 54:4 voices 26:18 volume 39:6 vs 1:7</p> <hr/> <p>W</p> <p>wait 121:6 waive 111:3,4 waived 42:14 waiving 42:13 walk 41:22 67:16 wall 26:13 74:23 84:9 92:12,15,22 Wallace 9:19,21,23 10:9,12 Wang 2:15 13:16,23 15:13 19:25 21:17 22:20 26:7,20 27:1 27:18,24 28:6,17 30:8,13,20 31:4,11</p>
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31:18,24 32:3,7 33:1,9,18 35:8,12 38:5,11 39:19 40:5 40:9,23 41:10,14 41:18 42:22 43:6 46:3,8,17 47:13,19 47:23 49:7,14,18 49:24 50:5,10,15 50:22 51:4,9,16,21 52:4,10,13,19 54:15 56:7 59:13 59:21 60:1,6,21 61:9,16,25 62:16 63:8 64:5,19 65:6 65:14 68:21 69:3,7 69:14,19 70:1,7 71:2,20,25 72:4,8 72:13,15,19,22 73:4,19 74:1,8,13 74:21 75:4,8,14,17 76:6,15 77:9,17,23 78:25 79:16,24 80:13,17 81:3,8,14 81:19 82:1,9,14,22 83:5,12,16 84:7,14 84:21 85:1,8,13,20 86:2,7,16,20,24 87:6,11,18,23 88:3 88:20,25 89:8,14 89:20 90:1,7,15 91:7,14 93:6 94:11 94:15,22 95:1,6,12 95:20,25 96:11,19 97:1,8,12,20 101:10 103:2,20 104:16 105:22 106:19 108:1 121:1 121:16 123:5 125:18 127:4 130:13 131:16 132:19 133:11 135:25 136:23,24 137:1 want 24:18,19 29:4 32:14 52:16,18 64:11 73:13 75:17 76:8 80:5 105:10 119:16 wanted 10:25 11:2 48:19 62:13,14 103:25 117:19 wants 88:16	warning 34:15 36:13 114:18 136:15 warranted 91:23 104:15 Washington 84:10 wasn't 121:7 waste 79:14 wasting 76:1 wave 32:11 way 3:17 19:17 42:14 59:20 65:3 68:11 79:9,10,25 91:12 106:11 113:21 119:19 125:16 ways 6:15 111:22 we'll 41:21 77:16 78:15,23 80:2 we're 13:24 22:3 23:4 26:18 33:2 42:12 77:18 79:5 135:18 we've 35:25 36:2 76:7 104:20 111:16 web 14:17 118:3,6,7 118:9 125:3,4,4 website 50:18 weeks 60:15 went 8:1 10:24 120:25 127:2 128:12 133:7 weren't 39:24 wife 5:20 window 111:24 Window's 111:25 windows 66:14,21 66:22 112:9 114:5 wiring 66:1 wish 25:21 57:5 within-entitled 138:8 witness 5:8,8 13:18 13:24 14:3 16:10 20:6 21:18 22:21 26:8,22 27:2,19,25 28:8,18 30:9,14,21 31:5,12,20,25 32:4 32:8,16 33:20 35:9 35:13 38:6,12 39:20 40:6,10,24 41:11,15,19 42:23 43:7,20 46:10,18	47:14,20,24 49:15 49:19,25 50:7,11 50:16,23 51:10,17 51:22,25 52:5,15 54:16 57:12 58:17 59:14,22 60:7,22 61:10,17 62:1 63:9 64:6,20 65:7,15 68:22 69:4,8,15,20 70:2,9,12,14 71:4 71:21 72:1,5,9,14 72:25 73:5,20 74:2 74:9,14,22 75:5,10 75:15,20 76:8 77:13 78:2 80:14 80:18,21 81:4,9,15 81:20 82:2,5,16 83:7,17 84:8,15,22 85:3,10,14,16,21 86:4,8,11,17,21,25 87:3,7,13,20,24 88:5,22 89:1,10,16 89:22 90:3,9,17 91:9,15 93:8 94:12 94:16,19,23 95:2,7 95:14,22 96:1,12 96:20 97:2,9,13,21 101:11 103:3,5,22 104:18 105:24 106:20 108:2 114:4 121:3,17 123:6 130:14 131:17 132:20 133:12 136:1,22 138:6,9 wondered 11:10 Wong 24:17 134:15 134:16 word 17:16 wording 17:19 46:23 46:25 words 25:14 work 10:20 18:13,24 19:7 20:18 21:1,2,8 27:12 37:8 41:11 41:13 45:21,22 52:8 55:6,17,21,25 56:5,11,14,18,24 57:24,25 58:3,5,9 63:12,20,24 64:3 65:21,22 66:2,3,4,5 66:8,18,22,23 67:4 67:5,6 68:8 70:10	70:12,18 74:3,14 90:6 100:10,14 101:17 102:13,14 102:14,15,23,24 103:12,13,17 104:11,13,13,25 105:1,3,4,5,6,11,13 105:18,20 107:15 107:19,19,20 108:23 111:23,23 134:21 work-related 70:22 worked 9:15 10:18 11:3,4 working 8:24 workload 20:16 21:5 37:10 38:19 39:4 workloads 20:7 37:4 Works 15:2 worse 97:5 worth 26:12,13 wouldn't 53:21 98:17 103:14 105:19 120:24 write 36:10 writing 108:12 136:13 written 99:4,20 104:7 108:4 116:5 wrong 109:24 wrote 109:6 124:1	<hr/> Z <hr/> Zoom 6:13 <hr/> 0 <hr/> 000513 33:8 000529 34:6 000569 34:6 0404 135:2 <hr/> 1 <hr/> 1 3:11,12,16,19,25 23:23,25 24:9 34:20 35:25 42:25 64:21,25 100:2 108:7 1:00 104:20,22 1:31 104:22 10 4:3 7:16 19:19 33:23,24 99:10,11 99:12,14,25 120:18 120:21,23,24 121:7 121:9 122:7 10-day 36:11 10:06 5:3 11 4:6 32:18,20 33:5 33:19 64:9 11:04 41:23 11:16 41:23 117 3:16 12 4:9 62:4,5,6 12:04 71:7 12:14 71:7 124 3:17 128 3:19,20 129 3:22 13 4:10 33:25,25 34:3,5 131 3:23 133 3:25 1390 2:17 150 1:22 16 100:2 1660 15:20 48:18 17th 3:23 131:13 132:1 18 20:7 196 77:5 1980 9:11,12 1982 9:16 10:9 1997 8:25 9:12,16 10:9 11:16 12:5 1st 99:16
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<p>2</p> <p>2 3:13,14,17,20,22 3:23 24:10 41:22 42:25 43:2 44:2,25 99:25 2:24 135:20 2:35 135:20 2:37 137:3 20 61:8 2003 45:8,17,19 98:25 2004 45:8,17,19 98:25 2008 58:20 2013 99:16,18 2014 12:10 17:13 44:16 2016 12:10 17:13 121:4 122:5 123:21 2017 130:4 132:1,2 2018 29:24 124:4 129:19 2019 135:1 201904047152 134:22 2020 1:19 5:3 132:14,15 138:23 2046 3:25 133:5,10 2100 2:7 21st 122:9 220 2:7 23 3:12 2465 3:20 129:16 24th 132:2 25 3:23 9:4 131:13 29th 10:6 2X 102:15</p> <p>3</p> <p>3 3:15 116:23 117:3 117:5,22 119:20 3:20-cv-01242 1:6 30 101:18,23,25 102:6 114:24,24 30(b)(6) 76:13 30th 10:6 310 3:19 128:7 311 14:17 124:25 125:5 32 4:8 337-2077 1:25 33rd 3:22</p>	<p>34 4:11 3rd 132:14,15</p> <p>4</p> <p>4 3:17 124:16,19 133:18,20 400 10:1 415 1:25 415.362.3599 2:9 415.554.4224 2:19 43 3:14 457 3:17 125:16 4600 1:23 479 4:5 49 15:22</p> <p>5</p> <p>5 1:19 3:4,18 65:2 128:3,4,6 131:23 5/30/18 130:24 518 4:8 521 55:17,21 56:1,5 56:12 528 4:9 531 3:22 570 4:11 5th 5:2 134:1</p> <p>6</p> <p>6 3:20 128:24,25 129:2 62 4:9 6th 2:17</p> <p>7</p> <p>7 3:16,21 19:21 64:14 117:24 119:9 129:21,22 130:23 70 10:14 700 51:2,6 72 115:12,21 116:5,7 116:10,11,14,18 7th 138:23</p> <p>8</p> <p>8 3:23 131:9,10,12 80 10:14 48:10 862 77:5</p> <p>9</p> <p>9 3:24 102:19 133:1 133:2,4 90 16:5,8</p>	<p>94102 2:18 94104 2:8 94134 1:24 9799 1:21 138:2,25 138:25 99 4:5 9MMF 130:24 9X 102:13</p>		
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