

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4

5 IN RE GOOGLE, INC., GMAIL
6 LITIGATION.

CASE NO. MD-13-2430-LHK

SAN JOSE, CALIFORNIA

7 MAY 8, 2013
8

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10 TRANSCRIPT OF PROCEEDINGS
11 BEFORE THE HONORABLE LUCY H. KOH
12 UNITED STATES DISTRICT JUDGE

13 A-P-P-E-A-R-A-N-C-E-S

14 FOR THE PLAINTIFF:

GOLOMB & HONIK

BY: KENNETH J. GRUNFELD

15 1515 MARKET STREET, SUITE 1100

PHILADELPHIA, PENNSYLVANIA 19102

16 CORY WATSON

BY: F. JEROME TAPLEY

17 2131 MAGNOLIA AVENUE

18 BIRMINGHAM, ALABAMA 35205

19 WYLY-ROMMEL

BY: SEAN F. ROMMEL

20 4004 TEXAS BOULEVARD

TEXARKANA, TEXAS 75503

21 (APPEARANCES CONTINUED ON THE NEXT PAGE.)
22

23 OFFICIAL COURT REPORTER: IRENE L. RODRIGUEZ, CSR, CRR
24 CERTIFICATE NUMBER 8074

25 PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY,
TRANSCRIPT PRODUCED WITH COMPUTER.

A P P E A R A N C E S: (CONT')

FOR THE PLAINTIFFS:

BEASLEY ALLEN
BY: C. LANCE GOULD
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P.O. BOX 4160
MONTGOMERY, ALABAMA 36103

KERR & WAGSTAFFE
BY: MICHAEL NG
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SAN FRANCISCO, CALIFORNIA
94105

CARTER WOLDEN CURTIS
BY: KIRK J. WOLDEN
1111 EXPOSITION BOULEVARD
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GOLDENBERG, HELLER,
ANTOGNOLI & ROWLAND
BY: THOMAS P. ROSENFELD
2227 S. STATE ROUTE 157
EDWARDSVILLE, ILLINOIS
62025

TELEPHONICALLY

GOLDENBERG, HELLER,
ANTOGNOLI & ROWLAND
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FOR THE DEFENDANTS:

COOLEY
BY: WHITTY SOMVICHIAN
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SAN FRANCISCO, CALIFORNIA
94111

1 SAN JOSE, CALIFORNIA

MAY 8, 2013

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

3 (COURT CONVENED.)

4 THE CLERK: CALLING CASE NUMBER MD-13-02430-LHK, IN
5 RE: GOOGLE, INCORPORATED, GMAIL LITIGATION.

6 MR. ROMMEL: GOOD AFTERNOON, YOUR HONOR. SEAN
7 ROMMEL FOR PLAINTIFFS.

8 MR. NG: GOOD AFTERNOON, YOUR HONOR. MICHAEL NG FOR
9 THE PLAINTIFF IN THE AK CASE.

10 MR. TAPLEY: GOOD AFTERNOON, YOUR HONOR. JEROME
11 TAPLEY FOR PLAINTIFFS.

12 THE COURT: GOOD AFTERNOON.

13 MR. WOLDEN: KIRK WOLDEN FOR PLAINTIFFS, YOUR HONOR.

14 MR. GRUNFELD: KEN GRUNFELD FROM GOLOMB & HONIK FOR
15 THE PLAINTIFFS, YOUR HONOR.

16 THE COURT: OKAY. I'M SORRY. GIVE ME JUST ONE
17 SECOND TO FIND YOU ALL ON MY LIST. MR. NG AND MR. WOLDEN.

18 MR. GRUNFELD: MR. GRUNFELD, KEN GRUNFELD FROM
19 GOLOMB & HONIK.

20 THE COURT: OKAY. THANK YOU.

21 MR. GOULD: GOOD AFTERNOON. LANCE GOULD.

22 THE COURT: OKAY. IS THAT EVERYBODY?

23 I THINK WE HAD MR. ROSENFELD ON THE PHONE. WHO IS
24 ON THE PHONE?

25 MR. ROSENFELD: MY NAME IS TOM ROSENFELD, YOUR

1 HONOR, ON BEHALF OF THE AK PLAINTIFFS.

2 MR. SOMVICHIAN: WHITTY SOMVICHIAN FOR GOOGLE, YOUR
3 HONOR. GOOD AFTERNOON.

4 THE COURT: WELL, I HAVE SEVEN ATTORNEYS FOR THE
5 PLAINTIFFS. WHAT DID WE HAVE 26 OR 27? I THINK SEVEN IS TOO
6 MUCH.

7 MR. ROMMEL: YES, YOUR HONOR.

8 THE COURT: THIS IS A CMC. WHICH PRIVATE CLIENT
9 WOULD PAY FOR SEVEN LAWYERS -- NO, ACTUALLY IS IT EIGHT
10 COUNTING MR. ROSENFELD, OR SEVEN TOTAL?

11 ANYWAY, I REALLY DON'T THINK THAT A PRIVATE CLIENT WOULD
12 PAY FOR THIS MANY ATTORNEYS TO ATTEND A CMC, AND I DON'T THINK
13 AN ABSENT CLASS MEMBER OR A PUNITIVE CLASS MEMBER SHOULD HAVE
14 TO PAY FOR THAT EITHER.

15 MR. ROMMEL: YEAH. AS WE INDICATED IN THE CMC
16 STATEMENT, THE ONLY REASON WHY ALL OF US ARE OUT HERE TODAY IS,
17 AGAIN, TO HOPEFULLY, IF THE COURT HAD ANY QUESTIONS, OF THE
18 RESPECTIVE INDIVIDUAL CASE LAWYERS TO PUT FORTH IN THE PC, THAT
19 THAT'S WHY WE'RE ALL HERE TODAY.

20 AS WE INDICATED IN THE CMC STATEMENT, WE DON'T ENVISION
21 THAT THIS WILL BE THE WAY GOING FORWARD. AND WE REALLY DID TRY
22 TO TAKE YOUR COMMENTS TO HEART AND YOUR ADMONITIONS TO PUT
23 FORTH THE STREAMLINE PROPOSAL THAT WE HAVE THAT IS THE CO-LEAD,
24 LIAISON, AND A FOUR PERSON PC REPRESENTATIVE OF TWO LAWYERS
25 FROM THE THREE STATE CASES, AND TWO LAWYERS FROM THE AK MINOR

1 CASE WITH THE UNDERSTANDING THAT WE ALSO PUT TOGETHER WE THINK
2 SOME GUIDELINES FOR ROLES AND RESPONSIBILITIES, AND WE ALSO PUT
3 TOGETHER THE DETAILED TIME AND EXPENSE ACCOUNTING PRACTICES AND
4 ALL OF THAT BEFORE THE COURT IS I THINK A UNANIMOUS AND IS NOT
5 OPPOSED TO BY GOOGLE AT ALL.

6 BUT WHAT WE'RE HERE TODAY IS, MY UNDERSTANDING WAS, TO
7 ADDRESS MAYBE GOOGLE'S UNSPECIFIED CONCERNS AS TO WHAT THE PC
8 WOULD BE DOING, AND THEN I KNOW MR. NG WANTED TO PRESENT WITH
9 REGARDS TO THE ADDITION OF A MINOR SUBCOMMITTEE.

10 BUT WE REALLY DID TRY TO STREAMLINE IT DOWN, AND WE THINK
11 OBVIOUSLY MR. WALDEN AND MR. TAPLEY AND MYSELF NEED TO GET
12 THESE OTHER GENTLEMAN UP TO SPEED ON TWO AND A HALF YEARS OF
13 LITIGATION TO GET THE CONSOLIDATED COMPLAINT FILED.

14 WE THINK THAT THE VERSION OF THE PC THAT IS BEFORE THE
15 COURT RIGHT NOW IS REPRESENTATIVE OF THE INTEREST OF THE
16 INDIVIDUAL CASES. WE HAVE WORKED IN LANGUAGE WITHIN THE
17 PROPOSAL THAT WE HAVE THAT WE THINK WILL SATISFY OR HOPEFULLY
18 HAVE ANY CONCERNS ABOUT THE INDIVIDUAL ISSUES IN THE CASE.

19 AND I WOULD LIKE TO SAY, YOU KNOW, WITH REGARDS TO
20 GOOGLE'S UNSPECIFIED CONCERNS AS TO WHAT THE PC WOULD DO AND
21 THOSE TYPES OF THINGS, YOU KNOW, THE CREATION OF THE MDL
22 DOESN'T EVISCERATE OUR ROLE AS COUNSEL FOR THESE CLIENTS.

23 AND WE REALLY TRIED TO LOOK AT THE PROCEDURAL
24 RAMIFICATIONS OF THE CONSOLIDATED COMPLAINT AND PUT SOMETHING
25 BEFORE THE COURT THAT WOULD BE ILLUSTRATIVE OF ALL OF THE

1 COORDINATION THAT WE HAVE DONE. AND I HAVE TO SAY OVER THE
2 LAST COUPLE OF WEEKS, AND SINCE WE HAVE BEEN HERE LAST, YOUR
3 KNOW, THAT MR. SOMVICHIAN WOULDN'T HAVE NOTICED ANY DIFFERENCE
4 AT ALL BECAUSE MYSELF AND MR. TAPLEY AND MR. WALDEN HAVE BEEN
5 NEGOTIATING WITH HIM ON THE PROTECTIVE ORDER THAT IS BEFORE THE
6 COURT TODAY, THE DISCOVERY PLAN, THE ISSUES THAT ARE THERE,
7 JUST AS WE HAVE CONTINUITY AND JUST AS WE HAVE IN ANY OF THE
8 OTHER CASES.

9 THE OTHER ISSUES WITH REGARDS TO THE INDIVIDUAL ISSUES
10 THAT MAY ARISE IN THE CASE FROM THE PARTICULAR CLASSES --

11 THE COURT: WELL, LET ME ASK YOU A QUESTION. SO
12 PUNITIVE CLASS MEMBERS ARE PAYING FOR THREE LAWYERS TO
13 NEGOTIATE A PROTECTIVE ORDER AND GOOGLE IS PAYING FOR ONE
14 LAWYER TO NEGOTIATE A PROTECTIVE ORDER?

15 I JUST DON'T THINK THAT THOSE IMBALANCES BETWEEN A PAYING
16 CLIENT WHO IS WRITING CHECKS AND WHO IS MONITORING THE FEES AND
17 COSTS SHOULD BE PAYING LESS THAN BASICALLY A PUNITIVE CLASS FOR
18 WHOM YOU HAVE A FIDUCIARY DUTY, AND I'M JUST CONCERNED ABOUT
19 THERE NOT BEING EFFICIENCIES HERE.

20 AND, YOU KNOW, LAST TIME THERE WERE, WHAT, 27 LAWYERS HERE
21 FOR THE PLAINTIFFS?

22 IF IT COMES OUT THAT THERE IS A SETTLEMENT IN THIS CASE,
23 I'M NOT GOING TO APPROVE 27 LAWYERS FLYING OUT. AS GOOD AS IT
24 IS FOR THE ECONOMY, I'M NOT GOING TO BE PAYING FOR 27 FLIGHTS,
25 27 HOTELS, 27 MEALS. I MEAN, THAT'S JUST NOT RIGHT.

1 WHATEVER MONEY GETS RECOVERED, IT SHOULD GO TO THE CLASS,
2 IF THERE IS ONE, WHICH I DON'T KNOW IF THERE IS GOING TO BE ONE
3 OR NOT.

4 BUT I'M JUST -- I MEAN, YOU ALL CAN COME OUT BUT YOU'RE
5 GOING TO BE COMING OUT PRO BONO BECAUSE I AIN'T GOING TO HAVE
6 THIS CLASS PAYING FOR THIS MUCH REDUNDANCY, OKAY.

7 MR. ROMMEL: I UNDERSTAND.

8 THE COURT: I'M NOT. AND SO IF A PRIVATE CLIENT IS
9 SAYING I'M GOING TO SEND ONE LAWYER HERE, OKAY, I JUST, I JUST
10 THINK THAT THESE ASYMMETRIES ARE NOT GOOD. THEY'RE NOT
11 REFLECTING A HIGH LEVEL OF EFFICIENCY.

12 MR. ROMMEL: YOUR HONOR, IF I MAY?

13 THE COURT: YEAH.

14 MR. ROMMEL: YOU SEE MR. SOMVICHIAN HERE TODAY BY
15 HIMSELF TODAY BUT --

16 THE COURT: I KNOW HE HAS A TEAM.

17 MR. ROMMEL: AND HE HAS HIS FOLKS ON THE PHONE WITH
18 US, AND WE'VE BEEN NEGOTIATING. AND WE DON'T JUST DEAL WITH
19 HIM. WE DEAL WITH OTHERS IN HIS OFFICE.

20 AND GOOGLE HAS SIX LAWYERS IN THE ARKANSAS CASE AND THEY
21 HAVE SIX LAWYERS IN THE TEXAS CASE AND THEY ALL SHOW UP AT THE
22 HEARINGS, TOO, AND THE COURT DIDN'T SEE THAT.

23 AND, AGAIN, THE REASON THERE WERE SO MANY HERE LAST TIME
24 IS BECAUSE THAT WAS THE FIRST TIME THAT ALL OF THE GROUPS CAME
25 TOGETHER. WE'VE WINNOWED IT DOWN EVEN MORE AND THIS IS THE

1 SECOND TIME, AND WE, AS INDICATED, AND WE DON'T ANTICIPATE THAT
2 THIS WILL HAPPEN GOING FORWARD.

3 AND WE'RE WELL AWARE OF AND HOPEFULLY BUILT INTO THE
4 PROPOSAL THE VERY TYPES OF THINGS THAT THE COURT HAS EXPRESSED
5 CONCERN ABOUT, AND I'LL JUST GIVE YOU AN EXAMPLE.

6 I DON'T SEE ANY ISSUE WITH THE FACT THAT MR. WOLDEN AND
7 MR. TAPLEY AND MYSELF CAN HIGHLIGHT THE ISSUES THAT WILL BE THE
8 COMMON ISSUES IN THIS CASE AND THAT THE PC MEMBERS AND ALL OF
9 US, YOU KNOW, THE INDIVIDUAL FIRMS WILL BE ABLE TO SAY I'LL
10 TAKE THAT ISSUE AND THEY CAN GO AND DEVELOP IT AS IT'S GOING TO
11 HAVE TO BE, REGARDLESS IF THE CASE IS AN MDL CASE OR NOT.
12 THERE'S A LOT OF WORK THAT STILL NEEDS TO BE DONE IN THIS CASE.

13 THE COURT: I UNDERSTAND. AND I'M NOT SAYING THAT
14 YOU DON'T NEED A BIG TEAM, IT'S JUST THAT THE SAME BIG TEAM
15 DOESN'T NEED TO DO ALL OF THE SAME THING.

16 MR. ROMMEL: AGREED. ABSOLUTELY.

17 THE COURT: IT NEEDS TO BE MORE LEANLY STAFFED.

18 ANYWAY, SO I THINK I HAVE LET MY VIEWS BE KNOWN THAT
19 WHATEVER HAPPENS IN THIS CASE, SHOULD THERE BE A MOTION FOR
20 ATTORNEY'S FEES, IT IS GOING TO BE UNDER VERY STRICT SCRUTINY
21 AND IF I SEE A LOT OF REDUNDANCY, YOU ALL ARE GOING TO BE DOING
22 THIS CASE PRO BONO, OKAY, BECAUSE I DON'T THINK IT'S RIGHT FOR
23 BASICALLY ABSENT CLIENTS WHO CAN'T SPEAK UP AND SAY -- AND IT'S
24 MY DUTY AS THE COURT HERE TO WATCH OUT FOR THE INTEREST OF ANY
25 PUNITIVE CLASS, IT'S NOT RIGHT. THEY DON'T HAVE A VOICE HERE

1 TO SAY, WAIT A MINUTE, I AIN'T GOING TO PAY FOR THAT. I MEAN,
2 THERE'S NO ONE HERE TO BASICALLY STRIP DOWN YOUR FEES THE WAY
3 INHOUSE COUNSEL WOULD DO FOR A RETAINED LAWYER.

4 SO I'M JUST TELLING YOU I NEED TO SEE LESS REDUNDANCY AND
5 I DON'T NEED TO SEE THIS MANY LAWYERS NEXT TIME FOR A CMC.

6 MR. ROMMEL: YES, MA'AM.

7 THE COURT: NOW, I UNDERSTAND THAT MR. NG WANTS A
8 SEPARATE COMMITTEE FOR MINORS.

9 I'LL ALLOW YOU TO BE HEARD ON THAT ISSUE.

10 MR. NG: THANK YOU, YOUR HONOR. AS WE TALKED ABOUT
11 THE LAST TIME, THERE ARE DISTINCT ISSUES IN THE MINOR CASE THAT
12 ARE NOT PRESENT IN THE OTHER CASES, SPECIFICALLY THE ISSUES
13 ABOUT MINOR'S CAPACITY TO CONSENT.

14 AND WHAT WE HAVE PROPOSED, AND WE TALKED ABOUT WITH GOOGLE
15 AND WE BELIEVE GOOGLE BELIEVE MAKES SENSE, AND WE'RE VERY
16 GRATIFIED THAT YOUR HONOR BELIEVES SHOULD BE AMENABLE TO IT, IS
17 TO ADDRESS THAT DISTINCT LEGAL ISSUE IN AN EARLIER MOTION.

18 AND AFTER WE ADDRESS THAT ISSUE, WE WILL KNOW WHAT THE
19 REST OF THE CASE LOOKS LIKE, WHAT THE SHAPE OF THE DISCOVERY
20 LOOKS LIKE, WHAT THE SHAPE OF THE LEGAL ISSUES LOOK LIKE.

21 THE COURT: I DON'T RECALL EVER COMMITTING MYSELF TO
22 DOING AN EARLY MOTION.

23 MR. NG: BUT, YOUR HONOR, WE DISCUSSED HAVING
24 DIFFERENT MOTIONS FROM THE INDIVIDUAL CASES THAT WERE NOT
25 NECESSARILY IN THE CONSOLIDATED CASE. IN ANY EVENT --

1 THE COURT: THAT WOULD BE PART OF THE CONSOLIDATED
2 COMPLAINT?

3 MR. NG: YES, YOUR HONOR. I MEAN, OUR PREFERENCE
4 WOULD BE NOT TO, BUT WE UNDERSTAND YOUR HONOR'S INDICATING THAT
5 THAT'S HOW YOU WOULD LIKE TO PROCEED, AND YOU'RE AMENABLE TO
6 DOING THAT.

7 THE COURT: OKAY.

8 MR. NG: THE ISSUE ABOUT MINOR'S CONSENT IS THIS,
9 YOUR HONOR, IF MINORS ARE LEGALLY INCAPABLE OF GIVING THE
10 CONSENT REQUIRED TO ALLOW GOOGLE TO SCAN THEIR E-MAILS, THEN
11 THE OTHER CONSENT ISSUE THAT ARE PRESENT IN THE OTHER
12 INDIVIDUAL'S CASES ARE IRRELEVANT.

13 SO THE DISCOVERY LOOKS A LOT DIFFERENT, THE LEGAL ISSUES
14 LOOK A LOT DIFFERENT, AND THE CLASS CERTIFICATION ISSUES LOOK A
15 LOT DIFFERENT, AND WE'RE NOT PROPOSING THAT WE SHOULD PROCEED
16 ON AN ENTIRELY SEPARATE TRACK.

17 BUT LIKE YOUR HONOR SAID, OUR CLASS MEMBERS HAVE AN
18 INTEREST IN HAVING THOSE ISSUES ADJUDICATED EFFICIENTLY. AND
19 AN EFFICIENT WAY TO DO THAT IS TO ADDRESS IT EARLY AND IT'S A
20 PURELY LEGAL ISSUE AND IT CAN BE ADDRESSED WITH MINIMAL, IF
21 ANY, DISCOVERY, I THINK BASICALLY UNDER THE EXISTING DISCOVERY.
22 AND AFTER THAT WE WILL KNOW WHETHER THE DISTINCT ISSUES -- I'M
23 SORRY -- ABOUT WHETHER THE ISSUES ABOUT CONSENT IN THE OTHER
24 CASES HAVE ANY BEARING ON THE MINORS AT ALL.

25 AND IF SO, IF GOOGLE'S VIEW PREVAILS, THEN OUR CASE IS

1 GOING TO LOOK A LOT LIKE THE OTHERS AND OUR DISCOVERY WILL
2 PROCEED IN A WAY THAT IS LIKE THE OTHERS.

3 IF NOT, THOUGH, THOSE ISSUES WILL HAVE NO BEARING ON OUR
4 CASE AND SO, THEREFORE, IT WOULD BE UNFAIR TO HAVE OUR CLIENTS
5 AND OUR MINOR CLASS MEMBERS, WHO ARE ENTIRELY DISTINCT FROM THE
6 OTHER CLASS MEMBERS, BEAR THE COST AND THE BURDEN OF THAT
7 DISCOVERY AND THAT WORK.

8 SO OUR PRIMARY INTEREST IS TO ENSURE THAT WE HAVE THE
9 LATITUDE TO FILE THAT EARLY MOTION AND TEE UP THAT LEGAL ISSUE
10 EARLY BECAUSE THAT'S THE MOST EFFICIENT WAY THAT WE'RE GOING TO
11 GET TO KNOW WHAT THE SHAPE OF THAT DISTINCT CASE IS.

12 AND WE'RE SIMPLY LOOKING OUT FOR OUR CLIENTS AND UPHOLDING
13 OUR FIDUCIARY DUTY TO DO THAT ON BEHALF OF THE ABSENT CLASS.

14 NOW, WE HAD PROPOSED A STRUCTURE FOR DOING THAT IN THE
15 NEGOTIATIONS. WE HAVE ENDED UP WITH SOMETHING DIFFERENT THAN
16 WE ORIGINALLY PROPOSED. AND THAT'S FINE. THAT'S HOW THESE
17 THINGS ARE SUPPOSED TO BE WORKED OUT.

18 BUT I GUESS, FRANKLY, WE'RE A LITTLE CONFUSED ABOUT WHAT
19 THE RESISTANCE IS TO THAT BECAUSE THERE SEEMS TO BE AN
20 AGREEMENT THAT WHERE THERE ARE DISTINCT ISSUES LIKE THIS IN
21 THIS CASE WHERE IT MAKES SENSE TO GO AHEAD EARLY, THAT THE
22 COUNSEL IN THE INDIVIDUAL CASES WOULD HAVE CONTROL OVER THAT.

23 ALL THAT WE PROPOSED IS TO PUT A LITTLE BIT MORE STRUCTURE
24 AROUND THAT, AND, FRANKLY, WE THINK THAT THAT MAKES SENSE.

25 IF YOUR HONOR IS CONCERNED ABOUT EFFICIENCY AND IS

1 CONCERNED ABOUT REDUNDANCY, THE THING THAT MAKES THE MOST SENSE
2 IS TO ASSIGN RESPONSIBILITIES WITH CLARITY.

3 WE'RE IN ABSOLUTE AGREEMENT THAT COMMON ISSUES AND COMMON
4 DISCOVERY SHOULD BE TAKEN TOGETHER. THEY SHOULD BE DONE IN A
5 COORDINATED AND CONSOLIDATED FASHION. THAT'S GOOD FOR THE
6 COURT. FRANKLY, IT'S GOOD FOR ALL OF US BECAUSE WE'RE SHARING
7 RESOURCES. THE BIGGEST BENEFIT, OF COURSE, IS TO GOOGLE.

8 BUT WHERE THERE ARE THESE DISTINCT ISSUES THAT THE
9 EFFICIENT, LOGICAL THING FOR US TO DO IS TO FILE THIS EARLY
10 MOTION TO SEE WHAT THE SHAPE OF THE LEGAL AND FACTUAL ISSUES
11 THAT REMAIN ARE AFTER THAT AND THEN WE'LL KNOW.

12 YOU KNOW, MAYBE THE PROBLEM IS WITH NOMENCLATURE, AND
13 MAYBE THE PROBLEM -- YOU KNOW, WE USE THE TERM "COMMITTEE"
14 BECAUSE THAT'S WHAT THE MANUAL ON COMPLEX LITIGATION USES.

15 REALLY ALL WHAT WE WANT TO DO IS CLARIFY ROLES AND
16 RESPONSIBILITIES TO MAKE SURE THAT WE CAN EFFICIENTLY LITIGATE
17 THE MINOR'S CASES IN A WAY THAT MAKES THE MOST SENSE FOR THEM
18 AND FOR THE COURT.

19 THE COURT: DO YOU WANT TO BE HEARD ON THIS,
20 MR. SOMVICHIAN?

21 MR. SOMVICHIAN: I DO, YOUR HONOR. I GUESS I'M
22 CONFUSED HERE AS TO WHAT WE'RE REALLY TRYING TO RESOLVE.

23 THE ISSUE AS IT WAS TEED UP IN THE LEADERSHIP PROPOSALS
24 AND OUR RESPONSES WAS WHETHER THERE OUGHT TO BE A SEPARATE
25 MINOR'S COMMITTEE. AND GOOGLE HAS TAKEN THE POSITION AND THE

1 OTHER PLAINTIFFS HAVE TAKEN THE POSITION THAT THERE'S NO NEED
2 FOR A SEPARATE COMMITTEE BECAUSE THE EXISTING PROPOSAL TO HAVE
3 AN EXECUTIVE COMMITTEE PROVIDES THE INFRASTRUCTURE FOR THE
4 PLAINTIFF'S GROUP TO ADDRESS THESE DISTINCT ISSUES.

5 AND THE QUESTION OF WHEN THEY ALL RESPECTIVELY WANT TO TEE
6 UP AN ISSUE ABOUT MINORS WOULD BE RESOLVED AS PART OF THE
7 DISCUSSIONS WITH, I PRESUME, THE EXECUTIVE COMMITTEE AND THE
8 LEAD COUNSEL WOULD THEN DETERMINE WHICH FIRM HAS LEAD
9 RESPONSIBILITIES FOR ADDRESSING THAT ISSUE.

10 SO IF THE QUESTION IS SHOULD WE HAVE A SEPARATE MINOR'S
11 COMMITTEE? I THINK THE ANSWER IS, NO, BECAUSE IT'S REDUNDANT
12 OF THE EXISTING STRUCTURE.

13 IF NOW WE'RE TALKING ABOUT SHOULD WE HAVE A MOTION, AN
14 EARLY MOTION TO RESOLVE THIS MINOR'S CONSENT ISSUE, THAT'S NOT
15 SOMETHING THAT WE EVER RESOLVED CERTAINLY AT THE LAST CMC AND
16 NOT SOMETHING WE CONFERRED ABOUT BEFORE TODAY.

17 CERTAINLY THEY HAVE LATITUDE TO RAISE WHATEVER ISSUES THEY
18 WANT, AND WE WOULD BE HAPPY TO FIGURE OUT THE BEST WAY TO
19 RESOLVE THAT ISSUE, BUT I SEE THAT AS A SEPARATE QUESTION FROM
20 WHAT WILL THE OVERALL STRUCTURE OUGHT TO BE.

21 MR. NG: YOUR HONOR, IF I COULD RESPOND VERY
22 BRIEFLY?

23 THE COURT: VERY BRIEFLY. I DO HAVE ANOTHER CASE.

24 MR. NG: WE HAVE A DISTINCT ISSUE ON BEHALF OF A
25 DISTINCT CLASS. THERE'S NO OVERLAP BETWEEN THESE CLASSES

1 WHATSOEVER AND OUR CLIENTS, BOTH THE INDIVIDUAL CLIENTS AND THE
2 CLASS, WE'RE SEEKING TO REPRESENT HAVE DISTINCT INTERESTS.

3 AND SO FOR US TO ESTABLISH A STRUCTURE WHERE SOMEONE ELSE
4 CAN DICTATE TO US, YES, FOLLOW THIS PATH; DON'T FOLLOW THIS
5 PATH; YES, TAKE THIS DISCOVERY; YES, FILE THIS MOTION AT THIS
6 TIME ON THE ISSUES THAT ARE NOT PRESENT IN ANY OF THE OTHER
7 CASES DOESN'T MAKE SENSE. IT JUST TAKES OUR CLIENT AND GIVES
8 CONTROL OF HER CASE TO SOMEONE WHO REPRESENTS A COMPLETELY
9 DIFFERENT GROUP OF CLIENTS ON COMPLETELY DIFFERENT ISSUES.

10 MR. SOMVICHIAN: YOUR HONOR, MINORS ARE NOT CARVED
11 OUT OF ANY OF THE OTHER CASE CLASSES. THEY WEREN'T CARVED OUT
12 OF THE DUNBAR CLASS, AND THEY WERE NOT CARVED OUT OF THE NEW
13 COMPLAINT THAT HAS BEEN FILED.

14 ALL OF THOSE PEOPLE ARE ALSO BOUND TO GOOGLE TERMS UNDER
15 OUR VIEW FOR ALL OF THESE PUNITIVE CLASS MEMBERS THAT THE CLASS
16 DEFINITIONS ALSO INCLUDE MINORS, AND I DON'T ACCEPT THE PREMISE
17 THAT AK IS THE ONLY CASE THAT RAISES AN ISSUE WITH RESPECT TO
18 MINORS.

19 MR. NG: WELL, THAT'S NOT TRUE, YOUR HONOR. I MEAN,
20 THE CLASSES ARE ENTIRELY ORTHOGONAL. WE'RE THE ONLY CLASSES
21 WITH GMAIL USERS, AND WE'RE THE ONLY CLASS WITH MINOR ISSUES.
22 AND THE GRAVAMEN OF OUR CASE IS VERY DIFFERENT FROM THE OTHERS.

23 THE COURT: ALL RIGHT.

24 MR. ROMMEL: YOUR HONOR, MAY I BE HEARD ON THIS AT
25 ALL?

1 THE COURT: JUST BRIEFLY.

2 MR. ROMMEL: A COUPLE OF THINGS. MR. SOMVICHIAN IS
3 RIGHT, WE ALSO HAVE MINORS IN OUR CLASS. I WOULD PROPOSE THAT
4 OUR, OUR -- THE LANGUAGE THAT WE HAVE IN THERE ALLOWS THE AK
5 COUNSEL TO LOOK AT ANY UNIQUE ISSUE AND PRESENT IT IN A FASHION
6 THAT IS THE BEST INTEREST FOR THAT PARTICULAR CLASS.

7 BUT TO DEFINE WHAT IS GOING TO HAPPEN RIGHT NOW WHEN I
8 FUNDAMENTALLY DISAGREE WITH THEM EVEN IF THEY WERE TO PREVAIL
9 ON THE EXPRESS CONSENT ISSUE, THEY STILL HAVE THE SAME
10 DEFINITIONS FOR THE ELEMENTS OF INTERCEPTIONS AND THEY HAVE THE
11 SAME DEFINITIONS OF DEVICE ISSUES AND THEY HAVE THE SAME
12 ORDINARY COURSE OF BUSINESS ISSUES AND THEY HAVE THE SAME --
13 ALL OF THE OTHER ISSUES ARE IDENTICAL TO THE OTHER ECPA CLAIMS.

14 AND SO OUR CONCERN AT THIS POINT IS THAT THERE MAY BE SOME
15 ISSUES THAT ARE PRESENTED POTENTIALLY IN AN EARLY FASHION TO
16 SEEK RULINGS THAT MIGHT BENEFIT THE AK CASE AND -- BUT ACTUALLY
17 MAY OVERLAP AND BE POTENTIALLY ADVERSE TO SOME OF THE INTERESTS
18 OF THE OTHER GROUP BECAUSE THEY WERE DONE IN THE MANNER THEY
19 WERE DOING.

20 SO ALL WE'RE ASKING FOR THE REMAINING PLAINTIFFS IS THAT
21 THERE'S NOT A NEED FOR A COMMITTEE AT THIS POINT IN TIME. THE
22 ROLES IS THERE FOR THEM TO BE ABLE TO PRESENT THIS ISSUE AND
23 COORDINATE IT WITH US AND DO THAT, BUT JUST TO HAVE THIS CARVED
24 OUT COMMITTEE IS SOMETHING THAT WE DON'T BELIEVE IS NECESSARY
25 AT THIS TIME.

1 THE COURT: LET ME HEAR FROM MR. SOMVICHIAN IF YOU
2 THINK THERE SHOULD BE A DIFFERENT -- WERE YOU SATISFIED WITH
3 THE PLAINTIFF'S RESPONSE TO YOUR CONCERNS?

4 MR. SOMVICHIAN: YES, YOUR HONOR, WITH RESPECT TO
5 THE ISSUE THAT WE SAW ON THE AMBIGUITY OF WHAT THE ROLE OF WHAT
6 THE EXECUTIVE COMMITTEE WOULD BE AND THEIR INITIAL PROPOSAL AS
7 DRAFTED IT WAS UNCLEAR TO US WHAT THE ROLES OF THE EXECUTIVE
8 COMMITTEE MEMBERS WOULD BE AND THE CIRCUMSTANCES IN WHICH THEY
9 COULD UNDERTAKE SPECIFIC LITIGATION TASKS.

10 I THINK IN THE WRITTEN PROPOSAL AND ALSO IN CALLS THAT I
11 HAVE HAD WITH MR. ROMMEL AND TAPLEY THAT CLARIFIED THAT THE
12 EXISTING PROVISIONS IN WHICH LEAD COUNSEL WILL APPROVE AND
13 SPECIFY PARTICULAR FIRMS TO HANDLE PARTICULAR TASKS WILL GOVERN
14 ANY WORK THAT THE FIRMS THAT ARE ON THE EXECUTIVE COMMITTEE
15 WILL PERFORM.

16 SO WITH THAT CLARIFICATION, WE DON'T HAVE A PROBLEM WITH
17 HOW THE OVERALL STRUCTURE HAS BEEN PROPOSED WITH RESPECT TO THE
18 EXECUTIVE COMMITTEE, LEAD COUNSEL AND LIAISON COUNSEL AND,
19 AGAIN, WHERE WE PART COMPANY WITH AK COUNSEL HAS TO DO WITH THE
20 FORMATION OF A SEPARATE MINOR'S COMMITTEE.

21 THE COURT: OKAY. WELL, I HAVE REVIEWED ALL OF THE
22 SUBMISSIONS THAT HAVE BEEN FILED, AND I DO HAVE CONCERNS ABOUT
23 REDUNDANCY BY SETTING UP A SEPARATE MINOR'S COMMITTEE.

24 I THINK THAT IS JUST EVIDENT BY LOOKING AT THE BRIEFS. I
25 DON'T THINK THERE WOULD BE, IF WE SET UP A MINOR'S COMMITTEE,

1 THERE'S NOT GOING TO BE A LOT OF COORDINATION OF EFFORT. IT'S
2 GOING TO BE A SEPARATE AND DUPLICATIVE EFFORT.

3 I THINK WHAT SHOULD HAPPEN IS THAT IF THERE ARE SPECIFIC
4 ISSUES RELATING UNIQUELY TO MINORS, THEN PERHAPS THE EXECUTIVE
5 COMMITTEE CAN THEN ASSIGN THAT WORK TO THE AK ATTORNEYS, BUT
6 I'M ALREADY CONCERNED THAT THIS IS A VERY BLOATED LEADERSHIP
7 STRUCTURE, RATHER THAN ONE KIND OF SMALL SUBSET OF FIRMS
8 WINNING OUT, IT'S JUST THAT EVERYBODY GOT JOINED ON.

9 AND SO I HAVE VERY SERIOUS CONCERNS ABOUT EFFICIENCY, AND
10 I STILL DO. AND I WILL BE RUTHLESS ABOUT ELIMINATING ANY WASTE
11 AND ANY REDUNDANCY IF IT EVER COMES TO A MOTION FOR ATTORNEY'S
12 FEES IN THIS CASE, BUT ANYWAY, THAT REQUEST IS DENIED.

13 LET'S TALK ABOUT DISCOVERY.

14 I THINK 50 INTERROGATORIES FOR EACH SIDE, CONSIDERING THIS
15 IS AN MDL, I'LL ALLOW THAT, OKAY. FIFTY INTERROGATORIES PER
16 SIDE.

17 MR. SOMVICHIAN: YOUR HONOR, VERY BRIEFLY ON THAT
18 POINT, JUST TO BE CLEAR ON OUR POSITION.

19 WE WERE NOT FORECLOSING THE POSSIBILITY THAT 50 MAY BE
20 NEEDED ULTIMATELY, BUT OUR PROPOSAL WAS TO PROCEED WITH 30 AND
21 AFTER THE 30 ARE EXHAUSTED, THAT WILL ALLOW US TO BETTER KNOW
22 WHETHER ADDITIONAL DISCOVERY IS REALLY NEEDED.

23 AND RIGHT NOW IT'S COMPLETELY UNCLEAR WHAT THE NEED WOULD
24 BE TO EXCEED THE NORMAL LIMITS. IT MAY WELL BE THE CASE THAT
25 THEY NEED MORE THAN 30 THAT WE PROPOSED, BUT IT'S ENTIRELY

1 ABSTRACT AT THIS POINT.

2 SO OUR PROPOSAL WAS TO SET A LOWER THRESHOLD AT THE OUTSET
3 SUBJECT TO THE UNDERSTANDING THAT AT THE POINT THAT THEY
4 REACHED 30, WE WOULD CONFER AND BE ABLE TO HAVE A MORE
5 MEANINGFUL DIALOGUE ABOUT SPECIFICALLY WHAT HAS BEEN CONDUCTED
6 AND COMPLETED AND WHAT ARE THE SPECIFIC NEEDS GOING FORWARD,
7 RATHER THAN GIVING A BLANK CHECK TODAY FOR 50. AND THE SAME
8 GOES WITH THE DEPOSITIONS.

9 THE COURT: BUT CAN I ASK, WHY DO THE SAME LAWYERS
10 KEEP FILING NEW LAWSUITS? AND DO THE LAWYERS FOR THE VARIOUS
11 PLAINTIFFS ANTICIPATE FILING MORE? I KNOW I JUST RELATED ONE
12 MORE. ARE THERE MORE IN THE WORKS OR WHAT IS THE STATUS?

13 MR. TAPLEY: JEROME TAPLEY. YOUR HONOR, I DON'T
14 KNOW OF ANY ADDITIONAL CASES WHICH ARE IN THE WORKS.

15 THE COURT: ALL RIGHT. WELL, HELP ME UNDERSTAND,
16 WHY ARE THERE NEW CASES STILL BEING FILED?

17 MR. TAPLEY: THE MOST RECENT CASE THAT WAS FILED,
18 YOUR HONOR, THE FREAD CASE, WAS ONE IN WHICH WE WERE CONTACTED
19 LAST FALL AND HAVE BEEN INVESTIGATING AND TALKING TO THE CLASS
20 REP WHO CONTACTED US.

21 AND WE MOVED AS QUICKLY AS WE COULD IN THE FINAL DAYS TO
22 TRY TO MAKE SURE THAT WE HAD AS PART OF THE CONSOLIDATED
23 COMPLAINT AND SO THERE WOULDN'T BE TWO ROUNDS OF THAT PROCESS,
24 BUT IT'S SOMETHING THAT HAS BEEN IN THE WORKS FOR SOME TIME.

25 THE COURT: AND I GUESS WHAT I DON'T UNDERSTAND IS

1 THAT YOU ARE LAWYERS FOR DUNBAR AND HARRINGTON AND I THINK
2 SCOTT.

3 SO I GUESS THAT'S WHY I DON'T UNDERSTAND. EACH OF THOSE
4 CASES YOU ARE ASSERTING A CLASS THAT WOULD INCORPORATE ALL OF
5 THESE NEW PLAINTIFFS ANYWAY.

6 MR. TAPLEY: I DON'T BELIEVE IT WOULD, YOUR HONOR.
7 THE NEW CLASS IS ON BEHALF OF COLLEGE STUDENTS WHOSE
8 UNIVERSITY'S E-MAIL SYSTEMS ARE POWERED BY A GOOGLE APP. SO
9 THEY'RE NOT ENCOMPASSED WITHIN THE OTHER CLASSES.

10 THE COURT: WELL, IT WILL BE 50 INTERROGATORIES PER
11 SIDE. PLEASE MAKE AN AGREEMENT THAT ALL DUNBAR DISCOVERY WILL
12 BE SHARED WITH THESE MDL CONSOLIDATED CASES.

13 DEPOSITIONS -- BLESS YOU. I'M GOING TO SAY 20 DEPOSITIONS
14 PER SIDE. AND IF YOU NEED MORE, YOU'RE GOING TO HAVE TO SHOW
15 GOOD CAUSE.

16 MR. SOMVICHIAN: YOUR HONOR, JUST FOR CLARITY?

17 THE COURT: YES. THE 3 TAKEN IN DUNBAR DO NOT COUNT
18 AGAINST THE 20.

19 MR. SOMVICHIAN: WHAT ABOUT WITH RESPECT TO
20 INTERROGATORIES, THE SAME?

21 THE COURT: HOW MANY INTERROGATORIES HAVE BEEN
22 SERVED?

23 WELL, I JUST THINK IT'S NOT -- WE NOW HAVE ALL OF THESE
24 NEW CASES SO, YEAH, IT'S NOT GOING TO APPLY. THERE WILL BE 50
25 NEW ONES.

1 THE DEPOSITION OF THE PLAINTIFF DUNBAR, HOW MUCH TIME DO
2 YOU WANT WITH -- IS IT JUST DUNBAR THAT IS AT ISSUE? I KNOW
3 YOU WANT TO DEPOSE ALL OF THE NAMED PLAINTIFFS.

4 MR. SOMVICHIAN: THE ONLY NAMED PLAINTIFF THAT HAS
5 BEEN DEPOSED PARTIALLY BEFORE IS MR. DUNBAR FOR ABOUT
6 FOUR HOURS.

7 THE COURT: HOW MUCH MORE TIME DO YOU WANT WITH HIM?

8 MR. SOMVICHIAN: I THINK WE'D WANT A FULL DEPOSITION
9 GIVEN THE FACT THAT THE CLASS DEFINITION HAS COMPLETELY CHANGED
10 AND THE CONTOURS OF THE CASE THAT MS. DUNBAR ARE NOW TRYING TO
11 PROSECUTE ARE NOW DIFFERENT.

12 THE COURT: ALL RIGHT. WHAT IS YOUR OBJECTION? IT
13 SOUNDS REASONABLE. I COULD LIMIT IT TO MAYBE FIVE OR
14 SIX HOURS.

15 MR. TAPLEY: YOUR HONOR, WE DON'T OBJECT.

16 THE COURT: OKAY.

17 MR. TAPLEY: BUT SIMILARLY, IT MAY BE THAT THE
18 PREVIOUS DEPOSITIONS THAT WERE TAKEN IN THE DUNBAR MATTER NEED
19 TO BE TAKEN AGAIN GIVEN THAT THE FACTS ARE VERY DIFFERENT NOW.

20 THE COURT: ALL RIGHT. NOW, YOU HAVE A NEW SET OF
21 SEVEN HOURS WITH MR. DUNBAR.

22 OKAY. I DIDN'T UNDERSTAND THIS CASE SPECIFIC DISCOVERY
23 ISSUE. WHAT DID YOU INTEND BY CASE SPECIFIC DISCOVERY? WHEN
24 WERE YOU PROPOSING THAT THAT BE DONE? THERE'S NO BIFURCATION
25 OF DISCOVERY.

1 MR. TAPLEY: NO, YOUR HONOR. JUST IN THE EVENT THAT
2 WHAT I THINK WE CONTEMPLATED IN THE DISCOVERY PLAN AND WHAT WE
3 CONTEMPLATED WITHIN THE MDL WAS THAT WE WOULD TAKE COMMON
4 DISCOVERY THAT APPLIES TO ALL OF THE CASES.

5 THE COURT: YOU WOULD TAKE WHAT?

6 MR. TAPLEY: COMMON DISCOVERY THAT APPLIES TO ALL OF
7 THE ISSUES. BUT IN THE EVENT THAT THERE IS SOME ISSUE THAT IS
8 INDIVIDUALLY UNIQUE TO REALLY ONE CASE, THEN THERE MIGHT BE
9 ADDITIONAL DISCOVERY ALLOWED OUTSIDE OF THE LIMITS OF THE
10 COMMON DISCOVERY.

11 THE COURT: THERE SHOULD BE LIMITS BEYOND THE LIMITS
12 THAT I'VE JUST ALREADY IMPOSED.

13 WELL, IF YOU NEED THAT MUCH INDIVIDUAL DISCOVERY, THEN
14 THERE PROBABLY SHOULDN'T BE A CLASS, RIGHT?

15 MR. TAPLEY: INDIVIDUAL AS TO ONE OF THE CLASSES.
16 IF ONE OF THE CLASSES ENDS UP HAVING SOME INDIVIDUALIZED ISSUE
17 THAT REALLY HAS NO BEARING ON THE OTHER ISSUES IN THE CASE
18 THERE WOULDN'T --

19 THE COURT: WELL, I'M GOING TO DENY THAT. THE
20 LIMITS THAT I HAVE SET WILL REMAIN IN THE CASE UNLESS YOU HAVE
21 REALLY GOOD CAUSE TO SHOW TO AMEND THOSE.

22 MR. TAPLEY: YES, YOUR HONOR.

23 THE COURT: OKAY. ALL RIGHT. SO WE HAVE A FURTHER
24 CMC SET FOR SEPTEMBER 5TH. IF I DIDN'T SET THAT BEFORE, I'M
25 SETTING IT NOW.

1 ARE YOU ALL AVAILABLE THAT DATE? SEPTEMBER 5TH? WAIT.
2 WHY IS THAT ON A THURSDAY? OH, BECAUSE IT'S OUR MOTION TO
3 DISMISS HEARING.

4 MR. SOMVICHIAN: THAT'S RIGHT.

5 THE COURT: FURTHER CMC ON SEPTEMBER 5TH, AND OUR
6 CLASS CERT HEARING JANUARY 16TH.

7 MR. SOMVICHIAN: AND, YOUR HONOR, YOU'LL WANT A CMC
8 STATEMENT A WEEK IN ADVANCE I ASSUME?

9 THE COURT: YES, PLEASE.

10 WHAT ELSE? WERE THERE ANY OTHER ISSUES THAT WE NEEDED TO
11 COVER TODAY?

12 MR. TAPLEY: DO YOU WANT TO TALK ABOUT PAGE LIMITS
13 WHILE WE'RE HERE?

14 MR. SOMVICHIAN: IN THE PRIOR CMC STATEMENT WE HAD
15 RAISED THE ISSUE OF POTENTIAL NEED FOR PAGE EXTENSIONS ON THE
16 MOTION TO DISMISS AND THE CLASS CERT BRIEFING.

17 WE CAN DISCUSS IT NOW OR WE CAN ALSO DO IT AFTER AND WAIT
18 UNTIL WE HAVE SEEN THE CONSOLIDATED COMPLAINT. THE PLAINTIFF
19 HAD PROSED 40 PAGES A SIDE FOR BRIEFS. GIVEN THE NUMBER OF
20 LEGAL CLAIMS THAT ARE POTENTIALLY GOING TO BE INCORPORATED INTO
21 THE CONSOLIDATED COMPLAINT, I THINK AT LEAST THAT MUCH IS
22 NECESSARY.

23 I DON'T KNOW WHAT THE CONTOURS OF THE CONSOLIDATED
24 COMPLAINT WILL LOOK LIKE. SO PERHAPS IT'S BEST TO ADDRESS IT
25 AT THAT TIME SO WE CAN MAKE A MORE INFORMED DECISION ABOUT WHAT

1 IS REALLY NEEDED.

2 THE COURT: WELL, I WILL JUST TELL YOU THAT, YOU
3 KNOW, 40, 40, 30, I DON'T THINK WE CAN HUMANLY ABSORB THAT. WE
4 ARE ON A SHOESTRING ON OUR END. WE DON'T HAVE ALL OF THE
5 ATTORNEYS THAT YOU HAVE. I JUST DON'T THINK THAT WE'LL BE ABLE
6 TO PROCESS ALL OF THAT.

7 WHAT I WILL DO IS SAY 30, 30, 20. SO A FIVE-PAGE
8 EXTENSION ON EACH. SO I HUMANLY DON'T THINK WE CAN HANDLE THAT
9 KIND OF VOLUME. IF IT'S TOO MUCH. I MIGHT HAVE TO SPLIT THIS
10 INTO TWO HEARINGS. I HOPE I DON'T HAVE TO DO THAT AND TURN THE
11 CLASS CERT HEARING INTO THE SECOND MOTION TO DISMISS JUST
12 BECAUSE I REALLY WANT YOU TO TAKE INTO CONSIDERATION OUR VERY,
13 VERY LIMITED RESOURCES.

14 MR. SOMVICHIAN: FAIR ENOUGH, YOUR HONOR.

15 THE COURT: ANYTHING ELSE?

16 MR. SOMVICHIAN: I THINK THAT'S IT.

17 THE COURT: THANK YOU. I'LL SEE YOU ON
18 SEPTEMBER 5TH.

19 (COURT CONCLUDED AT 3:34 P.M.)
20
21
22
23
24
25

CERTIFICATE OF REPORTER

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

THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

A handwritten signature in black ink that reads "Irene Rodriguez". The signature is written in a cursive, flowing style with a large, decorative flourish at the end of the last name.

IRENE RODRIGUEZ, CSR, CRR
CERTIFICATE NUMBER 8076

DATED: MAY 21, 2013