

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE - CENTRAL JUSTICE CENTER
DEPARTMENT C23

LE XUAN KHOA,)	
)	
PLAINTIFF,)	
)	
VS.)	NO. 30-2021-1201012
)	
NGUYEN DINH THANG; BOAT PEOPLE S.O.S.,)	
INC., AND DOES 1 THROUGH 100,)	
INCLUSIVE,)	
)	
DEFENDANTS.)	
_____)	

HONORABLE DAVID J. HESSELTINE, JUDGE PRESIDING
REPORTER'S TRANSCRIPT
WEDNESDAY, NOVEMBER 20, 2024

MICHELLE LOTT-MEYERHOFER, CSR 8226
COURT-APPROVED OFFICIAL REPORTER PRO TEMPORE

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1 WITNESS INDEX
 2 WEDNESDAY, NOVEMBER 20, 2024
 3 (NONE)
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1 EXHIBITS
 2 WEDNESDAY, NOVEMBER 20, 2024
 3 (EXHIBITS PREMARKED UNLESS OTHERWISE NOTED)
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 5 EXHIBIT ID EVID
 6 (NONE)
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1 SANTA ANA, CALIFORNIA - WEDNESDAY, NOVEMBER 20, 2024
 2 AFTERNOON SESSION
 3 *****
 4 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT IN THE
 5 PRESENCE OF THE JURY:)
 6 THE COURT: WE'LL GO AHEAD AND GO ON THE RECORD IN
 7 KHOA VS. THANG. COULD WE, PLEASE, HAVE THE APPEARANCES BY
 8 COUNSEL, STARTING WITH PLAINTIFF.
 9 MR. HART: GOOD AFTERNOON, YOUR HONOR. HOYT HART FOR
 10 THE PLAINTIFF.
 11 MR. VOSS: GOOD AFTERNOON, YOUR HONOR. DAVE VOSS,
 12 VOSS, SILVERMAN & BRAYBROOKE, ON BEHALF OF DEFENDANTS.
 13 MR. ERIGERO: GOOD AFTERNOON, YOUR HONOR. STEPHEN
 14 ERIGERO, ROPERS & MAJESKI, ALSO ON BEHALF OF THE DEFENDANTS.
 15 THE COURT: THEN YES, WE DO HAVE BOTH CLIENTS, BOTH
 16 PARTIES ARE PRESENT IN THE COURTROOM AS WELL FOR THE RECORD.
 17 SO JUST LESS THAN FIVE MINUTES BEFORE THE LUNCH
 18 BREAK OUR JURY REPORTED THAT THEY HAD REACHED A VERDICT. SO
 19 WE WILL BRING THEM IN, AND WE WILL START THAT PROCESS.
 20 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT IN THE
 21 PRESENCE OF THE JURY:)
 22 THE COURT: WE ARE HERE AGAIN IN KHOA V. THANG.
 23 WE'VE BEEN JOINED BY ALL 12 OF OUR JURORS WHO ARE PRESENT IN
 24 THE JURY BOX. WE HAVE ALL COUNSEL AND PARTIES PRESENT AS
 25 PREVIOUSLY STATED ON THE RECORD.
 26 AND IT IS MY UNDERSTANDING THAT THE JURY HAS

1 REACHED A VERDICT; IS THAT CORRECT?
 2 THE JURY: (IN THE AFFIRMATIVE.)
 3 THE COURT: AND THEN OUR FOREPERSON IS?
 4 JUROR: MICHAEL HOFFMAN.
 5 THE COURT: ALL RIGHT. MR. HOFFMAN, THEN DO YOU HAVE
 6 A VERDICT FORM THAT YOU COULD PLEASE PROVIDE TO THE COURT
 7 ATTENDANT.
 8 THANK YOU VERY MUCH.
 9 I'LL ASK THE CLERK TO PLEASE READ THE VERDICT.
 10 THE CLERK: "SUPERIOR COURT OF THE STATE OF
 11 CALIFORNIA, FOR THE COUNTY OF ORANGE, LE XUAN KHOA, PLAINTIFF
 12 V. NGUYEN DINH THANG, BOAT PEOPLE S.O.S., INC., DEFENDANTS,
 13 CASE NO. 30-2021-1201012-CU-DF-CJC, SPECIAL VERDICT.
 14 "WE, THE JURY, IN THE ABOVE-ENTITLED ACTION
 15 ANSWER THE QUESTIONS SUBMITTED TO US FOLLOWS:
 16 "QUESTION ONE: DID DEFENDANTS MAKE THE
 17 FOLLOWING STATEMENT TO PERSONS OTHER THAN PLAINTIFF LE XUAN
 18 KHOA:
 19 "MR. KHOA FALSELY CLAIMED THAT HE HELD A
 20 DOCTORAL DEGREE IN THE APPLICATION FOR A GRANT FROM THE
 21 DEPARTMENT OF STATE. THAT WAS A CRIMINAL OFFENSE?"
 22 NGUYEN DINH THANG, ANSWER: "YES."
 23 BOAT PEOPLE S.O.S., ANSWER: "YES."
 24 QUESTION NO. 2: "DID THE PERSON TO WHOM THE
 25 STATEMENTS WERE MADE REASONABLY UNDERSTAND THE STATEMENT TO BE
 26 ABOUT LE XUAN KHOA?"

1 ANSWER: "YES."
 2 "DID THESE PEOPLE REASONABLY UNDERSTAND THE
 3 STATEMENT TO MEAN THAT LE XUAN KHOA HAD COMMITTED A CRIME?"
 4 ANSWER: "YES."
 5 QUESTION NO. 4: "WAS THE STATEMENT FALSE?"
 6 ANSWER: "YES."
 7 QUESTION NO. 5: "DID LE XUAN KHOA PROVE BY
 8 CLEAR AND CONVINCING EVIDENCE THAT DEFENDANTS KNEW THE
 9 STATEMENT WAS FALSE OR HAD SERIOUS DOUBTS ABOUT THE TRUTH OF
 10 THE STATEMENT?"
 11 NGUYEN DINH THANG: "YES."
 12 BOAT PEOPLE S.O.S.: "YES."
 13 QUESTION NO. 6: "WAS THE DEFENDANTS' CONDUCT A
 14 SUBSTANTIAL FACTOR IN CAUSING LE XUAN KHOA ACTUAL HARM?"
 15 NGUYEN DINH THANG: "YES."
 16 BOAT PEOPLE S.O.S.: "YES."
 17 QUESTION NO. 7: "WHAT ARE LE XUAN KHOA'S
 18 ACTUAL DAMAGES FOR:
 19 "ANSWER FOR NUMBER A, HARM TO LE XUAN KHOA'S
 20 OCCUPATION, DOLLAR AMOUNT: ZERO.
 21 "B, HARM TO LE XUAN KHOA'S REPUTATION: LEFT
 22 BLANK.
 23 "SHAME, MORTIFICATION OR HURT FEELINGS: LEFT
 24 BLANK."
 25 QUESTION NO. 8: "WHAT ARE THE DAMAGES YOU
 26 AWARD FOR LE XUAN KHOA FOR ASSUMED HARM TO HIS REPUTATION AND

1 FOR SHAME, MORTIFICATION OR HURT FEELINGS?
 2 "YOU MUST AWARD AT LEAST A NOMINAL SUM.
 3 "\$500,000."
 4 QUESTION NO. 9: "HAS LE XUAN KHOA PROVED BY
 5 CLEAR AND CONVINCING EVIDENCE THAT DEFENDANTS ACTED WITH
 6 MALICE, OPPRESSION OR FRAUD?"
 7 ANSWER: "YES."
 8 SIGNED FOREPERSON, MICHAEL HOFFMAN, DATED
 9 NOVEMBER 20, 2024.
 10 THANK YOU VERY MUCH, MADAM CLERK.
 11 ALL RIGHT. THEN FIRST OF ALL, QUESTION FOR THE
 12 COLLECTED: IS THAT YOUR VERDICT?
 13 THE JURY: (ALL ANSWER IN THE AFFIRMATIVE.)
 14 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. AND
 15 THEN WOULD THE PARTIES REQUEST ANY POLLING OF THE JURY?
 16 MR. VOSS: YES, YOUR HONOR.
 17 THE COURT: ALL RIGHT. SO THEN LADIES AND GENTLEMEN
 18 OF THE JURY, AS WE INDICATED DURING THE JURY INSTRUCTIONS,
 19 THERE'S THE LIKELIHOOD OF BEING ASKED TO POLL THE JURORS FOR
 20 YOUR INDIVIDUAL VOTES ON EACH OF THESE QUESTIONS.
 21 SO HOW WE WILL GO ABOUT THIS, IS THE CLERK WILL
 22 READ THE QUESTION AND WHAT THE ANSWER WAS FOR THE JURY AS A
 23 WHOLE, AND THEN WE'LL DO IT BY SHOW OF HANDS. PLEASE RAISE
 24 YOUR HANDS IF THAT WAS YOUR INDIVIDUAL VOTE. AND SO WE'LL DO
 25 A TALLY THAT WAY. AND WE'LL GO THROUGH EACH INDIVIDUAL
 26 QUESTION, BOTH YESES AND NOS JUST TO MAKE SURE THAT WE GET AND

1 IDENTIFY -- THE COURT WILL IDENTIFY EACH PERSON WHO RAISED
 2 THEIR HAND IN RESPONSE TO EACH OF THE INDIVIDUAL QUESTIONS.
 3 THE CLERK: QUESTION NO. 1: "DID DEFENDANTS MAKE THE
 4 FOLLOWING STATEMENT TO PERSONS OTHER THAN PLAINTIFF LE XUAN
 5 KHOA:
 6 "MR. KHAO FALSELY CLAIMED THAT HE HELD A
 7 DOCTORAL DEGREE IN THE APPLICATION FOR A GRANT FROM THE
 8 DEPARTMENT OF STATE. THAT WAS A CRIMINAL OFFENSE?"
 9 FOR NGUYEN DINH THANG, JUROR NO. 1, IS THIS
 10 YOUR TRUE AND CORRECT VERDICT?
 11 THE COURT: OR WE CAN GO BY -- THE RESPONSE FOR THE
 12 JURY WAS "YES" FOR MR. THANG. SO IF YOU RESPONDED -- IF YOUR
 13 INDIVIDUAL VOTE WAS "YES," PLEASE RAISE YOUR HAND, AND THEN
 14 GIVE ME A CHANCE TO NOTE FOR THE RECORD.
 15 ALL RIGHT. THEN ALL 12 HAVE RAISED THEIR HANDS
 16 ON THAT ONE.
 17 AND THEN THE RESPONSE FOR BOAT PEOPLE S.O.S. AS
 18 TO THAT SAME QUESTION, THE JURY RESPONSE WAS A "YES." IF THAT
 19 WAS YOUR INDIVIDUAL VOTE AS WELL, PLEASE RAISE YOUR HANDS.
 20 ALL RIGHT. AND I DO SEE ALL 12 HANDS AGAIN ON
 21 THAT ONE.
 22 MADAM CLERK, PLEASE READ QUESTION NO. 2.
 23 THE CLERK: "DID THE PERSON TO WHOM THE STATEMENTS
 24 WERE MADE REASONABLY UNDERSTAND THE STATEMENT TO BE ABOUT LE
 25 XUAN KHOA?"
 26 THE COURT: AND THE JURY RESPONSE WAS "YES." IF THAT

1 WAS YOUR INDIVIDUAL VOTE, PLEASE RAISE YOUR HAND.
 2 ALL RIGHT. AGAIN, I DO SEE ALL 12 HANDS FOR
 3 THAT ONE. SO THAT'S A UNANIMOUS VOTE.
 4 PLEASE READ QUESTION NO. 3, MADAM CLERK.
 5 THE CLERK: "DID THE PEOPLE REASONABLY UNDERSTAND THE
 6 STATEMENT TO MEAN THAT LE XUAN KHOA HAD COMMITTED A CRIME?"
 7 THE COURT: ALL RIGHT. AND THE JURY RESPONSE WAS A
 8 "YES" TO THAT QUESTION. IF YOUR INDIVIDUAL VOTE WAS A YES,
 9 PLEASE RAISE YOUR HAND.
 10 ALL RIGHT. AGAIN, I SEE ALL 12 HANDS. SO THAT
 11 WAS A UNANIMOUS VERDICT ON QUESTION NO. 3.
 12 MADAM CLERK, PLEASE READ QUESTION NO. 4.
 13 THE CLERK: "WAS THE STATEMENT FALSE?"
 14 THE COURT: AND THE JURY RESPONSE TO THAT ONE WAS
 15 "YES." AGAIN, IF THAT WAS YOUR INDIVIDUAL VOTE, PLEASE RAISE
 16 YOUR HAND.
 17 ALL RIGHT. AND, AGAIN, SEEING ALL 12 HANDS,
 18 THAT WAS A UNANIMOUS VOTE ON THAT ONE AS WELL.
 19 QUESTION NO. 5, PLEASE, MADAM CLERK.
 20 THE CLERK: "DID LE XUAN KHOA PROVE BY CLEAR AND
 21 CONVINCING EVIDENCE THAT DEFENDANTS KNEW THE STATEMENT WAS
 22 FALSE OR HAD SERIOUS DOUBT ABOUT THE TRUTH OF THE STATEMENT?"
 23 THE COURT: ALL RIGHT. AND THEN THIS ONE AS TO
 24 NGUYEN DINH THANG, THE JURY VOTE WAS "YES." IF THAT WAS YOUR
 25 INDIVIDUAL VOTE, PLEASE RAISE YOUR HAND.
 26 ALL RIGHT. I SEE 11 HANDS ON THAT ONE. I HAVE

1 JURORS ONE THROUGH FIVE ARE -- THEIR HANDS IN THE AIR. AND IF
 2 WE COULD KEEP THOSE HANDS UP AGAIN JUST SO WE MAKE SURE WE GET
 3 A COMPLETE RECORD. AND JURORS SEVEN THROUGH 12 HAVE THERE
 4 HANDS IN THE AIR AS WELL.
 5 NOW, IF THAT WAS NOT YOUR VOTE AS TO NGUYEN
 6 DINH THANG ON QUESTION FIVE, PLEASE RAISE YOUR HANDS.
 7 ALL RIGHT. WE HAVE A HAND RAISED BY JUROR
 8 NO. 6. SO THAT WAS ONE "NO" VOTE AND 11 "YES" ON THAT
 9 QUESTION.
 10 THEN AS TO QUESTION NO. 5, THE RESPONSE AS TO
 11 DEFENDANT BOAT PEOPLE S.O.S. OF THE JURY WAS A "YES." IF THAT
 12 WAS YOUR INDIVIDUAL VOTE, PLEASE RAISE YOUR HAND.
 13 ALL RIGHT. AND, AGAIN, WE HAVE THE SAME 11
 14 HANDS, NUMBERS ONE THROUGH FIVE AND SEVEN THROUGH 12 ARE A
 15 "YES" VOTE. AND IF THAT WAS NOT YOUR INDIVIDUAL VOTE, PLEASE
 16 RAISE YOUR HAND.
 17 AND, AGAIN, THAT WAS JUROR NO. 6 HAD A "NO"
 18 VOTE ON THAT QUESTION.
 19 AND MADAM CLERK, PLEASE READ QUESTION NO. 6.
 20 THE CLERK: "WAS DEFENDANTS' CONDUCT A SUBSTANTIAL
 21 FACTOR IN CAUSING LE XUAN KHOA ACTUAL HARM?"
 22 THE COURT: ALL RIGHT. AND THE RESPONSE OF THE JURY
 23 AS TO DEFENDANT NGUYEN DINH THANG WAS A "YES." IF THAT WAS
 24 YOUR INDIVIDUAL VOTE, PLEASE RAISE YOUR HAND.
 25 ALL RIGHT. AND THEN I SEE HANDS FOR JURORS ONE
 26 THROUGH FIVE AND SEVEN THROUGH 12. AND THEN IF YOUR VOTE WAS

1 A "NO" ON THAT QUESTION, PLEASE RAISE YOUR HAND.
 2 JUROR NO. 6: I THOUGHT IN THE FORM, FROM READING IT,
 3 I THOUGHT I ONLY NEED TO ANSWER UP TO NO. 5 BECAUSE THEN, YOU
 4 KNOW --
 5 THE COURT: DID YOU PARTICIPATE IN --
 6 JUROR NO. 6: I DID.
 7 THE COURT: BECAUSE THE JURY INSTRUCTION, IT
 8 INDICATED THAT AS WE -- WE NEED EVERY JUROR TO VOTE ON EVERY
 9 QUESTION REGARDLESS OF HOW THEY RESPONDED OR VOTED ON EARLIER
 10 QUESTIONS. SO WAS THERE A VOTE ON THAT ONE? DO WE NEED TO...
 11 WELL, DON'T DELIBERATE OR DO ANYTHING HERE IN
 12 OPEN COURT WITH THAT. WHAT WE WOULD DO IS WE WOULD SEND YOU
 13 BACK IN TO CONFIRM YOUR VOTES ON THAT AND MAKE SURE THAT WE DO
 14 IN FACT GET A VOTE AS TO EACH JUROR ON EVERY QUESTION.
 15 THE ONLY TIME THAT THERE IS A CEASING OF
 16 ANSWERING THE QUESTIONS IS IF THE WHOLE JURY'S COLLECTIVE VOTE
 17 WOULD BE A RESPONSE THAT BRINGS IT INTO THE QUESTION.
 18 SO WHAT WE WILL THEN DO IS WE'LL PAUSE RIGHT
 19 HERE AT THIS POINT AND ASK THE JURORS TO PLEASE RETURN TO THE
 20 JURY ROOM TO, AGAIN, REVIEW THE VERDICT FORM AND CONFIRM,
 21 HOWEVER THE VOTE COMES OUT, WE DO HAVE 12 VOTES ON EVERY ONE
 22 OF THE QUESTIONS.
 23 THANK YOU VERY MUCH.
 24 (JURY RETURNS TO JURY ROOM.)
 25 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, WE WILL
 26 TAKE A PAUSE FOR AT LEAST A FEW MINUTES.

1 MR. HART: JUST FOR THE RECORD, WHAT'S GOING ON NOW
 2 IS JUROR NO. 6 HAS TO GO BACK AND ANSWER QUESTIONS SIX, SEVEN,
 3 EIGHT, AND NINE.
 4 THE COURT: CORRECT. AS WE SAID IN THE JURY
 5 INSTRUCTIONS AND AS I'VE JUST INDICATED TO THEM, THEY HAVE TO
 6 VOTE ON EVERY SINGLE QUESTION EVEN IF THEY HAD A "NO" VOTE.
 7 AND SO WE'VE SENT THE JURORS BACK IN. AS WE HAD INDICATED, WE
 8 WERE ON THE POLLING FOR QUESTION SIX, AND BECAUSE JUROR NO. 6
 9 HAD VOTED "NO" ON QUESTION FIVE, HE APPARENTLY DIDN'T VOTE ON
 10 THE BALANCE OR AT LEAST AS TO QUESTION SIX, AND THEN WE'LL
 11 FIND OUT. SO WE'VE SENT THEM BACK IN TO MAKE SURE WE HAVE A
 12 VOTE FROM EACH OF THE JURORS ON EACH OF THE QUESTIONS.
 13 SO I'M GOING TO STEP OFF THE BENCH HERE FOR A
 14 FEW MOMENTS. AND AS SOON AS WE HAVE THEM BACK OUT HERE, WE
 15 WILL CONFIRM THAT THEY NOW HAVE A VOTE FOR ALL OF THEM AND WE
 16 WILL TAKE THE BALANCE.
 17 ALL COUNSEL: THANK YOU, YOUR HONOR.
 18 (OFF THE RECORD.)
 19 THE COURT: IT SOUNDS LIKE THEY'RE READY. SO WE'LL
 20 GO BACK ON THE RECORD. AND LET ME CONFIRM WITH THE COURT ROOM
 21 ATTENDANT: THE JURORS INDICATED THEY HAVE 12 VOTES FOR ALL OF
 22 THE QUESTIONS?
 23 COURTROOM ATTENDANT: YES, YOUR HONOR.
 24 THE COURT: SO WE'LL GO AHEAD AND BRING THE JURORS
 25 BACK IN, AND WE WILL RESUME WITH THE POLLING STARTING WITH
 26 QUESTION SIX.

1 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT IN THE
2 PRESENCE OF THE JURY:)
3 THE COURT: THEN WE'VE BEEN REJOINED BY ALL OF OUR
4 JURORS AFTER THEIR RETURN TO THE DELIBERATION ROOM TO MAKE
5 SURE WE DID GET 12 VOTES ON ALL OF THE QUESTIONS. SO WE WILL
6 RESUME WITH THE POLLING, AND WE'LL START, AGAIN, WITH QUESTION
7 NO. 6.
8 IF MADAM CLERK COULD AGAIN READ QUESTION NO. 6.
9 THE CLERK: "WAS DEFENDANTS' CONDUCT A SUBSTANTIAL
10 FACTOR IN CAUSING LE XUAN KHOA ACTUAL HARM?"
11 THE COURT: ALL RIGHT. NOW, AGAIN, THE JURY'S
12 VERDICT REPORTED ON THE JURY'S VERDICT FORM WAS AS TO
13 DEFENDANT NGUYEN DINH THANG THAT THE RESPONSE WAS A "YES." SO
14 IF YOUR VOTE -- YOUR INDIVIDUAL VOTE WAS A "YES," PLEASE RAISE
15 YOUR HAND.
16 ALL RIGHT. AND SO AT THIS TIME, WE HAVE 12 YES
17 VOTES AS TO THAT.
18 NOW, ON THAT SAME QUESTION AS TO DEFENDANT BOAT
19 PEOPLE S.O.S., THE JURY'S RESPONSE WAS A "YES." IF THAT WAS
20 YOUR INDIVIDUAL VOTE, IF YOU COULD PLEASE RAISE YOUR HAND.
21 ALL RIGHT. AND, AGAIN, WE HAVE ALL 12 HANDS IN
22 THE AIR, SO THAT WAS A UNANIMOUS ONE AS WELL.
23 AND THEN THE JURY HAS -- CONSISTENT WITH THE
24 INSTRUCTIONS, THEY DID NOT RESPOND TO QUESTION NO. 7, WHICH IS
25 THE ACTUAL DAMAGES. SO THEY HAD LEFT THAT BLANK, CORRECT,
26 MADAM CLERK?

1 MR. HART: YOUR HONOR, I THINK THE FOREMAN HAS A
2 COMMENT.
3 THE COURT: IF THERE IS SOMEONE THAT HAS MISVOTED --
4 DO NOT SHARE ANYTHING ABOUT THE DELIBERATIONS. THE ONLY THING
5 I CAN HEAR ABOUT IS IF SOMEBODY MISTAKENLY RAISED THEIR HAND.
6 OTHER THAN THAT, I CAN'T HEAR ANYTHING ABOUT THE CONTENT OF
7 DELIBERATIONS.
8 SO IF THERE WAS SOMEBODY THAT, YOU KNOW, RAISED
9 THEIR HAND ON A "YES" WHEN IT WOULD HAVE BEEN A "NO" OR VICE
10 VERSA OR SOMETHING ALONG THAT LINE, I CAN HEAR THAT.
11 OTHERWISE, I CAN'T INSERT MYSELF AND I CAN'T HEAR ABOUT THE
12 CONTENT OF YOUR DELIBERATIONS.
13 SO AGAIN TO BE CLEAR, WHATEVER AMOUNT THE JURY
14 COMES UP WITH, THERE NEEDS TO BE NINE VOTES FOR THAT, OR AT
15 LEAST NINE. THERE CAN BE MORE. BUT IN ORDER TO HAVE A JURY
16 RESPONSE TO ANY QUESTION, THERE NEEDS TO BE AT LEAST NINE
17 MEMBERS OF THE JURY WHO VOTE IN FAVOR OF THAT PARTICULAR
18 RESPONSE.
19 AGAIN, IT DOESN'T HAVE TO BE THE SAME NINE ON
20 EVERY SINGLE QUESTION, BUT WE NEED NINE VOTES FOR WHATEVER THE
21 RESPONSE MAY BE. SO IF YOU HAVE ANY QUESTIONS, THE FORMS ARE
22 THERE. YOU CAN WRITE IT OUT IF YOU HAVE A QUESTION. THEN WE
23 CAN -- I'LL WORK WITH THE ATTORNEYS TO GET YOU A RESPONSE TO
24 ANY QUESTION THAT YOU MAY HAVE, BUT WE CAN'T JUST HAVE AN OPEN
25 QUESTION IN OPEN COURT.
26 JUROR NO. 8: I'M RAISING MY HAND NOW.

1 THE CLERK: CORRECT.
2 THE COURT: SO THEN WE WILL MOVE AND START THE
3 POLLING AT QUESTION EIGHT NOW. SO IF YOU COULD, PLEASE,
4 REVIEW OR, EXCUSE ME, READ QUESTION EIGHT.
5 THE CLERK: "WHAT ARE THE DAMAGES YOU AWARD TO LE
6 XUAN KHOA FOR ASSUMING HARM TO HIS REPUTATION AND FOR SHAME,
7 MORTIFICATION OR HURT FEELINGS? YOU MUST AWARD AT LEAST A
8 NOMINAL SUM."
9 THE COURT: AND THEN WHAT WAS REPORTED ON THE JURY'S
10 VERDICT FORM WAS THE AMOUNT OF "\$500,000." IF THAT WAS YOUR
11 INDIVIDUAL VOTE, IF YOU COULD PLEASE RAISE YOUR HAND.
12 ALL RIGHT. LET'S SEE. WE HAVE JUROR NO. 1, 2,
13 3, 4, 5, 9, 11, AND 12.
14 AND IF THAT WAS NOT YOUR RESPONSE, PLEASE RAISE
15 YOUR HAND.
16 ALL RIGHT. THEN THAT ONE WE HAVE FOUR "NO"
17 VOTES ON. AND SO WHAT THAT MEANS IS, AS INDICATED, WE DO
18 NEED, IN ORDER TO HAVE A VERDICT AS TO EACH INDIVIDUAL
19 QUESTION, WE NEED AT LEAST NINE VOTES FOR WHATEVER THE
20 RESPONSE WAS TO THAT QUESTION. AS THE JURY INSTRUCTIONS
21 INDICATED, IT DOES NOT HAVE TO BE THE SAME EXACT NINE ON EVERY
22 SINGLE QUESTION, BUT WE NEED A MINIMUM OF NINE VOTES FOR
23 WHATEVER THE BODIES, THE JURY AS A WHOLE, VERDICT IS, A
24 RESPONSE.
25 SO WE'RE GOING TO NEED TO ASK YOU TO RETURN TO
26 THE JURY ROOM TO --

1 THE COURT: WAIT, WAIT, WAIT. NO, NO.
2 JUROR NO. 8: SORRY.
3 THE COURT: THE ONLY THING I COULD -- WELL, LET ME
4 RETURN YOU TO THE JURY ROOM BEFORE WE GO ANY FURTHER. AND
5 THEN LET US KNOW WHATEVER YOU NEED. IF THERE IS A QUESTION,
6 THERE IS THE FORM IN THERE.
7 (JURY RETURNS TO THE JURY ROOM.)
8 THE COURT: WE'LL GO AHEAD AND GO OFF THE RECORD.
9 (OFF THE RECORD.)
10 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT IN THE
11 PRESENCE OF THE JURY:)
12 THE COURT: ALL RIGHT. WE HAVE BEEN REJOINED BY THE
13 JURORS. WE HAVE ALL COUNSEL AND PARTIES PRESENT.
14 A QUICK QUESTION FOR OUR FOREPERSON: IS THERE
15 ANY NEED FOR ANY CHANGE ON THE VERDICT FORM BASED ON THE
16 DELIBERATIONS THAT HAVE JUST BEEN CONDUCTED?
17 FOREPERSON: NO.
18 THE COURT: THEN WHAT WE WILL DO IS PICK UP AGAIN
19 WITH QUESTION NO. 8 IS WHERE WE WERE LAST AT.
20 AND MADAM CLERK, PLEASE, AGAIN READ QUESTION
21 NO. 8 FOR THE RECORD.
22 THE CLERK: "WHAT ARE THE DAMAGES YOU AWARD TO LE
23 XUAN KHOA FOR ASSUMING HARM TO HIS REPUTATION AND FOR SHAME,
24 MORTIFICATION OR HURT FEELINGS? YOU MUST AWARD AT LEAST A
25 NOMINAL SUM."
26 THE COURT: AND THE AMOUNT THAT WAS RECORDED ON THE

1 VERDICT FORM THAT WAS RETURNED WAS "\$500,000."
 2 IF YOUR VOTE WAS FOR THAT \$500,000 FIGURE,
 3 PLEASE RAISE YOUR HAND HIGH SO I CAN TAKE OUR -- SO WE HAVE
 4 ONE, TWO, THREE, FOUR -- ONE THROUGH FIVE ARE "YES" VOTES. WE
 5 HAVE SEVEN THROUGH 12 ARE "YES" VOTES. THANK YOU VERY MUCH.
 6 AND THEN IF YOUR VOTE WAS NOT FOR THAT 500,000
 7 FIGURE, PLEASE RAISE YOUR HAND.
 8 AND THAT IS -- WE HAVE ONE HAND AND THAT IS FOR
 9 JUROR NO. 6. THANK YOU VERY KINDLY.
 10 AND THEN IF MADAM CLERK WOULD, PLEASE, READ
 11 QUESTION NO. 9.
 12 THE CLERK: "HAS LE XUAN KHOA PROVED BY CLEAR AND
 13 CONVINCING EVIDENCE THAT DEFENDANTS ACTED WITH MALICE,
 14 OPPRESSION OR FRAUD?"
 15 THE COURT: AND THE RESPONSE REPORTED ON THE JURY
 16 VERDICT FORM WAS "YES."
 17 IF THAT WAS -- YOUR INDIVIDUAL VOTE WAS A
 18 "YES," PLEASE RAISE YOUR HAND.
 19 ALL RIGHT. AND WE HAVE JURORS ONE THROUGH FIVE
 20 AND SEVEN THROUGH 12.
 21 AND IF YOUR VOTE WAS A "NO" AS TO -- YOUR
 22 INDIVIDUAL VOTE WAS A "NO" AS TO QUESTION NO. 9, PLEASE RAISE
 23 YOUR HAND.
 24 ALL RIGHT. AND THAT IS JUROR NO. 6.
 25 SO WE HAD 11 TO 1 VOTE AS TO THOSE LAST TWO
 26 QUESTIONS, EIGHT AND NINE.

1 ALL RIGHT. SO THEN WITH THAT POLLING AND
 2 CONFIRMATION, I WILL ASK THE CLERK TO PLEASE RECORD AND ENTER
 3 THE VERDICT.
 4 NOW, LADIES AND GENTLEMEN, WHAT WE HAVE IS,
 5 BASED ON THE OUTCOME OF THAT VERDICT FORM, THERE IS A LITTLE
 6 BIT MORE WORK TO BE DONE. AS INDICATED ON THE -- ONE JURY
 7 INSTRUCTION RELATED TO PUNITIVE DAMAGES, THAT IF THERE IS THAT
 8 VOTE FOR MALICE, OPPRESSION OR FRAUD, THE AMOUNT WILL BE
 9 DETERMINED LATER.
 10 WE HAD THAT "YES" VOTE AS TO THE MALICE,
 11 OPPRESSION OR FRAUD. SO THERE IS -- IT WILL BE BRIEF, BUT
 12 THERE IS ANOTHER SECTION OF TRIAL THAT WE NEED TO HAVE IN
 13 ORDER TO -- RELATING TO THE AMOUNT OF ANY PUNITIVE DAMAGES.
 14 AND THAT IS SOMETHING WE'LL NEED TO DO
 15 TOMORROW. IT WILL BE DONE TOMORROW. AND SO WE WILL STICK
 16 WITH OUR "BY THE 21ST BEING DONE." IT WILL BE A LITTLE BIT OF
 17 EVIDENCE AND ARGUMENT IN THE MORNING, AND THEN DELIBERATIONS
 18 REALLY JUST STRICTLY AS TO THE AMOUNT, IF ANY, PUNITIVE
 19 DAMAGES TO BE AWARDED.
 20 BUT BASED ON THE RESPONSE, WE DO HAVE TO
 21 CONDUCT THAT, WHAT WE REFER TO AS A SECOND PHASE OF THE TRIAL.
 22 AND I UNDERSTAND JURORS SOMETIMES GET A LITTLE
 23 FRUSTRATED HAVING TO HAVE THAT SECOND PHASE, BUT DISCLOSURE OF
 24 THAT SECOND PHASE CAN SOMETIMES IMPACT THE RESULTS IN THE
 25 FIRST PHASE. SO THAT'S WHY THE LAW DOES NOT PROVIDE FOR
 26 SHARING OF ALL THAT INFORMATION.

1 SO WHAT WE WILL DO IS WE WILL PAUSE HERE FOR
 2 TODAY. YOU'LL STILL REMAIN UNDER ALL THE INSTRUCTIONS THAT
 3 YOU HAVE BEEN GIVEN. WE WILL BE BACK TOMORROW AT 9:00 A.M.
 4 WE WILL HEAR A LITTLE BIT OF EVIDENCE AND A LITTLE BIT OF
 5 ARGUMENT IN THE MORNING. AND YOU WILL BE ASKED TO DO THE
 6 DELIBERATIONS. AND THAT SHOULD BE -- DELIBERATING TOMORROW
 7 BEFORE THE LUNCH HOUR TOMORROW WE'LL BE STARTING ON THE
 8 DELIBERATIONS AS TO THAT. AND, AGAIN, IT WILL STRICTLY BE AS
 9 TO THE AMOUNT, IF ANY, OF PUNITIVE DAMAGES TO BE AWARDED.
 10 SO AGAIN WE THANK YOU VERY, VERY MUCH FOR YOUR
 11 TIME AND SERVICE. AND WE WILL RELEASE YOU FOR TODAY, AND WE
 12 WILL SEE YOU AT 9:00 A.M. TOMORROW MORNING.
 13 THANK YOU VERY, VERY MUCH FOR YOUR TIME AND
 14 SERVICE.
 15 COURT ATTENDANT: YOUR HONOR, CAN I HAVE THEM GO GRAB
 16 THEIR NOTEBOOKS?
 17 THE COURT: WE CAN DO THAT IN THE MORNING.
 18 JUROR: WHAT DO WE DO WITH THESE?
 19 THE COURT: YOU CAN LEAVE THOSE THERE. IF YOU WANT
 20 TO CONSULT THAT DURING YOUR OTHER DELIBERATIONS, YOU CAN LEAVE
 21 THEM THERE FOR THE MORNING.
 22 (JURY EXCUSED FOR THE EVENING.)
 23 THE COURT: ALL RIGHT. SO AS INDICATED, WE OBVIOUSLY
 24 ARE GOING TO BE DOING A SECOND PHASE OF THIS ON THE PUNITIVE
 25 DAMAGES QUESTION. AS WE TALKED ABOUT YESTERDAY, WE NEED THAT
 26 FINANCIAL INFORMATION TURNED OVER NOW. AND SO I HEARD THE

1 REPRESENTATION THAT IT'S ON ITS WAY OR IT'S HERE OR WHERE DO
 2 WE STAND ON THAT?
 3 MR. ERIGERO: IT'S BEING DELIVERED TO THIS
 4 DEPARTMENT. SO WHAT I'M GOING TO DO IS EMAIL COUNSEL WHAT
 5 WE'RE GOING TO BE DELIVERING. THAT WAY YOU HAVE IT. THERE'S
 6 SUPPOSED TO BE FOUR COPIES. THEY'RE NOT HERE YET.
 7 THE COURT: WELL, WE NEED TO MAKE SURE WE GET THAT
 8 BEFORE ANYBODY LEAVING HERE TODAY SO THAT WE CAN GET THAT
 9 GOING. THAT'S OBVIOUSLY THE WHOLE THRUST OF THE PHASE TWO FOR
 10 TOMORROW.
 11 THE NEXT THING WE NEED TO CONFIRM -- AND I
 12 THINK WE'VE ALREADY CONFIRMED THIS, BUT I JUST WANT TO BE
 13 CLEAR -- THE ONE AND ONLY JURY INSTRUCTION WE WILL BE READING
 14 TO THEM IS THE ONE THAT WAS ALREADY SUBMITTED BY THE PARTIES,
 15 WHICH IS CACI 3949, WHICH IS ENTITLED "PUNITIVE DAMAGES
 16 INDIVIDUAL AND CORPORATE DEFENDANTS, BIFURCATED TRIAL SECOND
 17 PHASE."
 18 SO THAT'S THE ONE AND ONLY FORM -- OR NOT FORM,
 19 EXCUSE ME, INSTRUCTION?
 20 MR. HART: CORRECT, JUDGE.
 21 MR. VOSS: THAT'S CORRECT, YOUR HONOR.
 22 THE COURT: ALL RIGHT. SO THAT'S BOTH PARTIES. THEN
 23 WHAT WE DON'T HAVE AND WHAT WE'LL NEED -- AND IT'S GOING TO BE
 24 VERY QUICK AND SHORT -- IS A VERDICT FORM FOR PHASE TWO. AND
 25 I WOULD ANTICIPATE THE ONLY QUESTION WE NEED ON THERE WOULD
 26 BE --

1 MR. HART: CAN WE MODIFY THE FORM WE HAVE NOW BY JUST
 2 ADDING A QUESTION TEN?
 3 THE COURT: WELL, NO, BECAUSE THEY ALREADY SIGNED IT.
 4 MR. HART: NO, I UNDERSTAND.
 5 THE COURT: SO I THINK WE'LL NEED A PHASE TWO VERDICT
 6 FORM.
 7 MR. HART: OKAY.
 8 THE COURT: AND HEAR ME OUT. I'LL ENTERTAIN ANY
 9 OTHER ARGUMENT, BUT I BELIEVE IT WILL PROBABLY ONE QUESTION.
 10 WE ALREADY HAVE THE MALICE, OPPRESSION AND FRAUD. WE HAVE TWO
 11 DEFENDANTS, SO I GUESS..
 12 MR. VOSS: WELL, WE HAVE THAT. BUT I WAS JUST
 13 THINKING ABOUT IT'S TO THE AMOUNT, IF ANY. SO YEAH, IT WOULD
 14 STILL BE THE SAME ONE QUESTION.
 15 THE COURT: I'M JUST LOOKING AT CACI VERDICT FORM
 16 3900. "WE ANSWERED THE QUESTION SUBMITTED TO US AS FOLLOWS."
 17 QUESTION NO. 1 IS THE MALICE, OPPRESSION OR FRAUD, WHICH HAS
 18 ALREADY BEEN ASKED.
 19 QUESTION NO. 2: "WHAT AMOUNT OF PUNITIVE
 20 DAMAGES, IF ANY, DO YOU AWARD?" AND THEN THE NAME OF
 21 PLAINTIFF. AND THEN WE'LL HAVE TO BREAK IT OUT BY THE
 22 DEFENDANTS.
 23 SO WE WILL NEED THAT. WHO WILL BE PREPARING
 24 THAT?
 25 MR. HART: I'LL BE A LITTLE BUSY PREPARING FOR THE
 26 EXAM, JUDGE. I WOULD ASK MR. ERIGERO, IF HE COULD HAVE HIS

1 SUPER-DUPER PARTNER PREPARE THAT FORM.
 2 MR. ERIGERO: WE CAN DO THAT.
 3 THE COURT: THEN IF WE COULD HAVE THAT FIRST THING IN
 4 THE MORNING, WE'RE GOING TO NEED THAT SO WE CAN ALL SEE IT AND
 5 SIGN OFF ON IT. I DON'T ANTICIPATE, GIVEN THIS SIMPLICITY,
 6 THAT THERE SHOULD BE ANY ISSUE WITH IT, BUT WE WILL --
 7 MR. VOSS: CACI NUMBER?
 8 THE COURT: THIS IS VF 3900. AND LIKE I SAID, IT HAS
 9 THE MALICE, OPPRESSION OR FRAUD QUESTION, WHICH WE DON'T NEED,
 10 YEAH, BUT WE WILL NEED TO MODIFY IT --
 11 MR. VOSS: ALL GOOD.
 12 THE COURT: -- FOR TWO DEFENDANTS.
 13 MR. ERIGERO: I AM TOLD THE DOCUMENTS ARE OUTSIDE.
 14 SO IF I COULD GO WHEN WE RECESS.
 15 THE COURT: THEY MIGHT BE RIGHT HERE.
 16 MR. VOSS?
 17 MR. VOSS: YES, YOUR HONOR. WE WILL MOVE FOR
 18 JUDGMENT NOTWITHSTANDING THE VERDICT AT SUCH TIME THAT YOU'RE
 19 PREPARED TO RECEIVE THAT MOTION.
 20 THE COURT: ALL RIGHT. YOU WANT TO MAKE AN ORAL
 21 MOTION NOW?
 22 MR. VOSS: GIVEN THE SPEED WITH WHICH WE'RE MOVING
 23 DIRECTLY INTO THE PUNITIVE PHASE, UNLESS THE COURT WOULD
 24 ENTERTAIN THAT AFTER THE PUNITIVES HAVE ALREADY BEEN HEARD. I
 25 PREFER TO BE ABLE TO BRIEF IT, BUT..
 26 MR. HART: I DON'T THINK THEY SUFFER ANY PREJUDICE BY

1 WAITING. IN FACT, I THINK IN MY EXPERIENCE, AS I RECALL --
 2 THE COURT: IT'S USUALLY A POST-TRIAL MOTION.
 3 MR. VOSS: YES.
 4 MR. HART: THE VERDICT HAS TO BE ENTERED. AND, IN
 5 FACT, THE JUDGMENT HAS TO BE ENTERED BEFORE THE START TIME
 6 EVEN BEGINS.
 7 THE COURT: JUST LIKE A NEW TRIAL MOTION, SAME BASIC
 8 PROCEDURE FOR THAT.
 9 MR. HART: RIGHT.
 10 THE COURT: THEN LET'S TALK A LITTLE MORE LOGISTICS
 11 BEFORE WE WRAP UP HERE. WELL, WE HAVE THE DOCUMENTS HERE NOW.
 12 MR. ERIGERO: YES. KEEP TALKING. I'LL BREAK THEM
 13 APART INTO FOUR COPIES.
 14 MR. HART: DID I HEAR CORRECTLY THAT DIGITAL COPIES
 15 WILL BE SENT TO ME BY EMAIL?
 16 MR. ERIGERO: JUST DID.
 17 MR. HART: OKAY. SO I DON'T NEED TO TAKE THOSE.
 18 THOSE CAN STAY HERE.
 19 THE COURT: WELL, I THINK HE'S GOT FOUR SETS. HE'S
 20 ORGANIZING THEM AND BREAKING THEM OUT SO THERE ARE FOUR SETS
 21 OF THEM INSTEAD OF JUST ONE BIG --
 22 MR. VOSS: WHEN WE DISCUSSED IT AFTER COURT
 23 YESTERDAY, WE SAID ONE THERE, ONE THERE, ONE EACH HERE.
 24 THE COURT: I THINK IT'S PERFECTLY APPROPRIATE. MY
 25 NEXT QUESTION, THOUGH, THEN COMES DOWN TO THE LOGISTICS. SO
 26 IN TERMS OF TIME ESTIMATES, THAT SORT OF THING, DO WE WANT

1 THE -- JUST DIVE RIGHT IN WITH THE QUESTIONING? HOW DO WE
 2 WANT TO -- I'M SOLICITING SUGGESTIONS BEFORE I JUST --
 3 MR. HART: MAY I INQUIRE, JUDGE. WILL DR. THANG BE
 4 SUFFICIENT TO AUTHENTICATE ALL OF THE RECORDS THAT HAVE JUST
 5 BEEN PRODUCED?
 6 MR. VOSS: YES.
 7 MR. HART: OKAY. THEN I'LL JUST EXAMINE HIM ON THE
 8 RECORDS. I WOULD FIGURE AN HOUR OR LESS.
 9 MR. VOSS: WE'LL STIPULATE TO THE AUTHENTICITY OF THE
 10 RECORDS.
 11 MR. HART: I MEAN, I STILL HAVE TO CHECK TONIGHT
 12 WHETHER THEY'RE COMPLETE.
 13 (SIMULTANEOUS SPEAKING.)
 14 THE COURT: AND YOU HAVE THE OPPORTUNITY. HE'S JUST
 15 SAYING, IN TERMS OF AUTHENTICITY, THAT THEY'RE WILLING TO
 16 STIPULATE THAT THE RECORDS ARE WHAT THEY --
 17 MR. HART: LOOKS TO ME IT WILL GO PRETTY SMOOTHLY.
 18 THE COURT: SO AN HOUR-ISH. AND THEN ANY -- MR. VOSS
 19 ANY --
 20 MR. VOSS: DEFENDANTS WILL BE BRIEF.
 21 THE COURT: AND THEN --
 22 MR. HART: THEN WE'RE GOING TO ARGUE.
 23 THE COURT: YES. AND I WOULD ASSUME THIS ARGUMENT
 24 WOULD BE MUCH SHORTER THAN OUR LAST?
 25 MR. VOSS: I THINK IT WOULD ALSO BE BRIEF.
 26 MR. HART: YES.

1 THE COURT: SO IF WE START AT NINE, I WOULD HOPE
 2 MAYBE WE CAN GET THEM DELIBERATING BETWEEN 10:30, NO LATER
 3 THAN 11?
 4 MR. VOSS: 10:45 FOR THEM.
 5 MR. HART: THAT SOUNDS GOOD, YES.
 6 MR. VOSS: THAT WOULD BE MY BELIEF.
 7 THE COURT: I JUST WANT TO MAKE SURE WE'RE ALL ON THE
 8 SAME PAGE. THEN IF WE COULD BE HERE 8:15 TOMORROW. SO WE'LL
 9 HAVE THAT VERDICT FORM THAT WE'LL JUST TAKE A QUICK GANDER AT
 10 IT. I CAN'T IMAGINE, LIKE I SAID, THERE SHOULD BE ANY ISSUE
 11 AT ALL.
 12 IN A MOMENT, WE CAN GO OFF THE RECORD AND DIVVY
 13 UP THE RECORDS THAT HAVE JUST BEEN PROVIDED. WE HAVE THE
 14 SINGLE JURY INSTRUCTION. WE'LL NEED A LIST -- JUST
 15 ORGANIZATIONALLY, IF WE COULD HAVE AN EXHIBIT LIST TOMORROW
 16 MORNING AS WELL THAT WE CAN ALL WORK OFF OF AND WE CAN PICK
 17 UP --
 18 (DISCUSSION BETWEEN COURT AND CLERK.)
 19 THE COURT: THE DEFENSE EXHIBITS HAVE BEEN IN THE
 20 200'S; IS THAT CORRECT?
 21 MR. ERIGERO: YES.
 22 THE COURT: SO WE'LL JUST PICK UP OFF THE NEXT IN
 23 ORDER? LET'S START WITH 300. AND IF WE CAN GET AN EXHIBIT
 24 LIST FOR THOSE DOCUMENTS. AND THAT SHOULD BE IN THE MORNING
 25 WHEN YOU COME IN WITH THE POST VERDICT FORM. SO WE GET THE
 26 EXHIBIT LIST, WE'LL GET THE PROPOSED VERDICT FORM. WE'RE

1 GOING TO GET THE RECORDS HERE IN JUST A MOMENT.
 2 ANYTHING ELSE FROM ANY PARTY? ANYBODY HAVE ANY
 3 OTHER QUESTIONS, SUGGESTIONS, ANYTHING AT ALL?
 4 ALL COUNSEL: NO, YOUR HONOR.
 5 THE COURT: OKAY. WE'LL GO OFF THE RECORD.
 6 (EVENING ADJOURNMENT.)
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1 REPORTER'S CERTIFICATE
 2
 3 STATE OF CALIFORNIA)
 4) SS.
 5 COUNTY OF ORANGE)
 6
 7 I, MICHELLE LOTT-MEYERHOFER, CSR NO. 8226, REPORTER
 8 PRO TEMPORE, IN AND FOR THE SUPERIOR COURT OF THE STATE OF
 9 CALIFORNIA, COUNTY OF ORANGE, DO HEREBY CERTIFY;
 10 THAT THE FOREGOING TRANSCRIPT IS A FULL, TRUE AND
 11 CORRECT TRANSCRIPT OF MY SHORTHAND NOTES, AND IS A FULL, TRUE
 12 AND CORRECT STATEMENT OF THE PROCEEDINGS HAD IN SAID CAUSE.
 13
 14 DATED THIS ____ DAY OF _____, 2024.
 15
 16
 17
 18 _____
 19 MICHELLE LOTT-MEYERHOFER, CSR NO. 8226
 20 OFFICIAL REPORTER PRO TEM
 21
 22
 23
 24
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