

**MINUTES
LONGBOAT KEY TOWN COMMISSION
SPECIAL MEETING
ATTORNEY-CLIENT SESSION
JULY 6, 2015 - 6:00 P.M.**

Present: Mayor Jack Duncan, Vice Mayor Terry Gans, Commrs. Lynn Larson, Irwin Pastor, Phill Younger, Pat Zunz,

Also: Town Manager Dave Bullock, Town Attorney Maggie Mooney-Portale
Present: Town Clerk Trish Granger

Not Present: Commr. Jack Daly

CALL TO ORDER

Mayor Duncan called the Special Meeting to order at 6:00 p.m., in the Town Commission Chamber, 501 Bay Isles Road, Longboat Key, Florida.

1. Litigation

The Commission will consider the request of the Town's Legal Counsels' to hold an Attorney-Client Meeting relating to pending litigation in the matter of *Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010, Case No. 2MDL NO. 2179, Section J*, currently pending in the United States District Court of the Eastern District of Louisiana.

Town Attorney Maggie Mooney-Portale introduced participants in the Attorney-Client session, provided an overview of the limitations on the issues to be discussed and addressed and the scope of the meeting.

Following comments, Commr. Zunz moved to approve the request to hold an Attorney-Client Session. The motion, seconded by Commr. Younger, carried by a 6-0 roll call vote, as follows: Zunz, aye; Younger, aye; Larson, aye; Pastor, aye; Gans, aye; Duncan, aye.

Mayor Duncan noted the session would be limited to discussion of the item referenced by the Town Attorney and would be approximately one hour long, and advised that the following individuals would be in attendance:

Jack Duncan, Mayor
Terry Gans, Vice Mayor
Lynn Larson, Commissioner
Irwin Pastor, Commissioner
Phill Younger, Commissioner
Pat Zunz, Commissioner
Dave Bullock, Town Manager
Maggie Mooney-Portale, Town Attorney
Robert Turffs, Esquire, Special Litigation Counsel
Kevin Dean, Esquire, Special Litigation Counsel (Motley Rice LLC)
Certified Court Reporter (Note: A transcript of the meeting will be made and will become available as a public record upon conclusion of the litigation.)

1. Litigation - Continued

Mayor Duncan recessed the Special Meeting at 6:04 p.m.

RECESS: 6:04 p.m. - 6:53 p.m.

Mayor Duncan reconvened the Special Meeting at 6:53 p.m.

Town Attorney Mooney-Portale commented on the settlement offer of \$1,232,726.00 for full and final settlement of the BP litigation and noted the necessary Commission action in accordance with the Settlement agreement and Court requirements.

Commr. Larson moved to authorize the acceptance of the recommended settlement amount associated with the BP litigation in the amount of \$1,232,726.00. The motion, seconded by Commr. Younger, carried by a 6-0 roll call vote, as follows: Larson, aye; Younger, aye; Gans, aye; Duncan, aye; Pastor, aye; Zunz, aye.

Commr. Younger moved to authorize execution of the proposed Release associated with the BP litigation. The motion, seconded by Commr. Larson, carried by a 6-0 roll call vote, as follows: Younger, aye; Larson, aye; Zunz, aye; Pastor, aye; Duncan, aye; Gans, aye.

Town Attorney Mooney-Portale advised that Resolution 2015-21 had been drafted to memorialize the Town's acceptance of the settlement offer in the matter.

Following comments, Vice Mayor Gans moved to pass Resolution 2015-21, that memorializes the Town's acceptance of a full and final settlement of all claims in the BP litigation as part of the settlement terms. The motion, seconded by Commr. Larson, carried by a 6-0 roll call vote, as follows: Gans, aye; Larson, aye; Pastor, aye; Younger, aye; Zunz, aye; Duncan, aye.


Commr. Younger moved to provide full authority to Town Attorney Mooney-Portale and Town Manager Dave Bullock to take any further actions on the Town's behalf that are necessary and consistent with the above settlement terms to finalize the settlement of the litigation with BP. The motion, seconded by Commr. Larson, carried by a 6-0 roll call vote, as follows: Younger, aye; Larson, aye; Duncan, aye; Gans, aye; Pastor, aye; Zunz, aye.

ADJOURNMENT

Mayor Duncan adjourned the July 6, 2015, Special Meeting at 6:58 p.m.

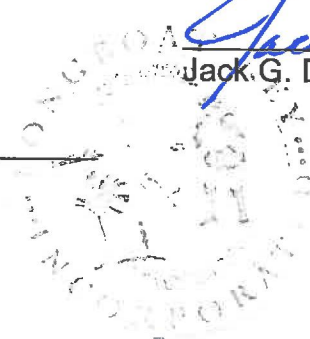


Trish Granger, Town Clerk



Jack G. Duncan, Mayor

Minutes Approved: 9-9-15



TOWN OF LONGBOAT KEY COMMISSION
SPECIAL MEETING

IN RE: Oil Spill by the Oil Rig "Deepwater
Horizon"
Case No. 2MDL NO. 2179, Section J

WHERE: Longboat Key Town Hall
501 Bay Isles Road
Longboat Key, Florida 34228

WHEN: July 6, 2015

TIME: 6:00 p.m. - 6:51 p.m.

TAKEN BY: Denise Maglich-Stone
Court Reporter
Notary Public
State of Florida at Large

APPEARANCES: Jack Duncan, Mayor
Terry Gans, Vice Mayor
Lynn Larson, Commissioner
Irwin Pastor, Commissioner
Phill Younger, Commissioner
Pat Zunz, Commissioner
Dave Bullock, Town Manager

1 APPEARANCES: Maggie Mooney-Portale, Esquire
2 Persson & Cohen, P.A.
3 6853 Energy Court
4 Lakewood Ranch, Florida 34240
5 Appearing on behalf of Town of Longboat Key

6 Robert Turffs, Esquire
7 Robert E. Turffs, P.A.
8 1444 First Street, Suite B
9 Sarasota, Florida 34236
10 turffs@gmail.com
11 Special Litigation Counsel on behalf of
12 Town of Longboat Key

13 Kevin R. Dean, Esquire
14 Motley Rice LLC
15 28 Bridgeside Boulevard
16 Mt. Pleasant, South Carolina
17 29464
18 kdean@motleyrice.com
19 Special Litigation Counsel on behalf of
20 Town of Longboat Key
21
22
23
24
25

P R O C E E D I N G S

1
2 MS. MOONEY-PORTALE: Before we get
3 started, I want to remind everybody that in
4 today's antechamber we can only talk about
5 matters related to litigation that is pending,
6 that is the BP Deep Horizon litigation.

7 There is a court reporter present at the
8 end of the table, and for purposes of keeping
9 the court reporter happy and so she does not
10 get mad and actually make an accurate verbatim
11 transcript of everything that is said in
12 today's proceedings, please speak one at a
13 time. Please denote any comments with a verbal
14 response. And please, if she waives her hand
15 and, you know, is signaling to slow down so
16 that she can take things down, please respect
17 that and honor that because we must make a
18 verbatim transcript of these proceedings, which
19 will be released at the conclusion of this
20 litigation.

21 First, let me thank you all for making
22 yourself available in somewhat of a quick,
23 short order for this meeting. We hope that
24 this will make everybody happy, because we have
25 recently found out that we have received a

1 settlement offer in regards to the economic
2 claims litigation that we have filed against
3 BP.

4 Some years ago, actually back in 2012, the
5 Town engaged the law firm of Motley Rice.
6 Kevin Dean is an attorney with Motley Rice as
7 out-of-state counsel -- his firm is in South
8 Carolina -- and Bob Turfffs, who is local
9 counsel, to represent the Town's interests in
10 this litigation.

11 I'm going -- momentarily I'm going to hand
12 over this to them to talk about where we are
13 and what the offer is. But before we get
14 started we wanted to make sure to remind you
15 all of the terms of the engagement with Motley
16 Rice. They were engaged by the Town in 2012.
17 They -- to the extent we get a settlement over
18 a million dollars, they and Mr. Turfffs are
19 entitled to 20 percent of any recovery.

20 This is a copy of the engagement letter.
21 We will be handing you several documents during
22 this session. This is one of the documents you
23 may keep. You will be hearing from us in other
24 regards and we will be giving you documents,
25 but asking for their return. We are under a

1 strict confidentiality order of which we have
2 shared with you in communications that
3 prohibits us from releasing certain things
4 associated with the settlement negotiations.

5 This is one of the documents that we can
6 release, though, because it's already in the
7 Town's public record.

8 With that said, we're pleased to bring
9 forward a settlement amount that has been
10 offered. And I will turn it over to Kevin
11 Dean, who has been handling the lion's share of
12 negotiations in that regard.

13 MR. DEAN: Madam Court Reporter, what is
14 your name?

15 COURT REPORTER: Denise Maglich,
16 M-A-G-L-I-C-H.

17 MR. DEAN: Spell your last name, please.

18 COURT REPORTER: M-A-G-L-I-C-H.

19 MR. DEAN: And your cell phone number, or
20 a contact?

21 COURT REPORTER: 941- * * * *

22 MR. DEAN: Madam Court Reporter, I want to
23 hand you a copy of the confidentiality order,
24 the order that was -- but I want to hand you
25 the relevant one, which requires that

1 everything that we discuss in this meeting,
2 with the exception of the settlement amount and
3 release, which we'll get to in the public
4 hearing, but everything we discuss here is
5 confidential. You're taking down everything
6 we're saying, it's being transcribed. But I'm
7 giving you a copy of the judge's
8 confidentiality order. It applies to you, just
9 like it does to me. You cannot release that
10 transcript or any documents that we give to you
11 until the Town Attorney notifies you. We
12 anticipate that to be somewhere around July 14
13 or 15th. So I've handed you a copy of that
14 order and ask that you abide by it, as well.

15 MS. MOONEY-PORTALE: Just for purposes of
16 the record, Mr. Dean, the entire Town
17 Commission who is sitting here has received a
18 copy of that confidentiality order that was
19 provided to you all by correspondence, dated
20 July 2. You all received a copy of that order.

21 MR. DEAN: Good evening. So all the
22 formalities are over with.

23 I'm a pretty informal guy. I'm going to
24 give you the -- all the details that I have.
25 Stop me at any time if you have questions. The

1 best way is if you have questions, let's go
2 ahead and ask me as we go through it.

3 My name is Kevin Dean. I work for a firm
4 called Motley Rice out of Charleston, South
5 Carolina. And my senior partner is Joe Rice,
6 and he is a member of the PSC Steering
7 Committee, and one of the co-negotiators that
8 resulted in the economic loss settlement with
9 the businesses that you heard about several
10 years ago.

11 So there's approximately -- there's in
12 excess of 500 cities and counties that have
13 filed lawsuits from Texas all the way to Monroe
14 County in the Keys. Those lawsuits had to be
15 filed by the statute of limitations, which was
16 April 20, 2013.

17 So your Commission or county retained Bob
18 and I to file that lawsuit. And we filed that
19 lawsuit on your behalf seeking under the Oil
20 Pollution Act, the Town's potential losses that
21 might be tied to tourism or taxes, or whatever
22 it may be tied to. We timely filed it on
23 April the 19th -- actually, April the 18th. I
24 believe it was filed before the statute of
25 limitations expired.

1 So anybody that didn't make a claim by
2 that date is barred now. So the State of
3 Alabama was the first governmental case to
4 go -- set for trial. And that trail was set in
5 September.

6 As the Court started looking at the
7 application of the Oil Pollution Act to the
8 state and to the local governments, you know,
9 any time you get close to trial, just how it
10 works with my business, any time you get close
11 to trial then the lawyers or the defendants or
12 the plaintiffs start getting interested in
13 talking settlement before a jury is empaneled.
14 That's what happened here. You're about six
15 weeks away from the State of Alabama's trial.

16 So there was some interest in hopefully
17 looking at all of these claims expressed. And
18 the court appointed a three-person neutral
19 panel to advise the court, review all 500
20 governmental claims, and basically make a
21 recommendation to that entity, that
22 governmental entity and BP, on a settlement
23 that would resolve the case.

24 The members of the panel was U.S.
25 Magistrate Judge Sally Shoshone. She's the one

1 that signed the order that you have seen. The
2 second one is the Claims Administrator for the
3 Deepwater Horizon, whose name was Patrick
4 Genoe. He's the guy that runs the claims
5 facility for the court that pays out all of the
6 businesses, the restaurants, and things like
7 that.

8 And the third person was a former FBI
9 Director, Louie Freeh, who is Special Counsel
10 to the court, looking at issues, you know,
11 fraud, all kinds of other legal issues that
12 require investigation.

13 So that panel was appointed recently.
14 They got together with their facilities
15 accountants and they applied a different type
16 methodology -- which we'll talk about in just a
17 second -- a different type of methodology to
18 reach what they thought would be a fair and
19 reasonable offer that the governmental entity,
20 the Town of Longboat Point, Long Beach, should
21 accept, and a reasonable amount that BP should
22 pay. So they went through their analysis.

23 When we filed a claim, we had to make
24 something called presentment. So before you
25 file suit, you have to make a presentment. You

1 have to give BP 90 days to pay the claim. And
2 if they don't pay the claim then you get the
3 authorization to file suit. We made
4 presentment for you back in January of 2013 for
5 \$5.9. That sum certain -- which was called a
6 sum certain demand -- that was calculated based
7 on looking at property tax losses, enterprise
8 funds, all the types of revenue -- every
9 government is a little different -- but all the
10 types of revenue that you had come in.

11 Those were analyzed and they reached what
12 our accountant, Dixon Hughes, which were, you
13 know, did the forensic work for you, reached a
14 base compensation number, and then we applied
15 what's called a five-times multiplier.

16 Because we, the lawyers, were predicting
17 out -- and that's what lawyers do in this type
18 of litigation, is try to predict the numbers
19 out as far out as possible. And that's what we
20 did. We did a five-times multiplier. It also
21 increases the value. So it's a demand. It's
22 just a -- you know, a demand that's out there
23 that this is what we would accept.

24 It doesn't mean that that's what a jury
25 would award, it doesn't mean that's not what

1 the parties would you settle for at a later
2 date.

3 So nothing has happened over the last, you
4 know, two years that this claim has been
5 pending, except for work on that State of
6 Alabama case, until recently. All the forensic
7 work was done for you way back in early 2013.
8 I've got those records. They should be here in
9 the office, but we can supply them with you if
10 you need them. So over the last 30 days, two
11 weeks to 30 days, the court neutrals -- do you
12 have a question?

13 COMMISSIONER PASTOR: The 5.9, that's
14 future? Isn't there another 1.1 --

15 MR. DEAN: Well, the 1.1, the base
16 compensation number was the multiplier times
17 five. So it's probably something like 1.2, and
18 then multiply it times five.

19 COMMISSIONER PASTOR: So that's how you
20 got to the 5.9?

21 MR. DEAN: Yes, sir. So there was a base
22 compensation. And what we're finding from all
23 of communities, if you go back and look at the
24 detailed report that Dixon Hughes --

25 COMMISSIONER PASTOR: So it's five times

1 the 1.1, whatever --

2 MR. DEAN: It's that plus four times that,
3 which equals five times that. So one year's
4 losses times four, which equals equivalent of
5 five years worth of losses. So 2010 all the
6 way through the full year of 2015, is what the
7 claim for 5.9 was made. And there was a demand
8 letter that's out there that the City has.
9 There's a forensic report that the City was
10 given way back then when that demand was made.

11 MS. MOONEY-PORTALE: The amount
12 specifically of the Town's damages that were
13 estimated was \$1,373,589.

14 MR. DEAN: That's the base --

15 MS. MOONEY-PORTALE: For past losses.

16 MR. DEAN: Yes. So last Monday, the court
17 issued -- the neutrals panel issued, number
18 one, Judge Shoshone issued a confidentiality
19 order that all the discussions, including the
20 documents, are to be kept confidential.

21 This is just my opinion or my thought on
22 why this is, you know, the secrecy surrounding
23 it is such to give all the other communities
24 the -- not have outside influence about who got
25 what or those kinds of things, give the process

1 time to work internally at each of the
2 governmental entities. The methodology that we
3 understand -- and I have a cheat sheet. It's a
4 little short version of it.

5 What they did is when we projected the
6 County losses, we applied the business
7 settlement thousand-page document, which
8 basically said you have eight months. And you
9 get to, as the Claimant, choose the three best
10 months you want to use. You use that as your
11 multiplier and then you start calculating your
12 losses.

13 So you can actually -- you know, June,
14 July, August for tourism-type businesses or
15 restaurants on the beach, you would think those
16 would be their highest losses, so you wouldn't
17 want to average it out --

18 COMMISSIONER YOUNGER: Not here.

19 MR. DEAN: It might not be.

20 My point here is maybe October, November,
21 December is your highest loss time frame. You
22 wouldn't want me factoring in a low month and
23 then have it reduce your average.

24 So that was the model way back then --

25 COMMISSIONER PASTOR: For the record, it's

1 time to work internally at each of the
2 governmental entities. The methodology that we
3 understand -- and I have a cheat sheet. It's a
4 little short version of it.

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6 County losses, we applied the business
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14 July, August for tourism-type businesses or
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21 December is your highest loss time frame. You
22 wouldn't want me factoring in a low month and
23 then have it reduce your average.

24 So that was the model way back then --

25 COMMISSIONER PASTOR: For the record, it's

1 February, March, and April.

2 MR. DEAN: Okay. So February, March, and
3 April, you wouldn't want to factor something in
4 from October that would reduce your three-month
5 average. That's the way we were allowed to do
6 it under the business settlement agreement way
7 back when we estimated it.

8 So what this court neutral panel, what
9 they did, as we understand it, they factored in
10 all eight months. So they said you're stuck
11 with all eight months. You average all eight
12 months and get a realistic view of what the
13 annual loss really would have been. And we're
14 not just going to let you cherry pick what
15 months, like some of the businesses were able
16 to.

17 The second thing they didn't include --
18 because the Oil Pollution action is really
19 untested in regard to how far -- who is
20 entitled to really recover. Are businesses and
21 governmental entities where there's no oil on
22 the shores or there's no tarballs, or there's
23 no direct oil that hits the shores, are those
24 communities and those businesses entitled to
25 have open claims? So that's not been tested

1 and it's still something that's up in the air.

2 So the court took out property damages,
3 property taxes. The court neutrals did not
4 factor into this offer for anybody of the 530.
5 They didn't factor any property tax losses
6 because of what was really going on, you know,
7 in the late 2008, 2009, 2010 time frame.

8 So they also only applied a two
9 multiplier. So they got a damages and apply it
10 two more years. So they reached a, what they
11 considered to be a fair and reasonable offer.

12 COMMISSIONER YOUNGER: You say they
13 reduced the multiplier from five to two? Is
14 that what you just said?

15 MR. DEAN: Well, they chose their own
16 multiplier, which is the equivalent of a two
17 multiplier.

18 COMMISSIONER YOUNGER: Okay.

19 MR. DEAN: So multiply it times two.

20 COMMISSIONER GANS: One plus two?

21 MR. DEAN: One plus one.

22 COMMISSIONER GANS: Oh, one plus one.

23 MR. DEAN: So what I'm saying is they had
24 had Price Waterhouse or another accounting firm
25 called P & C run all the same financial data

1 that your City Manager had previously given us
2 that we had at Dixon Hughes. So it's the same
3 date, they just ran it through a different
4 methodology and a different calculator to get a
5 different --

6 COMMISSIONER PASTOR: But at the end of
7 the day they reduced it by 40 percent.

8 MR. DEAN: Yeah. So let me -- the other
9 thing is everybody has the same formula. It's
10 like the business claims. You know, there's a
11 settlement agreement, it's all the calculations
12 are like this --

13 COMMISSIONER YOUNGER: So 60 percent.

14 MR. DEAN: Every governmental entity has
15 the same cut, the same -- they stand in the
16 same footing as far as the calculations and the
17 methodology.

18 You may have different financials, you may
19 have different numbers, you may have different
20 losses, but everybody is in the same boat when
21 it comes to how a calculation is applied.

22 The -- do you have the letter from the court?

23 MR. TURFFS: And while you're doing that,
24 if I can just state one thing.

25 MR. DEAN: Sure.

1 MR. TURFFS: The one thing that Kevin just
2 referenced was the fact that under the Oil
3 Pollution Act, which was passed in the wake of
4 the Exxon Valdez --

5 (Unintelligible talking.)

6 MAYOR DUNCAN: Time out guys. Let's not
7 all be talking. Maggie, I can, you know, be
8 the overseer here, or you can. What do you
9 want to do? Because I think it's more
10 appropriate for you.

11 MS. MOONEY-PORTALE: I'd be happy to.

12 At this point in time we're going to pass
13 out the settlement number that came from the
14 court, because I think that's what the bottom
15 line is; how much is the court suggesting?

16 And this document has to be returned to
17 me. It came from the United States District
18 Court. It's dated June 27. And the total
19 amount that's being offered to the Town of
20 Longboat Key is \$1,232,726.00. And I'll pass
21 this along to everybody. It's on page three.
22 So I'm passing out seven copies.

23 MR. DEAN: While you're looking at that,
24 what we did when we got those offers, we had
25 Dixon Hughes go back and try to calculate and

1 check behind the court neutral to figure out
2 what they were doing and how they reached the
3 calculations and give us a recommendation.

4 You know, you always, when you get
5 involved in litigation, you have to take into
6 consideration what is the court ruling going to
7 be, are we going to lose our claim or will we
8 get tossed on Summary Judgment?

9 You have to think about the cost of
10 litigation; how much is it going to cost us to
11 actually try this case and go all the way?

12 And the last thing you have to really
13 think about is time. Do we want to stay
14 involved and litigate with BP for the next ten
15 years?

16 So what the court did is come up with a
17 process to evaluate all 530, and issue offers,
18 what I call a contingent offer to BP -- I mean
19 to the governmental entities and BP. And BP
20 has agreed in principle to accept these court
21 neutral offers after they receive back all of
22 the releases.

23 COMMISSIONER YOUNGER: All of them?

24 MR. DEAN: Well, you know what? We don't
25 know the answer to that. I'll be perfectly

1 honest with you, I don't know the answer to
2 that. The last order says -- if you want to
3 read it to them.

4 MS. MOONEY-PORTALE: So let me -- Kevin is
5 explaining that the settlement offer is
6 contingent on two things basically. The
7 execution of a release -- which I'm going to
8 pass you, which again is another document that
9 I need to get back because it is still a
10 contingent document -- so the execution of a
11 release and the execution of a resolution that
12 they have proposed. I'm going to give you the
13 resolution, as well.

14 MR. DEAN: So we're unclear about that.
15 The judge's order --

16 MAYOR DUNCAN: I need one more of the
17 settlement communication releases. There we
18 go.

19 MR. DEAN: BP will make its decision to
20 accept or reject the global settlement with the
21 local governmental entities based upon the
22 receipt and acceptance of releases from
23 substantially all of the local government
24 entities. The court will hold the releases and
25 other settlement documents in trust pending

1 acceptance and execution by BP.

2 So what, as your question before says, is
3 acceptance of releases from substantially all
4 of the local government entities.

5 So the other thing that -- I'm sure I was
6 going to get this question -- there is no other
7 offer. This is the offer. The judge, one of
8 the judge's orders came out in the last few
9 days and basically says this is the offer. It
10 went out, you know, different offers to all of
11 them, everybody we talked about. The City of
12 Tampa. There was not a -- it's not a
13 negotiation process. That is the offer.

14 You are releasing all claims that this
15 City has under the Oil Pollution Act past,
16 present, and future. Any other claims that
17 might derive under your state law, you are
18 releasing those claims forever, never to be
19 brought again once this is executed and signed.
20 It's your economic losses that are tied to your
21 lost revenue for the applicable years, whatever
22 they may be.

23 COMMISSIONER YOUNGER: From Deepwater
24 Horizon?

25 MR. DEAN: From the Deepwater Horizon oil

1 spill. You know, we requested five times. The
2 court came back neutral that a settlement offer
3 that's much lower than that, obviously. But,
4 you know, it's still a respectable number.

5 MS. MOONEY-PORTALE: It will be Deepwater
6 Horizon and all of its other related entities,
7 which are listed on the last page of the
8 release.

9 COMMISSIONER YOUNGER: But no future loss
10 or oil spills or anything of that nature? It's
11 strictly --

12 MR. DEAN: It's just strictly for this
13 incident only. That's correct.

14 MS. MOONEY-PORTALE: Correct.

15 MR. DEAN: Yes. BP's for just this
16 incident.

17 MAYOR DUNCAN: Excuse me. So we're
18 talking about \$991,000.00 that we're going to
19 take home after the 20 percent payout to the
20 attorneys?

21 MS. MOONEY-PORTALE: There will be a
22 20 percent payout to the attorneys plus their
23 costs, which will come down to a net proceeds
24 to the Town of \$969,055.57.

25 MAYOR DUNCAN: 20 percent plus costs?

1 MS. MOONEY-PORTALE: 20 percent plus
2 costs. That's correct.

3 If, however, you're choosing to approve
4 this and accept this offer, the number will be
5 the number that BP proposed. When we go into
6 the regular session, the number would be the
7 \$1.2 million, not the net based upon the payout
8 to the attorneys.

9 MR. DEAN: Let me tell you one other thing
10 that might spark another question.

11 All of the attorneys representing the
12 governmental entities were required by last
13 Tuesday to run calculations, confer with local
14 attorneys that might be working with us on a
15 claim. And all 530 we had to report back to
16 the court whether something we would recommend
17 to our clients.

18 I can tell you that every lawyer in the
19 United States, city attorney, outside counsel
20 representing any of these 530 agencies, or made
21 a recommendation and said that they would also
22 suggest it to a client, that's what prompted
23 the judge to issue the third order, send us out
24 on the road. So I'm on the road visiting with
25 15 local governments in this area.

1 COMMISSIONER YOUNGER: So you would say
2 that the chances of pushback from some of those
3 500 odd units is relatively --

4 MR. DEAN: One percent.

5 COMMISSIONER YOUNGER: Yeah. Which is not
6 a substantial number.

7 MR. DEAN: Uh-huh. I personally have not
8 heard of a single lawyer or a single city
9 manager or a single city attorney who has not
10 said that it's something they would support and
11 recommend to their commission.

12 Now, obviously, the meetings are just
13 beginning. There were a bunch going -- I mean,
14 everybody started doing this today. I actually
15 was at one and I'm still on agenda and I still
16 have to go back there tonight.

17 COMMISSIONER YOUNGER: There's a huge
18 difference between substantially all and all.

19 MR. DEAN: That's right.

20 COMMISSIONER YOUNGER: And that small
21 percentage, I think, would be negated.

22 MS. MOONEY-PORTALE: Mayor?

23 MAYOR DUNCAN: My understanding is at this
24 point there's no restriction on the use of
25 those funds?

1 MR. DEAN: Good point. So we made that
2 inquiry end of last week, and yes, I can
3 represent to you on the record that there is --
4 I think one of the orders actually says that --
5 there's no restriction on your use of these
6 funds.

7 I can also tell you that there's a public
8 order out there that -- and you have seen the
9 news report for the 18 billion. This is part
10 of that settlement. One billion was set aside
11 out of the 18 to deal with all these state and
12 local government claims. The one billion is
13 being paid immediately. Okay? And when I say
14 immediately, our prediction in what we have
15 been told to tell our clients is 60 to 90 days.

16 The other 17 billion, as you know or may
17 have read, is being paid out over 18 years, or
18 something like that.

19 MAYOR DUNCAN: Just one other quick
20 question. I think I know what I'm expecting is
21 an answer on this, but I feel compelled to ask
22 it.

23 Have you done, or have we done any
24 comparators on like cities, if you will,
25 comparatively like to Longboat Key in terms of

1 circumstances, you know, population, location
2 the whole nine yards to see if there is any
3 relative level of comparison that we can kind
4 of look back and say okay -- I mean, here's
5 what concerns me. As a Commissioner, someone
6 we know who -- there will be people out there
7 who will be saying well, so and so got this
8 much and we should have gotten that much. And
9 I'm just wondering if we've done anything like
10 that at all?

11 MS. MOONEY-PORTALE: To answer your
12 question, the Town Manager and I have not done
13 that.

14 Your Special Counsel is representing other
15 local governments in this area.

16 MAYOR DUNCAN: I don't want them to do it,
17 because I don't want to increase the
18 20 percent. So I'm thinking about staff or us
19 if we've done anything --

20 MS. MOONEY-PORTALE: We have not. We
21 don't know even if all of the local
22 jurisdictions, if everybody availed themselves
23 of making these claims. We just don't know.
24 We don't know who sued BP.

25 We did. And we availed ourselves of this

1 claim and this litigation through Mr. Turfffs.
2 And actually it was your prior Town Attorney
3 who worked with Mr. Turfffs. And so the
4 engagement came before I came on. However, we
5 don't know that all of the other local
6 jurisdictions even did this.

7 MAYOR DUNCAN: So what you're saying in
8 essence is they don't know what we got or what
9 we claimed, and vice versa, all the way across
10 the board, that's all confidential information?

11 MS. MOONEY-PORTALE: Correct. Correct.

12 MR. DEAN: And I think that's why these
13 orders have issued, for the very reason you're
14 asking, to have you individually or have your
15 board individually abide with your
16 circumstances and factor in your losses, talk
17 to your lawyers and things like that, without
18 the outside influence of a neighboring brother.

19 MS. MOONEY-PORTALE: Commissioner Zunz?

20 COMMISSIONER ZUNZ: Yeah. I don't have
21 any way of knowing, you know, whether we're
22 treated fairly or not, but from everything I
23 have been able to read, the judgment was
24 extremely favorable to BP. I think that,
25 unfortunately, it's all been orchestrated in a

1 way that we have no leverage. And I think
2 that -- I mean, they were deemed grossly
3 negligent. I mean, it was a horrendous thing
4 that they did. But I think that there is
5 probably at this point nothing much that anyone
6 can do about it because there isn't going to be
7 a big outcry.

8 MR. TURFFS: If I can, something that I
9 started mentioning before was this particular
10 act, the Oil Pollution Act, was legislated in
11 the wake of the Exxon Valdez disaster 15, 20
12 years ago.

13 And prior to that, the only law about this
14 was the common law that said if you're going to
15 have a recovery for an oil spill like that, or
16 like this one, the oil actually had to touch
17 your property, touch your vessel --

18 COMMISSIONER ZUNZ: I know that.

19 MR. TURFFS: -- otherwise you got no
20 money.

21 COMMISSIONER ZUNZ: Yes.

22 MR. TURFFS: And this was seen as a
23 solution, the Oil Pollution Act.

24 Now the problem is, Kevin eluded though,
25 was that in the 20 years, 18 years since this

1 legislation, there has not been one case
2 interpreting that's saying here's how you
3 calculate damages.

4 MR. DEAN: So going back to your question,
5 or your point, it was a compromise. It was a
6 compromise on everybody's part about, you know,
7 do we want to wait, see what the judges order
8 and let it go to the U.S. Supreme Court? You
9 know, who wants to take that risk? Is there
10 some compromised position, like you're talking
11 about?

12 The business claims still are not paid
13 out. I don't personally anticipate they will
14 be done for another five years. It's the
15 slowest thing I've ever seen in my life, as far
16 as the claims administration process.

17 This gets this City done, out of
18 litigation with BP, no more expenses, and all
19 the rest of them, and you're done.

20 MS. MOONEY-PORTALE: If it's the will of
21 this Commission to accept the offer and
22 proposal from BP -- and you all will need to
23 discuss that -- I wanted to talk to you for a
24 moment about what you need to do to go down
25 this path.

1 The amended confidentiality order, another
2 document that I forwarded to you all via email,
3 contemplates three things happening in a public
4 meeting that, number one, you first have a
5 Shade Meeting to talk about the particulars and
6 all of the confidentiality that surrounds this.

7 And then you hold -- you go back into a
8 public meeting to; number one, approve the
9 recommended amount, number two, approve the
10 release, and number three, approve a resolution
11 that they put forward.

12 COMMISSIONER YOUNGER: So much for
13 confidentiality.

14 MR. DEAN: Again, I'm not -- I'm having to
15 read into the judge's order. But I think
16 that -- well, first of all, she amended it when
17 she found out that Florida requires the amount.
18 Because the other states evidently did not
19 require that. So she amended that order
20 Thursday authorizing us to come in here and we
21 have to publicly tell everybody what the amount
22 is. The court just didn't want all the detail
23 to go out and the firestorm to begin over
24 questioning of how the methodology was done and
25 neutrals and all that kind of stuff.

1 COMMISSIONER YOUNGER: Well, we're signing
2 over the document that's good for about another
3 half-an-hour --

4 MS. MOONEY-PORTALE: Well, we're
5 signing -- remember, all of this has to be done
6 no later than close of business July 15, per
7 the court's amended order.

8 MR. DEAN: Yes.

9 MS. MOONEY-PORTALE: If you all approve
10 this path, the documents that can be released
11 to the public in the communication that can be
12 released to the public is the settlement amount
13 of 2 million -- or excuse me, \$1,232,726.00,
14 and the resolution, which we would need to
15 adopt, which is, as you all can see, is a very
16 vanilla resolution just identifying the amount
17 and saying that we are entering into the
18 release and will do everything else in
19 furtherance of the settlement.

20 And it also makes -- requires us to make a
21 commitment that we're not going to disparage in
22 BP's release.

23 MAYOR DUNCAN: Is there some level of
24 confidentiality around the attorneys' fees that
25 you don't want divulged or is that --

1 MS. MOONEY-PORTALE: Well, the attorneys'
2 fees document is what it is. It's a public
3 record. It's 20 percent of the settlement
4 amount.

5 MAYOR DUNCAN: You made the comment the
6 only thing we can divulge in the public
7 meeting, and I --

8 MS. MOONEY-PORTALE: Oh, I stand
9 corrected. You can leave this meeting with
10 that Motley Rice agreement, because that is
11 already a --

12 MR. BULLOCK: Which has been public since
13 2012.

14 MS. MOONEY-PORTALE: That's correct.

15 MAYOR DUNCAN: Not the resulting math,
16 though?

17 MS. MOONEY-PORTALE: You cannot divulge
18 the terms of the release. You cannot divulge
19 the terms of the release until the court orders
20 us and authorizes such.

21 The court order, if you read it in the
22 strictest manner possible, which we are doing
23 because of the court's insistence on these
24 matters, it really speaks in terms of sunshine
25 law. It doesn't speak in terms of public

1 records laws as far as authorizing us to
2 release all of these documents to the public
3 yet.

4 So as soon as we can, we will. But under
5 the scenario that we have been given, we are --
6 again, we don't want anybody to go to jail.
7 None of you, none of us. And so we want a high
8 degree of confidence in our confidentiality on
9 this matter.

10 We are one of the first local governments
11 that we're aware of to consider the offer, so
12 the next couple days will undoubtedly be
13 interesting.

14 MR. DEAN: There will be a lot of stuff in
15 the news tomorrow, because there were a lot of
16 meetings taking place during today and tonight
17 and all that kind of stuff. So it will be -- I
18 don't know how many, but there were a lot
19 going on.

20 To answer your question about quick math,
21 just so you have the numbers, \$1,232,726 is the
22 offer. 20 percent attorneys' fees is
23 \$246,545.20. And the expenses are \$17,125.23.
24 Of that we paid Dixon Hughes, the accounting
25 firm that did all the analysis for the

1 financials, \$14,909.00. So if you subtract the
2 246 in fees and the 17,000 expenses, you get
3 969,055.57.

4 COMMISSIONER YOUNGER: Of which we will
5 get how much up front?

6 MR. DEAN: All of it.

7 MS. MOONEY-PORTALE: All of it.

8 COMMISSIONER YOUNGER: So we're not going
9 to get to spread out over 20 years?

10 MR. DEAN: No, sir. I have been
11 authorized to tell you 60 to 90 days you will
12 get a check or a wire of 969,055.57 --

13 MAYOR DUNCAN: Well, I heard something
14 about -- let me sort of move forward on this,
15 if I can. We have a meeting in 15 minutes
16 that's been publicly noticed --

17 MS. MOONEY-PORTALE: Yes.

18 MAYOR DUNCAN: Are we planning on delaying
19 that meeting, or are we planning on trying to
20 make a decision here and move forward?

21 MS. MOONEY-PORTALE: Well, you all need to
22 make a decision. And my intent is to tell you
23 what needs to happen if you're going to make
24 that decision once you leave this room.

25 There are those three items you will need

1 to approve; the settlement amount, the
2 resolution, and the release.

3 I'm also suggesting that you authorize the
4 Town Manager and I to take any actions that are
5 necessary and consistent with those actions
6 during the summer recess months.

7 Meaning, if we need to sign a settlement
8 statement for Motley Rice, we are authorized to
9 do so on behalf of the Town to effectuate your
10 will in settling this matter.

11 So what needs to happen now is you all
12 need to discuss and decide whether as a
13 commission you would like to move forward. If
14 you do, I have four suggested motions that are
15 sitting on the dais that bring those four
16 approvals forward.

17 COMMISSIONER YOUNGER: I suggest we do
18 that.

19 COMMISSIONER LARSON: I agree.

20 MAYOR DUNCAN: What are you suggesting we
21 do?

22 COMMISSIONER YOUNGER: Everything she
23 says.

24 MAYOR DUNCAN: Well, let's start with the
25 settlement offer. Do we have consensus on the

1 settlement offer at this point in time?

2 (Several unanimous replies of yes.)

3 MAYOR DUNCAN: Okay. Now let's talk about
4 then the other three cases that you have on the
5 table. Are we consistent on those three?

6 Does anybody have any problem with what
7 you have seen or heard?

8 (Several unanimous replies of no)

9 MAYOR DUNCAN: Terry, are you all right?

10 COMMISSIONER GANS: Yeah, I'm fine. Well,
11 I'm not all right, but --

12 (Unintelligible talking.)

13 MS. MOONEY-PORTALE: We have to be careful
14 for the court reporter here, and only talk one
15 at a time please.

16 MAYOR DUNCAN: All right. So we have
17 consensus on the four points that you put
18 forward.

19 MS. MOONEY-PORTALE: It sounds like we
20 have consensus and everybody is unanimously
21 indicating their agreement to moving forward in
22 that direction.

23 So what we will do with that direction is
24 we're going to go into the public Town Hall
25 chamber. Mr. Mayor, you are going to follow

1 your Mayor's notes and reopen the public
2 meeting.

3 We are going to make those four motions on
4 the record. Trish will need to be there to
5 capture it all. And we will move forward in
6 that direction.

7 I will need to collect the documents back
8 from you.

9 MAYOR DUNCAN: One more question. In your
10 minutes, in your Mayor's notes, you didn't
11 indicate discussion after each one of the
12 points. I assume that was just a miss on your
13 part?

14 MS. MOONEY-PORTALE: I was trying to --
15 well, no, it wasn't. I was --

16 MAYOR DUNCAN: Okay.

17 MR. DEAN: I have something to -- go
18 ahead.

19 MAYOR DUNCAN: Well, after this meeting is
20 over and we start the regular meeting, would it
21 be wise for you during attorney comments to
22 indicate what's transpired here today on this
23 issue? Because there may not be people in the
24 meeting for both meetings.

25 MS. MOONEY-PORTALE: I would be happy to.

1 COMMISSIONER PASTOR: And are you going to
2 present the motions?

3 MS. MOONEY-PORTALE: We have already
4 written it out for actually the Mayor. But I
5 will go over, once we get into the public
6 session, I will go over the four items that I'm
7 going to be requesting of the commission, that
8 being the approval of the settlement amount,
9 the resolution, the release, and then approval
10 for the Town Manager and I --

11 MAYOR DUNCAN: I will ask for discussion
12 after each motion, so if you have questions at
13 that point, I will -- I would address them to
14 the Town Attorney.

15 MR. DEAN: Let me reiterate one thing
16 about confidentiality just so -- because you
17 might get phone calls from the media. I don't
18 know. Y'all may have some regular way you
19 handle that, or -- I have some ideas and
20 suggestions.

21 After tonight during that meeting and when
22 it's over with, that amount is public. You are
23 free to discuss it with anybody as far as that
24 amount.

25 COMMISSIONER PASTOR: Kevin, I'm glad you

1 brought that up. Because one of the things
2 that concerns me is we're really not talking
3 about the 18.1. Okay? Really what we're
4 talking about is the settlement that we're --

5 MR. DEAN: One billion was the --

6 COMMISSIONER PASTOR: One billion.

7 I think this is very important when we
8 communicate this to the press, which I'm sure
9 they're going to give you a call, that there is
10 a clear understanding of what this represents.
11 Okay? And also some of the other ingredients
12 that go along --

13 MR. DEAN: Yeah. I don't know if you all
14 have seen -- this is public. You are welcome
15 to it, but there's an order that lays out how
16 those funds were categorizing --

17 COMMISSIONER PASTOR: That's what you
18 raised to start with, what are people going to
19 think, 18 billion, what is that?

20 MR. DEAN: So if you turn to page three,
21 it says, paragraph 2-D, up to one billion.

22 COMMISSIONER PASTOR: That's important.

23 MR. DEAN: So the 18 --

24 COMMISSIONER GANS: It's irrelevant
25 because it's based on what we claimed.

1 COMMISSIONER PASTOR: I understand, but
2 the point is right now the buzz is
3 18.1 billion.

4 MS. MOONEY-PORTALE: One at a time,
5 please.

6 (Unintelligible talking.)

7 MR. DEAN: What he was going to say is
8 you're going to get, again, however you all
9 handle it. I personally don't care. Just
10 understand what everything we have discussed in
11 this meeting tonight, with the exception of the
12 settlement number, the release and resolution,
13 those things are -- you're free to discuss
14 them.

15 For your protection, the City Attorney is
16 going to keep the release. Because if you read
17 that judge's order that I just handed
18 Mr. Pastor, it's got a provision that says all
19 documents are confidential. But again, if you
20 have to meet or somebody calls you, feel free
21 to comment on the number or however you want to
22 handle the media call.

23 I suspect you're going to get them. I've
24 been getting them for days and I can't talk to
25 anybody. I've decided not to talk to anybody

1 personally until after the judge releases us on
2 July 14 --

3 COMMISSIONER PASTOR: Maybe that's the
4 position we should take, too.

5 COMMISSIONER YOUNGER: It's still going to
6 come up with the public.

7 MR. DEAN: The number is going to be
8 public, and you may get asked what your
9 thoughts are on it. And to be quite honest,
10 it's fine for you to comment. They're your
11 personal thoughts one way or the other.

12 MS. MOONEY-PORTALE: There is a provision
13 in the release that talks about not making any
14 disparaging comments against BP. So we would
15 ask that you also observe the terms of that
16 release and do not make any disparaging
17 comments against BP or its related entities.

18 If any of you would like to see the
19 release in greater detail, other than we can
20 enter the confidentiality order at a later time
21 or you can come and review it at my office or
22 I'll bring a copy to you at another time.

23 Any questions? Okay.

24 MAYOR DUNCAN: Thank you.

25 MS. MOONEY-PORTALE: Thank you.

REPORTER'S CERTIFICATE

STATE OF FLORIDA)
COUNTY OF SARASOTA)

I, DENISE MAGLICH-STONE, Court Reporter, certify
that I was authorized to and did stenographically report the
proceedings herein, and that the transcript, pages 1-41, is
a true and complete record of my stenographic notes.

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

Dated this 22nd day of July, 2015.

Denise Maglich-Stone

DENISE MAGLICH-STONE
Court Reporter



<p>A</p> <p>abide 6:14 26:15</p> <p>able 14:15 26:23</p> <p>accept 9:21 10:23 18:20 19:20 22:4 28:21</p> <p>acceptance 19:22 20:1,3</p> <p>accountant 10:12</p> <p>accountants 9:15</p> <p>accounting 15:24 32:24</p> <p>accurate 3:10</p> <p>act 7:20 8:7 17:3 20:15 27:10,10,23</p> <p>action 14:18 41:16 41:17</p> <p>actions 34:4,5</p> <p>address 37:13</p> <p>administration 28:16</p> <p>Administrator 9:2</p> <p>adopt 30:15</p> <p>advise 8:19</p> <p>agencies 22:20</p> <p>agenda 23:15</p> <p>ago 4:4 7:10 27:12</p> <p>agree 34:19</p> <p>agreed 18:20</p> <p>agreement 14:6 16:11 31:10 35:21</p> <p>ahead 7:2 36:18</p> <p>air 15:1</p> <p>Alabama 8:3 11:6</p> <p>Alabama's 8:15</p> <p>allowed 14:5</p> <p>amended 29:1,16 29:19 30:7</p> <p>amount 5:9 6:2 9:21 12:11 17:19 29:9,17,21 30:12 30:16 31:4 34:1 37:8,22,24</p> <p>analysis 9:22 32:25</p> <p>analyzed 10:11</p> <p>annual 14:13</p> <p>answer 18:25 19:1</p>	<p>24:21 25:11 32:20</p> <p>antechamber 3:4</p> <p>anticipate 6:12 28:13</p> <p>anybody 8:1 15:4 32:6 35:6 37:23 39:25,25</p> <p>APPEARANCES 1:18 2:1</p> <p>Appearing 2:3</p> <p>applicable 20:21</p> <p>application 8:7</p> <p>applied 9:15 10:14 13:6 15:8 16:21</p> <p>applies 6:8</p> <p>apply 15:9</p> <p>appointed 8:18 9:13</p> <p>appropriate 17:10</p> <p>approval 37:8,9</p> <p>approvals 34:16</p> <p>approve 22:3 29:8 29:9,10 30:9 34:1</p> <p>approximately 7:11</p> <p>April 7:16,23,23 14:1,3</p> <p>area 22:25 25:15</p> <p>aside 24:10</p> <p>asked 40:8</p> <p>asking 4:25 26:14</p> <p>associated 5:4</p> <p>assume 36:12</p> <p>attorney 4:6 6:11 22:19 23:9 26:2 36:21 37:14 39:15 41:14,15</p> <p>attorneys 21:20,22 22:8,11,14</p> <p>attorneys' 30:24 31:1 32:22</p> <p>August 13:14</p> <p>authorization 10:3</p> <p>authorize 34:3</p> <p>authorized 33:11 34:8 41:9</p> <p>authorizes 31:20</p> <p>authorizing 29:20</p>	<p>32:1</p> <p>available 3:22</p> <p>availed 25:22,25</p> <p>average 13:17,23 14:5,11</p> <p>award 10:25</p> <p>aware 32:11</p> <p>B</p> <p>B 2:5</p> <p>back 4:4 10:4 11:7 11:23 12:10 13:24 14:7 17:25 18:21 19:9 21:2 22:15 23:16 25:4 28:4 29:7 36:7</p> <p>barred 8:2</p> <p>base 10:14 11:15 11:21 12:14</p> <p>based 10:6 19:21 22:7 38:25</p> <p>basically 8:20 13:8 19:6 20:9</p> <p>Bay 1:10</p> <p>beach 9:20 13:15</p> <p>beginning 23:13</p> <p>behalf 2:3,7,12 7:19 34:9</p> <p>believe 7:24</p> <p>best 7:1 13:9</p> <p>big 27:7</p> <p>billion 24:9,10,12 24:16 38:5,6,19 38:21 39:3</p> <p>board 26:10,15</p> <p>boat 16:20</p> <p>Bob 4:8 7:17</p> <p>bottom 17:14</p> <p>Boulevard 2:10</p> <p>BP 3:6 4:3 8:22 9:21 10:1 18:14 18:18,19,19 19:19 20:1 22:5 25:24 26:24 28:18,22 40:14,17</p> <p>BP's 21:15 30:22</p> <p>Bridgeside 2:10</p> <p>bring 5:8 34:15</p>	<p>40:22</p> <p>brother 26:18</p> <p>brought 20:19 38:1</p> <p>Bullock 1:21 31:12</p> <p>bunch 23:13</p> <p>business 8:10 13:6 14:6 16:10 28:12 30:6</p> <p>businesses 7:9 9:6 13:14 14:15,20,24</p> <p>buzz 39:2</p> <p>C</p> <p>C 3:1 15:25</p> <p>calculate 17:25 28:3</p> <p>calculated 10:6</p> <p>calculating 13:11</p> <p>calculation 16:21</p> <p>calculations 16:11 16:16 18:3 22:13</p> <p>calculator 16:4</p> <p>call 18:18 38:9 39:22</p> <p>called 7:4 9:24 10:5 10:15 15:25</p> <p>calls 37:17 39:20</p> <p>capture 36:5</p> <p>care 39:9</p> <p>careful 35:13</p> <p>Carolina 2:10 4:8 7:5</p> <p>case 1:8 8:3,23 11:6 18:11 28:1</p> <p>cases 35:4</p> <p>categorizing 38:16</p> <p>cell 5:19</p> <p>certain 5:3 10:5,6</p> <p>CERTIFICATE 41:1</p> <p>certify 41:8,13</p> <p>chamber 35:25</p> <p>chances 23:2</p> <p>Charleston 7:4</p> <p>cheat 13:3</p> <p>check 18:1 33:12</p> <p>cherry 14:14</p> <p>choose 13:9</p>	<p>choosing 22:3</p> <p>chose 15:15</p> <p>circumstances 25:1 26:16</p> <p>cities 7:12 24:24</p> <p>city 12:8,9 16:1 20:11,15 22:19 23:8,9 28:17 39:15</p> <p>claim 8:1 9:23 10:1 10:2 11:4 12:7 18:7 22:15 26:1</p> <p>Claimant 13:9</p> <p>claimed 26:9 38:25</p> <p>claims 4:2 8:17,20 9:2,4 14:25 16:10 20:14,16,18 24:12 25:23 28:12,16</p> <p>clear 38:10</p> <p>client 22:22</p> <p>clients 22:17 24:15</p> <p>close 8:9,10 30:6</p> <p>co-negotiators 7:7</p> <p>Cohen 2:1</p> <p>collect 36:7</p> <p>come 10:10 18:16 21:23 29:20 40:6 40:21</p> <p>comes 16:21</p> <p>comment 31:5 39:21 40:10</p> <p>comments 3:13 36:21 40:14,17</p> <p>commission 1:2 6:17 7:17 23:11 28:21 34:13 37:7</p> <p>Commissioner 1:19 1:20,20,21 11:13 11:19,25 13:18,25 15:12,18,20,22 16:6,13 18:23 20:23 21:9 23:1,5 23:17,20 25:5 26:19,20 27:18,21 29:12 30:1 33:4,8 34:17,19,22 35:10 37:1,25 38:6,17 38:22,24 39:1</p>
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40:3,5 commitment 30:21 Committee 7:7 common 27:14 communicate 38:8 communication 19:17 30:11 communications 5:2 communities 11:23 12:23 14:24 comparatively 24:25 comparators 24:24 comparison 25:3 compelled 24:21 compensation 10:14 11:16,22 complete 41:11 compromise 28:5,6 compromised 28:10 concerns 25:5 38:2 conclusion 3:19 confer 22:13 confidence 32:8 confidential 6:5 12:20 26:10 39:19 confidentiality 5:1 5:23 6:8,18 12:18 29:1,6,13 30:24 32:8 37:16 40:20 connected 41:16 consensus 34:25 35:17,20 consider 32:11 consideration 18:6 considered 15:11 consistent 34:5 35:5 contact 5:20 contemplates 29:3 contingent 18:18 19:6,10 copies 17:22 copy 4:20 5:23 6:7 6:13,18,20 40:22 correct 21:13,14	22:2 26:11,11 31:14 corrected 31:9 correspondence 6:19 cost 18:9,10 costs 21:23,25 22:2 counsel 2:7,12 4:7 4:9 9:9 22:19 25:14 41:14,16 counties 7:12 county 7:14,17 13:6 41:5 couple 32:12 court 1:15 2:2 3:7,9 5:13,15,18,21,22 8:6,18,19 9:5,10 11:11 12:16 14:8 15:2,3 16:22 17:14,15,18 18:1 18:6,16,20 19:24 21:2 22:16 28:8 29:22 31:19,21 35:14 41:8,24 court's 30:7 31:23 cut 16:15	16:14,25 17:23 18:24 19:14,19 20:25 21:12,15 22:9 23:4,7,19 24:1 26:12 28:4 29:14 30:8 32:14 33:6,10 36:17 37:15 38:5,13,20 38:23 39:7 40:7 December 13:21 decide 34:12 decided 39:25 decision 19:19 33:20,22,24 deemed 27:2 Deep 3:6 Deepwater 1:7 9:3 20:23,25 21:5 defendants 8:11 degree 32:8 delaying 33:18 demand 10:6,21,22 12:7,10 Denise 1:14 5:15 41:8,24 denote 3:13 derive 20:17 detail 29:22 40:19 detailed 11:24 details 6:24 difference 23:18 different 9:15,17 10:9 16:3,4,5,18 16:19,19 20:10 direct 14:23 direction 35:22,23 36:6 Director 9:9 disaster 27:11 discuss 6:1,4 28:23 34:12 37:23 39:13 discussed 39:10 discussion 36:11 37:11 discussions 12:19 disparage 30:21 disparaging 40:14 40:16	District 17:17 divulge 31:6,17,18 divulged 30:25 Dixon 10:12 11:24 16:2 17:25 32:24 document 13:7 17:16 19:8,10 29:2 30:2 31:2 documents 4:21,22 4:24 5:5 6:10 12:20 19:25 30:10 32:2 36:7 39:19 doing 16:23 18:2 23:14 31:22 dollars 4:18 Duncan 1:18 17:6 19:16 21:17,25 23:23 24:19 25:16 26:7 30:23 31:5 31:15 33:13,18 34:20,24 35:3,9 35:16 36:9,16,19 37:11 40:24	entitled 4:19 14:20 14:24 entity 8:21,22 9:19 16:14 equals 12:3,4 equivalent 12:4 15:16 Esquire 2:1,4,9 essence 26:8 estimated 12:13 14:7 evaluate 18:17 evening 6:21 everybody 3:3,24 16:9,20 17:21 20:11 23:14 25:22 29:21 35:20 everybody's 28:6 evidently 29:18 exception 6:2 39:11 excess 7:12 excuse 21:17 30:13 executed 20:19 execution 19:7,10 19:11 20:1 expecting 24:20 expenses 28:18 32:23 33:2 expired 7:25 explaining 19:5 expressed 8:17 extent 4:17 extremely 26:24 Exxon 17:4 27:11
	D		E	F
	D 3:1 dais 34:15 damages 12:12 15:2,9 28:3 data 15:25 date 8:2 11:2 16:3 dated 6:19 17:18 41:20 Dave 1:21 day 16:7 41:20 days 10:1 11:10,11 20:9 24:15 32:12 33:11 39:24 deal 24:11 Dean 2:9 4:6 5:11 5:13,17,19,22 6:16,21 7:3 11:15 11:21 12:2,14,16 13:19 14:2 15:15 15:19,21,23 16:8		early 11:7 economic 4:1 7:8 20:20 effectuate 34:9 eight 13:8 14:10,11 14:11 eluded 27:24 email 29:2 empaneled 8:13 employee 41:14,15 Energy 2:2 engaged 4:5,16 engagement 4:15 4:20 26:4 enter 40:20 entering 30:17 enterprise 10:7 entire 6:16 entities 13:2 14:21 18:19 19:21,24 20:4 21:6 22:12 40:17	facilities 9:14 facility 9:5 fact 17:2 factor 14:3 15:4,5 26:16 factored 14:9 factoring 13:22 fair 9:18 15:11 fairly 26:22 far 10:19 14:19 16:16 28:15 32:1 37:23

favorable 26:24 FBI 9:8 February 14:1,2 feel 24:21 39:20 fees 30:24 31:2 32:22 33:2 figure 18:1 file 7:18 9:25 10:3 filed 4:2 7:13,15,18 7:22,24 9:23 financial 15:25 financially 41:16 financials 16:18 33:1 finding 11:22 fine 35:10 40:10 firestorm 29:23 firm 4:5,7 7:3 15:24 32:25 first 2:5 3:21 8:3 29:4,16 32:10 five 11:17,18,25 12:3,5 15:13 21:1 28:14 five-times 10:15,20 Florida 1:10,16 2:2 2:6 29:17 41:4 follow 35:25 footing 16:16 forensic 10:13 11:6 12:9 forever 20:18 formalities 6:22 former 9:8 formula 16:9 forward 5:9 29:11 33:14,20 34:13,16 35:18,21 36:5 forwarded 29:2 found 3:25 29:17 four 12:2,4 34:14 34:15 35:17 36:3 37:6 frame 13:21 15:7 fraud 9:11 free 37:23 39:13,20 Freeh 9:9 front 33:5	full 12:6 funds 10:8 23:25 24:6 38:16 further 41:13 furtherance 30:19 future 11:14 20:16 21:9 <hr/> G <hr/> G 3:1 Gans 1:19 15:20,22 35:10 38:24 Genoe 9:4 getting 8:12 39:24 give 6:10,24 10:1 12:23,25 18:3 19:12 38:9 given 12:10 16:1 32:5 giving 4:24 6:7 glad 37:25 global 19:20 go 7:1,2 8:4 11:23 17:25 18:11 19:18 22:5 23:16 28:8 28:24 29:7,23 32:6 35:24 36:17 37:5,6 38:12 going 4:11,11 6:23 14:14 15:6 17:12 18:6,7,10 19:7,12 20:6 21:18 23:13 27:6,14 28:4 30:21 32:19 33:8 33:23 35:24,25 36:3 37:1,7 38:9 38:18 39:7,8,16 39:23 40:5,7 good 6:21 24:1 30:2 gotten 25:8 government 10:9 19:23 20:4 24:12 governmental 8:3 8:20,22 9:19 13:2 14:21 16:14 18:19 19:21 22:12 governments 8:8 22:25 25:15 32:10	greater 40:19 grossly 27:2 guy 6:23 9:4 guys 17:6 <hr/> H <hr/> half-an-hour 30:3 Hall 1:9 35:24 hand 3:14 4:11 5:23,24 handed 6:13 39:17 handing 4:21 handle 37:19 39:9 39:22 handling 5:11 happen 33:23 34:11 happened 8:14 11:3 happening 29:3 happy 3:9,24 17:11 36:25 heard 7:9 23:8 33:13 35:7 hearing 4:23 6:4 high 32:7 highest 13:16,21 hits 14:23 hold 19:24 29:7 home 21:19 honest 19:1 40:9 honor 3:17 hope 3:23 hopefully 8:16 Horizon 1:7 3:6 9:3 20:24,25 21:6 horrendous 27:3 huge 23:17 Hughes 10:12 11:24 16:2 17:25 32:24 <hr/> I <hr/> ideas 37:19 identifying 30:16 immediately 24:13 24:14 important 38:7,22	incident 21:13,16 include 14:17 including 12:19 increase 25:17 increases 10:21 indicate 36:11,22 indicating 35:21 individually 26:14 26:15 influence 12:24 26:18 informal 6:23 information 26:10 ingredients 38:11 inquiry 24:2 insistence 31:23 intent 33:22 interest 8:16 interested 8:12 41:17 interesting 32:13 interests 4:9 internally 13:1 interpreting 28:2 investigation 9:12 involved 18:5,14 irrelevant 38:24 Irwin 1:20 Isles 1:10 issue 18:17 22:23 36:23 issued 12:17,17,18 26:13 issues 9:10,11 items 33:25 37:6 <hr/> J <hr/> J 1:8 Jack 1:18 jail 32:6 January 10:4 Joe 7:5 judge 8:25 12:18 20:7 22:23 40:1 judge's 6:7 19:15 20:8 29:15 39:17 judges 28:7 judgment 18:8	26:23 July 1:12 6:12,20 13:14 30:6 40:2 41:20 June 13:13 17:18 jurisdictions 25:22 26:6 jury 8:13 10:24 <hr/> K <hr/> kdean@motleyri... 2:11 keep 4:23 39:16 keeping 3:8 kept 12:20 Kevin 2:9 4:6 5:10 7:3 17:1 19:4 27:24 37:25 Key 1:2,9,10 2:3,7 2:12 17:20 24:25 Keys 7:14 kind 25:3 29:25 32:17 kinds 9:11 12:25 know 3:15 8:8 9:10 10:13,22 11:4 12:22 13:13 15:6 16:10 17:7 18:4 18:24,25 19:1 20:10 21:1,4 24:16,20 25:1,6 25:21,23,24 26:5 26:8,21 27:18 28:6,9 32:18 37:18 38:13 knowing 26:21 <hr/> L <hr/> Lakewood 2:2 Large 1:16 Larson 1:19 34:19 late 15:7 law 4:5 20:17 27:13 27:14 31:25 laws 32:1 lawsuit 7:18,19 lawsuits 7:13,14 lawyer 22:18 23:8
--	---	---	--	--

lawyers 8:11 10:16 10:17 26:17	lower 21:3 Lynn 1:19	mentioning 27:9 methodology 9:16 9:17 13:2 16:4,17 29:24	nature 21:10 necessary 34:5 need 11:10 19:9,16 28:22,24 30:14 33:21,25 34:7,12 36:4,7	18:21 20:10 office 11:9 40:21 Oh 15:22 31:8
lays 38:15	<hr/> M <hr/>	million 4:18 22:7 30:13	needs 33:23 34:11 negated 23:21 negligent 27:3 negotiation 20:13 negotiations 5:4,12	oil 1:7,7 7:19 8:7 14:18,21,23 17:2 20:15,25 21:10 27:10,15,16,23
leave 31:9 33:24	M-A-G-L-I-C-H 5:16,18	minutes 33:15 36:10	net 21:23 22:7 neutral 8:18 14:8 18:1,21 21:2	okay 14:2 15:18 24:13 25:4 35:3 36:16 38:3,11 40:23
legal 9:11	mad 3:10	model 13:24	neutrals 11:11 12:17 15:3 29:25	once 20:19 33:24 37:5
legislated 27:10	Madam 5:13,22	moment 28:24	never 20:18	open 14:25
legislation 28:1	Maggie 2:1 17:7	momentarily 4:11	news 24:9 32:15	opinion 12:21
let's 7:1 17:6 34:24 35:3	Magistrate 8:25	Monday 12:16	nine 25:2	orchestrated 26:25
letter 4:20 12:8 16:22	Maglich 5:15	money 27:20	Notary 1:15	order 3:23 5:1,23 5:24 6:8,14,18,20 9:1 12:19 19:2,15 22:23 24:8 28:7 29:1,15,19 30:7 31:21 38:15 39:17 40:20
level 25:3 30:23	Maglich-Stone 1:14 41:8,24	Monroe 7:13	notes 36:1,10 41:11	orders 20:8 24:4 26:13 31:19
leverage 27:1	making 3:21 25:23 40:13	month 13:22	noticed 33:16	out-of-state 4:7
life 28:15	manager 1:21 16:1 23:9 25:12 34:4 37:10	months 13:8,10 14:10,11,12,15 34:6	notifies 6:11	outcry 27:7
limitations 7:15,25	manner 31:22	Mooney-Portale 2:1 3:2 6:15 12:11,15 17:11 19:4 21:5,14,21 22:1 23:22 25:11 25:20 26:11,19 28:20 30:4,9 31:1 31:8,14,17 33:7 33:17,21 35:13,19 36:14,25 37:3 39:4 40:12,25	November 13:20	outside 12:24 22:19 26:18
line 17:15	March 14:1,2	motion 37:12	number 5:19 10:14 11:16 12:17 17:13 21:4 22:4,5,6 23:6 29:4,8,9,10 39:12 39:21 40:7	overseer 17:8
lion's 5:11	math 31:15 32:20	motions 34:14 36:3 37:2	numbers 10:18 16:19 32:21	<hr/> P <hr/>
listed 21:7	matter 32:9 34:10	Motley 2:9 4:5,6,15 7:4 31:10 34:8	<hr/> O <hr/>	P 3:1 15:25
litigate 18:14	matters 3:5 31:24	move 33:14,20 34:13 36:5	O 3:1	P.A 2:1,5
litigation 2:7,12 3:5 3:6,20 4:2,10 10:18 18:5,10 26:1 28:18	Mayor 1:18,19 17:6 19:16 21:17 21:25 23:22,23 24:19 25:16 26:7 30:23 31:5,15 33:13,18 34:20,24 35:3,9,16,25 36:9 36:16,19 37:4,11 40:24	moving 35:21	observe 40:15	p.m 1:13,13
little 10:9 13:4	Mayor's 36:1,10	Mt 2:10	obviously 21:3 23:12	page 17:21 21:7 38:20
LLC 2:9	mean 10:24,25 18:18 23:13 25:4 27:2,3	multiplier 10:15,20 11:16 13:11 15:9 15:13,16,17	October 13:20 14:4	pages 41:10
local 4:8 8:8 19:21 19:23 20:4 22:13 22:25 24:12 25:15 25:21 26:5 32:10	media 37:17 39:22	multiply 11:18 15:19	odd 23:3	paid 24:13,17 28:12 32:24
location 25:1	meet 39:20	<hr/> N <hr/>	offer 4:1,13 9:19 15:4,11 18:18 19:5 20:7,7,9,13 21:2 22:4 28:21 32:11,22 34:25 35:1	panel 8:19,24 9:13 12:17 14:8
Long 9:20	meeting 1:3 3:23 6:1 29:4,5,8 31:7 31:9 33:15,19 36:2,19,20,24 37:21 39:11	N 3:1	offered 5:10 17:19	paragraph 38:21
Longboat 1:2,9,10 2:3,7,12 9:20 17:20 24:25	meetings 23:12 32:16 36:24	name 5:14,17 7:3 9:3	offers 17:24 18:17	part 24:9 28:6 36:13
look 11:23 25:4	member 7:6			particular 27:9
looking 8:6,17 9:10 10:7 17:23	members 8:24			particulars 29:5
lose 18:7				parties 11:1 41:14
loss 7:8 13:21 14:13 21:9				
losses 7:20 10:7 12:4,5,15 13:6,12 13:16 15:5 16:20 20:20 26:16				
lost 20:21				
lot 32:14,15,18				
Louie 9:9				
low 13:22				

<p>parties' 41:15</p> <p>partner 7:5</p> <p>pass 17:12,20 19:8</p> <p>passed 17:3</p> <p>passing 17:22</p> <p>Pastor 1:20 11:13 11:19,25 13:25 16:6 37:1,25 38:6 38:17,22 39:1,18 40:3</p> <p>Pat 1:21</p> <p>path 28:25 30:10</p> <p>Patrick 9:3</p> <p>pay 9:22 10:1,2</p> <p>payout 21:19,22 22:7</p> <p>pays 9:5</p> <p>pending 3:5 11:5 19:25</p> <p>people 25:6 36:23 38:18</p> <p>percent 4:19 16:7 16:13 21:19,22,25 22:1 23:4 25:18 31:3 32:22</p> <p>percentage 23:21</p> <p>perfectly 18:25</p> <p>person 9:8</p> <p>personal 40:11</p> <p>personally 23:7 28:13 39:9 40:1</p> <p>Persson 2:1</p> <p>Phill 1:20</p> <p>phone 5:19 37:17</p> <p>pick 14:14</p> <p>place 32:16</p> <p>plaintiffs 8:12</p> <p>planning 33:18,19</p> <p>Pleasant 2:10</p> <p>please 3:12,13,14 3:16 5:17 35:15 39:5</p> <p>pleased 5:8</p> <p>plus 12:2 15:20,21 15:22 21:22,25 22:1</p> <p>point 9:20 13:20 17:12 23:24 24:1</p>	<p>27:5 28:5 35:1 37:13 39:2</p> <p>points 35:17 36:12</p> <p>Pollution 7:20 8:7 14:18 17:3 20:15 27:10,23</p> <p>population 25:1</p> <p>position 28:10 40:4</p> <p>possible 10:19 31:22</p> <p>potential 7:20</p> <p>predict 10:18</p> <p>predicting 10:16</p> <p>prediction 24:14</p> <p>present 3:7 20:16 37:2</p> <p>presentment 9:24 9:25 10:4</p> <p>press 38:8</p> <p>pretty 6:23</p> <p>previously 16:1</p> <p>Price 15:24</p> <p>principle 18:20</p> <p>prior 26:2 27:13</p> <p>probably 11:17 27:5</p> <p>problem 27:24 35:6</p> <p>proceedings 3:12 3:18 41:10</p> <p>proceeds 21:23</p> <p>process 12:25 18:17 20:13 28:16</p> <p>prohibits 5:3</p> <p>projected 13:5</p> <p>prompted 22:22</p> <p>property 10:7 15:2 15:3,5 27:17</p> <p>proposal 28:22</p> <p>proposed 19:12 22:5</p> <p>protection 39:15</p> <p>provided 6:19</p> <p>provision 39:18 40:12</p> <p>PSC 7:6</p> <p>public 1:15 5:7 6:3 24:7 29:3,8 30:11 30:12 31:2,6,12</p>	<p>31:25 32:2 35:24 36:1 37:5,22 38:14 40:6,8</p> <p>publicly 29:21 33:16</p> <p>purposes 3:8 6:15</p> <p>pushback 23:2</p> <p>put 29:11 35:17</p> <hr/> <p>Q</p> <p>question 11:12 20:2 20:6 22:10 24:20 25:12 28:4 32:20 36:9</p> <p>questioning 29:24</p> <p>questions 6:25 7:1 37:12 40:23</p> <p>quick 3:22 24:19 32:20</p> <p>quite 40:9</p> <hr/> <p>R</p> <p>R 2:9 3:1</p> <p>raised 38:18</p> <p>ran 16:3</p> <p>Ranch 2:2</p> <p>reach 9:18</p> <p>reached 10:11,13 15:10 18:2</p> <p>read 19:3 24:17 26:23 29:15 31:21 39:16</p> <p>realistic 14:12</p> <p>really 14:13,18,20 15:6 18:12 31:24 38:2,3</p> <p>reason 26:13</p> <p>reasonable 9:19,21 15:11</p> <p>receipt 19:22</p> <p>receive 18:21</p> <p>received 3:25 6:17 6:20</p> <p>recess 34:6</p> <p>recommend 22:16 23:11</p> <p>recommendation 8:21 18:3 22:21</p>	<p>recommended 29:9</p> <p>record 5:7 6:16 13:25 24:3 31:3 36:4 41:11</p> <p>records 11:8 32:1</p> <p>recover 14:20</p> <p>recovery 4:19 27:15</p> <p>reduce 13:23 14:4</p> <p>reduced 15:13 16:7</p> <p>referenced 17:2</p> <p>regard 5:12 14:19</p> <p>regards 4:1,24</p> <p>regular 22:6 36:20 37:18</p> <p>reiterate 37:15</p> <p>reject 19:20</p> <p>related 3:5 21:6 40:17</p> <p>relative 25:3 41:13 41:15</p> <p>relatively 23:3</p> <p>release 5:6 6:3,9 19:7,11 21:8 29:10 30:18,22 31:18,19 32:2 34:2 37:9 39:12 39:16 40:13,16,19</p> <p>released 3:19 30:10 30:12</p> <p>releases 18:22 19:17,22,24 20:3 40:1</p> <p>releasing 5:3 20:14 20:18</p> <p>relevant 5:25</p> <p>remember 30:5</p> <p>remind 3:3 4:14</p> <p>reopen 36:1</p> <p>replies 35:2,8</p> <p>report 11:24 12:9 22:15 24:9 41:9</p> <p>reporter 1:15 3:7,9 5:13,15,18,21,22 35:14 41:8,24</p> <p>REPORTER'S 41:1</p> <p>represent 4:9 24:3</p>	<p>representing 22:11 22:20 25:14</p> <p>represents 38:10</p> <p>requested 21:1</p> <p>requesting 37:7</p> <p>require 9:12 29:19</p> <p>required 22:12</p> <p>requires 5:25 29:17 30:20</p> <p>resolution 19:11,13 29:10 30:14,16 34:2 37:9 39:12</p> <p>resolve 8:23</p> <p>respect 3:16</p> <p>respectable 21:4</p> <p>response 3:14</p> <p>rest 28:19</p> <p>restaurants 9:6 13:15</p> <p>restriction 23:24 24:5</p> <p>resulted 7:8</p> <p>resulting 31:15</p> <p>retained 7:17</p> <p>return 4:25</p> <p>returned 17:16</p> <p>revenue 10:8,10 20:21</p> <p>review 8:19 40:21</p> <p>Rice 2:9 4:5,6,16 7:4,5 31:10 34:8</p> <p>Rig 1:7</p> <p>right 23:19 35:9,11 35:16 39:2</p> <p>risk 28:9</p> <p>road 1:10 22:24,24</p> <p>Robert 2:4,5</p> <p>room 33:24</p> <p>ruling 18:6</p> <p>run 15:25 22:13</p> <p>runs 9:4</p> <hr/> <p>S</p> <p>S 3:1</p> <p>Sally 8:25</p> <p>Sarasota 2:6 41:5</p> <p>saying 6:6 15:23 25:7 26:7 28:2</p>
--	---	---	--	---

<p>30:17 says 19:2 20:2,9 24:4 34:23 38:21 39:18 scenario 32:5 second 9:2,17 14:17 secrecy 12:22 Section 1:8 see 25:2 28:7 30:15 40:18 seeking 7:19 seen 9:1 24:8 27:22 28:15 35:7 38:14 send 22:23 senior 7:5 September 8:5 session 4:22 22:6 37:6 set 8:4,4 24:10 settle 11:1 settlement 4:1,17 5:4,9 6:2 7:8 8:13 8:22 13:7 14:6 16:11 17:13 19:5 19:17,20,25 21:2 24:10 30:12,19 31:3 34:1,7,25 35:1 37:8 38:4 39:12 settling 34:10 seven 17:22 Shade 29:5 share 5:11 shared 5:2 sheet 13:3 shores 14:22,23 short 3:23 13:4 Shoshone 8:25 12:18 sign 34:7 signaling 3:15 signed 9:1 20:19 signing 30:1,5 single 23:8,8,9 sir 11:21 33:10 sitting 6:17 34:15 six 8:14</p>	<p>slow 3:15 slowest 28:15 small 23:20 solution 27:23 somebody 39:20 somewhat 3:22 soon 32:4 sort 33:14 sounds 35:19 South 2:10 4:7 7:4 spark 22:10 speak 3:12 31:25 speaks 31:24 Special 1:3 2:7,12 9:9 25:14 specifically 12:12 Spell 5:17 spill 1:7 21:1 27:15 spills 21:10 spread 33:9 staff 25:18 stand 16:15 31:8 start 8:12 13:11 34:24 36:20 38:18 started 3:3 4:14 8:6 23:14 27:9 state 1:16 8:2,8,15 11:5 16:24 20:17 24:11 41:4 statement 34:8 states 17:17 22:19 29:18 statute 7:15,24 stay 18:13 Steering 7:6 stenographic 41:11 stenographically 41:9 Stop 6:25 Street 2:5 strict 5:1 strictest 31:22 strictly 21:11,12 stuck 14:10 stuff 29:25 32:14 32:17 substantial 23:6 substantially 19:23</p>	<p>20:3 23:18 subtract 33:1 sued 25:24 suggest 22:22 34:17 suggested 34:14 suggesting 17:15 34:3,20 suggestions 37:20 suit 9:25 10:3 Suite 2:5 sum 10:5,6 Summary 18:8 summer 34:6 sunshine 31:24 supply 11:9 support 23:10 Supreme 28:8 sure 4:14 16:25 20:5 38:8 surrounding 12:22 surrounds 29:6 suspect 39:23</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>table 3:8 35:5 take 3:16 18:5 21:19 28:9 34:4 40:4 TAKEN 1:14 talk 3:4 4:12 9:16 26:16 28:23 29:5 35:3,14 39:24,25 talked 20:11 talking 8:13 17:5,7 21:18 28:10 35:12 38:2,4 39:6 talks 40:13 Tampa 20:12 tarballs 14:22 tax 10:7 15:5 taxes 7:21 15:3 tell 22:9,18 24:7,15 29:21 33:11,22 ten 18:14 terms 4:15 24:25 31:18,19,24,25 40:15 Terry 1:19 35:9</p>	<p>tested 14:25 Texas 7:13 thank 3:21 40:24 40:25 thing 14:17 16:9,24 17:1 18:12 20:5 22:9 27:3 28:15 31:6 37:15 things 3:16 5:3 9:6 12:25 19:6 26:17 29:3 38:1 39:13 think 13:15 17:9,14 18:9,13 23:21 24:4,20 26:12,24 27:1,4 29:15 38:7 38:19 thinking 25:18 third 9:8 22:23 thought 9:18 12:21 thoughts 40:9,11 thousand-page 13:7 three 13:9 17:21 29:3,10 33:25 35:4,5 38:20 three-month 14:4 three-person 8:18 Thursday 29:20 tied 7:21,22 20:20 time 1:13 3:13 6:25 8:9,10 13:1,21 15:7 17:6,12 18:13 35:1,15 39:4 40:20,22 timely 7:22 times 11:16,18,25 12:2,3,4 15:19 21:1 today 23:14 32:16 36:22 today's 3:4,12 told 24:15 tomorrow 32:15 tonight 23:16 32:16 37:21 39:11 tossed 18:8 total 17:18 touch 27:16,17</p>	<p>tourism 7:21 tourism-type 13:14 Town 1:2,9,21 2:3 2:7,12 4:5,16 6:11 6:16 9:20 17:19 21:24 25:12 26:2 34:4,9 35:24 37:10,14 Town's 4:9 5:7 7:20 12:12 trail 8:4 transcribed 6:6 transcript 3:11,18 6:10 41:10 transpired 36:22 treated 26:22 trial 8:4,9,11,15 Trish 36:4 true 41:11 trust 19:25 try 10:18 17:25 18:11 trying 33:19 36:14 Tuesday 22:13 Turffs 2:4,5 4:8,18 16:23 17:1 26:1,3 27:8,19,22 turffs@gmail.com 2:6 turn 5:10 38:20 two 11:4,10 15:8,10 15:13,16,19,20 19:6 29:9 type 9:15,17 10:17 types 10:8,10</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>U.S 8:24 28:8 Uh-huh 23:7 unanimous 35:2,8 unanimously 35:20 unclear 19:14 understand 13:3 14:9 39:1,10 understanding 23:23 38:10 undoubtedly 32:12 unfortunately</p>
---	---	---	---	--

26:25	we've 25:9,19	30:13	4
Unintelligible 17:5	week 24:2	1,373,589 12:13	40 16:7
35:12 39:6	weeks 8:15 11:11	1.1 11:14,15 12:1	5
United 17:17 22:19	welcome 38:14	1.2 11:17 22:7	5.9 10:5 11:13,20
units 23:3	went 9:22 20:10	14 6:12 40:2	12:7
untested 14:19	wire 33:12	14,909.00 33:1	500 7:12 8:19 23:3
use 13:10,10 23:24	wise 36:21	1444 2:5	501 1:10
24:5	wondering 25:9	15 22:25 27:11 30:6	530 15:4 18:17
V	work 7:3 10:13	33:15	22:15,20
Valdez 17:4 27:11	11:5,7 13:1	15th 6:13	6
value 10:21	worked 26:3	17 24:16	6 1:12
vanilla 30:16	working 22:14	17,000 33:2	6:00 1:13
verbal 3:13	works 8:10	17,125.23 32:23	6:51 1:13
verbatim 3:10,18	worth 12:5	18 24:9,11,17 27:25	60 16:13 24:15
versa 26:9	wouldn't 13:16,22	38:19,23	33:11
version 13:4	14:3	18.1 38:3 39:3	6853 2:2
vessel 27:17	written 37:4	18th 7:23	7
vice 1:19 26:9	X	19th 7:23	8
view 14:12	Y	2	9
visiting 22:24	Y'all 37:18	2 6:20 30:13	90 10:1 24:15 33:11
W	yards 25:2	2-D 38:21	941- 5:21
wait 28:7	Yeah 16:8 23:5	20 4:19 7:16 21:19	969,055.57 21:24
waives 3:14	26:20 35:10 38:13	21:22,25 22:1	33:3,12
wake 17:3 27:11	year 12:6	25:18 27:11,25	991,000.00 21:18
want 3:3 5:22,24	year's 12:3	31:3 32:22 33:9	
13:10,17,22 14:3	years 4:4 7:10 11:4	2008 15:7	
17:9 18:13 19:2	12:5 15:10 18:15	2009 15:7	
25:16,17 28:7	20:21 24:17 27:12	2010 12:5 15:7	
29:22 30:25 32:6	27:25,25 28:14	2012 4:4,16 31:13	
32:7 39:21	33:9	2013 7:16 10:4 11:7	
wanted 4:14 28:23	Younger 1:20	2015 1:12 12:6	
wants 28:9	13:18 15:12,18	41:20	
wasn't 36:15	16:13 18:23 20:23	2179 1:8	
Waterhouse 15:24	21:9 23:1,5,17,20	22nd 41:20	
way 7:1,13 11:7	29:12 30:1 33:4,8	246 33:2	
12:6,10 13:24	34:17,22 40:5	246,545.20 32:23	
14:5,6 18:11 26:9	Z	27 17:18	
26:21 27:1 37:18	Zunz 1:21 26:19,20	28 2:10	
40:11	27:18,21	29464 2:11	
we'll 6:3 9:16	0	2MDL 1:8	
we're 5:8 6:6 11:22	1	3	
14:13 17:12 19:14	1-41 41:10	30 11:10,11	
21:17,18 26:21	1,232,726 32:21	34228 1:10	
30:1,4,21 32:11	1,232,726.00 17:20	34236 2:6	
33:8 35:24 38:2,3		34240 2:2	
38:4			