

ILLINOIS POLLUTION CONTROL BOARD

|                            |   |            |
|----------------------------|---|------------|
|                            | ) |            |
|                            | ) |            |
| PROTECT WEST CHICAGO,      | ) |            |
|                            | ) |            |
| Petitioner,                | ) |            |
|                            | ) |            |
| vs.                        | ) | PCB 23-207 |
|                            | ) |            |
| CITY OF WEST CHICAGO, WEST | ) |            |
| CHICAGO CITY COUNCIL, and  | ) |            |
| LAKESHORE RECYCLING        | ) |            |
| SYSTEMS, LLC,              | ) |            |
|                            | ) |            |
| Respondents.               | ) |            |
| _____                      | ) |            |
|                            | ) |            |
| PEOPLE OPPOSING DUPAGE     | ) |            |
| ENVIRONMENTAL RACISM,      | ) |            |
|                            | ) |            |
| Petitioner,                | ) |            |
|                            | ) |            |
| vs                         | ) | PCB 23-109 |
|                            | ) |            |
| CITY OF WEST CHICAGO and   | ) |            |
| LAKESHORE RECYCLING        | ) |            |
| SYSTEMS, LLC,              | ) |            |
|                            | ) |            |
| Respondents.               | ) |            |

REPORT OF PROCEEDINGS had and testimony taken before the Illinois Pollution Control Board, held on Thursday, the 28th day of September, 2023, at the hour of 9:00 A.M., before GLORIA APOSTOLOS SIOLIDIS, C.S.R. License #084-001205, qualified and commissioned for the State of Illinois.

PRESENT:

1 MR. BRADLEY P. O'HALLORAN,  
2 appeared as Hearing Officer.

3  
4 MEZA LAW, by  
MR. RICARDO MEZA  
rmeza@mezalaw.com

5  
6 appeared on behalf of the Petitioner  
Protect West Chicago.

7  
8 KLEIN, THORPE & JENKINS, LTD., by  
MR. DENNIS G. WALSH  
dgwalsh@ktjlaw.com

9  
10 appeared on behalf of the Respondents  
City of West Chicago, et al.

11  
12 MR. ROBERT A. WEINSTOCK  
NORTHWESTERN PRITZKER SCHOOL OF LAW  
robert.weinstock@law.northwestern.edu

13  
14 appeared on behalf of the Petitioner  
People Opposing DuPage Environmental  
Racism.

15  
16 MR. GEORGE MUELLER  
17 appeared on behalf of the Respondents  
Lakeshore Recycling.

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19  
20  
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22  
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|----|----------------------------|----------|
| 1  | I N D E X                  |          |
| 2  |                            |          |
| 3  |                            | Page No. |
| 4  |                            |          |
|    | RUBEN PINEDA               |          |
| 5  |                            |          |
|    | EXAMINATION BY: MR. MEZA   | 85       |
| 6  |                            |          |
|    | MICHAEL GUTTMAN            |          |
| 7  |                            |          |
|    | EXAMINATION BY: MR. MEZA   | 143      |
| 8  |                            |          |
|    | MR. WEINSTOCK              | 194      |
| 9  | LORI CHASSEE               |          |
| 10 | EXAMINATION BY: MR. MEZA   | 208      |
| 11 | TOM DABAREINER             |          |
| 12 | EXAMINATION BY: MR. MEZA   | 220      |
| 13 |                            |          |
| 14 | E X H I B I T S            |          |
| 15 |                            | Page No. |
| 16 | Exhibit No. All M Exhibits | 14       |
| 17 | Exhibit No. 1              | 239      |
| 18 | Exhibit No. 2              | 199      |
| 19 | Exhibit No. 2A             | 17       |
| 20 | Exhibit No. PWC 1001       | 91       |
| 21 | Exhibit No. PWC 14         | 169      |
| 22 |                            |          |
| 23 |                            |          |
| 24 |                            |          |

1           HEARING OFFICER HALLORAN: We're going on  
2 the record. Good morning, everyone. My name is  
3 Bradley Halloran. I'm a Hearing Officer at the  
4 Illinois Pollution Control Board, and I'm also  
5 assigned to this matter. It's a consolidated  
6 matter. And I'll read the caption.

7           It's Protect West Chicago, otherwise  
8 known as PWC, petitioner, versus City of West  
9 Chicago, West Chicago City Council and Lakeshore  
10 Recycling Systems, LLC, respondents. That's  
11 PCB 23-107.

12           23-109 is People Opposing DuPage  
13 Environmental Racism, also known as PODER,  
14 petitioner, versus the City of West Chicago and  
15 Lakeshore Recycling Systems, LLC.

16           This is a Third-Party Pollution  
17 Control Facility Siting Appeal. The petitioners  
18 allege lack of fundamental fairness and objection  
19 to some of the Criterion.

20           Today is September 28, 2023. It's  
21 approximately 9:05 A.M. This hearing was scheduled  
22 and noticed according to the Illinois Pollution  
23 Control Board procedural rules and the  
24 Environmental Protection Act. It will be conducted

1 according to procedural rules found in Sections 107  
2 and 101 of the Board's procedural rules.

3 First off, I'd like to thank West  
4 Chicago for allowing us to hold the hearing here.  
5 Thank you very much.

6 As you may or may not know, I don't  
7 make the ultimate decision in the case. It's the  
8 four Board Members. And what I'll do, they'll take  
9 a look at the local siting record, they'll take a  
10 look at the transcript today, the exhibits and the  
11 post-hearing Briefs and make their decisions.

12 At this point, Mr. Meza and the  
13 petitioners, would you introduce yourselves for the  
14 record?

15 MR. MEZA: Sure. Mr. Halloran, my name is  
16 Ricardo Meza, M-E-Z-A, and I represent Protect West  
17 Chicago. Along with me here today is my assistant,  
18 Robert Coleman. He's just helping me with exhibits  
19 and stuff.

20 HEARING OFFICER HALLORAN: Thank you.

21 MR. WEINSTOCK: Good morning, Mr. Halloran.  
22 My name is Robert Weinstock from the Environmental  
23 Advocacy Center at Northwestern Pritzker School of  
24 Law. I represent People Opposing DuPage

1 Environmental Racism or PODER in this proceeding.

2 With me are my law clerks, Persis  
3 Ticknor-Swanson and Daniel Sullivan and several  
4 representatives of our client, PODER.

5 HEARING OFFICER HALLORAN: Thank you.  
6 Mr. Walsh?

7 MR. WALSH: Good morning, Mr. Halloran. My  
8 name is Dennis Walsh and I represent the City of  
9 West Chicago as the respondent.

10 HEARING OFFICER HALLORAN: Thank you.  
11 Mr. Mueller.

12 MR. MUELLER: Good morning, your Honor. I  
13 am George Mueller. I represent Lakeshore  
14 Recycling.

15 HEARING OFFICER HALLORAN: Thank you,  
16 Mr. Mueller.

17 Before we head on to opening  
18 statements, and I think at least the petitioners  
19 want to give them, we also have, as Mr. Weinstock  
20 stated, Miss Ticknor-Swanson. She's a third-year  
21 law student and the Supreme Court Rule 7-11 license  
22 is way overdue, so the parties have agreed that  
23 she'll do the opening statement as public comment  
24 and then Mr. Weinstock will make his comment.

1                   But at this point, if there's no  
2 further questions, I would ask the petitioners, and  
3 I'm not sure who wants to go first, for their  
4 opening, but do so, please.

5                   MR. MEZA: Mr. Halloran, before we start, I  
6 wanted to discuss a few procedural matters.

7                   HEARING OFFICER HALLORAN: Yes. Go ahead,  
8 sir.

9                   MR. MEZA: And I want to thank yourself and  
10 the Pollution Control Board for making arrangements  
11 to have a Spanish language interpreter here. Just  
12 for the record, the Spanish language interpreter is  
13 doing simultaneous translation from English to  
14 Spanish to the persons in the audience whose  
15 primary language is not English. They might speak  
16 English, but that's not their primary language so  
17 thank you for that.

18                   The second thing is procedurally prior  
19 to the start of today's hearing, the parties had an  
20 opportunity to discuss the filing dates for  
21 post-trial hearing Briefs.

22                   And as I understand, Mr. Mueller was  
23 kind enough to agree to extend the two-week  
24 deadline for the Pollution Control Board to issue

1 its ruling. I suspect that will be filed in short  
2 order, which means that it will give the parties a  
3 little bit more time to submit post-hearing Briefs.

4 We recommend, and the parties can speak  
5 for themselves, that the opening brief would be due  
6 on November 13th, which is a Monday. And that  
7 reply Briefs would be due December 6th, which I  
8 believe is a Wednesday.

9 That would give the Pollution Control  
10 Board more than 30 days in light of the  
11 Thanksgiving and Christmas holiday to issue its  
12 ruling.

13 And again, that takes into  
14 consideration the fact that Lakeshore I assume will  
15 have agreed to extend the decision deadline for  
16 another two weeks.

17 HEARING OFFICER HALLORAN: To what date,  
18 sir?

19 MR. MEZA: So right now I believe it's  
20 January 18th, so it would be --

21 HEARING OFFICER HALLORAN: The first week  
22 in February.

23 MR. MEZA: Exactly. It would be -- so  
24 February 8th is a Thursday, so it would be



1 February 1st of 2024, which is a Thursday. It's  
2 two weeks after January 8th. February 1st, 2024.

3 HEARING OFFICER HALLORAN: Thank you. I  
4 think that's doable and I think the board will  
5 appreciate it. And I did also forget to mention  
6 that after opening statements, we're going to have  
7 Miss Garcia read her written statement subject to  
8 cross.

9 MR. MEZA: Thank you.

10 In addition to that, last night  
11 Property West Chicago filed a motion to include the  
12 underlying record. I understand it might actually  
13 already be as part of the record before the  
14 Pollution Control Board, but I want to caution.

15 I identified the documents that we  
16 might refer to at the hearing today and/or, pre  
17 likely in our post-hearing Briefs that we filed. I  
18 identified those documents and the Bates stamp  
19 numbers.

20 I don't think there should be any  
21 objection to that. It's already in the record as I  
22 understand it.

23 HEARING OFFICER HALLORAN: Is that the  
24 local siting record?

1 MR. MEZA: Yes.

2 HEARING OFFICER HALLORAN: But, yes, motion  
3 granted if there's no objection.

4 MR. WALSH: Well, I have an objection to it  
5 because I haven't seen what he's asking, first of  
6 all, to be admitted, No. 1. And No. 2, any  
7 exhibits outside of the record -- and one of them  
8 is the letter he wrote to the pack about the Open  
9 Meetings Act issue. That's not part of the record  
10 and I object to that.

11 Any exhibits that he wanted to admit  
12 that were outside of the record needed to be filed  
13 by September 14th. As you know, we had until the  
14 18th to file our response to those. We received  
15 this last night after 8:00. I haven't had a chance  
16 to look at it in detail and I object to it.

17 HEARING OFFICER HALLORAN: I haven't looked  
18 at it either, but Mr. Meza just said everything --  
19 it's in the local siting record.

20 MR. WALSH: It's been filed with the  
21 Pollution Control Board; it's not part of the  
22 record.

23 HEARING OFFICER HALLORAN: Oh, well, then,  
24 you can't file things at 8:00 at night -- we'll

1 discuss that later.

2 MR. MEZA: That's fine.

3 Most of the documents other than what  
4 Mr. Walsh mentioned, which is the letter that we  
5 sent to the Attorney General's public access  
6 counselor are already in the record. He submitted  
7 them and he supplemented many of those records  
8 later. I don't think there's going to be objection  
9 to any of those. We can work with those.

10 HEARING OFFICER HALLORAN: Okay. Thank  
11 you, Mr. Meza.

12 MR. MEZA: The other thing is that before  
13 we give opening comments, and I do intend to give  
14 an opening comment and I'm happy to allow for them  
15 to go first, I would ask that witnesses who we  
16 intend to call, including Mr. Guttman,  
17 Mr. Dabareiner I believe is here, be excluded from  
18 the hearing pursuant to the rule that witnesses not  
19 participate in the hearing or listen to the other  
20 witnesses as they testify.

21 MR. WALSH: I object to that as well.

22 HEARING OFFICER HALLORAN: Your reason?

23 MR. WALSH: There is nothing in the  
24 procedural rules of the Pollution Control Board

1 that requires the removal of witnesses at a  
2 hearing. This is a public hearing. These are  
3 public individuals. They are entitled to listen to  
4 the testimony.

5 HEARING OFFICER HALLORAN: Well, we can  
6 also go to the Illinois Circuit Court or Supreme  
7 Court Rules and there is language in there.  
8 Mr. Mueller?

9 MR. MUELLER: I would join Mr. Walsh's  
10 objection.

11 MR. MEZA: It's very common to exclude  
12 witnesses who are going to testify other than  
13 expert witnesses and none of these witnesses are  
14 expert witnesses.

15 HEARING OFFICER HALLORAN: What about  
16 agents, agents of the city?

17 MR. MEZA: If they want to identify one of  
18 them as an agent, let them identify one of them as  
19 an agent and that person can stay in. We would  
20 have no objection to that.

21 HEARING OFFICER HALLORAN: Okay.

22 MR. MEZA: It will be four.

23 HEARING OFFICER HALLORAN: Is anybody an  
24 agent with the City?

1 MR. WALSH: Well, the City administrator is  
2 certainly an agent of the City who will be called  
3 to testify, so we would identify him as an agent.

4 HEARING OFFICER HALLORAN: Okay. He can  
5 stay.

6 MR. WALSH: To the extent that the Mayor  
7 wants to be here, he's obviously the head of the  
8 public body. He should be allowed to stay here.

9 MR. MEZA: They can select one.

10 HEARING OFFICER HALLORAN: By what  
11 authority, sir?

12 MR. MEZA: Mr. Halloran, I don't have a  
13 specific site in front of me, but I mean I'm  
14 certain that courts throughout this state, State  
15 Court and especially Federal Court, will allow the  
16 other party to have one representative there.

17 I'm not going to object to that. They  
18 can select whoever it is, whether it's the Mayor,  
19 whether it's Mr. Dabareiner, whether it's  
20 Lori Chassee, whether it's Michael Guttman, but not  
21 all four.

22 MR. WALSH: Not all four are here first of  
23 all. There's only two people here. But like I  
24 said, to the extent he's asking me to identify an

1 agent, I will say that that's the Village  
2 administrator. And again, the Mayor is the head of  
3 the public body and has a right to be here.

4 HEARING OFFICER HALLORAN: Okay. The  
5 Village administrator can stay. The rest should  
6 leave, the witnesses.

7 MR. MEZA: Thank you.

8 HEARING OFFICER HALLORAN: Thank you.  
9 Motion granted to an extent.

10 MR. MEZA: Also, Mr. Halloran and the  
11 parties, there's going to be a number of exhibits  
12 that we're going to be showing the witnesses. Some  
13 of them we may move to admit. Others we may not.  
14 Some of them are already in the record.

15 I'd like to distribute packets of the  
16 exhibits to all the parties, including yourself,  
17 and then let the parties know that for sake of, I  
18 guess, convenience not to confuse matters, many of  
19 these exhibits, even though they were PWC exhibits,  
20 were identified as M exhibits during Mayor Pineda's  
21 deposition, so I've kept those numbers.

22 Otherwise, I've identified the rest of  
23 the exhibits as PWC exhibits. And I've segregated  
24 the exhibits and also included a copy of our

1 exhibit list on top of each folder so that perhaps  
2 it's easier for the witnesses to go through it. If  
3 I can hand you a copy?

4 HEARING OFFICER HALLORAN: While you are  
5 handing it out, I'd like to see a copy of your  
6 motion that you filed according to Mr. Walsh some  
7 time at 8:00 last night?

8 MR. MEZA: Sure.

9 HEARING OFFICER HALLORAN: My computer is  
10 off by 6:00.

11 MR. MEZA: That's a copy of the motion that  
12 was filed last night.

13 HEARING OFFICER HALLORAN: Accept it. I'll  
14 take a look at it. We can discuss it later. And  
15 also, I think we're going to have to discuss some  
16 of these exhibit numbers. I'm a little confused  
17 why you started -- you just told me that they are  
18 from the local siting or below, but this is kind of  
19 a new proceeding and you usually start with ABC or  
20 123 and maybe we should have discussed that  
21 earlier.

22 MR. MEZA: Yeah. I mean, so the exhibits  
23 that I showed Mayor Pineda in his deposition, I  
24 just marked them as M exhibits. A lot of them were

1 PWC exhibits. Some of them were already in the  
2 record; others were not.

3 And then in preparing for today's  
4 hearing, rather than coming up with a whole new set  
5 of numbers, I thought it was going to be easier  
6 just to use the M exhibits and to use the PWC  
7 exhibits.

8 In fact, that was included in the  
9 letter that I sent the parties on September 14th  
10 identifying all of the exhibits. I know it might  
11 be a little confusing, but I didn't want to confuse  
12 the record any more than I had to.

13 HEARING OFFICER HALLORAN: Yeah. I think  
14 we're going to have to leave it as is at this late  
15 date. Again, we probably should have discussed it  
16 earlier, but the Board will so note. Thank you.

17 MR. MEZA: I think that's all I have. I'm  
18 happy to let them for forward if they have any  
19 comments.

20 MR. WEINSTOCK: Mr. Halloran, just a couple  
21 evidentiary housekeeping things.

22 HEARING OFFICER HALLORAN: Sure.

23 MR. WEINSTOCK: I think I'll be simpler.  
24 First, just to confirm, the record of the local



1 siting proceeding below that the City prepared and  
2 submitted is already part of the Board record.

3 HEARING OFFICER HALLORAN: Correct.

4 MR. WEINSTOCK: So there's no need to move  
5 for the admission or to cite --

6 HEARING OFFICER HALLORAN: If you want to  
7 do belt, suspenders, but no, it's already part of  
8 the --

9 MR. WEINSTOCK: That was my understanding.  
10 I just wanted to confirm that.

11 The other small point I wanted to make  
12 is pursuant to your order on September 14, PODER  
13 circulated to the parties two exhibits that were  
14 outside of the record that we intend to introduce  
15 today.

16 The City lodged no objection to those  
17 two exhibits. LRS's objection, I think, can be  
18 fairly characterized as boilerplate. There was no  
19 actual specific discussion of what's in the  
20 exhibits or any specific argument as to relevance  
21 or disability.

22 And so I would move for those to be  
23 admitted now and I can pass those out so the  
24 parties have them.

1 HEARING OFFICER HALLORAN: You can pass  
2 them out. We'll talk about it later. It seems  
3 like we're jumping the gun on a lot of this stuff.  
4 And just to note, this second exhibit, PODER  
5 Exhibit 2, I can't really read it.

6 MR. WEINSTOCK: We've actually prepared a  
7 new version.

8 HEARING OFFICER HALLORAN: Thank you.

9 MR. WEINSTOCK: That is a little more  
10 legible that we've marked as 2-A.

11 HEARING OFFICER HALLORAN: Thank you.

12 MR. WEINSTOCK: I'll pass those out.

13 HEARING OFFICER HALLORAN: Again,  
14 Mr. Weinstock, we'll discuss this later because I'm  
15 not sure what I have. And we've had several months  
16 to do this and beyond the last 11th hour, we're  
17 doing it. But I think we are ready for opening  
18 statements unless the respondents have anything?

19 MR. WALSH: I just have a housekeeping  
20 matter.

21 With respect to the exclusion of  
22 witnesses, I'm assuming that once the Mayor  
23 testifies, he can remain after his testimony?

24 HEARING OFFICER HALLORAN: Yes.

1 MR. WALSH: And that's true for all the  
2 witnesses?

3 HEARING OFFICER HALLORAN: Yes. Thank you.

4 MR. WALSH: Thank you.

5 HEARING OFFICER HALLORAN: Opening  
6 statements, Mr. Meza, PWC, you may proceed.

7 MR. MEZA: Thank you.

8 Thank you, Mr. Halloran, members of the  
9 Illinois Pollution Control Board. My name is  
10 Ricardo Meza and I represent protect West Chicago.

11 There is clearly no need for a second  
12 waste transfer station. There is no proven need  
13 for another station, neither for capacity nor for  
14 competition.

15 The hearings were bias, a farce. The  
16 above comments are 100 percent correct, and  
17 although PWC agrees with these comments, they are  
18 not the comments of PWC. Rather, they are the  
19 comments of a six-year West Chicago resident named  
20 Wendy Christman who submitted her comments to the  
21 West Chicago City Council.

22 The entirety of her comments are  
23 already in the record on appeal and can be found at  
24 Document 108141 at pages Bates Stamped COO 5810 and

1 C 005811.

2 In her January 26, 2023 written  
3 comments to the West Chicago City Council,  
4 Miss Christman also said that she had attended --  
5 she said this, and I quote, "She attended the  
6 hearing and was extremely disappointed to see that  
7 the lawyer who functioned as Judge was so clearly  
8 biased in his enthusiastic support of LRS, so  
9 obviously disdainful and disrespectful of the PODER  
10 counsel," and that's P-O-D-E-R.

11 Additionally, the method and manner for  
12 citizens to speak at the hearings was not made  
13 clear. In fact, it was extremely confusing and  
14 difficult to find information regarding how we  
15 could speak up.

16 Every resident I spoke to believed, as  
17 did I, that we would be able to voice concerns in  
18 an orderly manner at the end of each hearing.

19 Members of the Pollution Control Board,  
20 PWC agrees with all of the comments and  
21 observations of six-year resident Wendy Christman.

22 Miss Christman's comments and the  
23 allegations contained in PWC's Amended Petition  
24 relate to a lack of fundamental fairness in the

1 underlying proceedings and support the fact that a  
2 disinterested observer might conclude that the  
3 local siting authority adjudged both the facts and  
4 the law before hearing the case.

5 As you know, on April 14, 2023, PWC  
6 filed it's an amended Petition in this matter. In  
7 its Amended Petition, PWC alleged various grounds  
8 in support of its request to reverse the decision  
9 of the City of West Chicago to approve Lakeshore  
10 Recycling Systems, LLC's application for the  
11 construction and operation of what would be the  
12 second waste transfer station in West Chicago.

13 This would make West Chicago a  
14 community, that is over 50 percent Latino, the only  
15 city in the entire DuPage County that would have  
16 two waste transfer stations in their community.

17 In our Amended Petition, PWC alleged  
18 that the City of West Chicago's decision to grant  
19 Lakeshore's approval should be reversed on  
20 jurisdictional grounds because Lakeshore failed to  
21 comply with the pre-filing requirements set forth  
22 under state law and the Illinois Environmental  
23 Protection Act, and in particular, 415 ILCS  
24 Section 539.2 B.

1 PWC submitted its arguments to the  
2 Hearing Officer and the City of West Chicago, yet  
3 despite the controlling law and authority, the City  
4 of West Chicago nonetheless granted Lakeshore's  
5 application.

6 The decision to not reject Lakeshore's  
7 application on these grounds should end these  
8 proceedings today because they are jurisdictional  
9 grounds, which prevented the City of West Chicago,  
10 the Hearing Officer, from hearing the application  
11 of Lakeshore.

12 However, the decision of West Chicago  
13 to ignore the facts and law reveals that West  
14 Chicago had, in fact, adjudged both the facts and  
15 the law before even hearing the case.

16 Secondly, Protect West Chicago also  
17 alleged that the City of West Chicago's decision to  
18 grant Lakeshore's approval should be reversed  
19 because in its application and at the siting  
20 hearing, Lakeshore admitted that its proposed  
21 facility would be located within 1,000 feet of  
22 property zoned residential.

23 This admission, this fact is in direct  
24 contravention of state law, and in particular, the

1 State's site location standard, which is set forth  
2 in 415 ILCS Section 5/22.14 A.

3 State law is very clear, no person may  
4 establish any pollution control facility for use as  
5 a garbage transfer station which is located less  
6 than 1,000 feet from the nearest property zoned for  
7 primarily residential uses within 1,000 feet of any  
8 dwelling.

9 However, despite this clear language,  
10 despite the fact that location was, in fact,  
11 located within 1,000 feet of property that was  
12 zoned primarily for residential uses, West Chicago  
13 City Council adopted the report of the Hearing  
14 Officer and his recommended findings of fact and  
15 recommended conditions of approval in which he  
16 found that this did not apply.

17 Interestingly, the Hearing Officer,  
18 Mr. Derke Price, that's spelled D-E-R-K-E, relied  
19 on a letter that was prepared by Tom Dabareiner.  
20 That's D-A-B-A-R-E-I-N-E-R.

21 Mr. Dabareiner is a community  
22 development director for the City of West Chicago.  
23 He submitted a letter under his signature in West  
24 Chicago letterhead, which Hearing Officer Price

1     relied on and which the City Council adopted in his  
2     entirety. And that ruling of Mr. Price relied on  
3     the letter from Mr. Dabareiner.

4             In fact, the City of West Chicago not  
5     only relied on a letter from one of its own  
6     officials, it did so knowing that it was the  
7     obligation of the applicant, in this case  
8     Lakeshore, to make sure that it met all its  
9     requirements.

10            In other words, it was the obligation  
11     under the Ordinance of the City of West Chicago  
12     that Lakeshore submit evidence and facts supporting  
13     that it met all the location Criterion.

14            But it's not just that Mr. Dabareiner  
15     wrote a letter that Lakeshore used in support of  
16     Lakeshore's application, but that Lakeshore  
17     actually edited and wrote language in that letter  
18     to make it more favorable to Lakeshore and the City  
19     of West Chicago accepted it.

20            In other words, the initial draft that  
21     Mr. Dabareiner wrote in 2019 to whom it may concern  
22     stated, among other things, that the City believes  
23     Section 22.14 A, 1,000-foot setback is not  
24     applicable.



1           But that's not changed by Lakeshore to  
2 say as such, the City concludes that the 1,000-foot  
3 setback requirement is not applicable.

4           So they went from belief to conclude  
5 because that's what Lakeshore wanted. And what  
6 Lakeshore wanted Lakeshore got.

7           This is further evidence that West  
8 Chicago officials and the local siting authority  
9 had clearly adjudged both the facts and the law,  
10 because these are legal requirements, the  
11 1,000-foot setback, before the hearing.

12           Those letters were drafted in 2019 and  
13 yet, were made by Lakeshore in 2022.

14           For today's hearing, PWC intends to  
15 question witnesses in order to elicit further facts  
16 relating to the pre-adjudication in favor of  
17 approving Lakeshore's application, which frankly  
18 rendered the entire local review process  
19 fundamentally unfair, and in the words of  
20 Miss Christman, a farce.

21           In regards to the fundamental fairness  
22 allegations, we'll be calling the Mayor, who you'll  
23 hear in 2019 before the application was submitted  
24 by Lakeshore is sending out text messages to a

1 local Catholic -- I don't think it's a Catholic  
2 priest -- a local priest named Father Josh Ebener,  
3 E-B-E-N-E-R, when he found out that Father Josh had  
4 posted information opposing a second waste transfer  
5 station in this majority Latino community.

6 Stop pushing propaganda is what the  
7 Mayor wrote. Guess what? There were no more  
8 texts. There were no messages from Father Josh.

9 We'll be calling Mr. Guttman who is  
10 here who runs the city, day-to-day city, about some  
11 of his activity and his conduct with regard to the  
12 pre-application filings and some documents.

13 We'll be calling Alderman Lori Chassee,  
14 that's C-H-A-S-S-E-E, who voted for Ordinance  
15 23-0 -- actually, it's not a zero, it's an O I  
16 believe, 23-0-0006. That is the Ordinance that the  
17 City Council voted on in a five-minute meeting held  
18 at a local high school in West Chicago after they  
19 had met for over an hour, hour-and-a-half in closed  
20 session the day before on February 27.

21 And we'll be calling Tom Dabareiner  
22 who, as I mentioned, prepared a letter that  
23 Lakeshore used in their application to support the  
24 fact that Lakeshore met the location site

1 Criterion, which Hearing Officer Price adopted,  
2 accepted, used and in turn so did the City Council.

3 PWC believes that after hearing the  
4 witness' testimony coupled with the exhibits, the  
5 evidence that's already in the record before the  
6 Pollution Control Board and additional arguments  
7 that we will be including in our post-hearing brief  
8 and our post-hearing Reply Brief, the Pollution  
9 Control Board will be able to conclude that those  
10 pre-adjudications in favor of approving Lakeshore's  
11 application, rendering the entire process  
12 fundamentally unfair.

13 Now, we also on behalf of PWC believe  
14 that the Hearing Officer made and rendered  
15 impartial rulings as alleged in Paragraph 20 of  
16 PWC's Amended Petition. We'll be discussing those  
17 also in our post-hearing brief.

18 And finally, we'll also be arguing to  
19 the Pollution Control Board as set forth in our  
20 Amended Petition of April of this year that  
21 Lakeshore's application failed to meet the  
22 Criterion in Section 39.2 and specifically failed  
23 to establish there was an actual need for the  
24 second waste transfer station, failed to establish

1 that the proposed transfer station would be  
2 operated in a safe manner, thus not satisfying  
3 Criterion 2.

4 The need didn't satisfy Criterion one  
5 of 39.2. We also believe it shows that the  
6 proposed facility was not located so as to minimize  
7 in capacability does not satisfy Criterion 3.

8 And that the proposed facility failed  
9 to overcome DuPage County's solid waste management  
10 plan, thus not satisfying Criterion A.

11 The plan does not require or does not  
12 contemplate two waste transfer stations located on  
13 the same street in the same town in the same  
14 county. That's what Lakeshore wants.

15 Mr. Halloran and members of the  
16 Pollution Control Board, all these matters will be  
17 discussed in later detail in our post-hearing  
18 filings. And we thank you for the opportunity to  
19 present these witnesses and our evidence in support  
20 of our request that you reverse the decision of the  
21 City of West Chicago's approval for a second waste  
22 transfer station for Lakeshore. Thank you.

23 HEARING OFFICER HALLORAN: Thank you, sir.

24 MR. WEINSTOCK: Thank you, Mr. Halloran.

1 Again, my name is Rob Weinstock. I'm counsel for  
2 PODER in this matter.

3 I want to start by thanking you,  
4 Mr. Halloran, and the Board for holding these  
5 hearings in West Chicago and with the availability  
6 of language translation.

7 I am going to yield my time as it were  
8 to my law clerk, Persis Ticknor-Swanson.  
9 Miss Ticknor-Swanson's Rule 7-11 license has been  
10 delayed due to administrative issues, so she will  
11 provide an opening statement as a public comment.

12 PODER fully incorporates her public  
13 comment that follows as its official public  
14 statement for the record -- excuse me -- its  
15 official opening statement for the record in this  
16 proceeding.

17 HEARING OFFICER HALLORAN: Thank you. You  
18 may step up. And I might add, the respondents had  
19 no objection. Wherever you feel comfortable with.  
20 You can sit there as long as we can all hear and  
21 the court reporter.

22 MS. TICKNOR-SWANSON: Sure. My name is  
23 Persis Ticknor-Swanson and I'm a law clerk at the  
24 Northwestern Pritzker School of Law Bluhm Legal

1 Clinic. I am here today under the supervision of  
2 my professor Rob Weinstock. We represent the  
3 petitioner, People Opposing DuPage Environmental  
4 Racism known as PODER. PODER is part of immigrant  
5 solidarity DuPage, a citizen's rights group focused  
6 on educating and organizing DuPage County around  
7 the rights and collective struggles of the Latino  
8 community.

9 I have been working with PODER since  
10 January when they got involved in the City  
11 hearings. A member of PODER, Julieta  
12 Alcantar-Garcia, will provide a Sworn Statement on  
13 PODER's behalf as authorized by Title 35 of the  
14 Illinois Admin Code, Subpart F, Section 101.628.

15 This case is about whether a  
16 municipality must consider who the people are in a  
17 community in which a pollution control facility may  
18 be located and what existing environmental  
19 conditions or health stressors the community  
20 already suffers from.

21 The City's interpretation of  
22 Section 39.2 of the Illinois Environmental  
23 Protection Act excludes consideration of the people  
24 who actually live in West Chicago and how this

1 facility might impact their health. That  
2 interpretation is a misreading of the spirit and  
3 letter of the Statute and the City's Hearing  
4 Officer used it as a legal cudgel rendering the  
5 process fundamentally unfair to the community.

6 It is impossible to evaluate the  
7 environmental impacts of a facility without being  
8 deeply informed by the surrounding social context.

9 We ask the Board to take this  
10 opportunity to remedy the fundamental unfairness of  
11 this particular siting decision, but also the  
12 fundamental unfairness of interpreting a statute  
13 that is concerned with the public health safety and  
14 welfare of communities to be applied in a way that  
15 sacrifices a vulnerable community for the benefit  
16 of a broader area.

17 Our client PODER operates in West  
18 Chicago, which is a majority-minority city where  
19 over 50 percent of the population speaks a language  
20 other than English and a significant percentage of  
21 the residents are immigrants.

22 West Chicago already supports one waste  
23 transfer station -- the only one in DuPage  
24 County -- and if LRS is successful, all the waste

1 transfer stations for the entirety (majority white)  
2 DuPage County will be concentrated in a minority  
3 community.

4 West Chicago has a long and painful  
5 history of radioactive contamination and already  
6 bears the burden of health impacts from commercial  
7 and industrial facilities.

8 This new waste transfer station will  
9 increase diesel pollution from trucks in West  
10 Chicago even as in DuPage County overall vehicle  
11 miles are reduced or competition improves prices.

12 A new waste transfer station will just  
13 be another chapter of burdening an already  
14 vulnerable community with pollution and possibly  
15 harming residents' health.

16 PODER has been working to oppose the  
17 waste transfer station since the application was  
18 filed. PODER registered and participated as a  
19 party during the City's hearing process. Our  
20 clinic began representation of PODER in the middle  
21 of the hearings because PODER realized that in  
22 order to meaningfully participate and navigate this  
23 at-times hostile process they needed counsel.

24 They submitted findings of fact and



1 conclusions of law to the Hearing Officer and also  
2 submitted a written public comment to the City  
3 Council. Despite all the questions and concerns  
4 raised by PODER in these filings, both documents  
5 were disregarded entirely by the City in their  
6 deliberations and subsequent Ordinance.

7 In March, PODER filed a Petition for  
8 review of the Board. We respectfully ask the Board  
9 to overturn the City's approval of LRS's waste  
10 transfer station and we offer two main arguments.

11 Our first argument is about the proper  
12 statutory interpretation of Section 39.2. We'll  
13 reserve a more thorough argument for our brief, but  
14 I want to summarize it now, as it contextualizes  
15 PODER's position in this appeal as an environmental  
16 justice group and also informs the testimony you  
17 will hear today about the fundamental unfairness of  
18 the City hearing process.

19 The City's Hearing Officer treated  
20 testimony about environmental justice and public  
21 health with open hostility and the City did not  
22 even consider them at all.

23 For example, at the City hearing, the  
24 Hearing Officer declared point blank that he

1 believes the Statute excludes any consideration of  
2 environmental justice. He stated, I'm not going to  
3 hear testimony about environmental justice. I'm  
4 not going to have testimony about if this were to  
5 impact on persons of whether it's color, income.  
6 None of that is relevant 39.2.

7           We disagree. This case is a textbook  
8 example of structural Environmental Racism because  
9 relevant information that speaks directly to public  
10 health safety and welfare was disregarded by the  
11 decision makers. The language of the Statute has  
12 been construed so narrowly by the Hearing Officer  
13 and the City counsel that it concentrates an entire  
14 County's environmental burden into a single  
15 community of mostly people of color and then it  
16 justifies its harm by relying on misinterpretations  
17 of Criterion 2.

18           The Hearing Officer and City's  
19 interpretation of Criterion 2 is not in sync with  
20 the plain language of the Statute or with the  
21 reality of how new facilities may impact public  
22 health safety and welfare. We will ask in our  
23 Briefs for the Board to correct this.

24           The language of Criterion 2 applies to

1 the public. The relevant public is the actual  
2 community in which the waste transfer station will  
3 be located, not the entire county or a single plot  
4 of land.

5 The burden was on LRS to show that its  
6 proposed facility would protect public health,  
7 safety and welfare. PODER attempted to present  
8 evidence that West Chicago was already bearing  
9 environmental burdens that would impact public  
10 health.

11 In contrast, LRS had no evidence about  
12 protecting the public health from air pollution and  
13 diesel trucks in West Chicago. Misinterpreting the  
14 Statute in this way harms West Chicago residents,  
15 who are the proper relevant public to be protected.

16 Our second main argument, which we will  
17 address in more depth at this hearing, is that the  
18 City's hearing process was fundamentally unfair to  
19 PODER and the community of color in West Chicago.  
20 We have a couple points about fundamental fairness.

21 As I mentioned earlier, Miss Garcia  
22 will offer a public statement under oath about her  
23 experience with the City's hearing process. She  
24 has decided to present here testimony in her first

1 language and the one she uses in her West Chicago  
2 community, Spanish, which was an opportunity that  
3 she was denied at the City's hearing. We are  
4 grateful to the Board for providing Spanish  
5 translation here today.

6 Miss Garcia will speak to the  
7 challenges faced by the Spanish-speaking community  
8 in West Chicago when they try to participate in the  
9 hearing process. For example, there was no  
10 translation offered at the City's hearing despite a  
11 significant percentage of the effected public  
12 speaking Spanish.

13 Miss Garcia was also not treated in a  
14 fundamentally fair manner during her testimony.  
15 She faced a hostile forum as a witness when the  
16 supposedly impartial hearing officer improperly  
17 impeached her testimony on air quality and acted  
18 with a general disrespectful demeanor towards her.

19 Even though the Statute puts the burden  
20 on LRS, LRS presented nothing on how increased  
21 diesel traffic might impact air pollution or affect  
22 public health, whereas Miss Garcia did. This  
23 Criterion 2 air quality testimony and the concern  
24 she raised about public health and environmental

1 harm during the City's hearings were totally  
2 ignored in the Hearing Officer's report to the City  
3 Council and then the City's Ordinance.

4 Beyond the specific treatment of  
5 Miss Garcia, the Hearing Officer and City applied  
6 different standards of fairness to PODER and LRS.  
7 The exhibits that we plan to submit later are going  
8 to speak directly to this.

9 For example, the Hearing Officer would  
10 not allow members of PODER to make oral public  
11 comment at the hearing because they attempted to  
12 register after the City's deadline, even though the  
13 site of information was not easily accessible.

14 But later in the process, the Hearing  
15 Officer did not similarly require LRS to strictly  
16 comply with procedural rules. The Hearing Officer  
17 allowed LRS to submit extra witness testimony from  
18 both Canadian National and Associate Property  
19 Counselors under the guise of post-hearing public  
20 comments.

21 The City then renamed them as a  
22 submission of the parties in the certified record  
23 to the Board. This was fundamentally unfair  
24 because it allowed LRS to get witness testimony

1 into the record past the deadline and without any  
2 opportunity for cross examination.

3 LRS did not even follow the proper  
4 procedure for what it farcically called a public  
5 comment, submitting it to the Hearing Officer  
6 instead of the City Council. It was fundamentally  
7 unfair for the Hearing Officer to deny public  
8 participation of community members on a  
9 technicality while allowing LRS to break the rules  
10 in a much more significant way.

11 I will also note that PODER properly  
12 jumped through all the procedural hoops and the  
13 City still mysteriously did not include PODER's  
14 public comment in the published packet until PODER  
15 noticed this omission.

16 The burden of procedural compliance was  
17 much higher on PODER whereas LRS was allowed wiggle  
18 room. It is fundamentally unfair to burden  
19 community members with the task of ensuring the  
20 City is treating them fairly.

21 Protecting the public health, safety  
22 and welfare when citing a pollution control  
23 facility means considering the actual community and  
24 environment in which that facility will be located.

1           The Hearing Officer and City Council  
2       disregarded and disrespect PODER's testimony about  
3       public health, safety and welfare and that was  
4       fundamentally unfair. A statute concerned with  
5       public health, safety and welfare of communities  
6       should not be applied in a way that ignores the  
7       social and historical context of West Chicago and  
8       thereby imposes public health burdens on a  
9       community of color for the benefit of a wider,  
10      whiter and wealthier area.

11           We ask the Board to overturn the City  
12      counsel's approval of LRS's waste transfer station  
13      for failure to comply both with the language of the  
14      IEPA and for failure to conduct a fundamentally  
15      fair process. Thank you.

16           HEARING OFFICER HALLORAN: Thank you,  
17      Miss Ticknor-Swanson. I appreciate it.

18           Mr. Walsh?

19           MR. WALSH: Thank you, Mr. Halloran.  
20      Contrary to what the petitioners have alleged in  
21      their petitions, the proceedings held by the City  
22      of West Chicago with respect to the application  
23      filed by Lakeshore Recycling Systems, LLC on  
24      September 16, 2022 met the fundamental fairness

1 requirements applicable to a siting authority.

2 I cannot stress enough that the City  
3 Council took its responsibilities with respect to  
4 these proceedings very seriously.

5 There is no evidence in the record or  
6 that will be presented today that will show that  
7 any member of the City Council who was a  
8 decision-maker on this application had prejudged  
9 the application, but rather, the record will show  
10 that the City Council made an impartial decision on  
11 the application based on whether the evidence met  
12 the 9th siting Criterion.

13 Simply put, the aldermen of the City of  
14 West Chicago made an impartial decision on the  
15 application, one that met the requirements of the  
16 Illinois Environmental Protection Act and the  
17 precedent established by Illinois Courts and  
18 Illinois Pollution Control Board.

19 The comments read you'll see throughout  
20 the evidence of the record is that the petitioner's  
21 main concern was not that the City Council failed  
22 to file proper procedures, but rather, the  
23 procedures themselves, those set forth by Illinois  
24 law and by the City Ordinance, seems unfair.



1           And I suspect that much of what they  
2 will attempt to introduce into evidence today will  
3 have no relevance under the law.

4           And most importantly, those concerns do  
5 not form a legal basis for overturning the City's  
6 decision.

7           In the end, when all of the evidence is  
8 presented on these issues, it will be clear that  
9 the City's decision met the standards of  
10 fundamental fairness, that the City's decision was  
11 supported by the citing record with respect to the  
12 contested criteria and that the City's decision was  
13 not against the manifest weight of the evidence and  
14 should be affirmed. Thank you.

15           HEARING OFFICER HALLORAN: Thank you,  
16 Mr. Walsh. Mr. Mueller?

17           MR. MUELLER: Thank you. I'll be very  
18 brief.

19           Mr. Meza quotes a public comment during  
20 the hearing from a Wendy Christman for the  
21 proposition that a disinterested observer would  
22 conclude that the hearings were not fair. There is  
23 no basis to believe that Miss Christman was a  
24 disinterested observer. And I'll leave my response

1 to her comment at that.

2 Now, what you're going to hear today,  
3 Mr. Halloran, is a stretch at circumstantial  
4 evidence, but what you're not going to hear is  
5 evidence that any of the decision-makers were  
6 biased or that they were improperly influenced.  
7 And that's significant.

8 You've seen motions that have the same  
9 conspiracy concept in them filed by Protect West  
10 Chicago. And those concepts are simply not  
11 supported.

12 For example, Protect West Chicago is  
13 today going to present evidence that a  
14 representative of Lakeshore suggested to a City  
15 employee some alternative wording 4-11. That City  
16 employee was not a decision-maker, but Protect West  
17 Chicago wants you to take unrelated and irrelevant  
18 facts and conclude that those must be  
19 circumstantial evidence of bias.

20 The problem with their argument is that  
21 bias has to be by the decision-maker. It doesn't  
22 matter whether Mr. Guttman, the City administrator,  
23 is bias, although I have no evidence that he is or  
24 isn't. What matters is whether the decision-makers

1 were biased. And there's not going to be any  
2 evidence on that whatsoever.

3 Now, as to PODER's argument, somehow  
4 they want to throw us into the cultural war that  
5 says everyone is the subject of structural racism  
6 and structural oppression. And they want the  
7 Pollution Control Board to add language to  
8 Section 39.2 that is not in there.

9 The Hearing Officer strictly  
10 interpreted the clear language of 39.2 in barring  
11 testimony on environmental justice, whatever that  
12 term even means.

13 The Hearing Officer did not bar  
14 testimony on public health effects. And now  
15 apparently Lakeshore is also responsible for  
16 previous radioactivity issues in the City of West  
17 Chicago since that's been thrown into the mix, too,  
18 to show that this is an oppressed community.

19 Mr. Halloran, I live in West Chicago.  
20 And I also speak a language other than English, but  
21 I do my business in English. And Miss Garcia who  
22 is PODER's witness, and I believe the opening  
23 statement was she was forced to give testimony in a  
24 language other than her native language.

1           She testified that she was born in West  
2 Chicago. That she's born and raised here, lived  
3 her whole life here. And she testified to that in  
4 English and frankly, quite articulately.

5           So the whole Spanish language issue is  
6 a smokescreen. And a careful review of the record  
7 that is on file indicates that neither PODER nor  
8 Protect West Chicago ever asked for Spanish  
9 translation during the siting hearing.

10           I think they are going to be reading  
11 about the waiver rule in the Briefs because they  
12 didn't ask for it and they didn't get it. So  
13 apparently Lakeshore is now responsible for  
14 oppression of the population. Two responses to  
15 that.

16           Number one, there was no denial of  
17 evidence regarding health effects of the siting  
18 application. Lakeshore took its obligation of  
19 protecting the public health, safety and welfare  
20 under Criterion 2 of Section 39.2 very seriously.  
21 And the Hearing Officer did not deny evidence  
22 regarding public health. And negative public  
23 health affects seems to me that it would apply to  
24 people of color and other people as well.

1                   So that wasn't denied.

2                   Secondly, the evidence is going to be  
3 that this particular facility is located far  
4 removed from populated areas in the City of West  
5 Chicago. And as I understand PODER's public  
6 health, safety and welfare argument, it is that  
7 they weren't allowed to get evidence of truck  
8 emissions in.

9                   Trucks are ubiquitous on the roads of  
10 the United States, as well as West Chicago. And  
11 wherever they go, they have emissions. And our  
12 testimony was that the emissions from trucks  
13 servicing this transfer station would have a de  
14 minimis effect on air quality in the area.

15                   So my point is, I think what you're  
16 hearing, what you're going to hear is smoke and  
17 mirrors and it's some kind of twisted attempt to  
18 bring Section 39.2 into the cross hairs of the  
19 cultural wars that are occurring now in places I  
20 thought outside of Illinois, but apparently they  
21 have come to Illinois as well.

22                   Thank you.

23                   HEARING OFFICER HALLORAN: Thank you,  
24 Mr. Mueller.

1                   It's been agreed to, before we start  
2 directing and crossing the witnesses, that  
3 Miss Garcia will stand, step up and read her sworn  
4 written statement subject to cross. Am I  
5 understanding correct?

6                   MR. WEINSTOCK: Yes.

7                   HEARING OFFICER HALLORAN: Thank you,  
8 Mr. Weinstock. We're off the record for a minute.

9                                   (There was a discussion held off  
10 the record, after which the  
11 deposition resumed as follows:)

12                   HEARING OFFICER HALLORAN: All right.  
13 We're back on the record. Miss Garcia, a witness  
14 statement subject to cross, you may proceed.

15                   THE WITNESS: My name is Juliette  
16 Alcantar-Garcia and I am here representing one of  
17 the participants, PODER, or in English People  
18 Against Environmental Racism in DuPage.

19                                   PODER is an organized committee of  
20 immigrant solidarity DuPage, which is dedicated to  
21 advocating for our local Latin community.

22                                   PODER committee is focused on making  
23 sure that our community has a safe and healthy  
24 environment.

1                   Today I am here in a personal capacity  
2 as a resident of West Chicago for over 50 years and  
3 mother of two children who have grown up here in  
4 this community.

5                   I am also here present as a citizen  
6 trying to be involved in this process.

7                   I am going to give my testimony in  
8 Spanish because I want my community, my whole  
9 community, to understand what I am saying, not only  
10 the members of our community who speak English.

11                   Spanish is the first language that I  
12 learned growing up in my family and it is the  
13 language that I use to communicate to speak with my  
14 neighbors in West Chicago.

15                   I am very grateful to the Illinois  
16 Pollution Control Board for allowing there to be an  
17 interpreter in existence in this hearing to be able  
18 to have this opportunity.

19                   This was the opportunity that was  
20 denied to us by the City government during the  
21 hearings in the month of January of 2023.

22                   When I learned that LRS wanted to  
23 expand a waste transfer station here in West  
24 Chicago, I was very skeptic, just very doubtful.

1           We have already had to live with a lot  
2 of pollution here in West Chicago.

3           There are already a lot of commercial  
4 and industrial installations or facilities here in  
5 our town, including another waste transfer station.  
6 All of these facilities always have dozens of  
7 trucks, motor diesel trucks, daily, just expelling  
8 and spitting out exhaust into our air.

9           There is already radioactive  
10 contamination spread out in the lot around what is  
11 called Superfund sites of Kerr McGee.

12           Through the passing of time, there have  
13 been more and more spaces and prairies converted in  
14 our town. They have been converted into gas  
15 stations or rest stops for big trucks.

16           All of this pollution affects the  
17 health of our people. I often speak with parents  
18 at the schools of my children in reference to how  
19 they are worried that their children have been  
20 diagnosed with asthma or with respiratory  
21 illnesses.

22           Other people in our town are struggling  
23 and fighting these chronic illnesses, which could  
24 have been caused by pollution. When I hear their



1 concerns, their worries, this motivates me to  
2 advocate for them.

3 In West Chicago, we do not need another  
4 facility that will bring more motor diesel trucks  
5 contaminating and polluting the air in our  
6 community.

7 Members of our community and I were  
8 attempting to become involved in this approval  
9 process for LRS, but we were constantly put in  
10 front of obstacles by the municipal government of  
11 West Chicago and its representatives.

12 Since the beginning, LRS and the  
13 municipal government I believe have created this so  
14 that it would be very difficult for our Latino  
15 community to be able to participate. LRS began to  
16 submit its application for a permit to expand its  
17 business on Mexican Independence Day, which to me  
18 was an insult because this is a day of celebration  
19 for us.

20 Instead of celebrating, we received a  
21 slap in the face by proposing that LRS could make  
22 their facilities bigger, or grow their business  
23 within our community.

24 When LRS tried to invite PODER to its

1 facility to present its propaganda, in reality,  
2 they did not listen to our concerns. They believed  
3 instead that by serving us some really bad tacos,  
4 they were going to be able to win us over or buy  
5 us.

6 And then it seemed that the municipal  
7 government of West Chicago wanted to have the  
8 hearing days before the December festivities.

9 This is a time when many of our  
10 residents are with family or are with religious  
11 obligations, which creates a conflict in order to  
12 attend.

13 This was going to create an emotional  
14 load or a load for our Latino community because  
15 many of us begin to celebrate the December  
16 festivities with the Day of our Lady of Guadalupe.

17 This is also a day in which we have  
18 many family obligations and we either travel or are  
19 hosting. We in the PODER committee attended some  
20 of these Council meetings in West Chicago to demand  
21 that the hearings be held after the festivities.

22 The municipal government of the City  
23 was in agreement to move the hearings until  
24 January. We were not the ones that had to convince

1 the municipal government of West Chicago to do  
2 this. It is the obligation of West Chicago  
3 government to always make these hearings  
4 accessible.

5 The next obstacle created by the West  
6 Chicago municipal government was interpretation or  
7 translation. While the City of West Chicago  
8 provides a translation function on its website, but  
9 it did not translate the materials pertaining to  
10 the LRS application.

11 More than half of our town only speaks  
12 and understands Spanish. How is it that our  
13 community of Spanish-speaking residents was going  
14 to know about this waste transfer station without  
15 access to LRS application?

16 Later on during the hearing, there was  
17 no translation provided.

18 I saw friends and neighbors, all  
19 Latinos, in the first days of the hearing who left  
20 in the middle of the hearing. I asked them why  
21 didn't you stay? They said it was because they  
22 didn't understand or know anything about what was  
23 happening.

24 In the past, the municipal government

1 of the City has provided translation at meetings  
2 for the West Chicago Council and other events. Why  
3 not here?

4 When I speak with West Chicago  
5 officials regarding various public subjects or  
6 themes, I speak with them in Spanish often.

7 I perceive that the municipal  
8 government of West Chicago did not want our Latino  
9 community to participate in order to not give us  
10 the opportunity to be able to have our voices heard  
11 regarding this specific subject.

12 I felt we were silenced. Despite all  
13 of the obstacles, I decided determinately to become  
14 involved so that my voice would be heard for my  
15 community.

16 I am worried about the health and  
17 well-being in my community. And when I heard about  
18 the hearing, I decided to collect information in  
19 reference to pollution at the existent facility  
20 that was already being caused.

21 I began monitoring the air quality in  
22 and around the installations or facilities of LRS  
23 in the months of October and -- between the months  
24 of October and December of 2022. This was with an

1 air beam device.

2 MR. MUELLER: Your Honor, I am going to  
3 object at this point.

4 HEARING OFFICER HALLORAN: Hold on a  
5 minute, please. Mr. Mueller, your objection?

6 MR. MUELLER: My objection to her testimony  
7 on air monitoring is that the Hearing Officer at  
8 the hearing disregarded that testimony because he  
9 found it to be unreliable and unscientific in  
10 nature.

11 MR. WEINSTOCK: Mr. Halloran, may I have an  
12 opportunity to respond?

13 HEARING OFFICER HALLORAN: Yes, you may.

14 MR. WEINSTOCK: The hearing officer's  
15 disregard for Miss Garcia's testimony is exactly  
16 what we are here to talk about today because it  
17 speaks to whether the hearing officer treated her  
18 in a fundamentally unfair manner, which is exactly  
19 what Miss Garcia --

20 HEARING OFFICER HALLORAN: Okay. The Board  
21 will so note the objections and Mr. Mueller, you  
22 can cross when she gets finished. Thank you.

23 THE WITNESS: In the month of December, I  
24 also counted the diesel motor truck that would come

1 in and leave out of the route and LRS facility.  
2 This was a very dirty and difficult job for me. I  
3 had to wear a face mask out of fear of being  
4 exposed or out of fear of inhaling the pollution  
5 that was being caused by these trucks.

6 The smell outside both facilities was  
7 horrible in combination with the diesel exhaust of  
8 the trucks and the garbage inside.

9 December came and the temperatures  
10 began to drop and it was very cold. But I did my  
11 job because I wanted to know if the waste transfer  
12 stations were harming the health of our community.  
13 I wanted to know what would happen if LRS is  
14 allowed to add and bring more diesel motor trucks  
15 to cause more contamination in the air, which is  
16 already contaminated.

17 HEARING OFFICER HALLORAN: Sorry to  
18 interrupt. I don't have an English version of her  
19 statement. Mr. Weinstock?

20 MR. WALSH: Could the respondents have a  
21 copy of the statement?

22 HEARING OFFICER HALLORAN: Yes, that would  
23 be great. I thought everybody would get copies.

24 MR. WEINSTOCK: I believe I only have three

1 copies.

2 HEARING OFFICER HALLORAN: All right. You  
3 may proceed. Thank you.

4 THE WITNESS: When it was my turn to  
5 testify in the City hearing, I was nervous. I had  
6 to speak in front of all of these people in English  
7 instead of being able to speak in a language that  
8 my community understands and one in which I feel  
9 more comfortable.

10 I had never done anything like this in  
11 either of the two languages that I speak, but I was  
12 determined to speak because I had information that  
13 I had collected that highly concerned me.

14 I have counted dozens of trucks  
15 entering and leaving in both installations or  
16 facilities every hour that I was there. I saw the  
17 levels of contamination increase on the monitor.

18 MR. MUELLER: I'm going to object again,  
19 Mr. Halloran. You cannot hear new evidence on the  
20 criteria here, and this is an attempt to get  
21 through the back door, evidence about Criterion 2.

22 HEARING OFFICER HALLORAN: Yes. I think  
23 it's going a little abroad, Mr. Weinstock. And  
24 also, I was under the assumption in one of the

1 conference calls you said this was going to be a  
2 sworn statement in English.

3 MR. WEINSTOCK: Yes, and I actually was  
4 going to raise that here. You mentioned it would  
5 be sworn and subject to cross and she wasn't sworn  
6 in so I'm happy to --

7 HEARING OFFICER HALLORAN: You said a sworn  
8 statement, meaning I was thinking was being  
9 notarized and I didn't have a copy at the  
10 beginning.

11 MR. WEINSTOCK: I'm sorry. It's an oral  
12 statement. We assumed the court reporter would  
13 swear her in under the rules.

14 HEARING OFFICER HALLORAN: Well, under the  
15 rules, when a person says a sworn statement, I  
16 thought you meant it was to be notarized and be  
17 sworn, because otherwise, I would have called it  
18 out sooner.

19 MR. WEINSTOCK: I'm sorry. Under 1067.628,  
20 we read, A, oral statements, the Hearing Officer  
21 may permit a participant to make an oral statement  
22 on the record made under oath and subject to cross  
23 examination.

24 HEARING OFFICER HALLORAN: I understand



1 that. We're going back to the conference calls.

2 MR. WEINSTOCK: I'm sorry.

3 HEARING OFFICER HALLORAN: You said  
4 Miss Garcia was going to give a sworn statement. I  
5 thought it would be notarized -- this would be  
6 notarized. Had you gave me this at the top, I  
7 would have realized that it's not notarized and  
8 sworn.

9 MR. WEINSTOCK: And I'm sorry if I was  
10 unclear in the conference calls, but we were  
11 pointing directly to Rule 628(a), which is --

12 HEARING OFFICER HALLORAN: Not in the  
13 conference call, you didn't mention it.

14 MR. WEINSTOCK: I'm sorry.

15 HEARING OFFICER HALLORAN: I said yes, I  
16 was aware that she would give a sworn statement,  
17 but I was under the assumption it would be a sworn  
18 statement notarized.

19 MR. WEINSTOCK: I apologize for the  
20 confusion.

21 HEARING OFFICER HALLORAN: Okay. What are  
22 we going to do?

23 MR. WEINSTOCK: Well, I guess, your Honor,  
24 we could proceed a few ways. We could swear her in

1 under 628(a) and she could start again. Or we can  
2 swear her in now. We are happy to get this  
3 notarized and submit it.

4 All the parties have heard her  
5 testimony in-person as contemplated by the oral  
6 statement rule and they have a hard copy, so that I  
7 don't believe there's any prejudice with respect to  
8 how they would be receiving this evidence if it was  
9 submitted under the rule we thought we were  
10 operating under.

11 So we can proceed either way or we  
12 could proceed both ways if that would be amenable  
13 to your Honor.

14 HEARING OFFICER HALLORAN: Mr. Walsh,  
15 Mr. Mueller, what do you think?

16 MR. MUELLER: Mr. Halloran, I'm fine with  
17 letting her be sworn in nunc pro tunc so to speak,  
18 so that the entire statement is under oath.

19 HEARING OFFICER HALLORAN: Okay. I'll go  
20 with nunc pro tunc. Mr. Walsh?

21 MR. WALSH: I agree.

22 HEARING OFFICER HALLORAN: All right.  
23 Court reporter, could you please swear Miss Garcia  
24 in?

1 THE COURT REPORTER: Raise your right hand,  
2 please.

3 (The oath was thereupon duly  
4 administered to the witness by  
5 the Notary.)

6 HEARING OFFICER HALLORAN: Thank you. You  
7 may proceed.

8 MR. MUELLER: Mr. Halloran, before she  
9 does, the primary part of my objection was that  
10 she's trying to get in substantive testimony on the  
11 Criterion here.

12 MR. WEINSTOCK: May I respond to that,  
13 Mr. Halloran?

14 HEARING OFFICER HALLORAN: Yes.

15 MR. WEINSTOCK: The record below the  
16 transcript reflects what she tried to testify to  
17 and how Mr. Price reacted. We are not trying to  
18 rewrite that testimony. There is -- in that  
19 record, you will find Mr. Price's reactions.

20 What Miss Garcia is about to testify to  
21 is the fairness of his reactions, not his -- this  
22 testimony now -- again, there's no intention to  
23 rewrite the record below. This testimony that she  
24 is describing now is to explain -- to set up his

1 reaction is what she's about to talk about.

2 MR. MUELLER: Mr. Halloran, I beg to  
3 differ. When she's going to give statements like I  
4 later learned that these levels were above the air  
5 quality standards that the EPA sets to protect  
6 public health, that's substantive testimony.

7 MR. WEINSTOCK: That was mentioned below.  
8 That's in the record below. That's my point.  
9 She's recapping the record below so she can explain  
10 the unfairness of Mr. Price's reaction to what she  
11 said.

12 HEARING OFFICER HALLORAN: Where are we on  
13 this statement, Sworn Statement? There's no page  
14 numbers.

15 MR. WEINSTOCK: Yes. And I apologize for  
16 that. She's, I believe, at the top of what is the  
17 third to the last page. That's exactly the spot  
18 that Mr. Mueller referenced.

19 HEARING OFFICER HALLORAN: All right. You  
20 know, I'll allow latitude, but I somewhat agree  
21 with Mr. Mueller and Mr. Mueller can do his cross  
22 examination. You may proceed, Miss Garcia.

23 THE WITNESS: Thank you.

24 I later learned that these pollution

1 levels in the air were over the standards  
2 associated with the EPA protection agency who  
3 protects public health. I did not know what to  
4 expect at the hearing, but at least I thought I  
5 would be respected and I would be listened to.

6 This is not what I was feeling during  
7 my testimony. The Hearing Officer wanted to appear  
8 that he was impartial at the beginning, but I felt  
9 that everything that he did was to prevent me from  
10 speaking. His words and actions sent me a clear  
11 message that he was not going to take into account  
12 anything that I was saying.

13 The Hearing Officer stood before me or  
14 above me when I was trying to give my testimony.  
15 He had a very hostile and non-friendly tone. You  
16 will notice in the transcript of my testimony that  
17 there was a moment, a point where my lawyer had to  
18 ask for tissue paper. This is because the officer  
19 made me cry.

20 While I was giving my testimony, he was  
21 looking through his cell phone for reasons why he  
22 should exclude the information that I was  
23 providing. He admitted that he was doing this  
24 during the hearing. He did not allow me to share

1 my information, nor my concerns for the  
2 contamination that these trucks were causing.

3 The officer said that I was not a  
4 scientist, that I could not give an opinion in  
5 reference to sites, but I am a highly worried  
6 citizen.

7 I used an application and a device in  
8 order to understand how this waste transfer station  
9 could affect my community. I was trained to use  
10 it, but the officer did not allow me to speak about  
11 this because he thought I was not qualified.

12 Also during -- in the transcript of the  
13 hearing, the officer admitted that he could not  
14 maintain the information of the air contamination  
15 that I had provided in my testimony.

16 The message that I received was that he  
17 wanted to exclude everything that I had said and  
18 presented. He did not allow me to share my  
19 reaction to the fact of the levels of contamination  
20 that I had collected, that those levels were over  
21 the levels just as an expert had spoken about  
22 during the hearing.

23 It is not necessary to be a scientist  
24 in order to realize that the pollution levels in

1 our air are dangerous and they can harm our  
2 community.

3 He said that I was not qualified to  
4 speak. My qualifications are the fact that my  
5 family and I live with pollution in our air because  
6 of these trucks and facilities, these motor diesel  
7 trucks that are in our community every day.

8 I felt harassed and humiliated by this  
9 Hearing Officer, but nevertheless, I am happy that  
10 I spoke up in whichever way I could. I thought  
11 that despite the fact of how the officer had  
12 treated me, that he and the government in our City  
13 would consider the concerns that I raised in my  
14 testimony.

15 But when I looked at and read the  
16 report that the officer had sent to the West  
17 Chicago Municipal Council, he had not mentioned the  
18 information or these concerns at all.

19 Once again, the government of West  
20 Chicago approved the LRS's expansion in our City  
21 and there was no mention of the contamination in  
22 our air. There was no opportunity to even listen  
23 directly to the municipal government to see why  
24 they had not considered my concerns because they

1 held a meeting behind closed doors amongst  
2 themselves.

3 I was completely ignored by them in  
4 making these decisions. They behaved as though my  
5 testimony had never happened.

6 I know that the reason for this hearing  
7 is to focus on whether or not there was fundamental  
8 justice in the government's process and in the past  
9 hearings of January of 2023 in reference to LRS. I  
10 can tell you under my perspective as a citizen who  
11 advocates for the Latino community, there was no  
12 such fundamental justice.

13 Fundamental justice requires a true  
14 opportunity for participation in these public  
15 hearings and truly considering what the community  
16 is saying. The decisions that are made don't have  
17 to make everyone happy, but we all deserve to be  
18 able to be heard. Many in our Latino community and  
19 I did not receive this opportunity.

20 The hours and days for these hearings,  
21 the lack of translation or interpreters for  
22 Spanish, the behavior of the officer in the  
23 hearings, all of these were obstacles that made it  
24 very difficult to be able to become involved in



1 this application process in the LRS hearings.

2 I hope that the Illinois Pollution  
3 Control Board will recognize our community and that  
4 we were not given a true opportunity to be heard in  
5 our city.

6 The government of the City of West  
7 Chicago approved a dangerous facility in our town  
8 without providing us the fair opportunity to  
9 participate in these hearings. They want to expand  
10 this facility without listening to us.

11 I hope the Board will take this  
12 opportunity to correct the mistakes that the City  
13 government has made, and I hope they will listen to  
14 our community.

15 I hope that they realize that we are  
16 truly legitimately worried that this facility will  
17 affect the health and well-being of our community.

18 Finally, I hope that the Board will  
19 reverse the approval that the government of the  
20 City of West Chicago gave and not allow LRS to  
21 expand its facility in our town because of the  
22 concerns that we have.

23 Thank you for your time and  
24 consideration.

1 HEARING OFFICER HALLORAN: Thank you,  
2 Miss Garcia. Mr. Mueller, cross.

3 MR. MUELLER: Thank you.

4 BY MR. MUELLER:

5 Q Miss Garcia, do you understand me when I'm  
6 speaking to you in English?

7 A I understand.

8 Q Then I would ask leave to have her answer  
9 in English if she actually can speak English.

10 HEARING OFFICER HALLORAN: Mr. Weinstock?

11 MR. WEINSTOCK: Miss Garcia, are you  
12 comfortable speaking with Mr. Mueller in English or  
13 do you prefer to proceed in Spanish?

14 THE WITNESS: In Spanish.

15 MR. MUELLER: Somebody just told her to say  
16 that.

17 HEARING OFFICER HALLORAN: Well, from my  
18 understanding, she wants the community, and there's  
19 really only eight or ten people here that I see. I  
20 think most are affiliated with the attorneys. Are  
21 any members of the public here? I see one.

22 MR. WEINSTOCK: Miss Garcia, are you  
23 comfortable proceeding in English?

24 THE WITNESS: That's fine.

1 HEARING OFFICER HALLORAN: Thank you.

2 Mr. Mueller, you may proceed.

3 BY MR. MUELLER:

4 Q Thank you. Miss Garcia, PODER you said  
5 deals with immigrant solidarity, right?

6 A But we are a subcommittee of immigrant  
7 solidarity in DuPage.

8 Q Okay. Are you an immigrant?

9 MR. WEINSTOCK: Objection. It's  
10 irrelevant.

11 HEARING OFFICER HALLORAN: Sustained.

12 MR. WEINSTOCK: Thank you.

13 MR. MUELLER: I think it goes to her bias  
14 in these proceedings.

15 MR. WEINSTOCK: Objection. She's a party  
16 that has a stated position she's just articulated  
17 at length. Mr. Mueller has --

18 HEARING OFFICER HALLORAN: Sustained. Move  
19 on, Mr. Mueller, please.

20 MR. WEINSTOCK: Thank you.

21 BY MR. MUELLER:

22 Q Now, you were born and educated in West  
23 Chicago, right?

24 MR. WEINSTOCK: Objection, your Honor.

1 Same line of testimony into her personal  
2 background.

3 HEARING OFFICER HALLORAN: I'll allow her  
4 to answer. It's overruled.

5 THE WITNESS: Yes, I was born and raised  
6 and educated here.

7 BY MR. MUELLER:

8 Q And you studied English in school, right?

9 A In school, yes.

10 MR. WEINSTOCK: Same objection, your Honor.

11 HEARING OFFICER HALLORAN: Again, a little  
12 latitude.

13 BY MR. MUELLER:

14 Q Did you graduate from high school?

15 A Yes, I did.

16 Q And your high school classes were in  
17 English?

18 A Yes.

19 MR. WEINSTOCK: I'm going to make a  
20 standing objection to all of Mr. Mueller's  
21 questions about her personal experience with  
22 English and background, your Honor.

23 MR. MUELLER: I'm almost done,  
24 Mr. Halloran.

1 MR. WEINSTOCK: Thank you.

2 HEARING OFFICER HALLORAN: Overruled. The  
3 Board will take note of Mr. Weinstock's objection.

4 MR. WEINSTOCK: Thank you.

5 BY MR. MUELLER:

6 Q Now, you testified that you prefer to  
7 communicate in Spanish, right?

8 A I do.

9 Q Are you familiar with Hispanic businesses  
10 in West Chicago?

11 A Oh, yes, every one.

12 Q Do you know the La Chiquita grocery store?

13 A La Chiquita, Jimenez, Tampico, La India.  
14 Poco Loco. Many people, friends, family members  
15 have Latino businesses.

16 Q And, in fact, at La Chiquita, they do  
17 business in English as well as Spanish, don't they?

18 MR. WEINSTOCK: Objection, your Honor.  
19 Mr. Mueller's personal experience shopping in an  
20 area --

21 HEARING OFFICER HALLORAN: Yes, I'm going  
22 to sustain it. This is going a little afield,  
23 Mr. Mueller. Move on.

24 MR. MUELLER: Mr. Halloran, I'd like to at

1 least make the objection for the record, which is  
2 the witness testified that there's something  
3 fundamentally unfair about the siting hearing not  
4 having occurred in Spanish and that somehow this is  
5 a Spanish community when in fact, I can  
6 cross-examine her to demonstrate that all the  
7 Hispanic businesses in West Chicago do business in  
8 English, as does the City Council of West Chicago?

9 MR. WEINSTOCK: Mr. Mueller's argument is  
10 fine. I object to it as testimony by an attorney.  
11 And you've already ruled excluding this line, so  
12 I'll rest there.

13 HEARING OFFICER HALLORAN: Okay.  
14 Overruled. Again, the Board should take note of  
15 Mr. Weinstock's objection, but I think  
16 Mr. Mueller's questioning kind of goes to one of  
17 the allegations set forth in the amended motion,  
18 Amended Petition. You may proceed, Mr. Mueller.

19 BY MR. MUELLER:

20 Q So I think the last question was the  
21 Hispanic businesses all do business in English as  
22 well as Spanish, don't they?

23 A Where there's people that come shop and  
24 speak English, yes.

1 Q Okay.

2 A But primarily in Spanish. And we're not a  
3 town where English only is implemented.

4 Q Now, you've testified that you were denied  
5 an opportunity for English-to-Spanish translation  
6 during the siting hearing, correct?

7 A Correct.

8 Q Do you know whether Protect West Chicago  
9 ever asked for that kind of translation?

10 MR. WEINSTOCK: Objection. Calls for  
11 speculation.

12 HEARING OFFICER HALLORAN: No, she can  
13 answer. Overruled.

14 THE WITNESS: I know that PODER, we did.  
15 BY MR. MUELLER:

16 Q When did PODER ask for it?

17 A There was the first, Steven Oralson, my  
18 colleague at the first one we held at the community  
19 high school.

20 Q That was on the fifth day of the public  
21 hearing, correct?

22 A Correct.

23 Q And Mr. DeLaRosa in public comment made a  
24 statement that he would have preferred to have

1 English-to-Spanish translation?

2 A Well, we were requesting that since the  
3 beginning. We also had people trying to register  
4 to speak. They wanted to speak. They were denied  
5 to speak because there was no translation.

6 Q Who was denied to speak? Can you give me  
7 names?

8 A Our community, Sofia Solis, Mateo Terez,  
9 Eduardo Cortez. There's three more people, I  
10 believe, but at this point I don't --

11 Q Who denied them the opportunity to speak?

12 A The officer.

13 Q The Hearing Officer on the record denied  
14 them?

15 A The Hearing Officer, yes.

16 Q You've reviewed the transcript, right?

17 A Yes, I did.

18 Q And you can read English, correct?

19 A I can read English, yes.

20 Q Can you point to where in the transcript  
21 the Hearing Officer denied a request to give public  
22 comment?

23 A He denied it in emails. It's in our emails  
24 back and forth with the Hearing Officer.



1 Q Did PODER file a motion for  
2 Spanish-to-English translation, or  
3 English-to-Spanish, I should say?

4 A Can I --

5 MR. WEINSTOCK: If you don't know, you can  
6 answer honestly.

7 THE WITNESS: I don't remember. I don't  
8 know.

9 BY MR. MUELLER:

10 Q And you say that you were insulted because  
11 the application was filed on Mexican Independence  
12 Day?

13 A Yes.

14 Q Is that a holiday in the United States?

15 MR. WEINSTOCK: Objection.

16 HEARING OFFICER HALLORAN: Sustained.

17 BY MR. MUELLER:

18 Q And then you felt it was unfair to schedule  
19 the hearings in December, right?

20 A Correct.

21 Q And in response to your request, the  
22 hearings were rescheduled to January?

23 A Yes.

24 Q Were you happy with that rescheduling?

1           A    It gave us a little more time and yeah, we  
2   were content with that.

3           Q    Now, you keep talking about trucks and  
4   odors in the vicinity of the site, correct?

5           A    Yes.

6           Q    And you talk about LRS expanding their  
7   facility?

8           A    Yes.

9           Q    They are not operating a transfer station  
10   there now, are they?

11           MR. WEINSTOCK:  I'm going to object to the  
12   ambiguity in the question.  I don't think the  
13   witness really knows.

14           HEARING OFFICER HALLORAN:  Would you  
15   rephrase that, Mr. Mueller?

16   BY MR. MUELLER:

17           Q    Do you know what a transfer station is?

18           A    Yes.

19           Q    Is LRS operating a waste transfer station  
20   at that site at the present time?

21           A    It is.

22           Q    It is?

23           A    It is.

24           Q    How do you know that?

1 A Well, they've been here for years.

2 Q But in fact, they are doing other things  
3 and not transferring waste, right?

4 A I understood during the hearings that there  
5 were other things they were doing as well.

6 Q So those smells, odors and emissions you  
7 complain of have nothing to do with the siting  
8 application because they are already there,  
9 correct?

10 MR. WEINSTOCK: I'm going to object to the  
11 testimony in Mr. Mueller's exam or question.

12 HEARING OFFICER HALLORAN: No, I disagree.  
13 Overruled. She can answer if she's able.

14 THE WITNESS: Repeat your question.

15 MR. MUELLER: I'd ask Mr. Halloran, to  
16 direct the court reporter to read it back, please.

17 HEARING OFFICER HALLORAN: Please do.  
18 Thank you.

19 (Record read back.)

20 THE WITNESS: I would say it complements.  
21 Everything there is causing the odors, not just  
22 the -- the whole, as I stated, all the  
23 installations there, all the facilities, everything  
24 is piling up to the ongoing pollution we have.

1 BY MR. MUELLER:

2 Q And by the way, Mr. Price said you are not  
3 a scientist, correct?

4 A Yes.

5 Q Are you a scientist?

6 A I am not a scientist, no.

7 Q And you testified that you were trained to  
8 use the emissions equipment, right?

9 A Yes.

10 Q In fact, you were trained by a Forest  
11 Preserve Commissioner, correct?

12 A Correct. And he is fully capable of  
13 training by the Health Department to use this  
14 system.

15 Q And you testified that I think  
16 Mr. Weinstock and his clerk indicated that you  
17 cried because the Hearing Officer was mean to you?

18 A He made me cry. I felt his voice,  
19 everything that was going on, maybe yourself,  
20 everybody made me cry there.

21 Q Let me read you a portion of your  
22 testimony. And this is from Page 1281 of the  
23 transcript.

24 A Yes.

1 Q And I believe this is your testimony. "I  
2 am a mom. I am a Latina born and raised in West  
3 Chicago. There's every effort to silence me  
4 because I'm voicing my community. I'm sorry I get  
5 really sentimental here, but I don't know what else  
6 to do today.

7 MR. WEINSTOCK: Is there a question?

8 BY MR. MUELLER:

9 Q Did you say that?

10 A Yes, I said that.

11 Q And then you asked for tissue, correct?

12 A Yes.

13 Q So you didn't tell anyone there that they  
14 had made you cry; you said you got sentimental  
15 about speaking on behalf of your community,  
16 correct?

17 A I cried because I was being mistreated, as  
18 well as what I said.

19 Q Can you point out one specific example of  
20 you having been mistreated?

21 A All the objections sustained. Absolutely,  
22 I felt disrespected, censored, not being able to  
23 speak what I had to share and the belittling that  
24 was going on to myself.

1 Q I'll ask you again. Give me one specific  
2 example of something that was belittling to  
3 yourself?

4 MR. WEINSTOCK: Objection. Asked and  
5 answered.

6 HEARING OFFICER HALLORAN: I don't know if  
7 it was answered. She can try it one more time.

8 THE WITNESS: Being told I'm not qualified  
9 to speak for my people.

10 BY MR. MUELLER:

11 Q No one said you weren't qualified to speak,  
12 did they?

13 A I just kept being told I was not qualified  
14 to give my testimony.

15 Q You were told you were not qualified to  
16 give scientific opinions, correct?

17 A Correct.

18 Q But you were never told that you were not  
19 qualified to speak for your people, were you?

20 A No. But --

21 Q Thank you.

22 A But the --

23 Q There's no question pending, Ms. Garcia.

24 A In the end -- may I finish?

1 HEARING OFFICER HALLORAN: No.

2 THE WITNESS: Can I finish?

3 MR. WEINSTOCK: No. You have to wait for  
4 Mr. Mueller's next question.

5 THE WITNESS: Okay.

6 MR. MUELLER: I think that's all. Thank  
7 you.

8 HEARING OFFICER HALLORAN: Thank you,  
9 Mr. Mueller.

10 All right. Miss Garcia, you can step  
11 down.

12 MR. WEINSTOCK: I don't know if Mr. Walsh  
13 has anything.

14 HEARING OFFICER HALLORAN: No. He deferred  
15 to --

16 MR. WEINSTOCK: May I ask just a couple  
17 clarifying questions on redirect?

18 HEARING OFFICER HALLORAN: It doesn't say  
19 that in our rules. It just says subject to cross  
20 examination. But, you know, just at the risk of  
21 the Board finding otherwise and for all of us to  
22 come back here, maybe Mr. Weinstock, you have two  
23 short clarifications?

24 MR. WEINSTOCK: Yes.

1 HEARING OFFICER HALLORAN: Thank you.

2 MR. WEINSTOCK: Well, the last question  
3 Mr. Mueller asked gave me one more. Sorry.

4 BY MR. WEINSTOCK:

5 Q So first, Miss Garcia, are you comfortable  
6 with us continuing in English?

7 A This is fine.

8 Q Okay. You referenced Mr. DeLaRosa asking  
9 for Spanish translation at a point in the City's  
10 hearing. Do you remember that?

11 A Yes, I do remember.

12 Q To your recollection, was that the first  
13 time that Hearing Officer Price asked PODER or any  
14 members of the public gave them any opportunity to  
15 speak where they could bring up that question?

16 A He never addressed the issue. He didn't  
17 even ask us if we needed translation.

18 Q Mr. Mueller asked you a bit about the  
19 diesel truck emissions that you recorded and he  
20 asked you a bit about LRS's current operations. Do  
21 you remember when he was asking you about that?

22 A Yes.

23 Q To your knowledge, do LRS's current  
24 operations involve diesel trucks coming in and out



1 of the facility?

2 A Yes.

3 Q And to your knowledge, does LRS's current  
4 proposal under review now involve more diesel  
5 trucks coming in and out of the facility?

6 A I do understand that.

7 MR. MUELLER: Objection.

8 HEARING OFFICER HALLORAN: Sustained.

9 MR. WEINSTOCK: I'm going to have to ask  
10 that another way.

11 BY MR. WEINSTOCK:

12 Q What is your understanding of what LRS's  
13 current application say about potential future  
14 diesel truck traffic?

15 A It does say we're going to have more diesel  
16 trucks coming in.

17 Q Okay. And I think the last thing was  
18 Mr. Mueller asked you to provide specific examples  
19 when you felt you were mistreated. Do you remember  
20 that?

21 A Yes.

22 Q Do you believe that your testimony that you  
23 started with includes such examples?

24 MR. MUELLER: That's leading.

1 HEARING OFFICER HALLORAN: Yes, that's  
2 leading. If you could rephrase, Mr. Weinstock,  
3 thanks.

4 MR. WEINSTOCK: Understood. Yes.

5 BY MR. WEINSTOCK:

6 Q In your testimony earlier today, you talked  
7 about Mr. Price excluding your testimony because  
8 you weren't a scientist, but allowing you to  
9 testify as a mother and member of the community.  
10 Do you remember that?

11 A Yes.

12 Q What was your understanding of Mr. Price --  
13 when Mr. Price allowed you to testify as a mother,  
14 how did you understand -- what value did you  
15 understand him to be placing on that testimony?

16 MR. MUELLER: I'm going to object. Her  
17 opinion of it is irrelevant.

18 MR. WALSH: And she's speculating as to  
19 what he's thinking.

20 MR. WEINSTOCK: No, I'm asking her for her  
21 reaction because --

22 HEARING OFFICER HALLORAN: She can answer  
23 if she's able. Overruled.

24 THE WITNESS: I felt belittled there. My

1 opinion as a mom wasn't my concerns as a mom. And  
2 I wasn't just speaking for myself, for other moms.

3 So my reaction, I felt oppressed. I  
4 felt oppressed.

5 BY MR. WEINSTOCK:

6 Q Miss Garcia, I'm sorry to ask you to relive  
7 that experience today and thank you for your time.

8 A I'm holding on to the podium.

9 MR. WEINSTOCK: Thank you.

10 HEARING OFFICER HALLORAN: Mr. Mueller.

11 MR. MUELLER: No thank you, Mr. Halloran.

12 MR. WEINSTOCK: Can I have a question then?

13 HEARING OFFICER HALLORAN: Yes.

14 BY MR. WEINSTOCK:

15 Q Miss Garcia, were you represented by an  
16 attorney at this hearing?

17 A Yes.

18 Q And do you think your attorneys did a good  
19 job at this hearing?

20 A Yes.

21 MR. WEINSTOCK: No further questions.

22 MR. WALSH: Thank you.

23 HEARING OFFICER HALLORAN: Anything else?

24 All right. We're going to take a ten-minute break.

1 We're off the record.

2 (There was a discussion held off  
3 the record, after which the  
4 deposition resumed as follows:)

5 HEARING OFFICER HALLORAN: All right.  
6 We're going back on the record. It's approximately  
7 11:17. I hope to go to no later than 12:30 and  
8 hopefully be back here at 1:00 after lunch. So it  
9 looks like it might be a 30-minute lunch. But you  
10 may proceed, Mr. Meza.

11 MR. MEZA: Thank you, Mr. Halloran. Can we  
12 have the witness sworn in?

13 HEARING OFFICER HALLORAN: Yes. I'm sorry.  
14 Court reporter, could you please swear in the  
15 Mayor?

16 THE COURT REPORTER: Raise your right hand,  
17 please.

18 (The oath was thereupon duly  
19 administered to the witness by  
20 the Notary.)

21 HEARING OFFICER HALLORAN: Thank you. You  
22 may proceed, Mr. Meza.

23

24

1 RUBEN PINEDA,  
2 Called as a witness by the Petitioner herein,  
3 having been first duly sworn, was examined and  
4 testified as follows:

5 DIRECT EXAMINATION

6 By: Mr. Meza

7 Q State your name for the record.

8 A Ruben Pineda.

9 Q You have been the Mayor for 11 years?

10 A Eleven years.

11 Q And before that you were a member of City  
12 Council for 14 years?

13 A Yes.

14 Q And the Mayor and council member positions  
15 are not full-time positions; is that correct?

16 A That's correct.

17 Q You work full-time somewhere else, right?

18 A Yes, I do.

19 Q Is that is in Cintas Corporation?

20 A Yes.

21 Q Now, do you as Mayor of West Chicago and  
22 the City Council rely on the West Chicago staff to  
23 run the day-to-day business of the City of West  
24 Chicago?

1 A Yes.

2 Q In fact, in West Chicago, you have a person  
3 by the name of Michael Guttman who is the City  
4 administrator; is that correct?

5 A Yes.

6 Q And how long has he been the City  
7 administrator?

8 A 25 years.

9 Q And Mr. Guttman supervises all West Chicago  
10 City staff; is that correct?

11 A Yes.

12 Q That includes the FOIA officer?

13 A Yes.

14 Q You know what I mean by FOIA or not?

15 A Yes.

16 Q Freedom of Information Act, FOIA.

17 A Yes.

18 Q And that does that include West Chicago's  
19 community development director, Tom Dabareiner?

20 A Yes.

21 Q How long has he been the community  
22 development director?

23 A I'm not sure how many years he's been here.

24 Q More than one year?

1 A Yes.

2 Q More than five years?

3 A I'm not sure.

4 Q All right. We won't tell him.

5 Does Mr. Guttman provide the City  
6 Council with what's referred to as weekly updates  
7 via email?

8 A Yes.

9 Q And are these weekly updates sent to all  
10 the members of the City Council every Sunday  
11 morning between about 6:00 A.M. and 8:00 A.M.?

12 A Yes.

13 Q Do you direct Mr. Guttman on what to  
14 include in those weekly updates?

15 A I do not.

16 Q And can you speak up just a little bit  
17 more?

18 Who decides on what Mr. Guttman should  
19 include in his weekly updates?

20 A Mr. Guttman.

21 Q Now, does Mr. Guttman also draft and  
22 prepare City of West Chicago City Council meeting  
23 agendas?

24 A I don't think he does. I don't think

1 that's his --

2 Q Okay. Who drafts the City agendas then?

3 A I think my assistant.

4 Q And what's her name?

5 A Valeria Perez.

6 Q Okay. And who provides her with the  
7 information to draft the agendas?

8 A I would probably say every division head.

9 Q And would that include Mr. Guttman?

10 A I would say probably, yes.

11 Q In fact, Mr. Guttman supervises about 118  
12 employees; is that correct?

13 A Yes.

14 Q And who supervises Mr. Guttman?

15 A Nobody. I mean he reports to me, but he  
16 doesn't have an immediate supervisor.

17 Q Okay. So he reports to you and how often  
18 does he report to you?

19 A On a daily basis.

20 HEARING OFFICER HALLORAN: Can we stop for  
21 a minute? I'm having real trouble hearing. If the  
22 witness can maybe turn around.

23 MR. MEZA: Maybe speak louder. Just speak  
24 up a little bit louder, that's all.



1 HEARING OFFICER HALLORAN: Yes, I think  
2 that's all I want. Thank you. Sorry.

3 BY MR. MEZA:

4 Q So in fact, Mr. Guttman is here today, you  
5 see him; is that correct?

6 A Yes, I do.

7 Q He reports to you about what's going on in  
8 the City every single day; is that correct?

9 A Just about every single day, correct.

10 Q Does he call you while you're at work, or  
11 does he call you in the morning and after work?

12 A He calls me any time he feels necessary.

13 Q So you'll take his calls while you're at  
14 work about City of West Chicago business; is that  
15 correct?

16 A Yes.

17 Q Now, does he attend all City Council  
18 meetings?

19 A Yes.

20 Q Does he attend the closed session meetings?

21 A Yes.

22 Q Does he draft and prepare the agenda  
23 minutes after the meetings?

24 A I don't believe he does, no.

1 Q Do you know who does that?

2 A Probably Valeria Perez.

3 Q And how do you know that she drafts the  
4 minutes for the meetings after they occur?

5 A Mr. Guttman takes the minutes of every  
6 meeting and he probably gives them to her.

7 Q Okay. Does she attend every meeting?

8 A No.

9 Q So she basically types up the meetings.  
10 She doesn't necessarily prepare the meetings  
11 because she's not at the City Council meetings; is  
12 that correct?

13 A Correct.

14 Q Okay. So the meetings get prepared by  
15 Mr. Guttman; is that correct?

16 A Yes.

17 Q And then they just get given to Miss Perez  
18 and she types them up?

19 A Correct.

20 Q Okay. Now, in 2019, the City of West  
21 Chicago entered into a host agreement; is that  
22 correct?

23 A I'm not sure on the date, but --

24 Q Okay. I think we can get a stipulation

1 that was in 2019.

2 MR. MEZA: Is that right, Counsel?

3 MR. WALSH: Yes.

4 BY MR. MEZA:

5 Q Now, that was because Lakeshore planned to  
6 file with the City a request for a location  
7 approval for the construction and operation of a  
8 new transfer station; is that correct?

9 A Yes.

10 Q In fact, you signed that agreement,  
11 correct?

12 A Yes.

13 Q That was discussed in council meetings  
14 before you as the Mayor were given approval to sign  
15 it; is that correct?

16 A Nothing was discussed until I signed it.

17 Q No, no. That whether or not the city  
18 should enter into a host --

19 A Yes.

20 Q Let me finish the question. Whether or not  
21 the City should enter into a host agreement was  
22 discussed by the City Council before authorization  
23 was given for you to sign it; is that correct?

24 A I don't recall if there was a discussion

1 before the application was submitted.

2 Q Well, wasn't there extensive discussion  
3 about the host agreement before it actually got  
4 approved?

5 A I don't recall any discussion.

6 Q Let me show you what's been marked as  
7 Exhibit PWC 1001. This is not in the exhibit list,  
8 but since you were unable to recall, I wanted to  
9 ask you that.

10 Can you take a look at Exhibit 1001 PWC  
11 and just look at it and tell me whether or not this  
12 contains the minutes from the meeting that occurred  
13 on April 1, 2019?

14 MR. MEZA: And for members of the Pollution  
15 Control Board, this is in the record and it's  
16 identified as Bates Stamp C 005983 through C  
17 005988.

18 BY MR. MEZA:

19 Q And Mr. Mayor, if you could look at the top  
20 right corner, there's a bunch of numbers. Do you  
21 see those numbers?

22 A Yes.

23 Q Can you turn to Page C 005986? It's on the  
24 top right of the third page, I believe.

1 A Yes.

2 Q Do you see below it says, Minutes approved  
3 at the 4/15/19 City Council meeting relating to the  
4 April 1st, 2019 meeting? Do you see that? I know  
5 it's hard to see. It's on top, very small letters.

6 A I see the minutes being approved, yes.

7 Q Can you turn to the next page where it says  
8 C 005987? And let me direct your attention to  
9 No. 10 where it says, unfinished business,  
10 resolution R 001619. Do you see that?

11 A Yes.

12 Q Can you take a second to just read the  
13 first couple sentences and then end where it  
14 says -- the last sentence reading, There was  
15 extensive discussion? Can you read that to  
16 yourself?

17 A A resolution --

18 Q Just read it to yourself, please. And tell  
19 me when you're finished.

20 A Okay.

21 Q Does that refresh your recollection as to  
22 whether or not there was extensive discussion as to  
23 whether or not the City of West Chicago should  
24 enter into a host agreement before it allowed you

1 the authority to enter into that host agreement?

2 A A resolution was, there was a motion to  
3 approve it and then second. And then it was -- we  
4 went to discussion.

5 Q Right. There was a lot of discussion about  
6 whether or not you should even be given the  
7 authority to enter into the host agreement.  
8 Doesn't it say during extensive discussion concern  
9 was expressed?

10 Does that refresh your recollection as  
11 to the fact that there were discussions in the City  
12 Council about the host --

13 A Yes, there was discussion.

14 Q And there were extensive discussions; is  
15 that correct?

16 A Yes.

17 Q And in fact, one of the City Council  
18 members said that once the agreement is signed, it  
19 is done; is that correct?

20 A The application process, yes.

21 Q Meaning the whole application process.  
22 Once we sign this host agreement, it's done. It's  
23 going to be approved, right?

24 A No.

1 Q No?

2 A That's not what that meant, no.

3 Q You don't know what it meant because you  
4 didn't say it, right?

5 A That's not what it meant. That's not what  
6 that meant.

7 Q Did you make that statement?

8 A No, I did not.

9 Q Who made that statement?

10 MR. WALSH: I'm going to object to the  
11 question at this point because the minutes don't  
12 reflect who made that statement, number one. And  
13 number two, the Mayor said he doesn't know who made  
14 the statement.

15 HEARING OFFICER HALLORAN: Mr. Meza, could  
16 you respond, please?

17 MR. MEZA: Sure. The question was whether  
18 or not he made the statement. His answer was no  
19 and I asked him if he knew who made the statement.  
20 If he doesn't know, he doesn't know.

21 THE WITNESS: It's not clear who made that  
22 statement.

23 BY MR. MEZA:

24 Q But you didn't make the statement?

1 A I did not.

2 Q One of the aldermen made the statement?

3 A I'm assuming so.

4 Q Take a look at the next page, which is  
5 5988. Do you see that?

6 A Yes.

7 Q Two alderman voted nay to entering into the  
8 agreement; is that correct? Alderman Beifuss and  
9 Garlin; is that correct?

10 A Correct.

11 Q In fact, aren't those two the same aldermen  
12 who also voted against approving Ordinance 2300006,  
13 which approved the application in this matter?

14 A Yes.

15 Q Now, when you entered into the host  
16 agreement, was there anybody on West Chicago staff  
17 who could review Lakeshore's application in order  
18 to determine whether or not the application  
19 established general consistency with the City of  
20 West Chicago pollution control facility siting  
21 Ordinance?

22 A I don't know.

23 Q I'm sorry?

24 A I don't know.



1 Q Okay. You don't know --

2 A I don't know if there was an individual  
3 person that was to review that application.

4 Q Did you know whether or not there was  
5 anybody on staff from the City of West Chicago who  
6 was able to -- let me ask you this, to identify  
7 gross inconsistencies and determine if the proposed  
8 facility design and operations generally conform to  
9 best management practices for modern transfer  
10 station facilities?

11 A I don't know.

12 Q Well, didn't the City of West Chicago enter  
13 into a contract in which they hired and paid an  
14 expert in order to do that?

15 A I would assume so.

16 Q Who would be the closest person that you  
17 had on staff that would be able to identify whether  
18 the application of Lakeshore included gross  
19 inconsistencies or whether or not it generally  
20 conformed to the best management practices for  
21 modern transfer stations? Who on staff would be  
22 able to do that?

23 MR. WALSH: Object to the question. It's  
24 been asked and answered. The testimony was he did

1 not know.

2 BY MR. MEZA:

3 Q Is that correct, you don't know?

4 HEARING OFFICER HALLORAN: Overruled. He  
5 may answer if he's able. I didn't really hear what  
6 the Mayor was saying.

7 THE WITNESS: I don't know.

8 BY MR. MEZA:

9 Q Isn't it true that there was nobody on  
10 staff that was an expert on waste transfer station  
11 facilities?

12 A I don't know.

13 Q Do you know then why the City spent money  
14 hiring an expert that was an expert on waste  
15 transfer station facilities?

16 A Probably to review the application.

17 Q Right. Because there was nobody on staff  
18 who could do that, right?

19 A I don't know.

20 Q So you're saying that the City, there may  
21 have been somebody on staff that could review the  
22 application, but the City nonetheless hired and  
23 spent money on an expert to review the application?

24 MR. WALSH: Objection. That misstates what

1 his testimony is, number one. And number two, he's  
2 already testified now for four times that he  
3 doesn't know. He's asked and answered the  
4 question.

5 HEARING OFFICER HALLORAN: I agree with  
6 Mr. Walsh's second part B of the objection. He's  
7 already answered that. And I'm not sure what the  
8 first part was. It misstates the evidence. But  
9 sustained.

10 MR. MEZA: I can move on.

11 BY MR. MEZA:

12 Q Have you ever heard of a company called  
13 APTIM, A-P-T-I-M? Have you ever heard of that  
14 company?

15 A I'm not sure of the name, no.

16 Q So you don't remember that you as the Mayor  
17 were given authority to enter into a contract with  
18 APTIM?

19 A I don't know the name of the company. I  
20 don't recall the name of the company.

21 Q Okay. Do you recall being given the  
22 authority by the City Council to enter into a  
23 contract with an expert company to review the  
24 application of Lakeshore?

1 A Yes.

2 Q Okay. You just don't recall that it was  
3 called APTIM; is that correct?

4 A I do not.

5 Q Can you take a look at the exhibits in  
6 front of you? There's an exhibit identified as  
7 PWC-7. Do you see that?

8 A Yes.

9 Q Now, have you ever seen this exhibit  
10 before?

11 A I don't recall.

12 Q Do you recall if you agreed on behalf of  
13 the City of West Chicago to hire APTIM to serve as  
14 the expert to review Lakeshore's application?

15 A I don't recall if it was me.

16 Q Now, when you sign contracts on behalf of  
17 City of West Chicago, do you read them or not?

18 A Yes, I do.

19 Q Okay. Can you take a look at the contract  
20 that's attached to Exhibit PWC attachment one, fee  
21 schedule and professional services agreement, and  
22 tell me whether or not you read that -- you ever  
23 read that?

24 A I don't recall.

1 MR. MEZA: We're moving to admit Exhibit 7  
2 into the record if it's not already, at this time.

3 HEARING OFFICER HALLORAN: Mr. Walsh?

4 MR. WALSH: I don't have an objection to  
5 it.

6 HEARING OFFICER HALLORAN: Okay. No  
7 objection. It's admitted. PWC Exhibit 7.

8 MR. MEZA: And just for the record, the  
9 host agreement is already in the record. It's got  
10 Bates stamp numbers.

11 BY MR. MEZA:

12 Q Now, Mr. Mayor Pineda, did you know that  
13 the City of West Chicago was relying on the expert  
14 that they had hired to review the application that  
15 Lakeshore was going to submit?

16 MR. WALSH: Objection to the form of the  
17 question. It's compound and --

18 HEARING OFFICER HALLORAN: Yes. It's over  
19 confusing. Can you rephrase that?

20 MR. MEZA: Yes.

21 BY MR. MEZA:

22 Q Did you know why the City of West Chicago  
23 decided to hire APTIM; yes or no?

24 A Yes.

1 Q And that was because the City needed to  
2 have an expert that it trusted in order to review  
3 an application that it knew was coming from  
4 Lakeshore; is that correct?

5 A Yes.

6 Q Okay. And APTIM was those experts; is that  
7 correct?

8 A Yes.

9 Q Okay. How did APTIM come to the attention  
10 of West Chicago?

11 A I don't know.

12 Q Who brought APTIM to the attention of West  
13 Chicago?

14 A I don't know.

15 Q Was the decision to hire -- was there an  
16 RFP, a request for proposal, issued by West Chicago  
17 to the public in order to identify experts who  
18 could review a waste transfer station application?  
19 Was that ever done?

20 A I don't know.

21 Q Did Mr. Guttman tell you that the City of  
22 West Chicago should hire APTIM?

23 A I'm assuming because his name is on the top  
24 of this letter.

1 Q And do you know how APTIM got ahold of  
2 Mr. Guttman and why the letter was directed to him?

3 A I do not know.

4 Q Now, was it the job of APTIM to help  
5 Lakeshore make sure that the City Council of West  
6 Chicago would approve Lakeshore's application?

7 A I don't know.

8 Q Okay. So that could have been why West  
9 Chicago hired APTIM; is that correct?

10 MR. WALSH: Objection to him speculating as  
11 to why when he just said he doesn't know.

12 HEARING OFFICER HALLORAN: Sustained.

13 BY MR. MEZA:

14 Q So do you know if it was the role of  
15 Mr. Guttman or any member of West Chicago's staff  
16 to help Lakeshore get its application approved?

17 A I don't know.

18 Q Did you understand that when West Chicago  
19 entered into a host agreement with Lakeshore, that  
20 it was the responsibility of Lakeshore to make sure  
21 that it would meet all the Criterion for siting  
22 location?

23 MR. WALSH: Objection to the form of the  
24 question. It's compound.

1 HEARING OFFICER HALLORAN: Yes. If you  
2 could break it down and rephrase, please?

3 MR. MEZA: Sure.

4 BY MR. MEZA:

5 Q Whose responsibility was it to make sure  
6 that Lakeshore's application met the criteria under  
7 law?

8 A I don't know.

9 Q So you don't know who was responsible for  
10 that?

11 A I'm guessing Lakeshore.

12 Q Why are you guessing that?

13 A Because I don't know.

14 Q Well, isn't there an Ordinance in West  
15 Chicago that says it's the responsibility of the  
16 applicant to decide, to prove that they have met  
17 the criteria?

18 A I don't know if there's an Ordinance.

19 Q Let me direct your attention to -- can you  
20 tell me if Exhibit M-12 is in front of you? Can  
21 you take a look at the title of M-12 and tell me  
22 whether or not this is West Chicago's Ordinance  
23 relating to pollution control facility approval  
24 procedures?



1 A That's what it states here.

2 Q In fact, West Chicago does have an  
3 Ordinance relating to pollution control facility  
4 procedures, approval procedures; isn't that  
5 correct?

6 A Yes.

7 Q And let me direct your attention to the  
8 next page where it says Section 19-93 Subsection 4  
9 and let me read the last sentence. "The applicant  
10 remains solely responsible to demonstrate that the  
11 location approval criteria are met."

12 Have you ever read that before?

13 A I'm guessing yes.

14 Q Do you remember reading that or not?

15 HEARING OFFICER HALLORAN: Are we talking  
16 about M-12?

17 MR. MEZA: Yes.

18 HEARING OFFICER HALLORAN: And it was  
19 supposed to be in the manila binder?

20 MR. MEZA: Yes, it should have been there.

21 HEARING OFFICER HALLORAN: All right. I  
22 don't see it.

23 MR. MEZA: It should be on the top, but  
24 here's an extra copy.

1 HEARING OFFICER HALLORAN: All right, thank  
2 you.

3 MR. WALSH: If it helps, Mr. Halloran,  
4 we'll stipulate to M-12 being the Ordinance in the  
5 City Council and the words within it speak for  
6 themselves if that helps.

7 HEARING OFFICER HALLORAN: Agreed?

8 MR. MEZA: Yes. We'll move to admit it.

9 HEARING OFFICER HALLORAN: Okay. No  
10 objection, Exhibit 12 is admitted. Is that a PWC?

11 MR. MEZA: It's labelled as an M exhibit.  
12 M-12.

13 HEARING OFFICER HALLORAN: Okay, thank you.  
14 You may proceed.

15 BY MR. MEZA:

16 Q Now, despite the fact that there's an  
17 Ordinance that says that the applicant remains  
18 solely responsible -- and Mr. Pineda, before we  
19 continue, do you know who they are referring to as  
20 the applicant in this case?

21 A This Ordinance doesn't refer to anybody  
22 except the applicant.

23 Q Right. But in regards to the hearings  
24 before the Pollution Control Board, who would be

1 the applicant?

2 A Lakeshore Recycling.

3 Q Okay. So if we convert the applicant to  
4 Lakeshore Recycling remains solely responsible,  
5 that means they are responsible to make sure all  
6 the location criteria are met; is that correct?

7 A Yes.

8 Q But that's not what happened here, is it?

9 A I don't understand what you're asking.

10 Q Well, isn't it true that Tom Dabareiner  
11 submitted a letter in 2019 for Lakeshore  
12 Recycling's application? Were you aware of that?

13 A I didn't see the letter, no.

14 Q Were you aware of the fact that a West  
15 Chicago official, the community development  
16 director for West Chicago, had drafted a letter in  
17 2019 to whom it may concern, which Lakeshore was  
18 going to use for their application? Were you aware  
19 of that?

20 A I did not see the letter, no.

21 Q No. Were you aware of it?

22 A Later on, yes.

23 Q Okay. And that's because Mr. Guttman told  
24 you, or how did you become aware of that?

1           A   Probably when I went to the hearings at  
2   Wheaton Academy. I think it was an exhibit. I  
3   don't know. I don't recall.

4           Q   And do you recall that in the final  
5   application of Lakeshore, there was a letter in  
6   that application that was drafted by  
7   Tom Dabareiner? Did you know that?

8           A   I saw the letter later, yes.

9           Q   Now, did Mr. Guttman tell you that  
10   Tom Dabareiner had prepared a letter for Lakeshore?

11          A   No.

12          Q   Did anybody tell you that?

13          A   No.

14          Q   Did Mr. Guttman tell you that the letter  
15   was changed to say from 2019 that the City believes  
16   Section 22.14 is not applicable to the City  
17   concludes that 22.14 is not applicable?

18          A   No.

19          Q   Do you understand what that means?

20          A   I didn't see the --

21               MR. WALSH: I object to the form of his  
22   question.

23               HEARING OFFICER HALLORAN: He can answer if  
24   he's able. Overruled.

1 MR. WALSH: Do you know what that means?

2 BY MR. MEZA:

3 Q Yes. Do you understand the implication of  
4 that, or not?

5 HEARING OFFICER HALLORAN: I made my  
6 ruling, Mr. Walsh. Thank you. You may proceed.

7 BY MR. MEZA:

8 Q Mr. Mayor, do you understand the  
9 implication of the City believes to the City  
10 concludes, or not?

11 A I didn't see the letter.

12 Q I understand that. But do you understand  
13 the implication between the language that says the  
14 City believes that 22.14 is not applicable versus  
15 the City concludes that 22.14 is not applicable?

16 A One is a belief and one is a conclusion.

17 Q Right. And do you understand the  
18 difference between the two?

19 A Yes.

20 Q What's the difference between the two?

21 A One's a belief and the other one is a  
22 conclusion.

23 Q Right. And did you know who was supposed  
24 to conclude whether or not 22.14 actually applied

1 to the site location criteria?

2 A No.

3 Q So you weren't aware that that was the City  
4 of West Chicago's City Council responsibility?

5 A No.

6 Q And today, as of today, you're still not  
7 aware of that; is that correct?

8 A No.

9 Q And are you aware that the Hearing Officer,  
10 Mr. Derke Price, D-E-R-K-E, concluded and used the  
11 letter of Tom Dabareiner in finding that 22.14  
12 didn't apply in this case; is that correct?

13 A I don't know.

14 Q Well, didn't you read the Ordinance,  
15 22-O-0006?

16 MR. WALSH: That's argumentative.

17 MR. MEZA: I'm asking if he read it. It's  
18 not argumentative. If he didn't read it, he didn't  
19 read it.

20 HEARING OFFICER HALLORAN: He can answer if  
21 he's able.

22 MR. MUELLER: Wait, I think he got the  
23 Ordinance number wrong. Read back that Ordinance  
24 number.

1 COURT REPORTER: 22-O-0006.

2 MR. MUELLER: 23- capital O- 0006.

3 BY MR. MEZA:

4 Q Do you know what Ordinance that is?

5 A I do not.

6 Q You understand that the City Council  
7 approved Ordinance 23-O-0006, granting Lakeshore  
8 approval to construct a waste transfer station in  
9 West Chicago? Did you know that?

10 A If that was the number and the council  
11 approved it, then yes.

12 Q So did you know that in approving that, the  
13 City Council adopted the findings of fact and  
14 recommendations of Derke Price in its entirety?  
15 Did you know that?

16 A Yes, I guess.

17 Q And did you know that Derke Price relied on  
18 the letter from Tom Dabareiner in determining that  
19 22.14 didn't apply?

20 MR. WALSH: Objection to this witness being  
21 asked to get into the mind of some third-party.

22 HEARING OFFICER HALLORAN: Sustained.

23 MR. MEZA: It's not the mind of a  
24 third-party, Mr. Halloran. It's in the Ordinance

1     itself. I can identify the Ordinance, which they  
2     adopted --

3             MR. WALSH: Mr. Halloran.

4             HEARING OFFICER HALLORAN: We have to talk  
5     separately, gentlemen.

6             Mr. Walsh, what is your objection?

7             MR. WALSH: I think it's been sustained.  
8     My objection is that he's asking him the mindset of  
9     the Hearing Officer, that's what the question was,  
10    not what the Ordinance says.

11            The Ordinance speaks for itself. He  
12    can't testify as to what Mr. Price thought or what  
13    he was thinking at the time that he wrote his  
14    order.

15            HEARING OFFICER HALLORAN: Mr. Meza?

16            MR. MEZA: Your Honor, Mr. Halloran, it's  
17    actually in the Ordinance and I'm happy to point it  
18    out.

19            HEARING OFFICER HALLORAN: Your question is  
20    in the Ordinance?

21            MR. MEZA: My question with regard to who  
22    he relied on, the Hearing Officer, is actually in,  
23    it's on page -- it's Exhibit M-16 and it's on Page  
24    C 006059.



1 HEARING OFFICER HALLORAN: Proceed.

2 BY MR. MEZA:

3 Q Isn't it true, Mr. Pineda, that the Hearing  
4 Officer's ruling stated, and I quote, "The  
5 applicant has submitted the testimony of John Hock  
6 in the August 23rd, 2022 letter of Tom Dabareiner,  
7 City community development director and zoning  
8 administrator for the City of West Chicago, to  
9 support a finding that due to the requirements of  
10 the ER-1 zoning minimum lot width, minimum  
11 setbacks, physical features of the property, the  
12 lack of access, it is not reasonably possible to  
13 develop the railroad properties for residential  
14 uses.

15 Didn't Mr. Price say that in his ruling  
16 which the City Council adopted in its entirety?

17 A If it's in the Ordinance, then yes.

18 Q Well, it was in the ruling of Mr. Price,  
19 which got adopted by the City Council. Did you  
20 even know that that was what was happening in the  
21 Ordinance or not?

22 A Yes.

23 Q And in fact, the language about not  
24 reasonably possible, that's what is included in

1 that letter; isn't that correct?

2 A I don't know what's in that letter. I  
3 don't recall.

4 Q All right. We'll get to that letter later  
5 on.

6 Now, the application got submitted  
7 September 16th, 2022; is that correct?

8 A I don't know.

9 Q I think we can get a stipulation to that.  
10 But if I tell you that it was submitted by  
11 Lakeshore that day, would you have any reason to  
12 doubt that?

13 A No.

14 Q Okay. The letter from Tom Dabareiner,  
15 however, was dated August 23rd, 2022 -- or excuse  
16 me. I think it was August 24, 2022; is that  
17 correct?

18 A I don't know.

19 Q Do you know whether or not Mr. Guttman or  
20 any other City officials had decided before  
21 Lakeshore submitted this application, their  
22 application on September 16, 2022, do you know  
23 whether or not they had made a determination that  
24 Section 22.15 was not applicable? Had they made

1 that determination?

2 A I don't know.

3 Q Now, you said that you spoke to Mr. Guttman  
4 almost on a daily basis; is that correct?

5 A Yes.

6 Q Did Mr. Guttman ever provide you with  
7 regular updates on issues that APTIM had identified  
8 with Lakeshore's application?

9 A No.

10 Q Did Mr. Guttman ever provide members of the  
11 City Council with any updates on issues APTIM had  
12 identified on Lakeshore's application?

13 A No.

14 Q Were you aware of the number of issues that  
15 APTIM had identified in Lakeshore's application  
16 before they filed it?

17 A No.

18 Q Can you tell us then how is it that the  
19 City of West Chicago City Council knew of any  
20 issues that APTIM had identified with regard to  
21 Lakeshore's application?

22 A I don't know.

23 Q Now, going back to the 22.14, do you know  
24 what that stands for, that section of the law

1 stands for?

2 A I'd have to read it again.

3 Q You don't remember; is that correct?

4 A I don't remember.

5 Q Okay. So Section 22.14 states, "No person  
6 may establish any pollution control facility for  
7 use as a garbage transfer station which is located  
8 less than 1,000 feet from the nearest property  
9 zoned for primarily residential uses or within  
10 1,000 feet of any dwelling."

11 MR. MEZA: Did I read that correct,  
12 Counsel? I think I did.

13 BY MR. MEZA:

14 Q Mr. Mayor, were you aware that it was the  
15 duty of the West Chicago City Council to determine  
16 whether or not this section of the law applied?

17 A I don't know.

18 Q Do you know whether or not West Chicago  
19 City Council ever discussed or considered rezoning  
20 railroad properties located east of the proposed  
21 Lakeshore site?

22 A I don't recall.

23 Q Do you recall whether or not Mr. Guttman or  
24 any official from West Chicago ever asked you

1 whether or not this is a matter that the West  
2 Chicago City Council would be willing to do; that  
3 is, rezone railroad properties?

4 A That was not discussed, no.

5 Q And if it was discussed, it would have been  
6 in the minutes; is that correct?

7 A If it was discussed during City Council,  
8 yes.

9 Q Okay. Now, let me direct your attention to  
10 PWC 23. Now, PWC 23 has already been admitted in  
11 the record, but I believe I have a copy of the  
12 non-Bates stamped version of it.

13 Can you take a look at PWC 23,  
14 Mr. Mayor, and tell me if you've ever seen this  
15 document before?

16 A I don't see a 23.

17 Q It should be on the top right. The PWC  
18 exhibits.

19 A Yes, that's what I got.

20 Q Is there one in your folder?

21 Taking a look at PWC 23, have you ever  
22 seen this before?

23 A I don't recall.

24 Q So you weren't aware of that APTIM, the

1 expert that West Chicago hired and the expert that  
2 West Chicago paid, was providing comments to  
3 Dennis Walsh; is that correct?

4 A I was not.

5 Q Do you know who Dennis Walsh is?

6 A Yes.

7 Q Who is he?

8 A He's our attorney for this issue.

9 Q Okay. Is he the regular City attorney, or  
10 is he just a special counsel for this matter?

11 A Special counsel for this matter.

12 Q Now, let me direct your attention to Page 9  
13 of 20. It would be on the top right. There's a  
14 heading that says, "Issues residential zoning  
15 setback." Do you see that?

16 A Yes.

17 Q Now, this section deals with issues that  
18 APTIM was discussing regarding the residential  
19 zoning setback. Were you aware of that?

20 A No.

21 Q Were you aware that it was of the opinion  
22 of APTIM that this fact that there was properties  
23 that were zoned estate residential posed a  
24 significant risk to the project? Were you aware of

1 that?

2 A Not until I saw this.

3 Q Were you also aware that APTIM had  
4 recommended, and this is in the last paragraph,  
5 recommends that the railroad property be rezoned  
6 prior to the filing to eliminate this risk? Do you  
7 see that?

8 A Yes.

9 Q Now, in response, Lakeshore said, We  
10 understand and appreciate your encouragement at  
11 West Chicago to change the zoning, but West Chicago  
12 has declined to rezone. Do you see that?

13 A Yes.

14 Q Did West Chicago decline to rezone?

15 A I don't recall.

16 Q So do you know why Lakeshore said what it  
17 said there or not?

18 A I don't know.

19 Q Let me direct your attention to  
20 May 28, 2019. Were you aware that Lakeshore was  
21 communicating regularly with APTIM regarding the  
22 application?

23 A I don't know.

24 Q Did anybody tell you that APTIM had

1 approached -- excuse me. Did anybody tell you that  
2 Lakeshore had approached APTIM in 2019 and asked  
3 APTIM if they would be able to manage the wildlife  
4 management plan once the site becomes operational?

5 A No.

6 Q Did you ever say any communication from  
7 Lakeshore in 2019 indicating that they believed  
8 that they would need a wildlife management plan,  
9 "Once the site becomes operational"?

10 A No.

11 Q Do you know what basis Lakeshore had to say  
12 that they knew that the site would become  
13 operational some day?

14 A No.

15 Q Let me direct your attention to February  
16 of 2020. Were you aware in February of 2020 that  
17 there was an issue raised by your attorney with  
18 APTIM regarding potential conflicts of interest?

19 A No.

20 Q So you weren't aware that Lakeshore had  
21 actually hired your experts to help them on one of  
22 their applications; is that correct?

23 A No.

24 Q Did anybody ever tell you that?



1 A No.

2 Q Did anybody tell -- do you know whether or  
3 not that was ever discussed in a City Council  
4 meeting?

5 A I don't recall.

6 Q Do you believe that would be a conflict of  
7 interest, or not?

8 MR. MUELLER: Objection. Relevance.

9 HEARING OFFICER HALLORAN: Mr. Meza?

10 MR. MEZA: The relevance is counsel for  
11 West Chicago actually drafted a very detailed email  
12 to make sure that it wasn't a conflict of interest  
13 and make sure that APTIM would be able to perform  
14 its services on behalf of West Chicago despite  
15 Lakeshore, so I think it is relevant.

16 HEARING OFFICER HALLORAN: I agree.  
17 Objection overruled.

18 BY MR. MEZA:

19 Q Did you think it was a potential conflict  
20 of interest?

21 A I don't know.

22 Q Now, I want to go to Exhibit M-16, which is  
23 the Ordinance. That should be in front of you. Do  
24 you have it in front of you, Mr. Pineda?

1 A Yes.

2 Q Now, M-16, if you can take a look at it,  
3 this has got the agenda for February 27, 28, as  
4 well as the minutes for February 27, 28, followed  
5 by Ordinance 23-O-0006; is that correct?

6 It's like a combined exhibit. In other  
7 words, there are a number of documents stapled  
8 together; is that correct?

9 A Yes.

10 Q Now, on February 27, 2023, the City Council  
11 went into executive session; is that correct?

12 A Yes.

13 Q Whose decision was it for the City Council  
14 to go in to executive session?

15 A It was on the agenda.

16 Q Who decided to put it on the agenda?

17 A I don't recall.

18 Q Was there a discussion as to whether or not  
19 it should -- the City Council should go in to  
20 executive session?

21 A I don't recall.

22 Q Did Mr. Guttman tell you that it should go  
23 in to executive session?

24 A I don't recall.

1 Q So why did you go into executive session  
2 then?

3 A To talk about what was going to happen on  
4 the 28th, I'm guessing.

5 Q Okay. And what was going to happen on the  
6 28th?

7 A It was the open meeting, the final meeting  
8 on the decision for the application.

9 Q And when you say the 28th, you're talking  
10 about February 28th; is that correct?

11 A February 28th, correct.

12 Q 2023?

13 A 2023.

14 Q Okay. So did you know when you went in to  
15 closed session that it was going to continue to  
16 February 28th, 2023?

17 A Yes.

18 Q And did you know when you went in to closed  
19 session on February 27 what was going to occur on  
20 February 28th?

21 A No.

22 Q What did you think was going to occur on  
23 February 28th?

24 A I had no idea.

1 Q Now, when you went in to closed session,  
2 you were provided with a number of exhibits; is  
3 that correct? Documents. I'm sorry. Documents.

4 A I don't recall.

5 MR. MEZA: In order to speed matters up,  
6 can I ask counsel for West Chicago if they could  
7 look at Exhibit M-17 and whether or not we can  
8 stipulate that the documents identified in response  
9 to Interrogatory 4, No. 1 through 25 are the  
10 documents that were produced to the members of the  
11 City Council that day in closed session?

12 HEARING OFFICER HALLORAN: Yes, you may.

13 MR. MEZA: So Exhibit M-17 are the City of  
14 West Chicago's responses to Interrogatories  
15 propounded by Protect Chicago in this matter. It  
16 asks, "Identify all documents shown to the City of  
17 West Chicago City Council members or documents  
18 otherwise referred to during or at the February 27  
19 closed executive session."

20 And it lists a number of documents  
21 numbered 1 through 25. At this point, I would move  
22 to admit Exhibit M-17 into the record as evidence  
23 listing these 25 documents.

24 MR. WALSH: No objection from the City.

1 HEARING OFFICER HALLORAN: No objection  
2 from the City.

3 BY MR. MEZA:

4 Q All right. So Mr. Pineda --

5 HEARING OFFICER HALLORAN: PWC M-17 is  
6 admitted. No objection. Thank you.

7 MR. MEZA: I think M-16 has Bates numbers  
8 and it's already in the record, but we would move  
9 to admit M-16 as a group exhibit just because I  
10 think there's other documents mixed up.

11 MR. WALSH: Just for the record,  
12 Mr. Halloran, there is a mention of a number of  
13 documents. But for clarity and to make sure that  
14 we're accurate here, the answer is the following  
15 documents are present and made available to the  
16 entire City Council at the February 27 closed  
17 session meeting and then it listed 25 records or  
18 documents under there. Thank you.

19 HEARING OFFICER HALLORAN: Thank you. You  
20 may proceed.

21 BY MR. MEZA:

22 Q So Mr. Mayor, do you understand that means  
23 that your attorney on behalf of the City has  
24 admitted or confirmed that there were 25 documents

1 that were shown to the City Council members at  
2 closed session on February 27?

3 MR. WALSH: That's not what I said. I said  
4 they were made available to the City Council at  
5 that meeting.

6 MR. MEZA: Okay.

7 MR. WALSH: It's different.

8 MR. MEZA: Okay. They were made available?

9 MR. WALSH: Correct.

10 MR. MEZA: Okay.

11 BY MR. MEZA:

12 Q So they were made available; is that  
13 correct?

14 A Yes.

15 Q Okay. Were there other documents that were  
16 made available to the City Council that day?

17 A I don't recall.

18 Q Okay. Now, let me direct your attention  
19 back to M-16 and the portion of Exhibit M-16 that  
20 has the Ordinance. And that starts at Page  
21 CO06039, do you see that? And those numbers would  
22 be on the top right?

23 A 39?

24 Q Yes. 0639.

1 A Okay.

2 Q That's the West Chicago Ordinance approving  
3 the waste transfer station; is that correct?

4 A Yes.

5 Q Okay. Can you tell me who drafted this  
6 Ordinance?

7 A I do not know.

8 Q Can you tell me when the Ordinance was  
9 drafted, the date or time?

10 A February 28th.

11 Q And do you know what time it was drafted?

12 A I do not know.

13 Q And do you remember when it was distributed  
14 to the City Council on February 28th?

15 A I don't recall the exact time, no.

16 Q Do you recall if it was distributed before  
17 6:00 P.M.?

18 A Yes.

19 Q Do you have any idea of what time it was  
20 distributed, or not?

21 A I do not.

22 Q Let me direct your attention to PWC-806.  
23 That should be in your pile.

24 A I got it.

1           Q   Take a look at it.  This is an email from  
2   Mr. Guttman to himself, CC Dennis Walsh.  "Attached  
3   please find the Ordinance for tonight's meeting."  
4   And it's sent February 28th at 12:16 P.M.

5                   Is that the time that the Ordinance was  
6   sent out?

7           A   I only see Mr. Guttman and Mr. Walsh.

8           Q   Do you know what blind cc emails are?

9           A   Yes.

10          Q   Do you ever get blind cc emails from  
11   Mr. Guttman?

12          A   I don't know.  I mean, I don't recall.

13          Q   Looking at PWC-806 --

14               MR. MEZA:  Which at this time we'd move to  
15   admit into the record.

16               HEARING OFFICER HALLORAN:  Mr. Walsh?

17               MR. WALSH:  No objection.

18               HEARING OFFICER HALLORAN:  PWC-806 is  
19   admitted.

20   BY MR. MEZA:

21          Q   Taking a look at Exhibit 806, do you recall  
22   seeing this email come in at 12:16 P.M. on  
23   February 28th?

24          A   I don't recall.



1 Q Were you working that day?

2 A I'm sure I was at Cintas.

3 Q Yes. At your full-time job?

4 A Yes.

5 Q And do you read emails from Mr. Guttman  
6 relating to your official duties as Mayor while  
7 you're at work, or not?

8 A Not normally, no.

9 Q Okay. Do you know when you would have seen  
10 the Ordinance that was eventually approved the  
11 evening of February 28th, 2023?

12 A I don't recall.

13 Q Had you seen an Ordinance that was approved  
14 on February 28th, 2023 at any time prior to  
15 February 27, 2023?

16 A No.

17 Q Tell us when you first saw the Ordinance  
18 and read the Ordinance that was passed on  
19 February 28th, 2023.

20 A I don't recall what time, but I read it on  
21 the 28th.

22 Q Did you read it before 6:00 P.M. or after  
23 6:00 P.M.?

24 A I read it before the meeting.

1 Q And did you understand what you were  
2 reading?

3 A Yes.

4 Q And did you understand that there were  
5 certain findings that had been made?

6 A Yes.

7 Q Did the City Council of West Chicago take  
8 any votes when they were in closed session?

9 A No.

10 Q Did they make any decisions when they were  
11 in closed session on the 27th?

12 A No.

13 Q Did they make any findings with regard to  
14 the waste transfer station when they were in closed  
15 session?

16 A No.

17 Q So do you know when it was that the City of  
18 West Chicago made the findings set forth in  
19 Ordinance 23-O-0006?

20 A At the City Council meeting.

21 Q Which City Council meeting?

22 A The 28th.

23 Q How long was the City Council meeting on  
24 the 28th?

1 MR. WALSH: Objection. A meeting that was  
2 held on February 27 was continued to the 28, so  
3 there was one meeting, not two separate meetings.

4 BY MR. MEZA:

5 Q Okay. How long was the separate meeting  
6 that was held on February 28th, 2023?

7 MR. WALSH: It wasn't a separate meeting.  
8 Objection.

9 HEARING OFFICER HALLORAN: Sustained. If  
10 you can rephrase.

11 BY MR. MEZA:

12 Q Okay. The City Council had one meeting; is  
13 that correct?

14 A Yes.

15 Q The 27th and then it got continued to the  
16 28, correct?

17 A Yes.

18 Q But on the 27th, they made no decisions,  
19 they made no findings, they took no votes; is that  
20 correct?

21 A Correct.

22 Q But on the 28th, they took one vote, didn't  
23 they?

24 A That was what's on the agenda, yes.

1 Q There was one vote, right?

2 A Yes.

3 Q And that vote was taken at the five-minute  
4 meeting on February 28th, 2023, correct?

5 A Yes.

6 Q But at that meeting, they didn't vote on  
7 findings, did they, the City Council?

8 MR. WALSH: Object to the form of that  
9 question.

10 HEARING OFFICER HALLORAN: Sustained.

11 BY MR. MEZA:

12 Q Okay. Didn't the City Council simply vote  
13 to approve or disapprove the Ordinance?

14 A Yes.

15 Q And that's the Ordinance, that 2300006,  
16 correct?

17 A Yes.

18 Q But that Ordinance makes a number of  
19 findings, doesn't it?

20 A Yes.

21 Q Doesn't it adopt the Hearing Officer's  
22 report in its entirety?

23 A I don't know.

24 Q Well, have you ever read the Ordinance?

1 A Yes.

2 Q Didn't it find that the nine criteria were  
3 met?

4 A Yes.

5 Q So do you know how it was that the  
6 Ordinance had been drafted before a vote was taken  
7 and after there was discussion, but no votes?

8 MR. MUELLER: Objection to the form of the  
9 question. It's compound as well.

10 HEARING OFFICER HALLORAN: Yes. Rephrase.

11 BY MR. MEZA:

12 Q Okay. Who made the findings that are  
13 contained in the Ordinance, if you know?

14 A I don't know.

15 Q Isn't it true that your lawyer drafted this  
16 entire Ordinance?

17 A Yes.

18 Q And he made all the findings, didn't he?

19 MR. WALSH: Object to the form of the  
20 question.

21 HEARING OFFICER HALLORAN: Sustained.

22 BY MR. MEZA:

23 Q We're still on Exhibit M-16, Mr. Mayor.  
24 Can I direct your attention to Page 6043 at the top

1 right? Do you see that?

2 A Yes.

3 Q Okay. Let me direct your attention to  
4 Section 4 where it says, "Based on the application  
5 expert testimony and record, we find the  
6 following." Do you see that?

7 A Yes.

8 Q Okay. Now, there's some language that  
9 says, "The determination of Criterion 2 is  
10 primarily a matter of assessing the credibility of  
11 the expert witnesses." Do you see that?

12 A Yes.

13 Q And there was citation to some cases; is  
14 that correct?

15 A Yes.

16 Q And were those cases provided to the City  
17 Council when you voted on February 28th?

18 A I don't recall.

19 Q In fact, those cases weren't even provided  
20 to the City Council in the list of 25 documents, or  
21 made available on the 27th, were they?

22 A I don't recall.

23 Q And did the City decide on February 27th  
24 that Mr. Hock's testimony was more thorough and

1 credible on this issue? Did they make a decision  
2 on the 27th of that?

3 A I would say no.

4 Q Did they make a decision about that on the  
5 28th when they voted for this Ordinance?

6 MR. WALSH: Object to the form of these  
7 questions. The Ordinance and wording of the  
8 Ordinance speak for itself and the findings in the  
9 Ordinance speak for itself.

10 MR. MEZA: I believe I'm entitled to ask  
11 whether or not these are the findings of the City  
12 Council or whether they are the findings in the  
13 Ordinance of the counsel.

14 MR. WALSH: They are the findings of the  
15 City Council, Mr. Halloran, because they adopted  
16 the Ordinance. They had the findings contained  
17 within them.

18 HEARING OFFICER HALLORAN: So noted, but  
19 overruled. He can answer if he's able, but I think  
20 I've heard this question a few times.

21 BY MR. MEZA:

22 Q Okay. Now Mr. Mayor, you know who Father  
23 Josh is, don't you?

24 A Yes.

1 Q You sent Father Josh a text, didn't you?

2 A Yes.

3 Q And you sent it to him on

4 November 14th, 2020, correct?

5 A I don't recall.

6 Q Can you look at Exhibit M-8. It would be  
7 on the lower right. And I'll ask you if this  
8 refreshes your recollection by reading this, M-8.

9 A M-8?

10 Q Yes.

11 A Okay.

12 Q Can you take a look at that and read that  
13 to yourself?

14 A Okay.

15 Q Isn't it true that on November 14th, 2020,  
16 you sent Father Josh, a local priest in West  
17 Chicago, a text that said, "We need to talk next  
18 week, you're pushing propaganda. Please save all  
19 information prior to posting on social media.  
20 Thanks in advance"?

21 MR. WALSH: I'm going to object to the  
22 question as to relevance. The Mayor was not a  
23 decision-maker. He did not vote on the Ordinance  
24 and any communications he had with respect to the



1 pre-application or the application is irrelevant.

2 HEARING OFFICER HALLORAN: He can make a  
3 quick response, Mr. Meza, and I'll make my ruling.

4 BY MR. MEZA:

5 Q Sure. Mr. Pineda, did you know on  
6 November 14th, 2020 that you were not going to have  
7 to vote as a tie breaker because the application of  
8 Lakeshore was going to be approved? Did you know  
9 that already?

10 A No.

11 Q So you may have been in 2020, you could  
12 have been a decider; is that correct, as far as you  
13 understood?

14 A I vote on a split vote, yes.

15 Q Did you know that it was going to be a  
16 split vote or not, or did you know that it was  
17 going to be unanimous or that there were two  
18 aldermen that were going to be voting against it in  
19 2020?

20 A No.

21 Q Right. So for all you knew in 2020, you  
22 may have been a decider; is that correct?

23 A I could have been I guess.

24 Q Right. If it was a tie vote?

1 A Right.

2 Q But yet, despite being a decider, you sent  
3 out a text to a local priest saying he's pushing  
4 propaganda.

5 MR. WALSH: Objection. He was not a  
6 decider.

7 MR. MEZA: Well, it turned out he wasn't  
8 because a decision had already been made. That's  
9 the whole point.

10 MR. WALSH: Let me finish my objection.

11 HEARING OFFICER HALLORAN: Yes.

12 MR. WALSH: The question was as a decider,  
13 did you do this? The Mayor was not a decider.  
14 Whether or not he could have been a potential  
15 decider is a different issue.

16 HEARING OFFICER HALLORAN: I agree. You  
17 have to rephrase, Mr. Meza.

18 BY MR. MEZA:

19 Q Did you know whether or not you were going  
20 to be a decider?

21 MR. WALSH: Objection. Asked and answered.

22 HEARING OFFICER HALLORAN: Overruled.

23 BY MR. MEZA:

24 Q That means you can answer. Did you know

1 you were going to be a decider?

2 A No.

3 Q Was Father Josh in favor of a second waste  
4 transfer station in November, 2020 or against it as  
5 far as you know?

6 A I don't know that.

7 Q Well, he wasn't posting something  
8 favorable, was he?

9 A It was -- nobody knew what the information  
10 was.

11 Q I understand that. But what he had posted  
12 that you described as propaganda was against a  
13 second waste transfer station, correct?

14 A Yes.

15 Q Had you already decided in 2020 that or did  
16 you know in 2020 that the City Council was going to  
17 approve it?

18 A We didn't have an application, so no.

19 MR. MEZA: I have no further questions.

20 HEARING OFFICER HALLORAN: Thank you,  
21 Mr. Meza.

22 It's 12:31. I suggested before the  
23 direct of the adverse witness that we take a lunch  
24 from 12:30 to 1:00. All right? We'll be back here

1 at 1:00. Thank you.

2 (There was a break taken, after  
3 which the deposition was resumed  
4 as follows:)

5 HEARING OFFICER HALLORAN: Fake news.  
6 We're not going to take a lunch break right now.  
7 We have a couple of questions from PODER,  
8 Mr. Weinstock, of the Mayor.

9 BY MR. WEINSTOCK:

10 Q Mayor, thank you. I just really want to  
11 make sure I understand one thing. Do you remember  
12 Mr. Meza was asking you about Exhibit M-17, which  
13 had a list of documents that were made available to  
14 the City Council?

15 A Yes.

16 Q Okay. And you were at the meeting on the  
17 27th?

18 A Yes.

19 Q The whole time?

20 A Yes.

21 Q And so did you see those 25 documents that  
22 were listed as they were made available?

23 A I don't recall if they were made available  
24 there. I don't know if I should be talking about

1 much that happened in closed session.

2 Q And I'm not asking you to say what anyone  
3 else said to you at that session, just the facts of  
4 what happened.

5 A I don't recall.

6 Q Do you recall if those documents were  
7 provided in hard copy form?

8 A I don't recall.

9 Q Did anyone at that meeting actually look at  
10 any of these documents?

11 A I don't know that.

12 Q But you were there the whole time?

13 A Yes.

14 Q And you didn't see anyone looking at any of  
15 these documents, did you?

16 A I don't recall.

17 MR. WALSH: I object to the form of the  
18 question.

19 HEARING OFFICER HALLORAN: Sustained.

20 BY MR. WEINSTOCK:

21 Q Did you see anyone looking at any of these  
22 documents?

23 MR. WALSH: Same objection.

24 HEARING OFFICER HALLORAN: Sustained.

1 MR. WEINSTOCK: That's all. Thank you.

2 HEARING OFFICER HALLORAN: All right.

3 Thank you. All right. Now we're taking a lunch.

4 MR. MEZA: I forgot to move Exhibit M-8  
5 into the record.

6 MR. WALSH: I object to M-8 for relevance  
7 purposes.

8 HEARING OFFICER HALLORAN: All right.  
9 Mr. Walsh made an objection for relevancy. I'm  
10 going to overrule the objection and I find that it  
11 may be relevant. The Board may find relevance. So  
12 M-8 is admitted over objection.

13 Thank you, sir. Now you can go.

14 MR. WEINSTOCK: Thank you, Mr. Halloran.

15 HEARING OFFICER HALLORAN: Thank you.

16 (There was a break taken, after  
17 which the deposition was resumed  
18 as follows:)

19 HEARING OFFICER HALLORAN: All right.  
20 We're back on the record. Welcome back after a  
21 quick lunch. It's approximately 1:07. We have  
22 Mr. Meza's adverse witness, Mr. Guttman. And if  
23 Gloria could swear him in?

24 THE COURT REPORTER: Raise your right hand,

1 please.

2 (The oath was thereupon duly  
3 administered to the witness by  
4 the Notary.)

5 MICHAEL GUTTMAN,  
6 Called as a witness by the Petitioner herein,  
7 having been first duly sworn, was examined and  
8 testified as follows:

9 DIRECT EXAMINATION

10 By: Mr. Meza

11 Q Can you state your name for the record,  
12 spell your last name for the court reporter,  
13 please?

14 A Michael Guttman, G-U-T-T-M-A-N.

15 Q And Mr. Guttman, you've been sitting in on  
16 today's hearing, so you have a pretty good idea of  
17 the kind of questions and the exhibits; is that  
18 correct?

19 A I do.

20 Q Now, you are the City Administrator for the  
21 City of West Chicago, correct?

22 A Yes.

23 Q How many persons report to you?

24 A 115 plus.

1 Q Okay. And does that include  
2 Tom Dabareiner, the community development director?

3 A Tom Dabareiner does report to me.

4 Q And does that include the FOIA officer?

5 A Yes.

6 Q And who is that?

7 A Valeria Perez.

8 Q And FOIA stands for, of course, Freedom of  
9 Information Act; is that correct?

10 A That is correct.

11 Q Is it safe to say that you oversee the  
12 entire functions of West Chicago City government?

13 A Yes.

14 Q And who is your supervisor?

15 A The West Chicago City Council.

16 Q And who do you report to?

17 A The West Chicago City Council.

18 Q And how do you report your activities to  
19 the West Chicago City Council?

20 A Either via formal meetings, or I provide  
21 weekly updates.

22 Q And those are weekly updates you send out  
23 every Sunday morning; is that correct?

24 A Almost every Sunday morning, yes.



1 Q Okay. Between 6:00 and 8:00 A.M.?

2 A Yes.

3 Q Now, let me direct your attention to  
4 January, 2021. By January, 2021, you were aware  
5 that the City of West Chicago had entered into a  
6 host agreement with Lakeshore; is that correct?

7 A Yes.

8 Q And you were aware that they entered into  
9 that agreement some time in 2019; is that correct?

10 A Yes.

11 Q And you were aware that the City of West  
12 Chicago had hired APTIM as their expert; is that  
13 correct?

14 A I am aware that the West Chicago City  
15 Council hired APTIM as their experts for City  
16 staff.

17 Q Correct. And we'll talk about that  
18 distinction in a second when we get to APTIM.

19 Now, were you aware in January of 2021  
20 that there had been some FOIA requests that were  
21 issued to the City of West Chicago?

22 A There are many FOIA requests issued to the  
23 City of West Chicago.

24 Q There were a couple that were issued in

1 relation to the waste transfer station, weren't  
2 there?

3 A Yes.

4 Q And you specifically remember those, don't  
5 you?

6 A I do.

7 Q In fact, did Miss Perez inform you that  
8 there had been FOIA requests seeking information?

9 A No.

10 Q Did Miss Perez provide you with copies of  
11 FOIA requests that were made by an individual named  
12 Olga Rivera?

13 A No.

14 Q Did Miss Perez speak to you regarding  
15 documents that were included in a FOIA request?

16 A She speaks to me about many FOIA requests.

17 Q As it relates to the waste transfer  
18 station?

19 A Yes.

20 Q And isn't it true that on or about  
21 February, 2021, Miss Rivera received a FOIA that  
22 asked the City of West Chicago to produce, and I  
23 quote, "Any and all notes or memos relating to  
24 meetings or conversations, whether it via phone or

1 in-person, that occurred in the last two years  
2 between the City of West Chicago's consultant,  
3 APTIM Environmental and Infrastructure, LLC and any  
4 third-party, or West Chicago elected official or  
5 employee, related to a waste transfer station  
6 proposed to be developed at 1655 Powis Road, West  
7 Chicago, Illinois."

8 A I cannot speak to the date, but I do  
9 remember that particular request for Olga Rivera.

10 Q Okay. And in 2021, you were aware, in  
11 fact, that there had been notes and memos relating  
12 to the proposed waste transfer station; is that  
13 correct?

14 A No.

15 Q You weren't aware of that?

16 A No.

17 Q Take a look at Exhibit PW-7. Have you ever  
18 seen PW-7 before?

19 A Not until recently. Or can I rephrase?  
20 Not until the end of the litigation involving the  
21 FOIA.

22 Q You never saw a letter directed to you on  
23 May 6, 2019 from APTIM?

24 A My apologies. I was jumping the gun. I

1 have seen this document before. This is their  
2 proposal to provide services.

3 Q And you saw this in 2019?

4 A Yes.

5 Q So in 2021, you knew that there were notes  
6 or memos relating to APTIM Environmental and  
7 Infrastructure, didn't you?

8 A This isn't a note or a memo.

9 Q So PW-7, were you aware that this existed  
10 when you received the FOIA in 2021?

11 A I don't recall what I remembered at that  
12 point in time.

13 Q But this isn't something you would produce  
14 because, in your opinion, it's not a note or a  
15 memo, right?

16 A No, that is not to what I thought the FOIA  
17 was referring.

18 Q Okay. Did you think the FOIA was referring  
19 to any communications between APTIM and West  
20 Chicago officials?

21 A I don't know if I recalled at that time.

22 Q Do you recall Miss Perez approaching you  
23 and saying, Hey, we got a FOIA asking for this  
24 information, how should I respond?

1 A Yes.

2 Q And isn't it true that the City of West  
3 Chicago responded by saying the City has no  
4 documents responsive to this section of your  
5 request?

6 A Yes.

7 Q That was your decision, right?

8 A That was my decision.

9 Q Right. So you knew that there were  
10 communications and memos between APTIM and West  
11 Chicago relating to a proposed transfer station  
12 prior to 2021, didn't you?

13 A I knew that there was --

14 MR. WALSH: I object to this line of  
15 questioning. It's completely irrelevant to the  
16 siting issues. It's a FOIA issue. And if there's  
17 a FOIA litigation, the significance of the FOIA  
18 litigation has nothing to do with local siting.

19 MR. MEZA: It has everything to do with the  
20 issues in our appeal, which allege that there was  
21 concealment by the City of West Chicago to conceal  
22 documents relating to the proposed waste transfer  
23 station that required a member of the community to  
24 issue and sue the City of West Chicago for

1 violating the Freedom of Information Act, which is  
2 what Miss Rivera ended up doing and resulted in  
3 these documents.

4 HEARING OFFICER HALLORAN: I agree.  
5 Overruled. Mr. Walsh, do you want to say something  
6 else before we move on?

7 MR. WALSH: Can I just respond to that?

8 HEARING OFFICER HALLORAN: That's what I  
9 said.

10 MR. WALSH: There's nothing in the  
11 evidence, Mr. Halloran, that suggested the City  
12 Council, who are the decision-makers here, even  
13 knew about the FOIA or took any action with respect  
14 to the FOIA. What City staff did is irrelevant to  
15 what the decision was made by the siting authority.

16 HEARING OFFICER HALLORAN: Well, I mean the  
17 Board may find it relevant regarding any kind of  
18 pre-filing contact, so your objection is noted.  
19 You may continue.

20 MR. MEZA: Thank you.

21 BY MR. MEZA:

22 Q Mr. Gut --

23 MR. WALSH: Just a continuing objection as  
24 to the line of questioning.

1 HEARING OFFICER HALLORAN: Okay, thank you.  
2 The transcript will note, the Board will note.  
3 Thank you.

4 BY MR. MEZA:

5 Q Mr. Guttman, can you take a look at PWC 28?  
6 You've seen this before, haven't you?

7 A Yes.

8 Q This is the lawsuit that Miss Rivera filed  
9 against the City of West Chicago; is that correct?

10 A It is.

11 Q Let me direct your attention to Exhibit C.  
12 It's not attachment C, it's Exhibit C. And I know  
13 the pages are not numbered, but if you flip back,  
14 it should be in the center of the page, it says  
15 Exhibit C. Do you see that?

16 A I see that.

17 Q Now, if you flip to the next page, it makes  
18 reference to a message that was sent to you  
19 regarding Request Number 21-19. Do you see that at  
20 the top of the following next page?

21 A 21? I see nothing that says 21-19.

22 Q I'm sorry. 95. I must have misread.

23 HEARING OFFICER HALLORAN: Mr. Meza, is  
24 this PWC-8?

1 MR. MEZA: PWC 28.

2 HEARING OFFICER HALLORAN: My bad. Okay.

3 BY MR. MEZA:

4 Q Do you see on the next page after Exhibit  
5 C, it says, "A message was sent to you regarding  
6 Record Request Number 21-95"?

7 A Yes.

8 Q Now, isn't it true that West Chicago  
9 records its FOIA requests by numbers based on the  
10 year and then the number?

11 A Yes.

12 Q So this was a FOIA request made in the year  
13 of 2021. It might have been the 95th request; is  
14 that correct?

15 A That makes sense to me.

16 Q Well, do you know or not?

17 A That makes sense to me.

18 Q What makes sense to you?

19 A That it's the 95th. I have never given any  
20 thought to how the numbering system goes because  
21 I'm not involved in that on a regular basis.

22 Q Okay. But you're aware of the process by  
23 which West Chicago responds to FOIAs; is that  
24 correct?



1           A    I'm aware that we have software that does  
2           that and Valeria Perez is our FOIA officer.

3           Q    Right.  And what the software does is it  
4           identifies the question that's asked and it tells  
5           the requester whether or not the documents exist.  
6           And if so, might attach them.  And if not, it says  
7           no documents exist; is that correct?

8           A    I don't think so.

9           Q    Well, let me direct your attention back to  
10          Exhibit C, not the page that says 21-95, not the  
11          following page, but the last page before Exhibit D.  
12          Turn to the last page before Exhibit D where it  
13          starts at the top, Environmental Infrastructure,  
14          LLC.  Do you see that?

15          A    Yes.

16          Q    Now, below that there's a request for any  
17          and all notes or memos relating to meetings that I  
18          read earlier.  Do you see that?

19          A    Yes.

20          Q    And the response from the City is the City  
21          has no documents responsive to your request; is  
22          that correct?

23          A    Yes.

24          Q    But that wasn't true, was it?

1           A   As regards to the proposal, I don't think  
2           that proposal meets what was requested.

3           Q   So in your opinion, all of these documents  
4           and memos that the City ultimately turned over  
5           didn't exist, right?

6           A   No, that's not what I said.

7           Q   Okay. Did the City ever turn over  
8           documents responsive to this request?

9           A   We did.

10          Q   In fact, you turned over like four boxes of  
11          documents, didn't you?

12          A   We did.

13          Q   Okay. So those existed before this request  
14          was made, didn't they?

15          A   They did.

16          Q   Did you decide to try to conceal these  
17          documents from the public?

18          A   No.

19          Q   Okay. Whose decision was it?

20          A   No one made a decision to conceal the  
21          documents from the public.

22          Q   Then why weren't these documents turned  
23          over?

24          A   The documents were not turned over for two

1 reasons. One, it was an understanding of our  
2 staff, myself included, that there's a provision in  
3 FOIA that says that draft documents are not  
4 included. What I learned later to be is those are  
5 draft documents associated with City personnel and  
6 not our agents, so we made a mistake.

7 In the second regard, I was not aware  
8 that there was written communications between APTIM  
9 and Lakeshore until the litigation was filed. I  
10 had only thought that they were oral conversations  
11 and so I didn't know, and now I've learned my  
12 lesson, that I need to go explore further as to  
13 what else is out there.

14 So in the one instance, we had bad  
15 information, which we have corrected for the  
16 future. And in the second instance, I and the rest  
17 of my team need to make sure we question our agents  
18 as to what documents are out there. At the point  
19 and time of the FOIA, I was unaware.

20 Q And that's what resulted in a lawsuit being  
21 filed by Miss Rivera; is that correct, Exhibit PWC  
22 28?

23 A Olga Rivera through her attorney believed  
24 that there were documents out there that we had not

1 produced that resulted in the litigation and the  
2 production of the documents, some of which was  
3 already in the possession of your former  
4 co-counsel, but that doesn't matter. We still  
5 needed to produce it.

6 MR. MEZA: At this time, we move to admit  
7 PWC 28.

8 HEARING OFFICER HALLORAN: Mr. Walsh?

9 MR. WALSH: Same objection. The lawsuit  
10 respective to a FOIA compliance or noncompliance  
11 has no relevance to local siting, particularly when  
12 there's no evidence in the record that the City  
13 Council even knew about this issue.

14 HEARING OFFICER HALLORAN: Okay. I mean,  
15 but I guess right now we're looking outside the  
16 record for any kind of fundamental fairness  
17 allegations.

18 Mr. Meza, would you like to respond?

19 MR. MEZA: Yes, Mr. Halloran. Our  
20 allegations, as set forth in our April 14th Amended  
21 Petition, specifically make reference to the fact  
22 that it is our belief that there were officials  
23 within the City government, officials including  
24 Mr. Guttman, although he was not named

1 specifically, that were literally concealing  
2 information.

3 I believe it's all set forth in  
4 paragraph -- it starts in Paragraph 19, the actions  
5 of -- I'm reading 19 C. "The actions of West  
6 Chicago officials seeking to conceal information  
7 which related directly to criticisms leveled by the  
8 city's own consultant, APTIM during a pre-filing  
9 application," which is what we're discussing,  
10 resulting in the unlawful disclosure or failure to  
11 disclose information of the FOIA.

12 HEARING OFFICER HALLORAN: Mr. Walsh,  
13 anything further?

14 MR. WALSH: Yes, that's all false  
15 allegations and speculation. There's nothing  
16 anywhere that suggests that any of that is true.  
17 Anybody can say anything. That doesn't make it  
18 true.

19 HEARING OFFICER HALLORAN: Okay. I'm going  
20 to accept it over objection, PWC Exhibit 28.

21 BY MR. MEZA:

22 Q Now, Mr. Guttman, you said that you create,  
23 usually submit or send out weekly updates; is that  
24 correct?

1 A Yes.

2 Q When you do that, do you send them out in  
3 what's referred to as a BCC, blind carbon copy?

4 A I do.

5 Q And can you explain to us what that means?

6 A It means that the recipients don't know  
7 who's getting it. More importantly, if a recipient  
8 were to respond, they would only respond to me and  
9 not create any concerns with the Open Meetings Act.

10 Q Right. So you send an email to yourself as  
11 a CC, but then you add a bunch of other people in  
12 the BCC so that their names don't appear in the  
13 email; is that correct?

14 A That is correct.

15 Q And then they don't see what others are  
16 seeing; is that correct?

17 A Well, they are seeing the same documents  
18 that others are seeing.

19 Q I'm sorry. They don't know who else  
20 received the BCC, right?

21 A Correct.

22 Q Now, when you BCC, do you generally BCC  
23 City Council members Sunday mornings in these  
24 weekly updates?

1 A I do.

2 Q Okay. And you heard Mr. Mayor Pineda  
3 testify that it's your decision to decide what to  
4 put in the weekly updates; is that correct?

5 A Unless I were to get direction, that would  
6 be correct.

7 Q Okay. So was his testimony correct or  
8 incorrect on that point?

9 MR. WALSH: Objection to the form of that  
10 question as to whether or not the Mayor is --

11 HEARING OFFICER HALLORAN: I agree.  
12 Rephrase.

13 BY MR. MEZA:

14 Q Okay. Take a look at Exhibit M-13,  
15 Mr. Guttman. That should be in front of you.

16 A I am there.

17 Q So this is a weekly update that you sent  
18 out Sunday, December 4th at 7:14 A.M.; is that  
19 correct?

20 A Yes.

21 Q Okay. And you discussed and provided a  
22 weekly update on various issues including the  
23 City's role in the transfer station review process;  
24 is that correct?

1 A Yes.

2 Q Now, the information that's listed there  
3 states this document has been translated into  
4 Spanish and posted to the City's website; is that  
5 correct?

6 A Yes.

7 Q Okay. Can you tell the Pollution Control  
8 Board who made the decision to translate the  
9 document into Spanish and post it on the City's  
10 website?

11 A I did.

12 Q Did the City Council direct you to do that?

13 A They did not.

14 Q Did the City Council tell you after they  
15 received this, Hey, don't be posting anything in  
16 Spanish?

17 A They did not.

18 Q Why did you post anything in Spanish?

19 A To divert the number of phone calls to the  
20 front desk, number one, for those who speak  
21 Spanish. And number two, because many people  
22 didn't understand the process and the limited role  
23 that City Council and City staff play in the  
24 process. So that as many of the community members



1 as possible know that we may not be able to help  
2 them.

3 Q Right. So you had Spanish-speaking people  
4 calling you and you wanted to divert them and say  
5 just go on the website, we translated the document,  
6 right?

7 A No.

8 Q Well, would English people call you and say  
9 Hey, I want to see something in Spanish on the  
10 website?

11 A No.

12 Q So who were you diverting?

13 A No one had called yet.

14 Q You said you wanted to divert?

15 A Future callers.

16 Q Oh, okay. And is that because you knew  
17 that members of the Spanish-speaking community  
18 might call?

19 A I didn't.

20 Q Do members of the Spanish community ever  
21 call City Hall and speak about any issues?

22 A Yes.

23 Q In fact, what is the Latino population of  
24 West Chicago?

1           A    I don't know the number of Latino  
2 population in West Chicago.

3           Q    But you know West Chicago is the only City  
4 in DuPage that's majority-minority; is that  
5 correct?

6           A    I don't know that, but I do know that we  
7 are a majority-minority community.

8           Q    And what is that majority?

9           A    Latino.

10          Q    Now, let me direct your attention --

11           MR. MEZA:  I'm not sure if M-13 is in.  I  
12 move to admit Exhibit M-13.

13           HEARING OFFICER HALLORAN:  Mr. Walsh?

14           MR. WALSH:  I don't have an objection to  
15 that.

16           HEARING OFFICER HALLORAN:  Okay.  No  
17 objection.  M-13 is admitted.

18          BY MR. MEZA:

19          Q    Let me direct your attention to M-14.  This  
20 is another weekly update sent January 28, 2023; is  
21 that correct?

22          A    I heard 28 and it's dated January 29th.

23          Q    I'm sorry.  Mr. Guttman, so whatever the  
24 date is listed, is that the date that it was sent

1 out?

2 A Yes.

3 Q And the time?

4 A Yes.

5 Q And this is another BCC weekly update; is  
6 that correct?

7 A Yes.

8 Q And you want to provide the City Council  
9 with an update on the waste transfer station  
10 hearing; is that correct?

11 A Yes.

12 Q Now, as part of your update, you said that  
13 the matter, the last sentence says, "The matter  
14 will be discussed by the City Council on  
15 February 27 with a decision scheduled to be made on  
16 the 28th." Is that correct?

17 A It says that.

18 Q Who told you to write that?

19 A No one instructed me to write that.

20 Q So how did you know that the City Council  
21 was going to discuss this on the 27th with a  
22 decision to be made on the 28th?

23 A Conversation with special counsel.

24 Q Was that a decision that special counsel

1 made, or that the City Council made?

2 MR. WALSH: Objection to the point of him  
3 asking what attorney/client privileged  
4 communications involved.

5 HEARING OFFICER HALLORAN: Mr. Meza?

6 MR. MEZA: I'm asking him if he knows who  
7 made that decision. I could rephrase the question.

8 HEARING OFFICER HALLORAN: Please do.

9 BY MR. MEZA:

10 Q Do you know who made the decision that the  
11 matter would be discussed on the 27th with a  
12 decision on the 28th?

13 A The Mayor.

14 Q The Mayor made that decision?

15 A Yes.

16 Q When did he make that decision?

17 A After I had conversation with counsel.

18 Q And did he make that in an open meeting?

19 A The Mayor made the decision to have it on  
20 the 27th and the 28th. And upon recommendation of  
21 the attorney, that it would be in the format that  
22 it actually happened.

23 Q And did the Mayor decide that there would  
24 only be discussions on the 27th?

1           A    The Mayor decided that there would be no  
2    action taken on the 27th.

3           Q    And was that brought up to the members of  
4    the City Council to decide, that there would be no  
5    action taken on the 27th?

6           A    The Mayor sets the agenda.

7           Q    But does the Mayor make a decision as to  
8    whether or not the City Council takes action, or  
9    not?

10          A    Well, there was nothing to vote on on the  
11    27th. There was going to be nothing to be voting  
12    on on the 27th.

13          Q    Right. Because Mayor Pineda said we're not  
14    going to vote on it, right?

15          A    No.

16          Q    Well, what did he say?

17          A    There was nothing to vote on.

18          Q    How do you know that?

19          A    Because the part was that they were going  
20    to -- well, this gets into executive session.

21          Q    If you know. Do you know? How do you know  
22    that there was nothing going to be voted on on  
23    February 27 before February 27? How did you know  
24    that?

1           A    Because the design was to go into executive  
2 session for the Council to have their executive  
3 session discussion and then to come back on the  
4 28th and to vote on whatever is before them.

5           Q    And Mayor Pineda made that decision?

6           A    The format of that meeting, 27 and 28,  
7 after consultation with me and I had talked to the  
8 counsel.

9           Q    Did the City Council decide, make that  
10 agreement also?

11          A    The City Council was not involved in that  
12 discussion, in that decision to hold the meeting in  
13 that format.

14          Q    Now, you attended the February 27, 2023  
15 meeting, didn't you?

16          A    I did.

17          Q    Did you decide who else was going to  
18 attend?

19          A    No.

20          Q    Did you know who else was going to attend?

21          A    Yes.

22          Q    When did you know who else was going to  
23 attend?

24          A    I don't recall. Prior to the meeting.

1 Q Do you know how you learned who was going  
2 to attend and who was not going to attend?

3 A No.

4 Q Do you know whose decision it was to decide  
5 who would and who would not attend the meeting?

6 A I consulted with the mayor who said okay as  
7 to who would attend the meeting.

8 Q So did you recommend to the Mayor who  
9 should attend and who should not attend?

10 A I offered a suggestion.

11 Q And what was your suggestion?

12 A The suggestion was in addition to special  
13 counsel, to have the Hearing Officer attend.

14 Q And who else did you suggest attend?

15 A I believe that is it.

16 Q Well, you were going to attend, too. Di  
17 you?

18 A I attend all executive sessions, except  
19 when they talk about me.

20 Q And they weren't going to be talking about  
21 you here, right?

22 A I hope not.

23 Q So it was your decision not to invite APTIM  
24 to the meeting; is that correct?

1 MR. WALSH: Objection to the form of the  
2 question.

3 HEARING OFFICER HALLORAN: Objection to the  
4 form of the question?

5 MR. WALSH: Yes. He's asking about his  
6 decision to invite somebody or not to invite  
7 somebody. And there's no testimony that he made  
8 the decision to invite somebody or not invite  
9 somebody.

10 MR. MEZA: All right. Fair enough. I'll  
11 rephrase.

12 HEARING OFFICER HALLORAN: Sustained.

13 BY MR. MEZA:

14 Q You made the recommendation to the Mayor,  
15 didn't you, about who should attend?

16 A I made the recommendation to the Mayor  
17 to -- I made the suggestion to the Mayor that there  
18 might be some merit in having the Hearing Officer  
19 attend, after consultation with counsel.

20 Q And the Mayor generally accepts your  
21 suggestions and recommendations, doesn't he?

22 A He generally accepts them.

23 Q And he accepted them on this one, right?

24 A He did.



1 Q And you didn't suggest to have the expert  
2 that the City had hired attend the City Council  
3 meeting on February 27, did you?

4 A That was City staff's expert, so no, I did  
5 not.

6 Q Well, take a look at PWC-7. This is a  
7 letter from APTIM to you May 6, 2019. Do you see  
8 that?

9 A I see that.

10 Q This is a contract that includes a copy of  
11 the contract that the City ultimately executed; is  
12 that correct?

13 A For the pre-file review.

14 Q Right. And this is from APTIM, right?

15 A It is from APTIM.

16 Q Can you take a look at PWC-7 and tell me  
17 where in this agreement it says that APTIM is  
18 representing the employees and not the City of West  
19 Chicago?

20 A Well, this is for pre-filing review, first  
21 of all. And the pre-filing review was done at the  
22 point -- it was long done before that. At that  
23 point in time, once the application was submitted,  
24 APTIM was hired for the City staff's use.

1 Q Oh, so they were hired separately?

2 A Yes. There was a separate agenda item for  
3 it.

4 Q So this is not the same contract that APTIM  
5 was hired to help the City? So were they hired  
6 initially to help the City of West Chicago and then  
7 they were hired to help the staff?

8 A Yes. At the same time.

9 Q Is there a separate contract setting forth  
10 the fact that APTIM was hired to help the staff?

11 A No. But when the City Council approves the  
12 agenda item when they hired all of the experts,  
13 that was for what it was hired.

14 Q Let me show you what's been marked as  
15 PWC-14. Have you ever seen this email before?

16 A Yes.

17 Q In fact, you were copied on it, weren't  
18 you?

19 A Yes.

20 Q You were aware in 2020 that APTIM, the  
21 City's expert, had been hired by Lakeshore, weren't  
22 you?

23 A For another project, yes.

24 Q While they were representing the City of

1 West Chicago in this project, correct?

2 A Yes.

3 Q When did you inform the West Chicago City  
4 Council of the fact that the expert they had hired  
5 had been hired by Lakeshore?

6 A I did not.

7 Q Why not?

8 A I did not think that was relevant.

9 Q Did you think it was important?

10 A No, because it was determined that there  
11 was not a conflict of interest of which I had to  
12 share.

13 Q When the City of West Chicago's attorney  
14 found out that APTIM was hired, they decided to  
15 send them a very detailed email to make sure that  
16 there was no conflict, right?

17 A Yes.

18 Q And even though at the time APTIM was  
19 representing the City, you as the City  
20 administrator didn't tell anybody about this, did  
21 you?

22 A I don't know about anybody, but I did not  
23 inform the City Council.

24 Q Well, who did you tell?

1           A   I might have told the staff.  I don't want  
2   to preclude that.

3           Q   Did you tell anybody on City Council?

4           A   I will share again, I did not tell anyone  
5   on City Council.

6           Q   And why didn't you tell anyone on City  
7   Council?

8           A   There was no conflict of interest.  I  
9   didn't have a concern.

10           MR. MEZA:  We move to admit PWC-14.

11           HEARING OFFICER HALLORAN:  Mr. Walsh?

12           MR. WALSH:  I object on the relevance of  
13   it.  This was the whole basis of the Motion in  
14   Limine, which you ruled was in favor of the  
15   objection and this relates to that whole issue.  It  
16   has no relevance to this siting authority.

17           HEARING OFFICER HALLORAN:  Do you remember  
18   what date that order came out?  There's been a few  
19   of them.

20           MR. MEZA:  And Mr. Halloran, that order  
21   related to recommended findings of fact that  
22   Mr. Walsh issued in regards to a Moline transfer  
23   station.  I'm not going to go into that.

24                        This is an email relating to a conflict

1 of interest in this particular matter in which  
2 APTIM served as the experts for West Chicago, but  
3 yet the officials, Mr. Guttman, didn't bring this  
4 to the attention which is --

5 HEARING OFFICER HALLORAN: Mr. Walsh, can  
6 you direct me to my Order where I --

7 MR. WALSH: Mr. Meza spent pages arguing  
8 this issue in his Motion in Limine.

9 HEARING OFFICER HALLORAN: That was PWC-808  
10 and 812. That was the people's page and 812 was  
11 the contract with Moline.

12 MR. WALSH: Yes. There were two specific  
13 exhibits, but this whole issue about whether  
14 there's a conflict or not a conflict was a big part  
15 of that Motion in Limine.

16 BY MR. MEZA:

17 Q That dealt with Mr. Walsh's finding in  
18 Moline?

19 A Yes.

20 HEARING OFFICER HALLORAN: I agree with  
21 Mr. Meza. It basically dealt with the finding in  
22 Moline. I kept that out. I will accept, Mr. Meza,  
23 Exhibit PWC-14 over objection. The Board could  
24 find it relevant. You may continue.

1 BY MR. MEZA:

2 Q Mr. Guttman, were you aware that on  
3 May 28, 2019 Lakeshore had asked APTIM whether or  
4 not they would be able to serve as the wildlife  
5 management plan for the airport facility once the  
6 site becomes operational? Were you aware of that  
7 fact or not?

8 A I do not think so.

9 Q Did you ever see an email in which  
10 Lakeshore said, Hey, we need help once our site  
11 becomes operational?

12 A I do not think so.

13 Q Okay. Do you have any knowledge as to why  
14 Lakeshore thought or knew in 2019 that its site  
15 would become operational or not?

16 A I do not have any knowledge.

17 Q Did anybody from Lakeshore ever say to you  
18 Hey, once we get our site operational, we'll be  
19 able to bring a lot more trash and we'll get more  
20 money for the City? Anything like that?

21 A No.

22 Q Now, Mr. Guttman, you're pretty familiar  
23 with how West Chicago City government operates; is  
24 that correct?

1 A Yes.

2 Q And you're familiar with the fact that West  
3 Chicago has Ordinances, correct?

4 A Yes.

5 Q And you know that one of the Ordinances  
6 deals with pollution control facilities, correct?

7 A Yes.

8 Q Did you review that Ordinance before  
9 Lakeshore and the City of West Chicago entered into  
10 a host agreement in 2019?

11 A Yes.

12 Q So you were aware then that under the  
13 Ordinance it was the obligation of the applicant to  
14 make sure that it would meet all criteria; is that  
15 correct?

16 A Yes.

17 Q And you knew that, right?

18 A I just answered yes.

19 Q But even though you knew that, you allowed  
20 one of your direct reports, Tom Dabareiner, to  
21 draft a letter in 2019 to whom it may concern,  
22 correct?

23 A No.

24 Q Oh, he did that without your authority?

1 A He didn't need my authority.

2 Q But you knew he did that?

3 A I did not.

4 Q And when you found out he did that, did you  
5 ask that that letter be withdrawn from the  
6 application?

7 A Once the application was submitted, I did  
8 not.

9 Q You did not what?

10 A I did not ask him to withdraw that letter.

11 Q Why not?

12 A I didn't feel it was necessary.

13 Q But you did feel it was necessary for Tom  
14 to return the call of Mr. Hawk when he was calling  
15 you about that letter?

16 A I did.

17 Q Yeah. Because when John Hawk calls -- and  
18 John Hawk was the expert for Lakeshore, right?

19 A He was an expert for Lakeshore.

20 Q And you knew that, right?

21 A I did.

22 Q And you knew that Hawk needed information  
23 for his application, right?

24 A I don't recall that.



1 Q Well, didn't you know that Hawk, one of the  
2 issues that John Hawk was dealing with was about  
3 22.14, the site location criteria?

4 A I don't know when I knew about that.

5 Q But you did know about it, right?

6 A At some point in time along the process.

7 Q And didn't Hawk call you about that and say  
8 Hey, can you guys help us out on this?

9 A No.

10 Q But he did call you, right?

11 A He did call me.

12 Q And when he called you, he called you about  
13 this 1,000-foot setback requirement, didn't he?

14 A I don't remember what he called me about.

15 Q How many times did you talk to Hawk?

16 A Oh, twice over the entire X number of years  
17 this whole project has been going on.

18 Q Okay. So only two times. So one of the  
19 times was with regard to 22.14, wasn't it?

20 A I don't recall that.

21 Q Okay. Do you recall asking Tom to return  
22 Mr. Hawk's call?

23 A I do.

24 Q And that's because Mr. Hawk had called you

1 to tell you, Hey, I need to talk to Tom, correct?

2 A I don't think it was that clear. I don't  
3 remember what he called me about, but it was I  
4 believed for whatever reason that Tom would be the  
5 more appropriate person to respond.

6 Q Okay. What do you recall to the best of  
7 your recollection that conversation between you and  
8 John Hawk?

9 A I don't recall anything.

10 Q You don't? You just know, Hey, he called  
11 you and he wanted to talk to Tom, right?

12 A No. All I know is as a result from  
13 whatever conversation took place, I believe Tom was  
14 the best person to handle the situation.

15 Q Okay. And then so you asked Tom to call  
16 back John Hawk, right?

17 A Whether I asked or emailed, I don't know  
18 how I communicated it.

19 Q Can you take a look at Exhibit PWC-800, top  
20 right?

21 A I have it.

22 Q Is this an email that you sent Tom on  
23 August 23rd, 2022 at 1:11 P.M. saying, "Would you  
24 please return Mr. Hawk's call? Thank you."

1 A I wrote that.

2 Q Is this your email?

3 A The email at the bottom is my email.

4 Q Okay. And does that refresh your  
5 recollection as to why Mr. Hawk had called you?

6 A Well, it's what Tom's communicating to me  
7 based upon that phone call. I don't know at the  
8 beginning before I asked Tom to call, I don't  
9 recall if I knew or not what the original ask was  
10 going to be.

11 Q Right. Whatever the ask was, you wanted  
12 Tom to return Mr. Hawk's call, right?

13 A Yes.

14 Q And he did, right?

15 A This email shows he did.

16 Q Right. In fact, Tom tells you what it was  
17 that Mr. Hawk wanted, right?

18 A Yes.

19 Q He wants a new letter, right?

20 A Yes.

21 Q That's because the letter that Tom had  
22 written 2019 wasn't good enough, was it?

23 MR. WALSH: Objection to asking this  
24 witness to speculate what Mr. Hawk was thinking

1 when he --

2 HEARING OFFICER HALLORAN: Sustained.

3 Sustained.

4 BY MR. MEZA:

5 Q When Mr. Dabareiner told you that he wants  
6 a new letter, did you know what he was talking  
7 about?

8 A Based upon his email correspondence to me,  
9 yes.

10 Q You knew that Tom had prepared a letter in  
11 2019 and had given it to Lakeshore, correct?

12 A I don't know if I knew that.

13 Q Okay. But on August 24, 2022 at 2:58, you  
14 knew that Mr. Hock wanted a new letter about the ER  
15 zoned rail lines, correct?

16 A I did.

17 Q Did Mr. Tom Dabareiner show you a copy of  
18 the letter that Mr. Hock edited?

19 MR. WALSH: Objection to foundation as to  
20 who entered the letter.

21 HEARING OFFICER HALLORAN: Could you  
22 rephrase, please?

23 MR. MEZA: Sure. Before I go on, can I  
24 move to admit Exhibit PWC-800.

1 HEARING OFFICER HALLORAN: Mr. Walsh?

2 MR. WALSH: No objection.

3 HEARING OFFICER HALLORAN: No objection.

4 PWC-800 is admitted.

5 BY MR. MEZA:

6 Q Can you take a look at -- Mr. Guttman, it's  
7 actually an M exhibit. It's M-10, but there's just  
8 a number ten on it in the lower right.

9 A I have it.

10 Q Okay. Now, can you take a look at the last  
11 page of this exhibit? It's got a letter that's red  
12 lined. And can I ask you if you know what  
13 redlining a letter means?

14 A I do.

15 Q What does that mean?

16 A It shows the corrections to whatever was  
17 there before.

18 Q Right. So if somebody adds things, it's  
19 usually in red and if somebody deletes it, it might  
20 be crossed out; is that correct?

21 A With the exception of it can be in many  
22 colors, but yes.

23 Q Okay. But it's such where you can kind of  
24 tell what's being added and what's being deleted;

1 is that correct?

2 A That is correct.

3 Q It's also referred to as draft changes,  
4 correct?

5 A It is.

6 Q Now, were you aware that Lakeshore made  
7 draft changes to a letter that Tom ended up  
8 signing?

9 MR. WALSH: Can you give the date and when  
10 you're talking about?

11 HEARING OFFICER HALLORAN: Please rephrase,  
12 date, when.

13 BY MR. MEZA:

14 Q Were you aware that Lakeshore submitted a  
15 letter from Tom in their application for a waste  
16 transfer station? Were you aware of that?

17 A I do not believe so.

18 Q You do not believe what?

19 A That Lakeshore submitted a letter for Tom.

20 Q No, from Tom.

21 A Would you please rephrase the question?

22 Q Sure. You know, it might be easier, take a  
23 look at M-11. And if you could turn to the back  
24 side of M-11, it should double-sided. Do you see

1 that?

2 A I do.

3 Q This is a letter dated August 24, 2022. Do  
4 you see that?

5 A I do.

6 Q And I think I can get a stipulation from  
7 counsel for West Chicago that this letter was  
8 attached as Exhibit Appendix 2-D -- 2-D2 and is  
9 part of the application of Lakeshore; is that  
10 correct?

11 MR. WALSH: Yes. That's fine with me.

12 MR. MEZA: It's in the record. Can we at  
13 least have it stipulated so that the Pollution  
14 Control Board knows that this is part of the  
15 application of Lakeshore when they submitted their  
16 application for a waste transfer station.

17 MR. WALSH: Yes.

18 HEARING OFFICER HALLORAN: The record will  
19 so stipulate.

20 MR. WALSH: We'll stipulate to that.

21 HEARING OFFICER HALLORAN: Thank you.

22 BY MR. MEZA:

23 Q Mr. Guttman, were you aware that Lakeshore  
24 submitted this letter in support of their

1 application?

2 A Yes.

3 Q Okay. And you had no problem with that,  
4 right?

5 A No.

6 Q And you had no problem with Lakeshore  
7 actually editing Tom's letter to include the  
8 language, Residential development on this property  
9 is physically impossible. You had no problem with  
10 that?

11 MR. WALSH: I'm going to object to the  
12 question. There's no evidence as to who edited  
13 what letter. There's no foundation for the  
14 question.

15 HEARING OFFICER HALLORAN: Can you  
16 rephrase, Mr. Meza, if possible?

17 MR. MEZA: Sure.

18 BY MR. MEZA:

19 Q Now, Mr. Guttman, the August 24 letter that  
20 is an Exhibit M-11, can you compare that to the red  
21 line letter that's attached to Exhibit M-10 and can  
22 you tell me if those are one and the same, except  
23 the M-10 has the red lines or the track edits?

24 A They appear to be one in the same with the



1 red line changes accepted.

2 Q Okay. Were you aware that Lakeshore had  
3 added language to a letter from Tom Dabareiner that  
4 said, Residential development on this property is  
5 physically impossible? Were you aware of that?

6 A I do not believe so at the time of  
7 August 24, 2022.

8 Q So what is it that you don't believe,  
9 Mr. Guttman?

10 A I do not believe that I was aware that  
11 there was a red line document on August 24, 2022.

12 Q Oh, okay. So you weren't aware that  
13 Lakeshore actually added this language, right?

14 A I don't know.

15 MR. WALSH: Object, again, to the form of  
16 that question.

17 MR. MEZA: He knows.

18 MR. WALSH: There's no foundation as to who  
19 edited this letter.

20 BY MR. MEZA:

21 Q Okay. That anybody made these edits. Do  
22 you have any idea who made this?

23 A I do not have any idea of who made the  
24 edits based upon the document before me.

1 Q I mean did you make the edits?

2 A I did not.

3 Q Did you authorize Lakeshore to make edits  
4 to any of your staff's letters?

5 A No.

6 Q Were you aware that they were making edits  
7 to the letters or not?

8 MR. WALSH: Again, same objection. There's  
9 no foundation that Lakeshore edited the letter.

10 HEARING OFFICER HALLORAN: Well, I think  
11 it's asked and answered, too. Move on, please.

12 MR. MEZA: We can go on.

13 BY MR. MEZA:

14 Q Let me direct your attention to Exhibit  
15 M-16. That's the agenda for February 27, 28 and  
16 the minutes as well as your Ordinance. M-16. Tell  
17 me when you're there.

18 A I have it in front of me.

19 Q All right. Did you prepare this agenda or  
20 not?

21 A Either I or I in conjunction with my  
22 assistant prepared the agenda.

23 Q Can you take a look at Page C 006005, which  
24 is the next page? These are the minutes from the

1 February 27, 28 meeting; is that correct?

2 A They are the minutes from the February 27,  
3 28, 2023 meeting.

4 Q Right. Did you prepare these?

5 A I took the notes from the meeting and my  
6 assistant typed them.

7 Q But these are your minutes; is that  
8 correct?

9 MR. WALSH: Objection to the form of that  
10 question.

11 HEARING OFFICER HALLORAN: Rephrase,  
12 please.

13 BY MR. MEZA:

14 Q These are minutes that you drafted,  
15 correct?

16 MR. WALSH: Objection. Asked and answered.  
17 He said he took notes and his assistant typed it  
18 up.

19 MR. MEZA: You know, can we just have like  
20 an objection and a basis as opposed to a speaking  
21 objection.

22 HEARING OFFICER HALLORAN: Overruled. He  
23 may answer if he's able.

24 THE WITNESS: I took notes of the meeting

1 and my assistant typed.

2 BY MR. MEZA:

3 Q Okay. Go to the next page, please, 6006.

4 Do you see on the bottom it says, Respectfully  
5 submitted, Michael Guttman, City Administrator?

6 A I do.

7 Q What does that mean?

8 A That means they are under my signature and  
9 I approved the minutes for submission for approval  
10 by the City Council.

11 Q So you didn't type these, but you approved  
12 them, you prepared them, you gave them to  
13 Miss Perez, your assistant, and then they were  
14 approved by the City Council; is that correct?

15 A It is.

16 Q Is that why you put your name on the  
17 bottom, or not?

18 A No, she puts my name on the bottom, but  
19 that's okay.

20 Q Now, on February 27 you had a cold session  
21 meeting, correct?

22 A Yes.

23 Q Part of it was Zoom?

24 A I don't think so.

1 Q Let me direct your attention to C 6005. Do  
2 you see underneath the date February 27, 28, "The  
3 special City Council meeting of February 27 was  
4 held partly remote via Zoom and partly in-person."  
5 Does that refresh your recollection?

6 A Well, I will say this, I actually think  
7 that's an error. We had, from my recollection, we  
8 had two aldermen attending remotely and they  
9 attended via my speaker phone. I don't recall  
10 having a computer, so that might be an error.

11 Q So two aldermen attended the February 27  
12 meeting via speaker on your phone?

13 A Yes.

14 Q And was that meeting recorded?

15 A Yes.

16 Q Okay. I'm still trying to get a copy of  
17 the tape.

18 A Understood.

19 HEARING OFFICER HALLORAN: Look for the AG.

20 MR. MEZA: We have.

21 HEARING OFFICER HALLORAN: All right.

22 BY MR. MEZA:

23 Q Mr. Guttman, so that was an error. Was  
24 that your error or was that your secretary's error?

1           A   Well, I didn't catch it, so I'll take  
2   responsibility for that.

3           Q   So who were the people that were there via  
4   phone?

5           A   Alderman Garling, Alderman Brown.

6           Q   Okay. Was Alderman Chassee there in  
7   person?

8           A   It's Chassee.

9           Q   Chassee. I'm sorry.

10          A   She was.

11          Q   So did you indicate who was there via phone  
12   in the minutes?

13          A   It says by Zoom, but yes.

14          Q   No, but did you identify the people who  
15   participated via conference call? We know that  
16   Zoom was an error, right?

17          A   I did.

18          Q   Okay. Which ones? Where are they  
19   identified as having appeared via phone or Zoom?

20          A   Do you see roll call and establishment of  
21   quorum, the last line of the first paragraph?

22          Q   Oh, okay. It says via Zoom?

23          A   Yes. It was an error. I thought Zoom, but  
24   they attended remotely.

1 Q Fine. So it's not Zoom, it's just a  
2 conference call, right?

3 A Yes.

4 Q Okay. And no decisions were made that day,  
5 correct?

6 A Yes.

7 Q Yes what?

8 A Correct.

9 Q Yes, no decisions were made, right?

10 A No decisions were made.

11 Q No votes were taken?

12 A No votes were taken.

13 Q No findings were made?

14 A No findings were made.

15 Q No credibility determinations were made?

16 A No credibility determinations were made.

17 Q It was just a bunch of discussions, right?

18 A Yes.

19 Q And Mr. Price was asked and answered  
20 questions, right?

21 A Yes.

22 Q And Mr. Walsh was asked and answered  
23 questions, right?

24 A Yes.

1 Q Were you asked any questions at all?

2 A Very few, but some.

3 Q Okay. And then the meeting continued to  
4 the following day, correct?

5 A Correct.

6 Q And that was the 6:00 meeting on  
7 February 28th, right?

8 A Yes.

9 Q But on the 28th, you sent out an email at  
10 about 12:16 P.M. with the draft Ordinance, correct?

11 A Yes.

12 Q Okay. And that's Exhibit 806. I think  
13 it's been admitted. If not -- I think it's been  
14 admitted. Yes, it's been admitted.

15 Can you take a look at Exhibit 806,  
16 Mr. Guttman? Is this the email that you sent out?  
17 And it should be on the top right of PWC-806.

18 A It appears to be.

19 Q Now, did you include the Mayor on this  
20 email?

21 A Yes.

22 Q So you heard him testify that he didn't  
23 remember receiving it, but you can testify that you  
24 included all the City Councilmen and the Mayor; is



1 that correct?

2 A I can.

3 Q Could it have been a mistake that you  
4 didn't include him?

5 A No.

6 Q Who drafted this Ordinance?

7 A Counsel.

8 Q And do you know when all the findings that  
9 are included in the Ordinance were made?

10 A The findings that were included in the  
11 Ordinance were a result of discussion, previous  
12 discussion.

13 Q So all of these findings were agreed to  
14 before February 28?

15 A Well, nothing was agreed to, but they were  
16 discussed prior to at the date prior.

17 Q So there was a discussion that there was  
18 going to be a finding?

19 A The findings and the information contained  
20 therein were the result of the discussions that  
21 occurred in executive session.

22 MR. MEZA: I don't think I have any further  
23 questions for Mr. Guttman. Thank you, Mr. Guttman.

24 HEARING OFFICER HALLORAN: Mr. Walsh?

1 MR. WEINSTOCK: Mr. Halloran. Similarly --

2 HEARING OFFICER HALLORAN: I'm sorry. I  
3 don't mean to forget about you. Proceed.

4 MR. WEINSTOCK: Thank you, Mr. Guttman. I  
5 just have a few questions to follow up on a couple  
6 things Mr. Meza said.

7 CROSS EXAMINATION

8 BY: MR. WEINSTOCK

9 Q Actually I want to start with something  
10 Mr. Walsh said. Do you recall in the beginning of  
11 your examination you were talking about things that  
12 happened in 2019 with exchanges with LRS?

13 A No. I recall conversations in 2019  
14 regarding the pre-filing contract with APTIM.

15 Q I'm sorry. That's exactly right.

16 And do you remember Mr. Walsh objecting  
17 to Mr. Meza's questions on that point, generally  
18 that he objected?

19 A Yes.

20 Q And at one point, Mr. Walsh said that he  
21 objected and said that the pre-application  
22 activities that you undertook as an employee of the  
23 City were irrelevant because you weren't the  
24 decision-maker. Do you remember that?

1 A I remember that being stated.

2 Q Yes. Do you agree with Mr. Walsh that your  
3 actions on behalf of the City on this issue were  
4 irrelevant to the City Council's decision?

5 MR. WALSH: Objection to the form of the  
6 that question and the implication of what --

7 HEARING OFFICER HALLORAN: Yes. I don't  
8 like the question, Mr. Weinstock. If you can  
9 rephrase.

10 MR. WEINSTOCK: I'll try. Thank you.

11 BY MR. WEINSTOCK:

12 Q You were involved in the pre-application  
13 discussions with APTIM in 2019; is that correct?

14 A Yes.

15 Q And do you believe that those activities  
16 before the application came in were relevant to  
17 what happened after the application came in?

18 A They were relevant to me in my staff role.

19 Q And was your staff work relevant to the  
20 City Council's consideration of the application?

21 A Very little. Throughout the entire  
22 process, the staff was kept at arm's length from  
23 the City Council. So the only output they ever saw  
24 from me and my team -- and I apologize if I

1 misphrase what they were, are the conditions.

2 Q So your work during that time was -- sorry.  
3 Let me try this again.

4 So why were you doing all of that work  
5 in 2019 if it was irrelevant to the City Council's  
6 decision?

7 MR. WALSH: Objection to the form of that  
8 question.

9 HEARING OFFICER HALLORAN: Yeah. Rephrase.  
10 Sustained.

11 BY MR. WEINSTOCK:

12 Q Why were you doing that work in 2019 in  
13 pre-application?

14 A It allowed me and a few members of my team  
15 to become more familiar with the process and  
16 information with which we had not dealt before. It  
17 allowed us to ask some preliminary questions so we  
18 can have a better understanding of what we might  
19 ask down the road in our role as staff in this  
20 process.

21 And at least at that point in time of  
22 the pre-filing review, potentially it could have  
23 assisted in fulfilling our role as staff and the  
24 suggestion of conditions that we thought might be

1 beneficial should the City Council want or not want  
2 or believe it met the nine criteria or didn't  
3 believe it met the nine criteria.

4 Q Okay. So it was to -- well, that was a lot  
5 of information. Thank you.

6 So you were working in 2019 so that  
7 City staff and yourself could have input into the  
8 application process once the application was filed?

9 A It would hopefully make any input that we  
10 had more relevant, validated, important.

11 Q Relevant, validated, important to whom?

12 A To me as a staff and then we might feel  
13 more confident in what we were doing in terms of  
14 providing the recommendations on conditions that  
15 the City Council could adopt or not adopt.

16 Q Right. So it was to be relevant to the  
17 City Council's determination of what it would adopt  
18 or not adopt?

19 A It could.

20 Q Okay. I want to take you back. I believe  
21 Mr. Meza asked you about an email on -- it was an  
22 email I believe marked M-13. Do you have that in  
23 front of you?

24 A I have that in front of me.

1 Q And this was the email where you were  
2 reporting out to the City Council; is that right,  
3 one of your weekly emails?

4 A It is.

5 Q And what's the date on this email?

6 A December 4th, 2022.

7 Q And in this email, you reported to the City  
8 Council that you had had a document translated into  
9 Spanish on the website; is that right?

10 A Yes.

11 Q And I think you said to Mr. Meza that you  
12 had the document translated because you anticipated  
13 there may be a lot of calls to ask for Spanish  
14 translation; is that right?

15 A I think anticipated was hopefully not the  
16 word I used. If I did, it was more along the line  
17 in case we did, it might be beneficial and we could  
18 refer people to be website as opposed to if we  
19 weren't explaining the process when people called  
20 the front counter.

21 Q And why did you think that might happen?  
22 Let me strike that.

23 You said you did it in case of  
24 something happening?

1 A I did.

2 Q So why did you think that case might come  
3 to pass?

4 A I like to be strategic.

5 Q Okay. So in being strategic about what  
6 might come -- you predicted that there may be  
7 interest from Spanish-speaking residents in what  
8 was on the website; is that right?

9 MR. WALSH: Objection to the form of that  
10 question.

11 HEARING OFFICER HALLORAN: Yes. It's hard  
12 for me to follow, Mr. Weinstock. If you could  
13 rephrase.

14 BY MR. WEINSTOCK:

15 Q When you said you like to be strategic a  
16 moment ago, how were you being strategic in posting  
17 a document in Spanish on the website?

18 A If calls were to come and the English  
19 version was only up there, we would be behind the  
20 eight ball trying to translate it. So as a  
21 preemptive measure, because it was our document  
22 that was created, I felt comfortable asking for it  
23 to be translated into Spanish.

24 Q And why did you think you might get calls

1 to translate it to Spanish?

2 A It might be of interest to people.

3 Q To who?

4 A To residents of our community.

5 Q To residents of your community who better  
6 speak and read Spanish than English?

7 A Who would want to see it in Spanish.

8 Q The last thing I just want to ask you about  
9 quickly is what's been marked as PODER Exhibit 2  
10 and 2A. It's just a blown-up version.

11 MR. WEINSTOCK: This was one of the  
12 exhibits we circulated on September 14,  
13 Mr. Halloran. Again, the City made no objection to  
14 it.

15 BY MR. WEINSTOCK:

16 Q Here's a copy for you.

17 A Thank you.

18 MR. WEINSTOCK: So first I'm going to move  
19 for admission of this and the City has not  
20 objected, so --

21 MR. WALSH: Well, I think we need a  
22 foundation for it.

23 HEARING OFFICER HALLORAN: I'm still trying  
24 to locate it.



1 MR. WEINSTOCK: So as we explained in our  
2 transmittal of this document on September 14th,  
3 it's a business record and it's relevant to the  
4 fundamental fairness issue in this proceeding. So  
5 we would move on that basis.

6 I can certainly ask Mr. Guttman to talk  
7 about the email, his email that's part of it, but I  
8 believe the whole thing should come in as a  
9 business record.

10 HEARING OFFICER HALLORAN: The City had no  
11 objection. I think Mr. Mueller channeled his inner  
12 Hamilton Berger and did the no relevant, immaterial  
13 and foundation objection. Correct or no?

14 MR. MUELLER: Yes.

15 MR. WEINSTOCK: He specifically raised  
16 every type of objection without explanation to  
17 every document.

18 HEARING OFFICER HALLORAN: I know. But  
19 Mr. Mueller, would you care to elaborate?

20 MR. MUELLER: I have no objection to this  
21 one. I'll withdraw the previous general objection.

22 HEARING OFFICER HALLORAN: Okay. So no  
23 objection; PCB Exhibit No. 2 is admitted.

24

1 BY MR. WEINSTOCK:

2 Q So Mr. Guttman, I'll take you, if you look  
3 at the one that's been marked 2A, it's easier to  
4 read. 2 became a little skewed by the screenshot.  
5 If you go to page -- it's really on Page 2 of that  
6 document. Do you see one email there?

7 A An email from me to Dennis Walsh?

8 Q That's right.

9 A I see that.

10 Q And do you remember what this email was  
11 about?

12 A I do.

13 Q Can you explain?

14 A Yes. So the City of West Chicago the day  
15 prior had posted what I had in my possession with  
16 regards to public comment. You raised a concern  
17 that your client's letter that I did not have at  
18 the time was not posted in other stuff.

19 When my assistant came back, she had  
20 it, I didn't. So we were able to load that as well  
21 as many others that I didn't have, at least at that  
22 point in time, where I asked that it uploaded to  
23 the website.

24 Mr. Weinstock, can you show me -- you

1 gave me Exhibit 2A. Am I supposed to have  
2 Exhibit 2? This is No. 1.

3 MR. WEINSTOCK: Yes.

4 BY MR. WEINSTOCK:

5 Q So Mr. Guttman, you answered one of my  
6 questions already, which is there were other  
7 comments that had been left off of the initial  
8 posting?

9 A There were comments after the Helen Gershon  
10 which was the last one that I had in my inbox at  
11 the time that you raised this concern.

12 Q And they hadn't been included in the posted  
13 packet; is that right?

14 A At that time, correct.

15 Q At that time. That's exactly right.

16 And then I take it the City then  
17 reposted the packet?

18 A I don't know what Valeria did, but Valeria  
19 found all the emails that were after Helen sent  
20 hers and then put those on the website.

21 Q And when did the City Council receive the  
22 public comments? I guess I'll ask a preliminary  
23 question.

24 Did the City Council ever receive the

1 public comments?

2 A They did.

3 Q When?

4 A Actually, the City Council was referred to  
5 our website after all of the comments were placed  
6 on the website for it, as well as we had a hard  
7 copy here that they could come and see.

8 Q To your knowledge, did any member of the  
9 City Council ever look at any of the comments  
10 submitted?

11 A Yes.

12 Q Who?

13 A Mayor Pineda, Alderman Demis, Alderman  
14 Stout, Alderman Chassee, Alderman Beifuss, Alderman  
15 Garling. More than not.

16 Q That's helpful. You mentioned Mayor Pineda  
17 is a member of City Council?

18 A He is.

19 Q And do you have any idea about how long  
20 they spent looking at them or which comments they  
21 looked at?

22 A I do not.

23 Q Okay. And how do you know that they looked  
24 at them?

1           A    While they were -- while these people were  
2    reviewing the record, they identified, Oh, I saw  
3    one from here, I saw one from there. I do not  
4    remember which specific ones to which they were  
5    referring.

6                    One even said that I finally made it  
7    through all of the public comments, so I took that  
8    to mean they read all the public comments.

9           Q    You said while they were reviewing the  
10   records. Is that during the February 27 session or  
11   outside of --

12           A    In anticipation of the City Council meeting  
13   was when everything that I just communicated I  
14   heard.

15                   MR. WEINSTOCK: I believe that's all I've  
16   got.

17                   HEARING OFFICER HALLORAN: Okay. Thank  
18   you, Mr. Weinstock. Mr. Walsh?

19                   MR. WALSH: No questions.

20                   HEARING OFFICER HALLORAN: Mr. Mueller?

21                   MR. MUELLER: No, thank you.

22                   MR. MEZA: Mr. Halloran, before he's  
23   excused, I want to make a motion and maybe  
24   Mr. Guttman can reclarify his response. But I

1 wanted to make a motion to ask West Chicago to  
2 produce a contract reflecting APTIM representing  
3 City employees as opposed to the City. I'm not  
4 aware of such a contract. I don't think such a  
5 contract exists.

6 But to the extent one exists, I think  
7 it's relevant to the issues in this case and I  
8 would ask that they produce it. Maybe Mr. Guttman  
9 was in error and there is no such contract.

10 I don't believe there is, but if there  
11 is, I'd like it produced. It doesn't have to be  
12 produced now, obviously.

13 And if there's not one, I'll take a  
14 representation there isn't one because then that  
15 will deal with what I discussed regarding who I was  
16 representing and not representing and why they  
17 attended or didn't attend the February 27 meeting.

18 HEARING OFFICER HALLORAN: Mr. Walsh, go  
19 ahead.

20 MR. WALSH: Discovery is well over. We  
21 responded to their request for documents a long  
22 time ago. We gave them everything we had that was  
23 responsive and object to the motion to now try and  
24 reopen the discovery at this late date.

1 HEARING OFFICER HALLORAN: Yes. I agree.  
2 You can make the motion in your post-trial.

3 MR. MEZA: Nothing was produced. That's  
4 why.

5 HEARING OFFICER HALLORAN: All right.

6 MR. MEZA: I don't think one exists.

7 HEARING OFFICER HALLORAN: Okay.

8 MR. MEZA: If it does exist, then it has  
9 not been produced, because we did issue a request.

10 HEARING OFFICER HALLORAN: All right. Now  
11 I think you can step down, Mr. Guttman.

12 THE WITNESS: Thank you, sir.

13 HEARING OFFICER HALLORAN: Thank you.  
14 Five, eight-minute break? And then Miss Chassee.

15 (There was a discussion held off  
16 the record, after which the  
17 deposition resumed as follows:)

18 HEARING OFFICER HALLORAN: All right. We  
19 are back on the record. I believe everyone is  
20 here. We have Mr. Meza's next witness. And Gloria  
21 will swear you in.

22 THE COURT REPORTER: Raise your right hand,  
23 please.

24

1 (The oath was thereupon duly  
2 administered to the witness by  
3 the Notary.)

4 LORI CHASSEE,  
5 Called as a witness by the Petitioner herein,  
6 having been first duly sworn, was examined and  
7 testified as follows:

8 DIRECT EXAMINATION

9 By: Mr. Meza

10 Q State your name for the record and spell  
11 your last name, please?

12 A Lori Chassee. C-H-A-S-S-E-E.

13 Q Two S's and two E's, right?

14 A Yes.

15 Q I know you're not feeling well. I'll try  
16 to go as quickly as possible.

17 You're the Alderman for the first ward;  
18 is that correct?

19 A Yes, sir.

20 Q How many years have you been an Alderman?

21 A 22.

22 Q And as an Alderman, is it safe to say that  
23 you research every issue that comes before you?

24 A Yes, sir.



1 Q You do your homework before you vote on an  
2 Ordinance?

3 A Yes, I do.

4 Q Now, Miss Chassee, before you are a bunch  
5 of exhibits. One of them is labeled M-16. Can I  
6 ask you to take a look at that exhibit? That's the  
7 minutes. That's the agenda for February 27, 28,  
8 the minutes and the Ordinance.

9 Once it's in front of you, just tell me  
10 when you have it in front of you.

11 A Okay.

12 Q That's really the only exhibit I think you  
13 need to have in front of you.

14 A Thank you.

15 Q Now, did you attend the February 27, 2023  
16 City Council meeting in-person?

17 A No, sir. I'm sorry, 27?

18 Q Yes, the 27th.

19 A Yes, I did.

20 Q And do you remember what day of the week  
21 that was? Was that a Monday or Tuesday?

22 A I do not recall.

23 Q Okay.

24 A It says on the agenda Monday.

1 Q Monday. It was a Monday.

2 A Okay.

3 Q So when you attended the meeting of  
4 September 27, where was the meeting held?

5 A Here in City Council chambers.

6 Q And that day, there were no decisions made;  
7 is that correct?

8 A Correct.

9 Q The City Council did not decide whether or  
10 not Lakeshore's application complies with the  
11 pre-filing, did they?

12 A No, sir.

13 Q They did not decide that Section 5/22.4 of  
14 the Environmental Protection Act did or did not bar  
15 the proposed facility, did they?

16 A No, sir.

17 Q They didn't decide whether or not any of  
18 the proceedings that occurred complied with the  
19 requirements of fundamental fairness, did they?

20 A No, sir.

21 Q Do you know what the term fundamental  
22 fairness means?

23 A I believe I do, but I'm going to let you  
24 tell me.

1 Q Well, I'm asking you if you know what the  
2 term fundamental fairness means in relation to  
3 siting decisions?

4 A No, I don't.

5 Q Do you know whether or not the City Council  
6 of West Chicago made any decisions as to whether or  
7 not the facility met any of the nine criteria under  
8 state law?

9 A On the 27th?

10 Q Yes.

11 A No, we did not.

12 Q Did you make any decisions on the 27th  
13 whether or not to adopt the Hearing Officer's  
14 findings and recommendations?

15 A No, sir.

16 Q Now, you did not attend this February 28th  
17 meeting; is that correct?

18 A Correct.

19 Q Technically, it was a continuation of the  
20 February 27 meeting; is that correct?

21 A Yes, sir.

22 Q And the 27th meeting was held in closed  
23 session; is that correct?

24 A Yes, sir, it was.

1 Q Whose decision was it to go into closed  
2 session?

3 A I don't know.

4 Q Was there a discussion as to whether or not  
5 the City Council members should go into closed  
6 session on the 27th?

7 A Prior to any executive session, there's an  
8 announcement by the City Attorney as to what  
9 section allows that and that's the discussion that  
10 was had.

11 Q But was there any discussion as to whether  
12 or not you should go into it, or was the decision  
13 made by the City Attorney?

14 A I don't remember any discussion, no, sir.

15 Q Now, you said you did not attend the  
16 February 28th, 2023 City Council meeting; is that  
17 correct?

18 A Not in-person, sir, no.

19 Q You attended via phone; is that correct?

20 A Yes, sir.

21 Q Now, that's because you were not in town  
22 that day; is that correct?

23 A Yes, sir.

24 Q Yes, you were not in town, or no you

1 were --

2 A Yes, I was not in town.

3 Q Okay. Where were you at? You can just  
4 give the city.

5 A I was in Plainfield staying with my  
6 grandchildren.

7 Q Okay. And when you're not in West Chicago,  
8 you do not have access to your email; is that  
9 correct?

10 A Not my City email, no, sir.

11 Q Right. In fact, on the 28th, you did not  
12 have access to your City email that day because you  
13 were not in the City of West Chicago, correct?

14 A Not later in the day, sir, no. I was in  
15 West Chicago in the morning.

16 Q Okay. What time were you in West Chicago?

17 A I don't remember.

18 Q What time did you leave West Chicago?

19 A I don't remember.

20 Q Okay. You were not in West Chicago on  
21 February 28th at 12:16, were you?

22 A I likely was, sir.

23 Q Can you take a look at PWC-806?

24 A And what would that be, sir?

1 Q The top right exhibit, PWC-806. Do you  
2 have PWC-806 in front of you?

3 A Yes, sir.

4 Q Now, PWC-806 is an email sent February 28th  
5 at 12:16 P.M. Do you see that? I don't know if  
6 you can see that.

7 A I can't see that.

8 Q That's when the email was sent out. This  
9 contains a copy of the Ordinance. You didn't see  
10 this Ordinance on February 28th before you voted,  
11 did you?

12 A Yes, sir, I did.

13 Q You saw this Ordinance before you voted?

14 A Yes, sir. You're telling me it was sent in  
15 my email at 12 whatever. Yes, sir.

16 Q Miss Chassee, you recall being deposed in  
17 this matter, don't you?

18 A Yes, sir.

19 Q In fact, I asked you questions. Do you  
20 remember that?

21 A Yes, sir.

22 Q And let me direct your attention to Page 38  
23 of your transcript. You've seen this transcript  
24 before, haven't you?

1 A Yes, sir.

2 Q And weren't you asked whether or not you  
3 had seen this Ordinance before?

4 A Yes.

5 Q In fact, weren't you asked, "You received  
6 two sets of Ordinances," Line 11 on Page 38.  
7 Answer, "Now that I sit here, I don't recall if I  
8 received them or if we were told then based on the  
9 vote that they would send out the appropriate  
10 Ordinance. I don't remember when we got it. I'd  
11 have to look at my computer.

12 Question: But you do? Answer: I knew  
13 there were Ordinances prepared in either  
14 alternative. Question: But you had not seen them  
15 before you voted? Answer: No."

16 Isn't it true you had not seen this  
17 Ordinance before you had voted on it?

18 A No. Most of that conversation was  
19 predicated with I did not remember. You just told  
20 me they sent it at Noon. If they sent it at Noon,  
21 I was in town and able to access it at Noon on that  
22 day. When we first met, I didn't recall what  
23 happened two years ago.

24 Q So your testimony under oath earlier was

1 incorrect; is that right?

2 A Yes, sir, it was incorrect.

3 MR. WALSH: Well, objection, because the  
4 testimony goes on to Page 39 where the question is  
5 asked again, "Did you see it before you voted"?  
6 And the answer -- subsequent answer -- was I don't  
7 remember. I mean --

8 HEARING OFFICER HALLORAN: The record will  
9 so reflect, but you can also get up and do your  
10 direct/cross. So overruled.

11 BY MR. MEZA:

12 Q Do you know who drafted the Ordinance  
13 that's identified in Exhibit PWC-806 and M-16?

14 A No, sir.

15 Q Okay. Do you know when the City Council  
16 had agreed to find that Lakeshore's application  
17 complied with the pre-filing notice as set forth in  
18 the Ordinance?

19 A On the 28th, a vote.

20 Q Right. But in the Ordinance itself, it  
21 states that the City Council finds that Lakeshore's  
22 application complied with the pre-filing notice,  
23 didn't it?

24 A Yes.



1 Q It also says that the City Council finds  
2 that Section 5-22 did not bar Lakeshore's proposed  
3 facility, correct?

4 A Yes, sir.

5 Q So if there were no votes taken on the  
6 27th, when was a decision made that the City  
7 Council made all these findings? When did that get  
8 made?

9 A On the 28th.

10 Q Well, the --

11 A The Ordinance was prepared with the  
12 understanding that the vote would either be in  
13 favor or against. So the language was singular,  
14 but the vote could have gone either way.

15 Q Right. But there was no decision as to  
16 what the specific findings would be; is that  
17 correct?

18 A On the 28th, yes.

19 Q No, on the 27th?

20 A On the 27th, no decisions are made in  
21 special session, no, sir.

22 Q Right. And the only decision that was made  
23 on the 28th was whether or not the Ordinance as a  
24 whole should be approved; is that correct?

A Yes.

Q There was no discussion about whether the nine criteria were met, was there?

A On the 28th? No, sir.

Q Now, on the 28th, you made some statements when you were on the phone; is that correct?

A Yes, sir.

Q And you said that as City Council members, you were charged with following the criteria as provided by law as directed by attorneys; is that correct?

A That we were required to follow the nine criteria, yes.

Q As directed by attorneys, correct?

A The criteria were provided by the attorneys to us as explanatory, yes.

Q Right. And you also said that if you base things on your own opinion, there could be liability, correct?

A Yes.

Q So were you told, did you believe that the City Council had to approve the nine criteria, the application of Lakeshore?

A No.

Q Did you know that it was the decision of the City Council to determine whether or not the nine criteria were made?

A Yes, sir.

MR. MEZA: I have no further questions.

HEARING OFFICER HALLORAN: Thank you, Mr. Meza. Mr. Weinstock?

MR. WEINSTOCK: Nothing from me.

HEARING OFFICER HALLORAN: Mr. Walsh?

MR. WALSH: No questions of this witness.

HEARING OFFICER HALLORAN: All right. Mr. Mueller?

MR. MUELLER: No thank you.

HEARING OFFICER HALLORAN: All right. Thank you, Miss Chassee. You may step down and I hope you feel better.

THE WITNESS: Thank you.

HEARING OFFICER HALLORAN: All right. We have our apparently last witness, Mr. Meza, witness adverse. Sir, if you raise your right hand, our court reporter will swear you in.

THE COURT REPORTER: Raise your right hand, please.

(The oath was thereupon duly  
administered to the witness by  
the Notary.)

TOM DABAREINER,

Called as a witness by the Plaintiff herein, having  
been first duly sworn, was examined and testified  
as follows:

DIRECT EXAMINATION

By: Mr. Meza

Q Could you state your name and spell your  
last name for the court reporter?

A Tom Dabareiner. Last name is spelled  
D-A-B-A-R-E-I-N-E-R.

Q Mr. Dabareiner, is that correct?

A That's correct.

Q What is your position with the City of West  
Chicago?

A Director of community development.

Q And who's your supervisor?

A Michael Guttman, City Administrator.

Q And that's Mr. Michael Guttman who's  
sitting here; is that correct?

A Yes.

Q And how long have you served in the

position of community development director?

A Six years this November.

Q And what are your duties and responsibilities as a community development director?

A Well, they are wide ranging, but I supervise a small staff of city planners, building officials, economic development, special events, code enforcement and development engineers.

Q Does it include helping applicants receive approval for a waste transfer station?

MR. WALSH: Objection to the form of the question and helping.

HEARING OFFICER HALLORAN: Yes. Rephrase, please.

BY MR. MEZA:

Q Does it include drafting letters for applicants who are seeking approval of a waste transfer facility?

A In my role as zoning administrator, yes.

Q So as zoning administrator, one of your duties is to help applicants who are applying for a waste transfer station?

MR. WALSH: Again, objection to the word

help.

HEARING OFFICER HALLORAN: He can answer if he's able. Overruled.

THE WITNESS: My job is to provide professional advice when a question on zoning would come up.

BY MR. MEZA:

Q Are you aware of a company called Lakeshore Recycling Systems?

A Yes.

Q Did you know that they entered into a host agreement with West Chicago in 2019?

A Yes.

Q And do you know what a host agreement is?

A That was my first exposure to one.

Q Do you know what it is then or not?

A Generally.

Q And are you aware that West Chicago hired APTIM to assist them?

A Yes.

Q Do you know what APTIM's role was?

A No.

Q Were you aware that in 2019, that Lakeshore was required to meet certain requirements under the

Illinois Environmental Protection Act in order to construct a waste transfer station?

A Yes.

Q Do you know what all those requirements were?

A No.

Q Do you know whose responsibility it was to determine whether Lakeshore met those requirements under the Illinois EPA?

A I don't recall.

Q Do you know whose responsibility it was to determine whether or not an applicant like Lakeshore met the requirements of the Illinois EPA?

A No.

Q Now, before you, Mr. Dabareiner, there's a number of exhibits. Some of them are M exhibits. And I'm sorry if there's confusion.

Can I direct your attention to Exhibit M-9, which is appendix 2D of the appendix. I ask you to take a look at that. Have you seen exhibit M-9 before?

A Yes.

Q In fact, M-9 is a letter dated October 15th, 2019 and contains your signature; is

that correct?

A Yes.

Q Did you prepare this letter?

A Yes.

Q Do you know why this letter was prepared?

A I was asked to prepare a letter expressing my professional opinion on the question of residential setback.

Q And who asked you to prepare this letter for your professional opinion?

A I do not recall.

Q Was it Mr. Guttman?

A I don't believe so.

Q Was it Lakeshore?

A I don't believe so.

Q Was it the Mayor?

A No.

Q Was it any member of City Council?

A No.

Q Was it another staff member of West Chicago?

A No.

Q You didn't decide to draft this letter on your own, though, did you?



A Correct.

Q Somebody asked you to draft it?

A Yes.

Q And you drafted it, correct?

A Correct.

Q And do you know what the purpose, do you know what this letter was going to be used for at all when you drafted it?

A I believe I stated it related to the question of setback for residential.

Q So -- but did you know that this letter was going to be used in the application of Lakeshore that was going to be submitted to West Chicago; yes or no, did you know that?

A Yes.

Q So you knew that Lakeshore wanted a letter from West Chicago regarding the setback issue, correct?

A I know that somebody asked me to do this, yes.

Q And before they asked you to do this, whoever this person is, had you ever had any knowledge or experience with regard to Section 22.14 (a) that you refer to in your letter?

A No.

Q Mr. Dabareiner, did you draft this letter or not?

A Yes.

Q Okay. And did you understand the implication of this letter, or not?

MR. WALSH: Objection to the form of the question.

HEARING OFFICER HALLORAN: Rephrase, please.

BY MR. MEZA:

Q When you drafted this letter, did you understand what -- what was the intent of this letter when you included the language in this letter? What was your intent?

A To provide my professional opinion as to the question of residential setback from the site.

Q And does this letter contain your professional opinion?

A Yes.

Q And the professional opinion is that the City believes Section 22.14 (a) is not applicable; is that correct?

A That's correct.

Q Now, after you wrote this letter in October of 2019, you then signed it and gave it to someone; is that correct?

A Yes.

Q Who did you give it to?

A I don't recall.

Q Did you give it to Mr. Guttman?

A No.

Q Did you give it to Mr. Hock?

A Yes, I believe so.

Q And was he the one that had asked you?

Does that refresh your recollection as to what that --

A Yeah.

Q As to whether or not he was the one that asked you to draft this letter?

A I believe he asked me to draft the letter.

Q Okay. Now, in 2019 when you gave the letter to Mr. Hock that was signed, did you have any conversations with him after 2019 and before 2022 of August?

A I don't recall.

Q Do you recall how many conversations you had with Mr. Hock during the time period of 2019 to

2022, about?

A Very few. I don't recall.

Q Was it less than five conversations?

A Likely, yes.

Q And did they all involve this 22.14 issue?

A Yes.

Q Now, after you wrote the 2019 letter, you gave it to Mr. Hock. What else did you do with regard to the 22.14 issue that you had been asked to give your professional opinion about? What else had you done with regard to that issue?

MR. WALSH: Objection to the form of that question.

HEARING OFFICER HALLORAN: Objection to the point of the question?

MR. WALSH: To the form of the question.

HEARING OFFICER HALLORAN: Form of the question. I'm sorry. Mr. Meza, could you rephrase I guess?

MR. MEZA: Sure.

HEARING OFFICER HALLORAN: Thanks.

BY MR. MEZA:

Q So in 2019, you give the letter to Mr. Hock, correct?

A I transmitted the letter. I don't recall how.

Q Okay. Somehow it got from your possession to his possession, right?

A I believe so, yes.

Q And in 2019, you said the City believed that 22.14 was not applicable; is that correct?

A Correct.

Q Can you describe the research the City did relating to Section 22.14 after October 15th, 2019?

A No.

Q Did you perform any research on Section 22.14 (a), the 1,000-foot setback requirement, after October 15th, 2019?

MR. WALSH: Objection to research. Did he research the law?

HEARING OFFICER HALLORAN: Rephrase, please.

BY MR. MEZA:

Q Did you take any action with regard to whether or not your belief that the City that Section 22.14 was not applicable after 2019? In other words, did you do anything?

MR. WALSH: Objection to the form of the

question.

HEARING OFFICER HALLORAN: Objection to the form of the question. He can answer if he's able.

THE WITNESS: I don't recall anything until the revised letter.

BY MR. MEZA:

Q Okay. Let me direct your attention to PWC-800. That would be on the top right. It's an email. I put before you PWC-800. Do you see that?

A Yes.

Q Could you take a look at it and just read it to yourself and tell me when you're finished?

A Yes.

Q Isn't it true that on Tuesday, August 23rd, you had received a call from John Hawk, the expert for Lakeshore?

A I don't recall a specific call, but yes.

Q Do you recall receiving an email from Mr. Guttman to yourself at 1:11 P.M. in which he says, "Could you please return Mr. Hawk's call"?

A Yes.

Q Had Mr. Hock called you already, or was this a call directly to Mr. Guttman and then Mr. Guttman just emailed you, if you know?

A I don't know.

Q Okay. Now, as a result of the email that you received from Mr. Guttman, your supervisor, you returned Mr. Hawk's call, correct?

A Yes.

Q And then you spoke to Mr. Hock, correct?

A Yes.

Q And Mr. Hock told you he wanted a new letter about the ER zone rails. The reason is that the original letter assumed it was Union Pacific; is that correct?

A That's what the email indicates, yes.

Q And you told that to Mr. Guttman; is that correct?

A Correct.

Q Okay. Did Mr. Guttman direct you to go ahead and make edits to that letter, or not?

A I believe this was information only.

Q What was information?

A What I returned by email to Mr. Guttman was information only.

Q Okay. But didn't you send John Hawk a letter via email that he then edited?

A Well, do you want to rephrase that? I

don't understand it.

Q Sure. It might be easier.

Take a look at Exhibit M-10 and the No. 10 is just on the lower right. Do you see that, Mr. Dabareiner? And can you take a look at the whole exhibit, including the attachments, three pages.

And then once you're finished, just let me know if that refreshes your recollection.

A Yes.

Q So Mr. Hawk sent you an email saying that he wanted the 2019 letter updated; is that correct?

A That's correct.

Q And did you send Mr. Hock a Word version of the 2019 letter?

A I don't know the version I sent, but I sent him a revised letter.

Q Okay. And was that revision, were those revisions based on your conversation with Mr. Hock?

A Yes.

Q Now, take a look at the last page of this email. There's a letter dated August 24, 2022. Can you take a look at that and can you tell me if this document without the red lines was a document



that you sent John Hawk?

A Yes.

Q You drafted this language and then sent it to John Hawk; is that correct?

A Yes.

Q He then took that letter and added words to that letter; isn't that correct?

A I don't know.

Q Do you know what the term red line means or track, T-R-A-C-K, edits mean?

A Yes.

Q And you've seen track edits, haven't you?

A Yes.

Q You've seen red line edits, haven't you?

A Yes.

Q Isn't it correct that John Hawk added the words, residential development on this property is physically impossible?

A I don't know who added that.

Q Somebody did. It wasn't you, was it?

A You know, I don't recall.

Q Do you recall if you made track edits to your own letter and sent it back to yourself?

A No. I don't know where this came from.

Q And it says in the last sentence, "As such, the City concludes that the 1,000-foot setback requirement is not applicable." Do you see that?

A I see that.

Q Okay. What step did you take between 2019 of August -- excuse me. October, 2019 and August 24, 2022? What steps did you take that caused you to change your finding from you believe that it didn't apply to you conclude that it didn't apply?

Tell us the steps and the work you did that allowed you to change that opinion.

MR. WALSH: I'm going to object to the form of the question. The witness has testified a number of times that he does not know who made those changes. The question is assuming that this witness --

HEARING OFFICER HALLORAN: I agree, Counsel. Sustained.

BY MR. MEZA:

Q Okay. Take a look at Exhibit M-11. This is the final letter with your signature; is that correct?

A Yes.

Q In there you say, "The City concludes"; is that correct?

A Correct.

Q When did you conclude? What did you do to conclude to make that finding?

A I adopted the language because I felt that it reached the same conclusion.

Q And why did you indicate that you concluded that the requirement didn't meet 415 ILCS 5-22?

A I thought that added clarity.

Q You thought it would be more clear to add 415 ILCS; is that correct?

A Correct.

Q And can you tell us what ILCS stands for?

A Illinois Code of Statutes.

Q So you wanted to make sure that you were citing the Statute that Lakeshore had to meet in order to meet this requirement under the law; is that correct?

A Yes.

Q Did you inform Mr. Guttman that, in fact, you had changed your opinion to conclude?

MR. WALSH: Objection to the form of that question. It suggests it changes his opinion.

BY MR. MEZA:

Q Well, did you change your opinion from belief to conclude?

A No.

Q So those two letters mean the same thing that the City believes versus the City concludes?

A Yes.

Q It's the same thing?

A Yes.

Q Now, did you provide Mr. Guttman a copy of the August 24, 2022 letter before you signed it?

A I don't recall.

Q Do you know whether or not Mr. Guttman was aware that edits were made to that letter and that you had put your signature on it?

A I believe in the email that you showed me before I indicated by email to him that I would be making changes.

MR. MEZA: I have no further questions. We'll just move to admit M-11. I think 800 is already in. And M-10.

HEARING OFFICER HALLORAN: I think M-11 was in already.

MR. MEZA: Oh, hold on.

HEARING OFFICER HALLORAN: I think.

MR. MEZA: I didn't have it marked.

HEARING OFFICER HALLORAN: All right. I just had it on your file.

MR. MEZA: So we're moving to admit M-10 and M-11.

HEARING OFFICER HALLORAN: Okay. Let's go with M-11 first. Mr. Walsh?

MR. WALSH: The City has no objection to Exhibit 11, M-11.

HEARING OFFICER HALLORAN: Okay. M-11 is admitted with no objection. And Mr. Meza, what's your other one?

MR. MEZA: M-10. These actually might already be in the record except they are a little incomplete. I believe they are in the record already.

HEARING OFFICER HALLORAN: Okay. Which one?

MR. MEZA: M-10. These were produced as part of the discovery documents.

HEARING OFFICER HALLORAN: Mr. Walsh?

MR. WALSH: I don't have any objection.

HEARING OFFICER HALLORAN: No objection.

PWC Exhibit 10 is admitted, no objection.

MR. MEZA: Thank you.

HEARING OFFICER HALLORAN: Thank you.

MR. MEZA: I think that's all.

HEARING OFFICER HALLORAN: All right.

Mr. Weinstock?

BY MR. WEINSTOCK:

Q I just have one question out of curiosity. Looking at M-9 and M-11 you just testified to Mr. Meza that you considered the word "believe" in the 2019 letter to mean the same thing as the word "conclude" in the 2022 letter. Do you remember that?

A Yes.

Q Then why did you change the word?

A It was suggested to me and I thought the change was benign.

Q Who suggested it to you?

A Whoever provided the draft changes to the letter.

Q Would that have been Mr. Hock on behalf of LRS?

A I don't know who did it on his end. He provided it.

Q He provided it?

A Yes.

MR. WEINSTOCK: Thank you. That's it.

HEARING OFFICER HALLORAN: Thank you.

Mr. Walsh?

MR. WALSH: I have no questions.

HEARING OFFICER HALLORAN: Mr. Mueller?

MR. MUELLER: Just one, Mr. Dabareiner.

BY MR. MUELLER:

Q Do you as you sit here now believe and conclude that residential development on that track was impossible and is impossible?

A Yes.

Q Thank you.

HEARING OFFICER HALLORAN: Thank you, sir.  
You may step down. Thank you for your testimony.

Let's go off the record for a moment.

(There was a discussion held off  
the record, after which the  
deposition resumed as follows:)

HEARING OFFICER HALLORAN: All right.

We're back on the record. We were just discussing a few matters. First off, Mr. Weinstock would like to move an exhibit. Mr. Weinstock.

MR. WEINSTOCK: Yes. Thank you, Mr. Halloran. I would move PODER Exhibit No. 1 into evidence. This exhibit was provided to the parties per your Order on September 14. The City lodged no objection on the 21st.

LRS included this in its omnibus objection to all exhibits. This is a series of emails that actually was referred to in Miss Alcantar-Garcia's cross examination by Mr. Mueller and I move it into evidence.

HEARING OFFICER HALLORAN: Thank you. Mr. Mueller?

MR. MUELLER: We'll withdraw our objection because counsel is correct, we did ask about it.

HEARING OFFICER HALLORAN: Okay. Thank you, Mr. Mueller. PODER Exhibit No. 1 is admitted, no objection.

And I do want to, for the record, I have Miss Garcia's statement somewhere, but I've already marked it as Hearing Officer Exhibit No. 1. And also by agreement, the parties decided on a post-hearing briefing schedule based on Lakeshore's offer to -- well, their guarantee statement that they are going to move the waiver decision date --



make another decision due date.

MR. WEINSTOCK: It's already done.

MR. MEZA: Already done.

HEARING OFFICER HALLORAN: Okay, great. So February 1st the decision due date. The parties agreed November 13th, 2023 they will file their simultaneous briefs. Public comment is due October 24. Simultaneous reply briefs are due December 6th. And the record also closes then.

And I do want to state for the record, I really appreciate the civility and professionalism of everybody here today and I want to thank the City of West Chicago for their accommodations.

Anything else I need to talk about?

MR. MEZA: No.

HEARING OFFICER HALLORAN: All right. Have a safe trip home. Thanks.

(Which were all the proceedings had and testimony taken at the hearing of the above-entitled cause.)



# Magna

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| <b>A</b>              |                       |                      |                      |
|-----------------------|-----------------------|----------------------|----------------------|
| <b>A-P-T-I-M</b>      | <b>Act</b>            | 29:10                | 46:21                |
| 99:13                 | 4:24 10:9 21:23       | <b>administrator</b> | <b>affect</b>        |
| <b>A.M</b>            | 30:23 40:16 86:16     | 13:1 14:2,5 42:22    | 36:21 62:9 65:17     |
| 1:20 4:21 87:11,11    | 144:9 150:1 158:9     | 86:4,7 113:8 143:20  | <b>affiliated</b>    |
| 145:1 159:18          | 210:14 223:1          | 171:20 188:5         | 66:20                |
| <b>ABC</b>            | <b>acted</b>          | 220:20 221:20,21     | <b>affirmed</b>      |
| 15:19                 | 36:17                 | <b>admission</b>     | 41:14                |
| <b>able</b>           | <b>action</b>         | 17:5 22:23 200:19    | <b>afield</b>        |
| 20:17 27:9 47:17      | 150:13 165:2,5,8      | <b>admit</b>         | 69:22                |
| 49:15 50:4 52:10      | 229:20                | 10:11 14:13 101:1    | <b>AG</b>            |
| 55:7 64:18,24 75:13   | <b>actions</b>        | 106:8 124:22 125:9   | 189:19               |
| 77:22 82:23 97:6,17   | 61:10 157:4,5 195:3   | 128:15 156:6         | <b>agency</b>        |
| 97:22 98:5 108:24     | <b>activities</b>     | 162:12 172:10        | 61:2                 |
| 110:21 120:3          | 144:18 194:22         | 180:24 236:20        | <b>agenda</b>        |
| 121:13 135:19         | 195:15                | 237:5                | 89:22 122:3,15,16    |
| 161:1 174:4,19        | <b>activity</b>       | <b>admitted</b>      | 131:24 165:6 170:2   |
| 187:23 202:20         | 26:11                 | 10:6 17:23 22:20     | 170:12 186:15,19     |
| 215:21 222:3 230:3    | <b>actual</b>         | 61:23 62:13 101:7    | 186:22 209:7,24      |
| <b>above-entitled</b> | 17:19 27:23 35:1      | 106:10 117:10        | <b>agendas</b>       |
| 241:23 242:8          | 38:23                 | 125:6,24 128:19      | 87:23 88:2,7         |
| <b>abroad</b>         | <b>add</b>            | 142:12 162:17        | <b>agent</b>         |
| 55:23                 | 29:18 43:7 54:14      | 181:4 192:13,14,14   | 12:18,19,24 13:2,3   |
| <b>Absolutely</b>     | 158:11 235:11         | 201:23 237:12        | 14:1                 |
| 77:21                 | <b>added</b>          | 238:1 240:16         | <b>agents</b>        |
| <b>Academy</b>        | 181:24 185:3,13       | <b>adopt</b>         | 12:16,16 155:6,17    |
| 108:2                 | 233:6,16,19 235:10    | 132:21 197:15,15,17  | <b>ago</b>           |
| <b>accept</b>         | <b>addition</b>       | 197:18 211:13        | 199:16 206:22        |
| 15:13 157:20 173:22   | 9:10 167:12           | <b>adopted</b>       | 215:23               |
| <b>accepted</b>       | <b>additional</b>     | 23:13 24:1 27:1      | <b>agree</b>         |
| 24:19 27:2 168:23     | 27:6                  | 111:13 112:2         | 7:23 58:21 60:20     |
| 185:1                 | <b>Additionally</b>   | 113:16,19 135:15     | 99:5 121:16 138:16   |
| <b>accepts</b>        | 20:11                 | 235:6                | 150:4 159:11         |
| 168:20,22             | <b>address</b>        | <b>advance</b>       | 173:20 195:2 207:1   |
| <b>access</b>         | 35:17                 | 136:20               | 234:18               |
| 11:5 51:15 113:12     | <b>addressed</b>      | <b>adverse</b>       | <b>agreed</b>        |
| 213:8,12 215:21       | 80:16                 | 139:23 142:22        | 6:22 8:15 46:1       |
| <b>accessible</b>     | <b>adds</b>           | 219:20               | 100:12 106:7         |
| 37:13 51:4            | 181:18                | <b>advice</b>        | 193:13,15 216:16     |
| <b>accommodations</b> | <b>adjudged</b>       | 222:5                | 241:6                |
| 241:14                | 21:3 22:14 25:9       | <b>Advocacy</b>      | <b>agreement</b>     |
| <b>account</b>        | <b>Admin</b>          | 5:23                 | 50:23 90:21 91:10,21 |
| 61:11                 | 30:14                 | <b>advocate</b>      | 92:3 93:24 94:1,7    |
| <b>accurate</b>       | <b>administered</b>   | 49:2                 | 94:18,22 96:8,16     |
| 125:14                | 59:4 84:19 143:3      | <b>advocates</b>     | 100:21 101:9         |
|                       | 208:2 220:2           | 64:11                | 103:19 145:6,9       |
|                       | <b>administrative</b> | <b>advocating</b>    | 166:10 169:17        |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 175:10 222:12,14<br>240:21<br><b>agrees</b><br>19:17 20:20<br><b>ahead</b><br>7:7 206:19 231:17<br><b>ahold</b><br>103:1<br><b>air</b><br>35:12 36:17,21,23<br>45:14 48:8 49:5<br>52:21 53:1,7 54:15<br>60:4 61:1 62:14<br>63:1,5,22<br><b>airport</b><br>174:5<br><b>al</b><br>2:10<br><b>Alcantar-Garcia</b><br>30:12 46:16<br><b>Alcantar-Garcia's</b><br>240:9<br><b>alderman</b><br>26:13 96:7,8 190:5,5<br>190:6 204:13,13,14<br>204:14,14 208:17<br>208:20,22<br><b>aldermen</b><br>40:13 96:2,11 137:18<br>189:8,11<br><b>allegations</b><br>20:23 25:22 70:17<br>156:17,20 157:15<br><b>allege</b><br>4:18 149:20<br><b>alleged</b><br>21:7,17 22:17 27:15<br>39:20<br><b>allow</b><br>11:14 13:15 37:10<br>60:20 61:24 62:10<br>62:18 65:20 68:3<br><b>allowed</b><br>13:8 37:17,24 38:17<br>45:7 54:14 82:13<br>93:24 175:19 | 196:14,17 234:12<br><b>allowing</b><br>5:4 38:9 47:16 82:8<br><b>allows</b><br>212:9<br><b>alternative</b><br>42:15 215:14<br><b>ambiguity</b><br>74:12<br><b>amenable</b><br>58:12<br><b>amended</b><br>20:23 21:6,7,17<br>27:16,20 70:17,18<br>156:20<br><b>and/or</b><br>9:16<br><b>announcement</b><br>212:8<br><b>answer</b><br>66:8 68:4 71:13 73:6<br>75:13 82:22 95:18<br>98:5 108:23 110:20<br>125:14 135:19<br>138:24 187:23<br>215:7,12,15 216:6,6<br>222:2 230:3<br><b>answered</b><br>78:5,7 97:24 99:3,7<br>138:21 175:18<br>186:11 187:16<br>191:19,22 203:5<br><b>anticipated</b><br>198:12,15<br><b>anticipation</b><br>205:12<br><b>anybody</b><br>12:23 96:16 97:5<br>106:21 108:12<br>119:24 120:1,24<br>121:2 157:17<br>171:20,22 172:3<br>174:17 185:21<br><b>apologies</b><br>147:24<br><b>apologize</b> | 57:19 60:15 195:24<br><b>APOSTOLOS</b><br>1:20 242:4,16<br><b>apparently</b><br>43:15 44:13 45:20<br>219:19<br><b>appeal</b><br>4:17 19:23 33:15<br>149:20<br><b>appear</b><br>61:7 158:12 184:24<br><b>appeared</b><br>2:2,5,9,13,17 190:19<br><b>appears</b><br>192:18<br><b>appendix</b><br>183:8 223:19,19<br><b>applicable</b><br>24:24 25:3 40:1<br>108:16,17 109:14<br>109:15 114:24<br>226:22 229:7,22<br>234:3<br><b>applicant</b><br>24:7 104:16 105:9<br>106:17,20,22 107:1<br>107:3 113:5 175:13<br>223:12<br><b>applicants</b><br>221:10,18,22<br><b>application</b><br>21:10 22:5,7,10,19<br>24:16 25:17,23<br>26:23 27:11,21<br>32:17 39:22 40:8,9<br>40:11,15 44:18<br>49:16 51:10,15 62:7<br>65:1 73:11 75:8<br>81:13 92:1 94:20,21<br>96:13,17,18 97:3,18<br>98:16,22,23 99:24<br>100:14 101:14<br>102:3,18 103:6,16<br>104:6 107:12,18<br>108:5,6 114:6,21,22<br>115:8,12,15,21 | 119:22 123:8 134:4<br>137:1,7 139:18<br>157:9 169:23 176:6<br>176:7,23 182:15<br>183:9,15,16 184:1<br>195:16,17,20 197:8<br>197:8 210:10<br>216:16,22 218:23<br>225:12<br><b>applications</b><br>120:22<br><b>applied</b><br>31:14 37:5 39:6<br>109:24 116:16<br><b>applies</b><br>34:24<br><b>apply</b><br>23:16 44:23 110:12<br>111:19 234:9,10<br><b>applying</b><br>221:22<br><b>appreciate</b><br>9:5 39:17 119:10<br>241:11<br><b>approached</b><br>120:1,2<br><b>approaching</b><br>148:22<br><b>appropriate</b><br>178:5 215:9<br><b>approval</b><br>21:19 22:18 23:15<br>28:21 33:9 39:12<br>49:8 65:19 91:7,14<br>104:23 105:4,11<br>111:8 188:9 221:11<br>221:18<br><b>approve</b><br>21:9 94:3 103:6<br>132:13 139:17<br>218:22<br><b>approved</b><br>63:20 65:7 92:4 93:2<br>93:6 94:23 96:13<br>103:16 111:7,11<br>129:10,13 137:8 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                      |                     |                     |                        |
|----------------------|---------------------|---------------------|------------------------|
| 188:9,11,14 217:24   | 195:22              | 37:18               | <b>attention</b>       |
| <b>approves</b>      | <b>arrangements</b> | <b>associated</b>   | 93:8 102:9,12 104:19   |
| 170:11               | 7:10                | 61:2 155:5          | 105:7 117:9 118:12     |
| <b>approving</b>     | <b>articulated</b>  | <b>assume</b>       | 119:19 120:15          |
| 25:17 27:10 96:12    | 67:16               | 8:14 97:15          | 126:18 127:22          |
| 111:12 127:2         | <b>articulately</b> | <b>assumed</b>      | 133:24 134:3 145:3     |
| <b>approximately</b> | 44:4                | 56:12 231:10        | 151:11 153:9           |
| 4:21 84:6 142:21     | <b>asked</b>        | <b>assuming</b>     | 162:10,19 173:4        |
| <b>April</b>         | 44:8 51:20 71:9     | 18:22 96:3 102:23   | 186:14 189:1           |
| 21:5 27:20 92:13     | 77:11 78:4 80:3,13  | 234:16              | 214:22 223:18          |
| 93:4 156:20          | 80:18,20 81:18      | <b>assumption</b>   | 230:7                  |
| <b>APTIM</b>         | 95:19 97:24 99:3    | 55:24 57:17         | <b>attorney</b>        |
| 99:13,18 100:3,13    | 111:21 116:24       | <b>asthma</b>       | 11:5 70:10 83:16       |
| 101:23 102:6,9,12    | 120:2 138:21        | 48:20               | 118:8,9 120:17         |
| 102:22 103:1,4,9     | 146:22 153:4 174:3  | <b>at-times</b>     | 125:23 155:23          |
| 115:7,11,15,20       | 178:15,17 179:8     | 32:23               | 164:21 171:13          |
| 117:24 118:18,22     | 186:11 187:16       | <b>attach</b>       | 212:8,13               |
| 119:3,21,24 120:2,3  | 191:19,22 192:1     | 153:6               | <b>attorney/client</b> |
| 120:18 121:13        | 197:21 202:22       | <b>attached</b>     | 164:3                  |
| 145:12,15,18 147:3   | 214:19 215:2,5      | 100:20 128:2 183:8  | <b>attorneys</b>       |
| 147:23 148:6,19      | 216:5 224:6,9 225:2 | 184:21              | 66:20 83:18 218:10     |
| 149:10 155:8 157:8   | 225:19,21 227:11    | <b>attachment</b>   | 218:14,15              |
| 167:23 169:7,14,15   | 227:16,17 228:9     | 100:20 151:12       | <b>audience</b>        |
| 169:17,24 170:4,10   | <b>asking</b>       | <b>attachments</b>  | 7:14                   |
| 170:20 171:14,18     | 10:5 13:24 80:8,21  | 232:6               | <b>August</b>          |
| 173:2 174:3 194:14   | 82:20 107:9 110:17  | <b>attempt</b>      | 113:6 114:15,16        |
| 195:13 206:2         | 112:8 140:12 141:2  | 41:2 45:17 55:20    | 178:23 180:13          |
| 222:19               | 148:23 164:3,6      | <b>attempted</b>    | 183:3 184:19 185:7     |
| <b>APTIM's</b>       | 168:5 177:21        | 35:7 37:11          | 185:11 227:21          |
| 222:21               | 179:23 199:22       | <b>attempting</b>   | 230:14 232:22          |
| <b>area</b>          | 211:1               | 49:8                | 234:6,7 236:11         |
| 31:16 39:10 45:14    | <b>asks</b>         | <b>attend</b>       | <b>authority</b>       |
| 69:20                | 124:16              | 50:12 89:17,20 90:7 | 13:11 21:3 22:3 25:8   |
| <b>areas</b>         | <b>assessing</b>    | 166:18,20,23 167:2  | 40:1 94:1,7 99:17      |
| 45:4                 | 134:10              | 167:2,5,7,9,9,13,14 | 99:22 150:15           |
| <b>arguing</b>       | <b>assigned</b>     | 167:16,18 168:15    | 172:16 175:24          |
| 27:18 173:7          | 4:5                 | 168:19 169:2        | 176:1                  |
| <b>argument</b>      | <b>assist</b>       | 206:17 209:15       | <b>authorization</b>   |
| 17:20 33:11,13 35:16 | 222:19              | 211:16 212:15       | 91:22                  |
| 42:20 43:3 45:6      | <b>assistant</b>    | <b>attended</b>     | <b>authorize</b>       |
| 70:9                 | 5:17 88:3 186:22    | 20:4,5 50:19 166:14 | 186:3                  |
| <b>argumentative</b> | 187:6,17 188:1,13   | 189:9,11 190:24     | <b>authorized</b>      |
| 110:16,18            | 202:19              | 206:17 210:3        | 30:13                  |
| <b>arguments</b>     | <b>assisted</b>     | 212:19              | <b>availability</b>    |
| 22:1 27:6 33:10      | 196:23              | <b>attending</b>    | 29:5                   |
| <b>arm's</b>         | <b>Associate</b>    | 189:8               | <b>available</b>       |

|                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 125:15 126:4,8,12<br>126:16 134:21<br>140:13,22,23<br><b>aware</b><br>57:16 107:12,14,18<br>107:21,24 110:3,7,9<br>115:14 116:14<br>117:24 118:19,21<br>118:24 119:3,20<br>120:16,20 145:4,8<br>145:11,14,19<br>147:10,15 148:9<br>152:22 153:1 155:7<br>170:20 174:2,6<br>175:12 182:6,14,16<br>183:23 185:2,5,10<br>185:12 186:6 206:4<br>222:8,18,23 236:14                                                                      | 40:11 134:4 152:9<br>179:7 180:8 185:24<br>215:8 232:19<br>240:22<br><b>basically</b><br>90:9 173:21<br><b>basis</b><br>41:5,23 88:19 115:4<br>120:11 152:21<br>172:13 187:20<br>201:5<br><b>Bates</b><br>9:18 19:24 92:16<br>101:10 125:7<br><b>BCC</b><br>158:3,12,20,22,22<br>163:5<br><b>beam</b><br>53:1<br><b>bearing</b><br>35:8<br><b>bears</b><br>32:6<br><b>beg</b><br>60:2<br><b>began</b><br>32:20 49:15 52:21<br>54:10<br><b>beginning</b><br>49:12 56:10 61:8<br>72:3 179:8 194:10<br><b>behalf</b><br>2:5,9,13,17 27:13<br>30:13 77:15 100:12<br>100:16 121:14<br>125:23 195:3<br>238:21<br><b>behaved</b><br>64:4<br><b>behavior</b><br>64:22<br><b>Beifuss</b><br>96:8 204:14<br><b>belief</b><br>25:4 109:16,21<br>156:22 229:21 | 236:3<br><b>believe</b><br>8:8,19 11:17 26:16<br>27:13 28:5 41:23<br>43:22 49:13 54:24<br>58:7 60:16 72:10<br>77:1 81:22 89:24<br>92:24 117:11 121:6<br>135:10 157:3<br>167:15 178:13<br>182:17,18 185:6,8<br>185:10 195:15<br>197:2,3,20,22 201:8<br>205:15 206:10<br>207:19 210:23<br>218:21 224:13,15<br>225:9 227:10,17<br>229:5 231:18 234:8<br>236:16 237:16<br>238:10 239:10<br><b>believed</b><br>20:16 50:2 120:7<br>155:23 178:4 229:6<br><b>believes</b><br>24:22 27:3 34:1<br>108:15 109:9,14<br>226:22 236:6<br><b>belittled</b><br>82:24<br><b>belittling</b><br>77:23 78:2<br><b>belt</b><br>17:7<br><b>beneficial</b><br>197:1 198:17<br><b>benefit</b><br>31:15 39:9<br><b>benign</b><br>238:17<br><b>Berger</b><br>201:12<br><b>best</b><br>97:9,20 178:6,14<br><b>better</b><br>196:18 200:5 219:16<br><b>beyond</b> | 18:16 37:4<br><b>bias</b><br>19:15 42:19,21,23<br>67:13<br><b>biased</b><br>20:8 42:6 43:1<br><b>big</b><br>48:15 173:14<br><b>bigger</b><br>49:22<br><b>binder</b><br>105:19<br><b>bit</b><br>8:3 80:18,20 87:16<br>88:24<br><b>blank</b><br>33:24<br><b>blind</b><br>128:8,10 158:3<br><b>blown-up</b><br>200:10<br><b>Bluhm</b><br>29:24<br><b>board</b><br>1:1,18 4:4,23 5:8<br>7:10,24 8:10 9:4,14<br>10:21 11:24 16:16<br>17:2 19:9 20:19<br>27:6,9,19 28:16<br>29:4 31:9 33:8,8<br>34:23 36:4 37:23<br>39:11 40:18 43:7<br>47:16 53:20 65:3,11<br>65:18 69:3 70:14<br>79:21 92:15 106:24<br>142:11 150:17<br>151:2 160:8 173:23<br>183:14<br><b>Board's</b><br>5:2<br><b>body</b><br>13:8 14:3<br><b>boilerplate</b><br>17:18<br><b>born</b><br>44:1,2 67:22 68:5 |
| <b>B</b>                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>B</b><br>3:14 21:24 99:6<br><b>back</b><br>46:13 55:21 57:1<br>72:24 75:16,19<br>79:22 84:6,8 110:23<br>115:23 126:19<br>139:24 142:20,20<br>151:13 153:9 166:3<br>178:16 182:23<br>197:20 202:19<br>207:19 233:23<br>239:22<br><b>background</b><br>68:2,22<br><b>bad</b><br>50:3 152:2 155:14<br><b>ball</b><br>199:20<br><b>bar</b><br>43:13 210:14 217:2<br><b>barring</b><br>43:10<br><b>base</b><br>218:17<br><b>based</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

|                      |                      |                     |                       |
|----------------------|----------------------|---------------------|-----------------------|
| 77:2                 | <b>businesses</b>    | <b>capacability</b> | <b>center</b>         |
| <b>bottom</b>        | 69:9,15 70:7,21      | 28:7                | 5:23 151:14           |
| 179:3 188:4,17,18    | <b>buy</b>           | <b>capacity</b>     | <b>certain</b>        |
| <b>boxes</b>         | 50:4                 | 19:13 47:1          | 13:14 130:5 222:24    |
| 154:10               |                      | <b>capital</b>      | <b>certainly</b>      |
| <b>Bradley</b>       | <b>C</b>             | 111:2               | 13:2 201:6            |
| 2:1 4:3              | <b>C</b>             | <b>caption</b>      | <b>certified</b>      |
| <b>break</b>         | 20:1 92:16,16,23     | 4:6                 | 37:22                 |
| 38:9 83:24 104:2     | 93:8 112:24 151:11   | <b>carbon</b>       | <b>certify</b>        |
| 140:2,6 142:16       | 151:12,12,15 152:5   | 158:3               | 242:6                 |
| 207:14               | 153:10 157:5         | <b>care</b>         | <b>challenges</b>     |
| <b>breaker</b>       | 186:23 189:1         | 201:19              | 36:7                  |
| 137:7                | <b>C-H-A-S-S-E</b>   | <b>careful</b>      | <b>chambers</b>       |
| <b>brief</b>         | 26:14 208:12         | 44:6                | 210:5                 |
| 8:5 27:7,8,17 33:13  | <b>C.S.R</b>         | <b>case</b>         | <b>chance</b>         |
| 41:18                | 1:21 242:4           | 5:7 21:4 22:15 24:7 | 10:15                 |
| <b>briefing</b>      | <b>call</b>          | 30:15 34:7 106:20   | <b>change</b>         |
| 240:22               | 11:16 57:13 89:10,11 | 110:12 198:17,23    | 119:11 234:8,12       |
| <b>briefs</b>        | 161:8,18,21 176:14   | 199:2 206:7         | 236:2 238:15,17       |
| 5:11 7:21 8:3,7 9:17 | 177:7,10,11,22       | <b>cases</b>        | <b>changed</b>        |
| 34:23 44:11 241:7,8  | 178:15,24 179:7,8    | 134:13,16,19        | 25:1 108:15 235:22    |
| <b>bring</b>         | 179:12 190:15,20     | <b>catch</b>        | <b>changes</b>        |
| 45:18 49:4 54:14     | 191:2 230:15,17,20   | 190:1               | 182:3,7 185:1 234:16  |
| 80:15 173:3 174:19   | 230:23 231:4         | <b>Catholic</b>     | 235:24 236:18         |
| <b>broader</b>       | <b>called</b>        | 26:1,1              | 238:19                |
| 31:16                | 13:2 38:4 48:11      | <b>cause</b>        | <b>channeled</b>      |
| <b>brought</b>       | 56:17 85:2 99:12     | 54:15 241:23 242:8  | 201:11                |
| 102:12 165:3         | 100:3 143:6 161:13   | <b>caused</b>       | <b>chapter</b>        |
| <b>Brown</b>         | 177:12,12,14,24      | 48:24 52:20 54:5    | 32:13                 |
| 190:5                | 178:3,10 179:5       | 234:8               | <b>characterized</b>  |
| <b>building</b>      | 198:19 208:5 220:5   | <b>causing</b>      | 17:18                 |
| 221:7                | 222:8 230:22         | 62:2 75:21          | <b>charged</b>        |
| <b>bunch</b>         | <b>callers</b>       | <b>caution</b>      | 218:9                 |
| 92:20 158:11 191:17  | 161:15               | 9:14                | <b>Chassee</b>        |
| 209:4                | <b>calling</b>       | <b>cc</b>           | 3:9 13:20 26:13       |
| <b>burden</b>        | 25:22 26:9,13,21     | 128:2,8,10 158:11   | 190:6,8,9 204:14      |
| 32:6 34:14 35:5      | 161:4 176:14         | <b>celebrate</b>    | 207:14 208:4,12       |
| 36:19 38:16,18       | <b>calls</b>         | 50:15               | 209:4 214:16          |
| <b>burdening</b>     | 56:1 57:1,10 71:10   | <b>celebrating</b>  | 219:15                |
| 32:13                | 89:12,13 160:19      | 49:20               | <b>Chicago</b>        |
| <b>burdens</b>       | 176:17 198:13        | <b>celebration</b>  | 1:3,6,6,13 2:6,10 4:7 |
| 35:9 39:8            | 199:18,24            | 49:18               | 4:9,9,14 5:4,17 6:9   |
| <b>business</b>      | <b>Canadian</b>      | <b>cell</b>         | 9:11 19:10,19,21      |
| 43:21 49:17,22 69:17 | 37:18                | 61:21               | 20:3 21:9,12,13       |
| 70:7,21 85:23 89:14  | <b>capable</b>       | <b>censored</b>     | 22:2,4,9,12,14,16     |
| 93:9 201:3,9         | 76:12                | 77:22               | 23:12,22,24 24:4,11   |



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| 24:19 25:8 26:18<br>29:5 30:24 31:18,22<br>32:4,10 35:8,13,14<br>35:19 36:1,8 39:7<br>39:22 40:14 42:10<br>42:12,17 43:17,19<br>44:2,8 45:5,10 47:2<br>47:14,24 48:2 49:3<br>49:11 50:7,20 51:1<br>51:2,6,7 52:2,4,8<br>63:17,20 65:7,20<br>67:23 69:10 70:7,8<br>71:8 77:3 85:21,22<br>85:24 86:2,9 87:22<br>89:14 90:21 93:23<br>96:16,20 97:5,12<br>100:13,17 101:13<br>101:22 102:10,13<br>102:16,22 103:6,9<br>103:18 104:15<br>105:2 107:15,16<br>111:9 113:8 115:19<br>116:15,18,24 117:2<br>118:1,2 119:11,11<br>119:14 121:11,14<br>124:6,15,17 127:2<br>130:7,18 136:17<br>143:21 144:12,15<br>144:17,19 145:5,12<br>145:14,21,23<br>146:22 147:4,7<br>148:20 149:3,11,21<br>149:24 151:9 152:8<br>152:23 157:6<br>161:24 162:2,3<br>169:19 170:6 171:1<br>171:3 173:2 174:23<br>175:3,9 183:7<br>202:14 206:1 211:6<br>213:7,13,15,16,18<br>213:20 220:17<br>222:12,18 224:21<br>225:13,17 241:13<br><b>Chicago's</b><br>21:18 22:17 28:21<br>86:18 103:15 | 104:22 110:4<br>124:14 147:2<br>171:13<br><b>children</b><br>47:3 48:18,19<br><b>Chiquita</b><br>69:12,13,16<br><b>Christman</b><br>19:20 20:4,21 25:20<br>41:20,23<br><b>Christman's</b><br>20:22<br><b>Christmas</b><br>8:11<br><b>chronic</b><br>48:23<br><b>Cintas</b><br>85:19 129:2<br><b>Circuit</b><br>12:6<br><b>circulated</b><br>17:13 200:12<br><b>circumstantial</b><br>42:3,19<br><b>citation</b><br>134:13<br><b>cite</b><br>17:5<br><b>citing</b><br>38:22 41:11 235:17<br><b>citizen</b><br>47:5 62:6 64:10<br><b>citizen's</b><br>30:5<br><b>citizens</b><br>20:12<br><b>city</b><br>1:6,6,13 2:10 4:8,9<br>4:14 6:8 12:16,24<br>13:1,2 17:1,16<br>19:21 20:3 21:9,15<br>21:18 22:2,3,9,17<br>23:13,22 24:1,4,11<br>24:18,22 25:2 26:10<br>26:10,17 27:2 28:21<br>30:10 31:18 33:2,5 | 33:18,21,23 34:13<br>37:2,5,21 38:6,13<br>38:20 39:1,11,21<br>40:2,7,10,13,21,24<br>42:14,15,22 43:16<br>45:4 47:20 50:22<br>51:7 52:1 55:5<br>63:12,20 65:5,6,12<br>65:20 70:8 85:11,22<br>85:23 86:3,6,10<br>87:5,10,22,22 88:2<br>89:8,14,17 90:11,20<br>91:6,17,21,22 93:3<br>93:23 94:11,17<br>96:19 97:5,12 98:13<br>98:20,22 99:22<br>100:13,17 101:13<br>101:22 102:1,21<br>103:5 106:5 108:15<br>108:16 109:9,9,14<br>109:15 110:3,4<br>111:6,13 113:7,8,16<br>113:19 114:20<br>115:11,19,19<br>116:15,19 117:2,7<br>118:9 121:3 122:10<br>122:13,19 124:11<br>124:13,16,17,24<br>125:2,16,23 126:1,4<br>126:16 127:14<br>130:7,17,20,21,23<br>131:12 132:7,12<br>134:16,20,23<br>135:11,15 139:16<br>140:14 143:20,21<br>144:12,15,17,19<br>145:5,11,14,15,21<br>145:23 146:22<br>147:2 149:2,3,21,24<br>150:11,14 151:9<br>153:20,20 154:4,7<br>155:5 156:12,23<br>158:23 160:12,14<br>160:23,23 161:21<br>162:3 163:8,14,20<br>164:1 165:4,8 166:9 | 166:11 169:2,2,4,11<br>169:18,24 170:5,6<br>170:11,24 171:3,13<br>171:19,19,23 172:3<br>172:5,6 174:20,23<br>175:9 188:5,10,14<br>189:3 192:24<br>194:23 195:3,4,20<br>195:23 196:5 197:1<br>197:7,15,17 198:2,7<br>200:13,19 201:10<br>202:14 203:16,21<br>203:24 204:4,9,17<br>205:12 206:3,3<br>209:16 210:5,9<br>211:5 212:5,8,13,16<br>213:4,10,12,13<br>216:15,21 217:1,6<br>218:8,22 219:2<br>220:16,20 221:7<br>224:18 226:22<br>229:6,9,21 234:2<br>235:1 236:6,6 237:9<br>240:4 241:13<br><b>city's</b><br>30:21 31:3 32:19<br>33:9,19 34:18 35:18<br>35:23 36:3,10 37:1<br>37:3,12 41:5,9,10<br>41:12 80:9 157:8<br>159:23 160:4,9<br>170:21<br><b>civility</b><br>241:11<br><b>clarifications</b><br>79:23<br><b>clarifying</b><br>79:17<br><b>clarity</b><br>125:13 235:10<br><b>classes</b><br>68:16<br><b>clear</b><br>20:13 23:3,9 41:8<br>43:10 61:10 95:21<br>178:2 235:11 |
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|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>clearly</b><br/>19:11 20:7 25:9</p> <p><b>clerk</b><br/>29:8,23 76:16</p> <p><b>clerks</b><br/>6:2</p> <p><b>client</b><br/>6:4 31:17</p> <p><b>client's</b><br/>202:17</p> <p><b>clinic</b><br/>30:1 32:20</p> <p><b>closed</b><br/>26:19 64:1 89:20<br/>123:15,18 124:1,11<br/>124:19 125:16<br/>126:2 130:8,11,14<br/>141:1 211:22 212:1<br/>212:5</p> <p><b>closes</b><br/>241:9</p> <p><b>closest</b><br/>97:16</p> <p><b>co-counsel</b><br/>156:4</p> <p><b>code</b><br/>30:14 221:9 235:15</p> <p><b>cold</b><br/>54:10 188:20</p> <p><b>Coleman</b><br/>5:18</p> <p><b>colleague</b><br/>71:18</p> <p><b>collect</b><br/>52:18</p> <p><b>collected</b><br/>55:13 62:20</p> <p><b>collective</b><br/>30:7</p> <p><b>color</b><br/>34:5,15 35:19 39:9<br/>44:24</p> <p><b>colors</b><br/>181:22</p> <p><b>combination</b><br/>54:7</p> | <p><b>combined</b><br/>122:6</p> <p><b>come</b><br/>45:21 53:24 70:23<br/>79:22 102:9 128:22<br/>166:3 199:2,6,18<br/>201:8 204:7 222:6</p> <p><b>comes</b><br/>208:23</p> <p><b>comfortable</b><br/>29:19 55:9 66:12,23<br/>80:5 199:22</p> <p><b>coming</b><br/>16:4 80:24 81:5,16<br/>102:3</p> <p><b>comment</b><br/>6:23,24 11:14 29:11<br/>29:13 33:2 37:11<br/>38:5,14 41:19 42:1<br/>71:23 72:22 202:16<br/>241:7</p> <p><b>comments</b><br/>11:13 16:19 19:16,17<br/>19:18,19,20,22 20:3<br/>20:20,22 37:20<br/>40:19 118:2 203:7,9<br/>203:22 204:1,5,9,20<br/>205:7,8</p> <p><b>commercial</b><br/>32:6 48:3</p> <p><b>commissioned</b><br/>1:22 242:5</p> <p><b>Commissioner</b><br/>76:11</p> <p><b>committee</b><br/>46:19,22 50:19</p> <p><b>common</b><br/>12:11</p> <p><b>communicate</b><br/>47:13 69:7</p> <p><b>communicated</b><br/>178:18 205:13</p> <p><b>communicating</b><br/>119:21 179:6</p> <p><b>communication</b><br/>120:6</p> | <p><b>communications</b><br/>136:24 148:19<br/>149:10 155:8 164:4</p> <p><b>communities</b><br/>31:14 39:5</p> <p><b>community</b><br/>21:14,16 23:21 26:5<br/>30:8,17,19 31:5,15<br/>32:3,14 34:15 35:2<br/>35:19 36:2,7 38:8<br/>38:19,23 39:9 43:18<br/>46:21,23 47:4,8,9<br/>47:10 49:6,7,15,23<br/>50:14 51:13 52:9,15<br/>52:17 54:12 55:8<br/>62:9 63:2,7 64:11<br/>64:15,18 65:3,14,17<br/>66:18 70:5 71:18<br/>72:8 77:4,15 82:9<br/>86:19,21 107:15<br/>113:7 144:2 149:23<br/>160:24 161:17,20<br/>162:7 200:4,5<br/>220:18 221:1,4</p> <p><b>company</b><br/>99:12,14,19,20,23<br/>222:8</p> <p><b>compare</b><br/>184:20</p> <p><b>competition</b><br/>19:14 32:11</p> <p><b>complain</b><br/>75:7</p> <p><b>complements</b><br/>75:20</p> <p><b>complete</b><br/>242:10</p> <p><b>completely</b><br/>64:3 149:15</p> <p><b>compliance</b><br/>38:16 156:10</p> <p><b>complied</b><br/>210:18 216:17,22</p> <p><b>complies</b><br/>210:10</p> <p><b>comply</b></p> | <p>21:21 37:16 39:13</p> <p><b>compound</b><br/>101:17 103:24 133:9</p> <p><b>computer</b><br/>15:9 189:10 215:11</p> <p><b>conceal</b><br/>149:21 154:16,20<br/>157:6</p> <p><b>concealing</b><br/>157:1</p> <p><b>concealment</b><br/>149:21</p> <p><b>concentrated</b><br/>32:2</p> <p><b>concentrates</b><br/>34:13</p> <p><b>concept</b><br/>42:9</p> <p><b>concepts</b><br/>42:10</p> <p><b>concern</b><br/>24:21 36:23 40:21<br/>94:8 107:17 172:9<br/>175:21 202:16<br/>203:11</p> <p><b>concerned</b><br/>31:13 39:4 55:13</p> <p><b>concerns</b><br/>20:17 33:3 41:4 49:1<br/>50:2 62:1 63:13,18<br/>63:24 65:22 83:1<br/>158:9</p> <p><b>conclude</b><br/>21:2 25:4 27:9 41:22<br/>42:18 109:24 234:9<br/>235:4,5,22 236:3<br/>238:12 239:11</p> <p><b>concluded</b><br/>110:10 235:8</p> <p><b>concludes</b><br/>25:2 108:17 109:10<br/>109:15 234:2 235:1<br/>236:6</p> <p><b>conclusion</b><br/>109:16,22 235:7</p> <p><b>conclusions</b></p> |
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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 33:1<br><b>conditions</b><br>23:15 30:19 196:1,24<br>197:14<br><b>conduct</b><br>26:11 39:14<br><b>conducted</b><br>4:24<br><b>conference</b><br>56:1 57:1,10,13<br>190:15 191:2<br><b>confident</b><br>197:13<br><b>confirm</b><br>16:24 17:10<br><b>confirmed</b><br>125:24<br><b>conflict</b><br>50:11 121:6,12,19<br>171:11,16 172:8,24<br>173:14,14<br><b>conflicts</b><br>120:18<br><b>conform</b><br>97:8<br><b>conformed</b><br>97:20<br><b>confuse</b><br>14:18 16:11<br><b>confused</b><br>15:16<br><b>confusing</b><br>16:11 20:13 101:19<br><b>confusion</b><br>57:20 223:17<br><b>conjunction</b><br>186:21<br><b>consider</b><br>30:16 33:22 63:13<br><b>consideration</b><br>8:14 30:23 34:1<br>65:24 195:20<br><b>considered</b><br>63:24 116:19 238:10<br><b>considering</b><br>38:23 64:15 | <b>consistency</b><br>96:19<br><b>consolidated</b><br>4:5<br><b>conspiracy</b><br>42:9<br><b>constantly</b><br>49:9<br><b>construct</b><br>111:8 223:2<br><b>construction</b><br>21:11 91:7<br><b>construed</b><br>34:12<br><b>consultant</b><br>147:2 157:8<br><b>consultation</b><br>166:7 168:19<br><b>consulted</b><br>167:6<br><b>contact</b><br>150:18<br><b>contain</b><br>226:18<br><b>contained</b><br>20:23 133:13 135:16<br>193:19<br><b>contains</b><br>92:12 214:9 223:24<br><b>contaminated</b><br>54:16<br><b>contaminating</b><br>49:5<br><b>contamination</b><br>32:5 48:10 54:15<br>55:17 62:2,14,19<br>63:21<br><b>contemplate</b><br>28:12<br><b>contemplated</b><br>58:5<br><b>content</b><br>74:2<br><b>contested</b><br>41:12<br><b>context</b> | 31:8 39:7<br><b>contextualizes</b><br>33:14<br><b>continuation</b><br>211:19<br><b>continue</b><br>106:19 123:15<br>150:19 173:24<br><b>continued</b><br>131:2,15 192:3<br><b>continuing</b><br>80:6 150:23<br><b>contract</b><br>97:13 99:17,23<br>100:19 169:10,11<br>170:4,9 173:11<br>194:14 206:2,4,5,9<br><b>contracts</b><br>100:16<br><b>Contrary</b><br>39:20<br><b>contrast</b><br>35:11<br><b>contravention</b><br>22:24<br><b>control</b><br>1:1,18 4:4,17,23 7:10<br>7:24 8:9 9:14 10:21<br>11:24 19:9 20:19<br>23:4 27:6,9,19<br>28:16 30:17 38:22<br>40:18 43:7 47:16<br>65:3 92:15 96:20<br>104:23 105:3<br>106:24 116:6 160:7<br>175:6 183:14<br><b>controlling</b><br>22:3<br><b>convenience</b><br>14:18<br><b>conversation</b><br>163:23 164:17 178:7<br>178:13 215:18<br>232:19<br><b>conversations</b><br>146:24 155:10 | 194:13 227:20,23<br>228:3<br><b>convert</b><br>107:3<br><b>converted</b><br>48:13,14<br><b>convince</b><br>50:24<br><b>COO</b><br>19:24<br><b>COO6039</b><br>126:21<br><b>copied</b><br>170:17<br><b>copies</b><br>54:23 55:1 146:10<br><b>copy</b><br>14:24 15:3,5,11<br>54:21 56:9 58:6<br>105:24 117:11<br>141:7 158:3 169:10<br>180:17 189:16<br>200:16 204:7 214:9<br>236:10<br><b>corner</b><br>92:20<br><b>Corporation</b><br>85:19<br><b>correct</b><br>17:3 19:16 34:23<br>46:5 65:12 71:6,7<br>71:21,22 72:18<br>73:20 74:4 75:9<br>76:3,11,12 77:11,16<br>78:16,17 85:15,16<br>86:4,10 88:12 89:5<br>89:8,9,15 90:12,13<br>90:15,19,22 91:8,11<br>91:15,23 94:15,19<br>96:8,9,10 98:3<br>100:3 102:4,7 103:9<br>105:5 107:6 110:7<br>110:12 114:1,7,17<br>115:4 116:3,11<br>117:6 118:3 120:22<br>122:5,8,11 123:10 |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| 123:11 124:3 126:9<br>126:13 127:3<br>131:13,16,20,21<br>132:4,16 134:14<br>136:4 137:12,22<br>139:13 143:18,21<br>144:9,10,23 145:6,9<br>145:13,17 147:13<br>151:9 152:14,24<br>153:7,22 155:21<br>157:24 158:13,14<br>158:16,21 159:4,6,7<br>159:19,24 160:5<br>162:5,21 163:6,10<br>163:16 167:24<br>169:12 171:1<br>174:24 175:3,6,15<br>175:22 178:1<br>180:11,15 181:20<br>182:1,2,4 183:10<br>187:1,8,15 188:14<br>188:21 191:5,8<br>192:4,5,10 193:1<br>195:13 201:13<br>203:14 208:18<br>210:7,8 211:17,18<br>211:20,23 212:17<br>212:19,22 213:9,13<br>217:3,17,24 218:6<br>218:11,14,19<br>220:14,15,22 224:1<br>225:1,4,5,18 226:23<br>226:24 227:3<br>228:24 229:7,8<br>231:4,6,11,14,15<br>232:12,13 233:4,7<br>233:16 234:23<br>235:2,3,12,13,19<br>240:14 242:10 | 72:9<br><b>council</b><br>1:6 4:9 19:21 20:3<br>23:13 24:1 26:17<br>27:2 33:3 37:3 38:6<br>39:1 40:3,7,10,21<br>50:20 52:2 63:17<br>70:8 85:12,14,22<br>87:6,10,22 89:17<br>90:11 91:13,22 93:3<br>94:12,17 99:22<br>103:5 106:5 110:4<br>111:6,10,13 113:16<br>113:19 115:11,19<br>116:15,19 117:2,7<br>121:3 122:10,13,19<br>124:11,17 125:16<br>126:1,4,16 127:14<br>130:7,20,21,23<br>131:12 132:7,12<br>134:17,20 135:12<br>135:15 139:16<br>140:14 144:15,17<br>144:19 145:15<br>150:12 156:13<br>158:23 160:12,14<br>160:23 163:8,14,20<br>164:1 165:4,8 166:2<br>166:9,11 169:2<br>170:11 171:4,23<br>172:3,5,7 188:10,14<br>189:3 195:23 197:1<br>197:15 198:2,8<br>203:21,24 204:4,9<br>204:17 205:12<br>209:16 210:5,9<br>211:5 212:5,16<br>216:15,21 217:1,7<br>218:8,22 219:2<br>224:18<br><b>Council's</b><br>195:4,20 196:5<br>197:17<br><b>Councilmen</b><br>192:24<br><b>counsel</b> | 20:10 29:1 32:23<br>34:13 91:2 116:12<br>118:10,11 121:10<br>124:6 135:13<br>163:23,24 164:17<br>166:8 167:13<br>168:19 183:7 193:7<br>234:19 240:14<br><b>counsel's</b><br>39:12<br><b>counselor</b><br>11:6<br><b>Counselors</b><br>37:19<br><b>counted</b><br>53:24 55:14<br><b>counter</b><br>198:20<br><b>county</b><br>21:15 28:14 30:6<br>31:24 32:2,10 35:3<br>242:2,6<br><b>County's</b><br>28:9 34:14<br><b>couple</b><br>16:20 35:20 79:16<br>93:13 140:7 145:24<br>194:5<br><b>coupled</b><br>27:4<br><b>course</b><br>144:8<br><b>court</b><br>6:21 12:6,7 13:15,15<br>29:21 56:12 58:23<br>59:1 75:16 84:14,16<br>111:1 142:24<br>143:12 207:22<br>219:21,22 220:11<br><b>courts</b><br>13:14 40:17<br><b>create</b><br>50:13 157:22 158:9<br><b>created</b><br>49:13 51:5 199:22<br><b>creates</b> | 50:11<br><b>credibility</b><br>134:10 191:15,16<br><b>credible</b><br>135:1<br><b>cried</b><br>76:17 77:17<br><b>criteria</b><br>41:12 55:20 104:6,17<br>105:11 107:6 110:1<br>133:2 175:14 177:3<br>197:2,3 211:7 218:3<br>218:9,13,15,22<br>219:3<br><b>Criterion</b><br>4:19 24:13 27:1,22<br>28:3,4,7,10 34:17<br>34:19,24 36:23<br>40:12 44:20 55:21<br>59:11 103:21 134:9<br><b>criticisms</b><br>157:7<br><b>cross</b><br>9:8 38:2 45:18 46:4<br>46:14 53:22 56:5,22<br>60:21 66:2 79:19<br>194:7 240:9<br><b>cross-examine</b><br>70:6<br><b>crossed</b><br>181:20<br><b>crossing</b><br>46:2<br><b>cry</b><br>61:19 76:18,20 77:14<br><b>CSR</b><br>242:17<br><b>cudgel</b><br>31:4<br><b>cultural</b><br>43:4 45:19<br><b>curiosity</b><br>238:8<br><b>current</b><br>80:20,23 81:3,13 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                            |                            |                                       |                       |
|----------------------------|----------------------------|---------------------------------------|-----------------------|
| <b>D</b>                   | 212:22 213:12,14<br>215:22 | 123:8 135:1,4 138:8<br>149:7,8 150:15 | 36:18                 |
| <b>D</b>                   | <b>day-to-day</b>          | 154:19,20 159:3                       | <b>Demis</b>          |
| 3:1 153:11,12              | 26:10 85:23                | 160:8 163:15,22,24                    | 204:13                |
| <b>D-A-B-A-R-E-I-N-...</b> | <b>days</b>                | 164:7,10,12,14,16                     | <b>demonstrate</b>    |
| 23:20 220:13               | 8:10 50:8 51:19            | 164:19 165:7 166:5                    | 70:6 105:10           |
| <b>D-E-R-K-E</b>           | 64:20                      | 166:12 167:4,23                       | <b>denial</b>         |
| 23:18 110:10               | <b>de</b>                  | 168:6,8 195:4 196:6                   | 44:16                 |
| <b>Dabareiner</b>          | 45:13                      | 212:1,12 217:6,15                     | <b>denied</b>         |
| 3:11 11:17 13:19           | <b>deadline</b>            | 217:22 219:1                          | 36:3 45:1 47:20 71:4  |
| 23:19,21 24:3,14,21        | 7:24 8:15 37:12 38:1       | 240:24 241:1,5                        | 72:4,6,11,13,21,23    |
| 26:21 86:19 107:10         | <b>deal</b>                | <b>decision-maker</b>                 | <b>Dennis</b>         |
| 108:7,10 110:11            | 206:15                     | 40:8 42:16,21 136:23                  | 2:8 6:8 118:3,5 128:2 |
| 111:18 113:6               | <b>dealing</b>             | 194:24                                | 202:7                 |
| 114:14 144:2,3             | 177:2                      | <b>decision-makers</b>                | <b>deny</b>           |
| 175:20 180:5,17            | <b>deals</b>               | 42:5,24 150:12                        | 38:7 44:21            |
| 185:3 220:4,12,14          | 67:5 118:17 175:6          | <b>decisions</b>                      | <b>Department</b>     |
| 223:15 226:2 232:5         | <b>dealt</b>               | 5:11 64:4,16 130:10                   | 76:13                 |
| 239:8                      | 173:17,21 196:16           | 131:18 191:4,9,10                     | <b>deposed</b>        |
| <b>daily</b>               | <b>December</b>            | 210:6 211:3,6,12                      | 214:16                |
| 48:7 88:19 115:4           | 8:7 50:8,15 52:24          | 217:20                                | <b>deposition</b>     |
| <b>dangerous</b>           | 53:23 54:9 73:19           | <b>declared</b>                       | 14:21 15:23 46:11     |
| 63:1 65:7                  | 159:18 198:6 241:9         | 33:24                                 | 84:4 140:3 142:17     |
| <b>Daniel</b>              | <b>decide</b>              | <b>decline</b>                        | 207:17 239:20         |
| 6:3                        | 104:16 134:23              | 119:14                                | <b>depth</b>          |
| <b>date</b>                | 154:16 159:3               | <b>declined</b>                       | 35:17                 |
| 8:17 16:15 90:23           | 164:23 165:4 166:9         | 119:12                                | <b>Derke</b>          |
| 127:9 147:8 162:24         | 166:17 167:4 210:9         | <b>dedicated</b>                      | 23:18 110:10 111:14   |
| 162:24 172:18              | 210:13,17 224:23           | 46:20                                 | 111:17                |
| 182:9,12 189:2             | <b>decided</b>             | <b>deeply</b>                         | <b>describe</b>       |
| 193:16 198:5               | 35:24 52:13,18             | 31:8                                  | 229:9                 |
| 206:24 240:24              | 101:23 114:20              | <b>deferred</b>                       | <b>described</b>      |
| 241:1,5                    | 122:16 139:15              | 79:14                                 | 139:12                |
| <b>dated</b>               | 165:1 171:14               | <b>DeLaRosa</b>                       | <b>describing</b>     |
| 114:15 162:22 183:3        | 240:21                     | 71:23 80:8                            | 59:24                 |
| 223:23 232:22              | <b>decider</b>             | <b>delayed</b>                        | <b>deserve</b>        |
| <b>dates</b>               | 137:12,22 138:2,6,12       | 29:10                                 | 64:17                 |
| 7:20                       | 138:13,15,20 139:1         | <b>deleted</b>                        | <b>design</b>         |
| <b>day</b>                 | <b>decides</b>             | 181:24                                | 97:8 166:1            |
| 1:19 26:20 49:17,18        | 87:18                      | <b>deletes</b>                        | <b>desk</b>           |
| 50:16,17 63:7 71:20        | <b>decision</b>            | 181:19                                | 160:20                |
| 73:12 89:8,9 114:11        | 5:7 8:15 21:8,18 22:6      | <b>deliberations</b>                  | <b>despite</b>        |
| 120:13 124:11              | 22:12,17 28:20             | 33:6                                  | 22:3 23:9,10 33:3     |
| 126:16 129:1 191:4         | 31:11 34:11 40:10          | <b>demand</b>                         | 36:10 52:12 63:11     |
| 192:4 202:14               | 40:14 41:6,9,10,12         | 50:20                                 | 106:16 121:14         |
| 209:20 210:6               | 102:15 122:13              | <b>demeanor</b>                       | 138:2                 |
|                            |                            |                                       | <b>detail</b>         |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10:16 28:17<br><b>detailed</b><br>121:11 171:15<br><b>determinately</b><br>52:13<br><b>determination</b><br>114:23 115:1 134:9<br>197:17<br><b>determinations</b><br>191:15,16<br><b>determine</b><br>96:18 97:7 116:15<br>219:2 223:8,12<br><b>determined</b><br>55:12 171:10<br><b>determining</b><br>111:18<br><b>develop</b><br>113:13<br><b>developed</b><br>147:6<br><b>development</b><br>23:22 86:19,22<br>107:15 113:7 144:2<br>184:8 185:4 220:18<br>221:1,4,8,9 233:17<br>239:11<br><b>device</b><br>53:1 62:7<br><b>dgwalsh@ktjlaw.c...</b><br>2:8<br><b>Di</b><br>167:16<br><b>diagnosed</b><br>48:20<br><b>diesel</b><br>32:9 35:13 36:21<br>48:7 49:4 53:24<br>54:7,14 63:6 80:19<br>80:24 81:4,14,15<br><b>differ</b><br>60:3<br><b>difference</b><br>109:18,20<br><b>different</b><br>37:6 126:7 138:15 | <b>difficult</b><br>20:14 49:14 54:2<br>64:24<br><b>direct</b><br>22:23 75:16 85:5<br>87:13 93:8 104:19<br>105:7 117:9 118:12<br>119:19 120:15<br>126:18 127:22<br>133:24 134:3<br>139:23 143:9 145:3<br>151:11 153:9<br>160:12 162:10,19<br>173:6 175:20<br>186:14 189:1 208:8<br>214:22 220:8<br>223:18 230:7<br>231:16<br><b>direct/cross</b><br>216:10<br><b>directed</b><br>103:2 147:22 218:10<br>218:14<br><b>directing</b><br>46:2<br><b>direction</b><br>159:5<br><b>directly</b><br>34:9 37:8 57:11<br>63:23 157:7 230:23<br><b>director</b><br>23:22 86:19,22<br>107:16 113:7 144:2<br>220:18 221:1,5<br><b>dirty</b><br>54:2<br><b>disability</b><br>17:21<br><b>disagree</b><br>34:7 75:12<br><b>disappointed</b><br>20:6<br><b>disapprove</b><br>132:13<br><b>disclose</b><br>157:11 | <b>disclosure</b><br>157:10<br><b>discovery</b><br>206:20,24 237:21<br><b>discuss</b><br>7:6,20 11:1 15:14,15<br>18:14 163:21<br><b>discussed</b><br>15:20 16:15 28:17<br>91:13,16,22 116:19<br>117:4,5,7 121:3<br>159:21 163:14<br>164:11 193:16<br>206:15<br><b>discussing</b><br>27:16 118:18 157:9<br>239:22<br><b>discussion</b><br>17:19 46:9 84:2<br>91:24 92:2,5 93:15<br>93:22 94:4,5,8,13<br>122:18 133:7 166:3<br>166:12 193:11,12<br>193:17 207:15<br>212:4,9,11,14 218:2<br>239:18<br><b>discussions</b><br>94:11,14 164:24<br>191:17 193:20<br>195:13<br><b>disdainful</b><br>20:9<br><b>disinterested</b><br>21:2 41:21,24<br><b>disregard</b><br>53:15<br><b>disregarded</b><br>33:5 34:10 39:2 53:8<br><b>disrespect</b><br>39:2<br><b>disrespected</b><br>77:22<br><b>disrespectful</b><br>20:9 36:18<br><b>distinction</b><br>145:18 | <b>distribute</b><br>14:15<br><b>distributed</b><br>127:13,16,20<br><b>divert</b><br>160:19 161:4,14<br><b>diverting</b><br>161:12<br><b>division</b><br>88:8<br><b>doable</b><br>9:4<br><b>document</b><br>19:24 117:15 148:1<br>160:3,9 161:5<br>185:11,24 198:8,12<br>199:17,21 201:2,17<br>202:6 232:24,24<br><b>documents</b><br>9:15,18 11:3 26:12<br>33:4 122:7 124:3,3<br>124:8,10,16,17,20<br>124:23 125:10,13<br>125:15,18,24<br>126:15 134:20<br>140:13,21 141:6,10<br>141:15,22 146:15<br>149:4,22 150:3<br>153:5,7,21 154:3,8<br>154:11,17,21,22,24<br>155:3,5,18,24 156:2<br>158:17 206:21<br>237:21<br><b>doing</b><br>7:13 18:17 61:23<br>75:2,5 150:2 196:4<br>196:12 197:13<br><b>door</b><br>55:21<br><b>doors</b><br>64:1<br><b>double-sided</b><br>182:24<br><b>doubt</b><br>114:12<br><b>doubtful</b> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                     |                     |                      |                           |
|---------------------|---------------------|----------------------|---------------------------|
| 47:24               | 3:1,14              | <b>eight-minute</b>  | 88:12 169:18 206:3        |
| <b>dozens</b>       | <b>E's</b>          | 207:14               | <b>encouragement</b>      |
| 48:6 55:14          | 208:13              | <b>either</b>        | 119:10                    |
| <b>draft</b>        | <b>E-B-E-N-E-R</b>  | 10:18 50:18 55:11    | <b>ended</b>              |
| 24:20 87:21 88:7    | 26:3                | 58:11 144:20         | 150:2 182:7               |
| 89:22 155:3,5       | <b>earlier</b>      | 186:21 215:13        | <b>enforcement</b>        |
| 175:21 182:3,7      | 15:21 16:16 35:21   | 217:12,14            | 221:9                     |
| 192:10 224:23       | 82:6 153:18 215:24  | <b>elaborate</b>     | <b>engineers</b>          |
| 225:2 226:2 227:16  | <b>easier</b>       | 201:19               | 221:9                     |
| 227:17 238:19       | 15:2 16:5 182:22    | <b>elected</b>       | <b>English</b>            |
| <b>drafted</b>      | 202:3 232:2         | 147:4                | 7:13,15,16 31:20          |
| 25:12 107:16 108:6  | <b>easily</b>       | <b>Eleven</b>        | 43:20,21 44:4 46:17       |
| 121:11 127:5,9,11   | 37:13               | 85:10                | 47:10 54:18 55:6          |
| 133:6,15 187:14     | <b>east</b>         | <b>elicit</b>        | 56:2 66:6,9,9,12,23       |
| 193:6 216:12 225:4  | 116:20              | 25:15                | 68:8,17,22 69:17          |
| 225:8 226:12 233:3  | <b>Ebener</b>       | <b>eliminate</b>     | 70:8,21,24 71:3           |
| <b>drafting</b>     | 26:2                | 119:6                | 72:18,19 80:6 161:8       |
| 221:17              | <b>economic</b>     | <b>email</b>         | 199:18 200:6              |
| <b>drafts</b>       | 221:8               | 87:7 121:11 128:1,22 | <b>English-to-Spanish</b> |
| 88:2 90:3           | <b>edited</b>       | 158:10,13 170:15     | 71:5 72:1 73:3            |
| <b>drop</b>         | 24:17 180:18 184:12 | 171:15 172:24        | <b>ensuring</b>           |
| 54:10               | 185:19 186:9        | 174:9 178:22 179:2   | 38:19                     |
| <b>DU</b>           | 231:23              | 179:3,3,15 180:8     | <b>enter</b>              |
| 242:2               | <b>editing</b>      | 192:9,16,20 197:21   | 91:18,21 93:24 94:1       |
| <b>due</b>          | 184:7               | 197:22 198:1,5,7     | 94:7 97:12 99:17,22       |
| 8:5,7 29:10 113:9   | <b>edits</b>        | 201:7,7 202:6,7,10   | <b>entered</b>            |
| 241:1,5,7,8         | 184:23 185:21,24    | 213:8,10,12 214:4,8  | 90:21 96:15 103:19        |
| <b>duly</b>         | 186:1,3,6 231:17    | 214:15 230:9,18      | 145:5,8 175:9             |
| 59:3 84:18 85:3     | 233:10,12,14,22     | 231:2,12,20,23       | 180:20 222:11             |
| 143:2,7 208:1,6     | 236:14              | 232:11,22 236:16     | <b>entering</b>           |
| 220:1,6 242:4       | <b>Eduardo</b>      | 236:17               | 55:15 96:7                |
| <b>DuPage</b>       | 72:9                | <b>emailed</b>       | <b>enthusiastic</b>       |
| 1:10 2:14 4:12 5:24 | <b>educated</b>     | 178:17 230:24        | 20:8                      |
| 21:15 28:9 30:3,5,6 | 67:22 68:6          | <b>emails</b>        | <b>entire</b>             |
| 31:23 32:2,10 46:18 | <b>educating</b>    | 72:23,23 128:8,10    | 21:15 25:18 27:11         |
| 46:20 67:7 162:4    | 30:6                | 129:5 198:3 203:19   | 34:13 35:3 58:18          |
| 242:6               | <b>effect</b>       | 240:8                | 125:16 133:16             |
| <b>duties</b>       | 45:14               | <b>emissions</b>     | 144:12 177:16             |
| 129:6 221:3,22      | <b>effected</b>     | 45:8,11,12 75:6 76:8 | 195:21 242:10             |
| <b>duty</b>         | 36:11               | 80:19                | <b>entirely</b>           |
| 116:15              | <b>effects</b>      | <b>emotional</b>     | 33:5                      |
| <b>dwelling</b>     | 43:14 44:17         | 50:13                | <b>entirety</b>           |
| 23:8 116:10         | <b>effort</b>       | <b>employee</b>      | 19:22 24:2 32:1           |
|                     | 77:3                | 42:15,16 147:5       | 111:14 113:16             |
| <b>E</b>            | <b>eight</b>        | 194:22               | 132:22                    |
| <b>E</b>            | 66:19 199:20        | <b>employees</b>     | <b>entitled</b>           |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| 12:3 135:10<br><b>environment</b><br>38:24 46:24<br><b>environmental</b><br>1:10 2:14 4:13,24<br>5:22 6:1 21:22 30:3<br>30:18,22 31:7 33:15<br>33:20 34:2,3,8,14<br>35:9 36:24 40:16<br>43:11 46:18 147:3<br>148:6 153:13<br>210:14 223:1<br><b>EPA</b><br>60:5 61:2 223:9,13<br><b>equipment</b><br>76:8<br><b>ER</b><br>180:14 231:9<br><b>ER-1</b><br>113:10<br><b>error</b><br>189:7,10,23,24,24<br>190:16,23 206:9<br><b>especially</b><br>13:15<br><b>establish</b><br>23:4 27:23,24 116:6<br><b>established</b><br>40:17 96:19<br><b>establishment</b><br>190:20<br><b>estate</b><br>118:23<br><b>et</b><br>2:10<br><b>evaluate</b><br>31:6<br><b>evening</b><br>129:11<br><b>events</b><br>52:2 221:8<br><b>eventually</b><br>129:10<br><b>everybody</b><br>54:23 76:20 241:12<br><b>evidence</b> | 24:12 25:7 27:5<br>28:19 35:8,11 40:5<br>40:11,20 41:2,7,13<br>42:4,5,13,19,23<br>43:2 44:17,21 45:2<br>45:7 55:19,21 58:8<br>99:8 124:22 150:11<br>156:12 184:12<br>240:3,10<br><b>evidentiary</b><br>16:21<br><b>exact</b><br>127:15<br><b>exactly</b><br>8:23 53:15,18 60:17<br>194:15 203:15<br><b>exam</b><br>75:11<br><b>examination</b><br>3:5,7,10,12 38:2<br>56:23 60:22 79:20<br>85:5 143:9 194:7,11<br>208:8 220:8 240:9<br><b>examined</b><br>85:3 143:7 208:6<br>220:6<br><b>example</b><br>33:23 34:8 36:9 37:9<br>42:12 77:19 78:2<br><b>examples</b><br>81:18,23<br><b>exception</b><br>181:21<br><b>exchanges</b><br>194:12<br><b>exclude</b><br>12:11 61:22 62:17<br><b>excluded</b><br>11:17<br><b>excludes</b><br>30:23 34:1<br><b>excluding</b><br>70:11 82:7<br><b>exclusion</b><br>18:21<br><b>excuse</b> | 29:14 114:15 120:1<br>234:6<br><b>excused</b><br>205:23<br><b>executed</b><br>169:11<br><b>executive</b><br>122:11,14,20,23<br>123:1 124:19<br>165:20 166:1,2<br>167:18 193:21<br>212:7<br><b>exhaust</b><br>48:8 54:7<br><b>exhibit</b><br>3:16,17,18,19,20,21<br>15:1,16 18:4,5 92:7<br>92:7,10 100:6,9,20<br>101:1,7 104:20<br>106:10,11 108:2<br>112:23 121:22<br>122:6 124:7,13,22<br>125:9 126:19<br>128:21 133:23<br>136:6 140:12 142:4<br>147:17 151:11,12<br>151:15 152:4<br>153:10,11,12<br>155:21 157:20<br>159:14 162:12<br>173:23 178:19<br>180:24 181:7,11<br>183:8 184:20,21<br>186:14 192:12,15<br>200:9 201:23 203:1<br>203:2 209:6,12<br>214:1 216:13<br>223:18,20 232:3,6<br>234:21 237:10<br>238:1 239:24 240:2<br>240:3,16,20<br><b>exhibits</b><br>3:16 5:10,18 10:7,11<br>14:11,16,19,19,20<br>14:23,23,24 15:22<br>15:24 16:1,6,7,10 | 17:13,17,20 27:4<br>37:7 100:5 117:18<br>124:2 143:17<br>173:13 200:12<br>209:5 223:16,16<br>240:7<br><b>exist</b><br>153:5,7 154:5 207:8<br><b>existed</b><br>148:9 154:13<br><b>existence</b><br>47:17<br><b>existent</b><br>52:19<br><b>existing</b><br>30:18<br><b>exists</b><br>206:5,6 207:6<br><b>expand</b><br>47:23 49:16 65:9,21<br><b>expanding</b><br>74:6<br><b>expansion</b><br>63:20<br><b>expect</b><br>61:4<br><b>expelling</b><br>48:7<br><b>experience</b><br>35:23 68:21 69:19<br>83:7 225:23<br><b>expert</b><br>12:13,14 62:21 97:14<br>98:10,14,14,23<br>99:23 100:14<br>101:13 102:2 118:1<br>118:1 134:5,11<br>145:12 169:1,4<br>170:21 171:4<br>176:18,19 230:15<br><b>experts</b><br>102:6,17 120:21<br>145:15 170:12<br>173:2<br><b>explain</b><br>59:24 60:9 158:5 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>202:13<br/> <b>explained</b><br/>                 201:1<br/> <b>explaining</b><br/>                 198:19<br/> <b>explanation</b><br/>                 201:16<br/> <b>explanatory</b><br/>                 218:16<br/> <b>explore</b><br/>                 155:12<br/> <b>exposed</b><br/>                 54:4<br/> <b>exposure</b><br/>                 222:15<br/> <b>expressed</b><br/>                 94:9<br/> <b>expressing</b><br/>                 224:6<br/> <b>extend</b><br/>                 7:23 8:15<br/> <b>extensive</b><br/>                 92:2 93:15,22 94:8<br/>                 94:14<br/> <b>extent</b><br/>                 13:6,24 14:9 206:6<br/> <b>extra</b><br/>                 37:17 105:24<br/> <b>extremely</b><br/>                 20:6,13</p> <hr/> <p style="text-align: center;"><b>F</b></p> <hr/> <p><b>F</b><br/>                 30:14<br/> <b>face</b><br/>                 49:21 54:3<br/> <b>faced</b><br/>                 36:7,15<br/> <b>facilities</b><br/>                 32:7 34:21 48:4,6<br/>                 49:22 52:22 54:6<br/>                 55:16 63:6 75:23<br/>                 97:10 98:11,15<br/>                 175:6<br/> <b>facility</b><br/>                 4:17 22:21 23:4 28:6</p> | <p>28:8 30:17 31:1,7<br/>                 35:6 38:23,24 45:3<br/>                 49:4 50:1 52:19<br/>                 54:1 65:7,10,16,21<br/>                 74:7 81:1,5 96:20<br/>                 97:8 104:23 105:3<br/>                 116:6 174:5 210:15<br/>                 211:7 217:3 221:19<br/> <b>fact</b><br/>                 8:14 16:8 20:13 21:1<br/>                 22:14,23 23:10,10<br/>                 23:14 24:4 26:24<br/>                 32:24 62:19 63:4,11<br/>                 69:16 70:5 75:2<br/>                 76:10 86:2 88:11<br/>                 89:4 91:10 94:11,17<br/>                 96:11 105:2 106:16<br/>                 107:14 111:13<br/>                 113:23 118:22<br/>                 134:19 146:7<br/>                 147:11 154:10<br/>                 156:21 161:23<br/>                 170:10,17 171:4<br/>                 172:21 174:7 175:2<br/>                 179:16 213:11<br/>                 214:19 215:5<br/>                 223:23 235:21<br/> <b>facts</b><br/>                 21:3 22:13,14 24:12<br/>                 25:9,15 42:18 141:3<br/> <b>failed</b><br/>                 21:20 27:21,22,24<br/>                 28:8 40:21<br/> <b>failure</b><br/>                 39:13,14 157:10<br/> <b>fair</b><br/>                 36:14 39:15 41:22<br/>                 65:8 168:10<br/> <b>fairly</b><br/>                 17:18 38:20<br/> <b>fairness</b><br/>                 4:18 20:24 25:21<br/>                 35:20 37:6 39:24<br/>                 41:10 59:21 156:16<br/>                 201:4 210:19,22<br/>                 211:2</p> | <p><b>Fake</b><br/>                 140:5<br/> <b>false</b><br/>                 157:14<br/> <b>familiar</b><br/>                 69:9 174:22 175:2<br/>                 196:15<br/> <b>family</b><br/>                 47:12 50:10,18 63:5<br/>                 69:14<br/> <b>far</b><br/>                 45:3 137:12 139:5<br/> <b>farce</b><br/>                 19:15 25:20<br/> <b>farcically</b><br/>                 38:4<br/> <b>Father</b><br/>                 26:2,3,8 135:22<br/>                 136:1,16 139:3<br/> <b>favor</b><br/>                 25:16 27:10 139:3<br/>                 172:14 217:13<br/> <b>favorable</b><br/>                 24:18 139:8<br/> <b>fear</b><br/>                 54:3,4<br/> <b>features</b><br/>                 113:11<br/> <b>February</b><br/>                 8:22,24 9:1,2 26:20<br/>                 120:15,16 122:3,4<br/>                 122:10 123:10,11<br/>                 123:16,19,20,23<br/>                 124:18 125:16<br/>                 126:2 127:10,14<br/>                 128:4,23 129:11,14<br/>                 129:15,19 131:2,6<br/>                 132:4 134:17,23<br/>                 146:21 163:15<br/>                 165:23,23 166:14<br/>                 169:3 186:15 187:1<br/>                 187:2 188:20 189:2<br/>                 189:3,11 192:7<br/>                 193:14 205:10<br/>                 206:17 209:7,15<br/>                 211:16,20 212:16</p> | <p>213:21 214:4,10<br/>                 241:5<br/> <b>Federal</b><br/>                 13:15<br/> <b>fee</b><br/>                 100:20<br/> <b>feel</b><br/>                 29:19 55:8 176:12,13<br/>                 197:12 219:16<br/> <b>feeling</b><br/>                 61:6 208:15<br/> <b>feels</b><br/>                 89:12<br/> <b>feet</b><br/>                 22:21 23:6,7,11<br/>                 116:8,10<br/> <b>felt</b><br/>                 52:12 61:8 63:8<br/>                 73:18 76:18 77:22<br/>                 81:19 82:24 83:3,4<br/>                 199:22 235:6<br/> <b>festivities</b><br/>                 50:8,16,21<br/> <b>fifth</b><br/>                 71:20<br/> <b>fighting</b><br/>                 48:23<br/> <b>file</b><br/>                 10:14,24 40:22 44:7<br/>                 73:1 91:6 237:4<br/>                 241:6<br/> <b>filed</b><br/>                 8:1 9:11,17 10:12,20<br/>                 15:6,12 21:6 32:18<br/>                 33:7 39:23 42:9<br/>                 73:11 115:16 151:8<br/>                 155:9,21 197:8<br/> <b>filing</b><br/>                 7:20 119:6<br/> <b>filings</b><br/>                 26:12 28:18 33:4<br/> <b>final</b><br/>                 108:4 123:7 234:22<br/> <b>finally</b><br/>                 27:18 65:18 205:6<br/> <b>find</b></p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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|                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 20:14 59:19 128:3<br>133:2 134:5 142:10<br>142:11 150:17<br>173:24 216:16 | <b>focus</b><br>64:7<br><b>focused</b><br>30:5 46:22<br><b>FOIA</b><br>86:12,14,16 144:4,8<br>145:20,22 146:8,11<br>146:15,16,21<br>147:21 148:10,16<br>148:18,23 149:16<br>149:17,17 150:13<br>150:14 152:9,12<br>153:2 155:3,19<br>156:10 157:11<br><b>FOIAs</b><br>152:23<br><b>folder</b><br>15:1 117:20<br><b>follow</b><br>38:3 194:5 199:12<br>218:12<br><b>followed</b><br>122:4<br><b>following</b><br>125:14 134:6 151:20<br>153:11 192:4 218:9<br><b>follows</b><br>29:13 46:11 84:4<br>85:4 140:4 142:18<br>143:8 207:17 208:7<br>220:7 239:20<br><b>forced</b><br>43:23<br><b>foregoing</b><br>242:9<br><b>Forest</b><br>76:10<br><b>forget</b><br>9:5 194:3<br><b>forgot</b><br>142:4<br><b>form</b><br>41:5 101:16 103:23<br>108:21 132:8 133:8<br>133:19 135:6 141:7<br>141:17 159:9 168:1 | 168:4 185:15 187:9<br>195:5 196:7 199:9<br>221:12 226:7<br>228:12,16,17<br>229:24 230:3<br>234:13 235:23<br><b>formal</b><br>144:20<br><b>format</b><br>164:21 166:6,13<br><b>former</b><br>156:3<br><b>forth</b><br>21:21 23:1 27:19<br>40:23 70:17 72:24<br>130:18 156:20<br>157:3 170:9 216:17<br>242:12<br><b>forum</b><br>36:15<br><b>forward</b><br>16:18<br><b>found</b><br>5:1 19:23 23:16 26:3<br>53:9 171:14 176:4<br>203:19<br><b>foundation</b><br>180:19 184:13<br>185:18 186:9<br>200:22 201:13<br><b>four</b><br>5:8 12:22 13:21,22<br>99:2 154:10<br><b>frankly</b><br>25:17 44:4<br><b>Freedom</b><br>86:16 144:8 150:1<br><b>friends</b><br>51:18 69:14<br><b>front</b><br>13:13 49:10 55:6<br>100:6 104:20<br>121:23,24 159:15<br>160:20 186:18<br>197:23,24 198:20<br>209:9,10,13 214:2 | <b>fulfilling</b><br>196:23<br><b>full-time</b><br>85:15,17 129:3<br><b>fully</b><br>29:12 76:12<br><b>function</b><br>51:8<br><b>functioned</b><br>20:7<br><b>functions</b><br>144:12<br><b>fundamental</b><br>4:18 20:24 25:21<br>31:10,12 33:17<br>35:20 39:24 41:10<br>64:7,12,13 156:16<br>201:4 210:19,21<br>211:2<br><b>fundamentally</b><br>25:19 27:12 31:5<br>35:18 36:14 37:23<br>38:6,18 39:4,14<br>53:18 70:3<br><b>further</b><br>7:2 25:7,15 83:21<br>139:19 155:12<br>157:13 193:22<br>219:5 236:19<br><b>future</b><br>81:13 155:16 161:15 |
|                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>G</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>G</b><br>2:8<br><b>G-U-T-T-M-A-N</b><br>143:14<br><b>garbage</b><br>23:5 54:8 116:7<br><b>Garcia</b><br>9:7 35:21 36:6,13,22<br>37:5 43:21 46:3,13<br>53:19 57:4 58:23<br>59:20 60:22 66:2,5<br>66:11,22 67:4 78:23<br>79:10 80:5 83:6,15                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Garcia's</b><br/>53:15 240:19</p> <p><b>Garlin</b><br/>96:9</p> <p><b>Garling</b><br/>190:5 204:15</p> <p><b>gas</b><br/>48:14</p> <p><b>general</b><br/>36:18 96:19 201:21</p> <p><b>General's</b><br/>11:5</p> <p><b>generally</b><br/>97:8,19 158:22<br/>168:20,22 194:17<br/>222:17</p> <p><b>gentlemen</b><br/>112:5</p> <p><b>George</b><br/>2:16 6:13</p> <p><b>Gershon</b><br/>203:9</p> <p><b>getting</b><br/>158:7</p> <p><b>give</b><br/>6:19 8:2,9 11:13,13<br/>43:23 47:7 52:9<br/>57:4,16 60:3 61:14<br/>62:4 72:6,21 78:1<br/>78:14,16 182:9<br/>213:4 227:5,7,9<br/>228:10,23</p> <p><b>given</b><br/>65:4 90:17 91:14,23<br/>94:6 99:17,21<br/>152:19 180:11</p> <p><b>gives</b><br/>90:6</p> <p><b>giving</b><br/>61:20</p> <p><b>Gloria</b><br/>1:20 142:23 207:20<br/>242:4,16</p> <p><b>go</b><br/>7:3,7 11:15 12:6 15:2<br/>45:11 58:19 84:7</p> | <p>121:22 122:14,19<br/>122:22 123:1<br/>142:13 155:12<br/>161:5 166:1 172:23<br/>180:23 186:12<br/>188:3 202:5 206:18<br/>208:16 212:1,5,12<br/>231:16 237:7<br/>239:17</p> <p><b>goes</b><br/>67:13 70:16 152:20<br/>216:4</p> <p><b>going</b><br/>4:1 9:6 11:8 12:12<br/>13:17 14:11,12<br/>15:15 16:5,14 29:7<br/>34:2,4 37:7 42:2,4<br/>42:13 43:1 44:10<br/>45:2,16 47:7 50:4<br/>50:13 51:13 53:2<br/>55:18,23 56:1,4<br/>57:1,4,22 60:3<br/>61:11 68:19 69:21<br/>69:22 74:11 75:10<br/>76:19 77:24 81:9,15<br/>82:16 83:24 84:6<br/>89:7 94:23 95:10<br/>101:15 107:18<br/>115:23 123:3,5,15<br/>123:19,22 136:21<br/>137:6,8,15,17,18<br/>138:19 139:1,16<br/>140:6 142:10<br/>157:19 163:21<br/>165:11,14,19,22<br/>166:17,20,22 167:1<br/>167:2,16,20 172:23<br/>177:17 179:10<br/>184:11 193:18<br/>200:18 210:23<br/>225:7,12,13 234:13<br/>240:24</p> <p><b>good</b><br/>4:2 5:21 6:7,12 83:18<br/>143:16 179:22</p> <p><b>government</b></p> | <p>47:20 49:10,13 50:7<br/>50:22 51:1,3,6,24<br/>52:8 63:12,19,23<br/>65:6,13,19 144:12<br/>156:23 174:23</p> <p><b>government's</b><br/>64:8</p> <p><b>graduate</b><br/>68:14</p> <p><b>grandchildren</b><br/>213:6</p> <p><b>grant</b><br/>21:18 22:18</p> <p><b>granted</b><br/>10:3 14:9 22:4</p> <p><b>granting</b><br/>111:7</p> <p><b>grateful</b><br/>36:4 47:15</p> <p><b>great</b><br/>54:23 241:4</p> <p><b>grocery</b><br/>69:12</p> <p><b>gross</b><br/>97:7,18</p> <p><b>grounds</b><br/>21:7,20 22:7,9</p> <p><b>group</b><br/>30:5 33:16 125:9</p> <p><b>grow</b><br/>49:22</p> <p><b>growing</b><br/>47:12</p> <p><b>grown</b><br/>47:3</p> <p><b>Guadalupe</b><br/>50:16</p> <p><b>guarantee</b><br/>240:23</p> <p><b>guess</b><br/>14:18 26:7 57:23<br/>111:16 137:23<br/>156:15 203:22<br/>228:19</p> <p><b>guessing</b><br/>104:11,12 105:13</p> | <p>123:4</p> <p><b>guise</b><br/>37:19</p> <p><b>gun</b><br/>18:3 147:24</p> <p><b>Gut</b><br/>150:22</p> <p><b>Guttman</b><br/>3:6 11:16 13:20 26:9<br/>42:22 86:3,9 87:5<br/>87:13,18,20,21 88:9<br/>88:11,14 89:4 90:5<br/>90:15 102:21 103:2<br/>103:15 107:23<br/>108:9,14 114:19<br/>115:3,6,10 116:23<br/>122:22 128:2,7,11<br/>129:5 142:22 143:5<br/>143:14,15 151:5<br/>156:24 157:22<br/>159:15 162:23<br/>173:3 174:2,22<br/>181:6 183:23<br/>184:19 185:9 188:5<br/>189:23 192:16<br/>193:23,23 194:4<br/>201:6 202:2 203:5<br/>205:24 206:8<br/>207:11 220:20,21<br/>224:12 227:7<br/>230:19,23,24 231:3<br/>231:13,16,20<br/>235:21 236:10,13</p> <p><b>guys</b><br/>177:8</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>H</b><br/>3:14</p> <p><b>hairs</b><br/>45:18</p> <p><b>half</b><br/>51:11</p> <p><b>Hall</b><br/>161:21</p> <p><b>Halloran</b></p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4:1,3 5:15,20,21 6:5<br>6:7,10,15 7:5,7 8:17<br>8:21 9:3,23 10:2,17<br>10:23 11:10,22 12:5<br>12:15,21,23 13:4,10<br>13:12 14:4,8,10<br>15:4,9,13 16:13,20<br>16:22 17:3,6 18:1,8<br>18:11,13,24 19:3,5<br>19:8 28:15,23,24<br>29:4,17 39:16,19<br>41:15 42:3 43:19<br>45:23 46:7,12 53:4<br>53:11,13,20 54:17<br>54:22 55:2,19,22<br>56:7,14,24 57:3,12<br>57:15,21 58:14,16<br>58:19,22 59:6,8,13<br>59:14 60:2,12,19<br>66:1,10,17 67:1,11<br>67:18 68:3,11,24<br>69:2,21,24 70:13<br>71:12 73:16 74:14<br>75:12,15,17 78:6<br>79:1,8,14,18 80:1<br>81:8 82:1,22 83:10<br>83:11,13,23 84:5,11<br>84:13,21 88:20 89:1<br>95:15 98:4 99:5<br>101:3,6,18 103:12<br>104:1 105:15,18,21<br>106:1,3,7,9,13<br>108:23 109:5<br>110:20 111:22,24<br>112:3,4,15,16,19<br>113:1 121:9,16<br>124:12 125:1,5,12<br>125:19 128:16,18<br>131:9 132:10<br>133:10,21 135:15<br>135:18 137:2<br>138:11,16,22<br>139:20 140:5<br>141:19,24 142:2,8<br>142:14,15,19 150:4<br>150:8,11,16 151:1 | 151:23 152:2 156:8<br>156:14,19 157:12<br>157:19 159:11<br>162:13,16 164:5,8<br>168:3,12 172:11,17<br>172:20 173:5,9,20<br>180:2,21 181:1,3<br>182:11 183:18,21<br>184:15 186:10<br>187:11,22 189:19<br>189:21 193:24<br>194:1,2 195:7 196:9<br>199:11 200:13,23<br>201:10,18,22<br>205:17,20,22<br>206:18 207:1,5,7,10<br>207:13,18 216:8<br>219:6,9,11,14,18<br>221:14 222:2 226:9<br>228:14,17,21<br>229:17 230:2<br>234:18 236:22<br>237:1,3,7,11,18,22<br>237:24 238:3,5<br>239:4,7,15,21 240:2<br>240:11,15 241:4,17<br><b>Hamilton</b><br>201:12<br><b>hand</b><br>15:3 59:1 84:16<br>142:24 207:22<br>219:20,22<br><b>handing</b><br>15:5<br><b>handle</b><br>178:14<br><b>happen</b><br>54:13 123:3,5 198:21<br><b>happened</b><br>64:5 107:8 141:1,4<br>164:22 194:12<br>195:17 215:23<br><b>happening</b><br>51:23 113:20 198:24<br><b>happy</b><br>11:14 16:18 56:6 | 58:2 63:9 64:17<br>73:24 112:17<br><b>harassed</b><br>63:8<br><b>hard</b><br>58:6 93:5 141:7<br>199:11 204:6<br><b>harm</b><br>34:16 37:1 63:1<br><b>harming</b><br>32:15 54:12<br><b>harms</b><br>35:14<br><b>Hawk</b><br>176:14,17,18,22<br>177:1,2,7,15,24<br>178:8,16 179:5,17<br>179:24 230:15<br>231:22 232:11<br>233:1,4,16<br><b>Hawk's</b><br>177:22 178:24<br>179:12 230:20<br>231:4<br><b>head</b><br>6:17 13:7 14:2 88:8<br><b>heading</b><br>118:14<br><b>health</b><br>30:19 31:1,13 32:6<br>32:15 33:21 34:10<br>34:22 35:6,10,12<br>36:22,24 38:21 39:3<br>39:5,8 43:14 44:17<br>44:19,22,23 45:6<br>48:17 52:16 54:12<br>60:6 61:3 65:17<br>76:13<br><b>healthy</b><br>46:23<br><b>hear</b><br>25:23 29:20 33:17<br>34:3 42:2,4 45:16<br>48:24 55:19 98:5<br><b>heard</b><br>52:10,14,17 58:4 | 64:18 65:4 99:12,13<br>135:20 159:2<br>162:22 192:22<br>205:14<br><b>hearing</b><br>2:2 4:1,3,21 5:4,20<br>6:5,10,15 7:7,19,21<br>8:17,21 9:3,16,23<br>10:2,17,23 11:10,18<br>11:19,22 12:2,2,5<br>12:15,21,23 13:4,10<br>14:4,8 15:4,9,13<br>16:4,13,22 17:3,6<br>18:1,8,11,13,24<br>19:3,5 20:6,18 21:4<br>22:2,10,10,15,20<br>23:13,17,24 25:11<br>25:14 27:1,3,14<br>28:23 29:17 31:3<br>32:19 33:1,18,19,23<br>33:24 34:12,18<br>35:17,18,23 36:3,9<br>36:10,16 37:2,5,9<br>37:11,14,16 38:5,7<br>39:1,16 41:15,20<br>43:9,13 44:9,21<br>45:16,23 46:7,12<br>47:17 50:8 51:16,19<br>51:20 52:18 53:4,7<br>53:8,13,14,17,20<br>54:17,22 55:2,5,22<br>56:7,14,20,24 57:3<br>57:12,15,21 58:14<br>58:19,22 59:6,14<br>60:12,19 61:4,7,13<br>61:24 62:13,22 63:9<br>64:6 66:1,10,17<br>67:1,11,18 68:3,11<br>69:2,21 70:3,13<br>71:6,12,21 72:13,15<br>72:21,24 73:16<br>74:14 75:12,17<br>76:17 78:6 79:1,8<br>79:14,18 80:1,10,13<br>81:8 82:1,22 83:10<br>83:13,16,19,23 84:5 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 84:13,21 88:20,21<br>89:1 95:15 98:4<br>99:5 101:3,6,18<br>103:12 104:1<br>105:15,18,21 106:1<br>106:7,9,13 108:23<br>109:5 110:9,20<br>111:22 112:4,9,15<br>112:19,22 113:1,3<br>121:9,16 124:12<br>125:1,5,19 128:16<br>128:18 131:9<br>132:10,21 133:10<br>133:21 135:18<br>137:2 138:11,16,22<br>139:20 140:5<br>141:19,24 142:2,8<br>142:15,19 143:16<br>150:4,8,16 151:1,23<br>152:2 156:8,14<br>157:12,19 159:11<br>162:13,16 163:10<br>164:5,8 167:13<br>168:3,12,18 172:11<br>172:17 173:5,9,20<br>180:2,21 181:1,3<br>182:11 183:18,21<br>184:15 186:10<br>187:11,22 189:19<br>189:21 193:24<br>194:2 195:7 196:9<br>199:11 200:23<br>201:10,18,22<br>205:17,20 206:18<br>207:1,5,7,10,13,18<br>211:13 216:8 219:6<br>219:9,11,14,18<br>221:14 222:2 226:9<br>228:14,17,21<br>229:17 230:2<br>234:18 236:22<br>237:1,3,7,11,18,22<br>237:24 238:3,5<br>239:4,7,15,21<br>240:11,15,20 241:4<br>241:17,22 242:8 | <b>hearings</b><br>19:15 20:12 29:5<br>30:11 32:21 37:1<br>41:22 47:21 50:21<br>50:23 51:3 64:9,15<br>64:20,23 65:1,9<br>73:19,22 75:4<br>106:23 108:1<br><b>held</b><br>1:19 26:17 39:21<br>46:9 50:21 64:1<br>71:18 84:2 131:2,6<br>189:4 207:15 210:4<br>211:22 239:18<br><b>Helen</b><br>203:9,19<br><b>help</b><br>103:4,16 120:21<br>161:1 170:5,6,7,10<br>174:10 177:8<br>221:22 222:1<br><b>helpful</b><br>204:16<br><b>helping</b><br>5:18 221:10,13<br><b>helps</b><br>106:3,6<br><b>hereinabove</b><br>242:12<br><b>Hey</b><br>148:23 160:15 161:9<br>174:10,18 177:8<br>178:1,10<br><b>high</b><br>26:18 68:14,16 71:19<br><b>higher</b><br>38:17<br><b>highly</b><br>55:13 62:5<br><b>hire</b><br>100:13 101:23<br>102:15,22<br><b>hired</b><br>97:13 98:22 101:14<br>103:9 118:1 120:21<br>145:12,15 169:2,24 | 170:1,5,5,7,10,12<br>170:13,21 171:4,5<br>171:14 222:18<br><b>hiring</b><br>98:14<br><b>Hispanic</b><br>69:9 70:7,21<br><b>historical</b><br>39:7<br><b>history</b><br>32:5<br><b>Hock</b><br>113:5 180:14,18<br>227:9,19,24 228:8<br>228:24 230:22<br>231:6,8 232:14,19<br>238:21<br><b>Hock's</b><br>134:24<br><b>hold</b><br>5:4 53:4 166:12<br>236:24<br><b>holding</b><br>29:4 83:8<br><b>holiday</b><br>8:11 73:14<br><b>home</b><br>241:18<br><b>homework</b><br>209:1<br><b>honestly</b><br>73:6<br><b>Honor</b><br>6:12 53:2 57:23<br>58:13 67:24 68:10<br>68:22 69:18 112:16<br><b>hoops</b><br>38:12<br><b>hope</b><br>65:2,11,13,15,18<br>84:7 167:22 219:16<br><b>hopefully</b><br>84:8 197:9 198:15<br><b>horrible</b><br>54:7<br><b>host</b> | 90:21 91:18,21 92:3<br>93:24 94:1,7,12,22<br>96:15 101:9 103:19<br>145:6 175:10<br>222:11,14<br><b>hostile</b><br>32:23 36:15 61:15<br><b>hostility</b><br>33:21<br><b>hosting</b><br>50:19<br><b>hour</b><br>1:20 18:16 26:19<br>55:16<br><b>hour-and-a-half</b><br>26:19<br><b>hours</b><br>64:20<br><b>housekeeping</b><br>16:21 18:19<br><b>humiliated</b><br>63:8<br><hr/> <b>I</b> <hr/> <b>idea</b><br>123:24 127:19<br>143:16 185:22,23<br>204:19<br><b>identified</b><br>9:15,18 14:20,22<br>92:16 100:6 115:7<br>115:12,15,20 124:8<br>190:19 205:2<br>216:13<br><b>identifies</b><br>153:4<br><b>identify</b><br>12:17,18 13:3,24<br>97:6,17 102:17<br>112:1 124:16<br>190:14<br><b>identifying</b><br>16:10<br><b>IEPA</b><br>39:14<br><b>ignore</b> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                       |                        |                       |                        |
|-----------------------|------------------------|-----------------------|------------------------|
| 22:13                 | <b>impossible</b>      | 69:13                 | 197:7,9                |
| <b>ignored</b>        | 31:6 184:9 185:5       | <b>indicate</b>       | <b>inside</b>          |
| 37:2 64:3             | 233:18 239:12,12       | 190:11 235:8          | 54:8                   |
| <b>ignores</b>        | <b>improperly</b>      | <b>indicated</b>      | <b>installations</b>   |
| 39:6                  | 36:16 42:6             | 76:16 236:17          | 48:4 52:22 55:15       |
| <b>ILCS</b>           | <b>improves</b>        | <b>indicates</b>      | 75:23                  |
| 21:23 23:2 235:9,12   | 32:11                  | 44:7 231:12           | <b>instance</b>        |
| 235:14                | <b>in-person</b>       | <b>indicating</b>     | 155:14,16              |
| <b>Illinois</b>       | 58:5 147:1 189:4       | 120:7                 | <b>instructed</b>      |
| 1:1,18,22 4:4,22 12:6 | 209:16 212:18          | <b>individual</b>     | 163:19                 |
| 19:9 21:22 30:14,22   | <b>inbox</b>           | 97:2 146:11           | <b>insult</b>          |
| 40:16,17,18,23        | 203:10                 | <b>individuals</b>    | 49:18                  |
| 45:20,21 47:15 65:2   | <b>include</b>         | 12:3                  | <b>insulted</b>        |
| 147:7 223:1,9,13      | 9:11 38:13 86:18       | <b>industrial</b>     | 73:10                  |
| 235:15 242:1,5        | 87:14,19 88:9 144:1    | 32:7 48:4             | <b>intend</b>          |
| <b>illnesses</b>      | 144:4 184:7 192:19     | <b>influenced</b>     | 11:13,16 17:14         |
| 48:21,23              | 193:4 221:10,17        | 42:6                  | <b>intends</b>         |
| <b>immaterial</b>     | <b>included</b>        | <b>inform</b>         | 25:14                  |
| 201:12                | 14:24 16:8 97:18       | 146:7 171:3,23        | <b>intent</b>          |
| <b>immediate</b>      | 113:24 146:15          | 235:21                | 226:13,15              |
| 88:16                 | 155:2,4 192:24         | <b>information</b>    | <b>intention</b>       |
| <b>immigrant</b>      | 193:9,10 203:12        | 20:14 26:4 34:9       | 59:22                  |
| 30:4 46:20 67:5,6,8   | 226:14 240:6           | 37:13 52:18 55:12     | <b>interest</b>        |
| <b>immigrants</b>     | <b>includes</b>        | 61:22 62:1,14 63:18   | 120:18 121:7,12,20     |
| 31:21                 | 81:23 86:12 169:10     | 86:16 88:7 136:19     | 171:11 172:8 173:1     |
| <b>impact</b>         | <b>including</b>       | 139:9 144:9 146:8     | 199:7 200:2            |
| 31:1 34:5,21 35:9     | 11:16 14:16 27:7       | 148:24 150:1          | <b>Interestingly</b>   |
| 36:21                 | 48:5 156:23 159:22     | 155:15 157:2,6,11     | 23:17                  |
| <b>impacts</b>        | 232:6                  | 160:2 176:22          | <b>interpretation</b>  |
| 31:7 32:6             | <b>income</b>          | 193:19 196:16         | 30:21 31:2 33:12       |
| <b>impartial</b>      | 34:5                   | 197:5 231:18,19,21    | 34:19 51:6             |
| 27:15 36:16 40:10,14  | <b>incomplete</b>      | <b>informed</b>       | <b>interpreted</b>     |
| 61:8                  | 237:16                 | 31:8                  | 43:10                  |
| <b>impeached</b>      | <b>inconsistencies</b> | <b>informs</b>        | <b>interpreter</b>     |
| 36:17                 | 97:7,19                | 33:16                 | 7:11,12 47:17          |
| <b>implemented</b>    | <b>incorporates</b>    | <b>Infrastructure</b> | <b>interpreters</b>    |
| 71:3                  | 29:12                  | 147:3 148:7 153:13    | 64:21                  |
| <b>implication</b>    | <b>incorrect</b>       | <b>inhaling</b>       | <b>interpreting</b>    |
| 109:3,9,13 195:6      | 159:8 216:1,2          | 54:4                  | 31:12                  |
| 226:6                 | <b>increase</b>        | <b>initial</b>        | <b>Interrogatories</b> |
| <b>important</b>      | 32:9 55:17             | 24:20 203:7           | 124:14                 |
| 171:9 197:10,11       | <b>increased</b>       | <b>initially</b>      | <b>Interrogatory</b>   |
| <b>importantly</b>    | 36:20                  | 170:6                 | 124:9                  |
| 41:4 158:7            | <b>Independence</b>    | <b>inner</b>          | <b>interrupt</b>       |
| <b>imposes</b>        | 49:17 73:11            | 201:11                | 54:18                  |
| 39:8                  | <b>India</b>           | <b>input</b>          | <b>introduce</b>       |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                         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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>5:13 17:14 41:2<br/> <b>invite</b><br/>                     49:24 167:23 168:6,6<br/>                     168:8,8<br/> <b>involve</b><br/>                     80:24 81:4 228:5<br/> <b>involved</b><br/>                     30:10 47:6 49:8<br/>                     52:14 64:24 152:21<br/>                     164:4 166:11<br/>                     195:12<br/> <b>involving</b><br/>                     147:20<br/> <b>irrelevant</b><br/>                     42:17 67:10 82:17<br/>                     137:1 149:15<br/>                     150:14 194:23<br/>                     195:4 196:5<br/> <b>issue</b><br/>                     7:24 8:11 10:9 44:5<br/>                     80:16 118:8 120:17<br/>                     135:1 138:15<br/>                     149:16,24 156:13<br/>                     172:15 173:8,13<br/>                     195:3 201:4 207:9<br/>                     208:23 225:17<br/>                     228:5,9,11<br/> <b>issued</b><br/>                     102:16 145:21,22,24<br/>                     172:22<br/> <b>issues</b><br/>                     29:10 41:8 43:16<br/>                     115:7,11,14,20<br/>                     118:14,17 149:16<br/>                     149:20 159:22<br/>                     161:21 177:2 206:7<br/> <b>item</b><br/>                     170:2,12</p> <hr/> <p style="text-align: center;"><b>J</b></p> <hr/> <p><b>January</b><br/>                     8:20 9:2 20:2 30:10<br/>                     47:21 50:24 64:9<br/>                     73:22 145:4,4,19<br/>                     162:20,22<br/> <b>JENKINS</b></p> | <p>2:7<br/> <b>Jimenez</b><br/>                     69:13<br/> <b>job</b><br/>                     54:2,11 83:19 103:4<br/>                     129:3 222:4<br/> <b>John</b><br/>                     113:5 176:17,18<br/>                     177:2 178:8,16<br/>                     230:15 231:22<br/>                     233:1,4,16<br/> <b>join</b><br/>                     12:9<br/> <b>Josh</b><br/>                     26:2,3,8 135:23<br/>                     136:1,16 139:3<br/> <b>Judge</b><br/>                     20:7<br/> <b>Julieta</b><br/>                     30:11<br/> <b>Juliette</b><br/>                     46:15<br/> <b>jumped</b><br/>                     38:12<br/> <b>jumping</b><br/>                     18:3 147:24<br/> <b>jurisdictional</b><br/>                     21:20 22:8<br/> <b>justice</b><br/>                     33:16,20 34:2,3<br/>                     43:11 64:8,12,13<br/> <b>justifies</b><br/>                     34:16</p> <hr/> <p style="text-align: center;"><b>K</b></p> <hr/> <p><b>keep</b><br/>                     74:3<br/> <b>kept</b><br/>                     14:21 78:13 173:22<br/>                     195:22<br/> <b>Kerr</b><br/>                     48:11<br/> <b>kind</b><br/>                     7:23 15:18 45:17<br/>                     70:16 71:9 143:17<br/>                     150:17 156:16</p> | <p>181:23<br/> <b>KLEIN</b><br/>                     2:7<br/> <b>knew</b><br/>                     95:19 102:3 115:19<br/>                     120:12 137:21<br/>                     139:9 148:5 149:9<br/>                     149:13 150:13<br/>                     156:13 161:16<br/>                     174:14 175:17,19<br/>                     176:2,20,22 177:4<br/>                     179:9 180:10,12,14<br/>                     215:12 225:16<br/> <b>know</b><br/>                     5:6 10:13 14:17<br/>                     16:10 21:5 51:14,22<br/>                     54:11,13 60:20 61:3<br/>                     64:6 69:12 71:8,14<br/>                     73:5,8 74:17,24<br/>                     77:5 78:6 79:12,20<br/>                     86:14 90:1,3 93:4<br/>                     95:3,13,20,20 96:22<br/>                     96:24 97:1,2,4,11<br/>                     98:1,3,7,12,13,19<br/>                     99:3,19 101:12,22<br/>                     102:11,14,20 103:1<br/>                     103:3,7,11,14,17<br/>                     104:8,9,13,18<br/>                     106:19 108:3,7<br/>                     109:1,23 110:13<br/>                     111:4,9,12,15,17<br/>                     113:20 114:2,8,18<br/>                     114:19,22 115:2,22<br/>                     115:23 116:17,18<br/>                     118:5 119:16,18,23<br/>                     120:11 121:2,21<br/>                     123:14,18 127:7,11<br/>                     127:12 128:8,12<br/>                     129:9 130:17<br/>                     132:23 133:5,13,14<br/>                     135:22 137:5,8,15<br/>                     137:16 138:19,24<br/>                     139:5,6,16 140:24<br/>                     141:11 148:21<br/>                     151:12 152:16<br/>                     155:11 158:6,19</p> | <p>161:1 162:1,3,6,6<br/>                     163:20 164:10<br/>                     165:18,21,21,21,23<br/>                     166:20,22 167:1,4<br/>                     171:22 175:5 177:1<br/>                     177:4,5 178:10,12<br/>                     178:17 179:7 180:6<br/>                     180:12 181:12<br/>                     182:22 185:14<br/>                     187:19 190:15<br/>                     193:8 201:18<br/>                     203:18 204:23<br/>                     208:15 210:21<br/>                     211:1,5 212:3 214:5<br/>                     216:12,15 219:1<br/>                     222:11,14,16,21<br/>                     223:4,7,11 224:5<br/>                     225:6,7,11,14,19<br/>                     230:24 231:1 232:9<br/>                     232:16 233:8,9,19<br/>                     233:21,24 234:15<br/>                     236:13 238:23<br/> <b>knowing</b><br/>                     24:6<br/> <b>knowledge</b><br/>                     80:23 81:3 174:13,16<br/>                     204:8 225:23<br/> <b>known</b><br/>                     4:8,13 30:4<br/> <b>knows</b><br/>                     74:13 164:6 183:14<br/>                     185:17</p> <hr/> <p style="text-align: center;"><b>L</b></p> <hr/> <p><b>La</b><br/>                     69:12,13,13,16<br/> <b>labeled</b><br/>                     209:5<br/> <b>labelled</b><br/>                     106:11<br/> <b>lack</b><br/>                     4:18 20:24 64:21<br/>                     113:12<br/> <b>Lady</b><br/>                     50:16<br/> <b>Lakeshore</b></p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1:7,14 2:17 4:9,15<br>6:13 8:14 21:9,20<br>22:11,20 24:8,12,15<br>24:16,18 25:1,5,6,6<br>25:13,24 26:23,24<br>28:14,22 39:23<br>42:14 43:15 44:13<br>44:18 91:5 97:18<br>99:24 101:15 102:4<br>103:5,16,19,20<br>104:11 107:2,4,11<br>107:17 108:5,10<br>111:7 114:11,21<br>116:21 119:9,16,20<br>120:2,7,11,20<br>121:15 137:8 145:6<br>155:9 170:21 171:5<br>174:3,10,14,17<br>175:9 176:18,19<br>180:11 182:6,14,19<br>183:9,15,23 184:6<br>185:2,13 186:3,9<br>218:23 222:8,23<br>223:8,13 224:14<br>225:12,16 230:16<br>235:17 | 226:14 233:3 235:6<br><b>languages</b><br>55:11<br><b>late</b><br>16:14 206:24<br><b>Latin</b><br>46:21<br><b>Latina</b><br>77:2<br><b>Latino</b><br>21:14 26:5 30:7<br>49:14 50:14 52:8<br>64:11,18 69:15<br>161:23 162:1,9<br><b>Latinos</b><br>51:19<br><b>latitude</b><br>60:20 68:12<br><b>law</b><br>2:3,12 5:24 6:2,21<br>21:4,22 22:3,13,15<br>22:24 23:3 25:9<br>29:8,23,24 33:1<br>40:24 41:3 104:7<br>115:24 116:16<br>211:8 218:10<br>229:16 235:18<br><b>lawsuit</b><br>151:8 155:20 156:9<br><b>lawyer</b><br>20:7 61:17 133:15<br><b>leading</b><br>81:24 82:2<br><b>learned</b><br>47:12,22 60:4,24<br>155:4,11 167:1<br><b>leave</b><br>14:6 16:14 41:24<br>54:1 66:8 213:18<br><b>leaving</b><br>55:15<br><b>left</b><br>51:19 203:7<br><b>legal</b><br>25:10 29:24 31:4<br>41:5 | <b>legible</b><br>18:10<br><b>legitimately</b><br>65:16<br><b>length</b><br>67:17 195:22<br><b>lesson</b><br>155:12<br><b>Let's</b><br>237:7 239:17<br><b>letter</b><br>10:8 11:4 16:9 23:19<br>23:23 24:3,5,15,17<br>26:22 31:3 102:24<br>103:2 107:11,13,16<br>107:20 108:5,8,10<br>108:14 109:11<br>110:11 111:18<br>113:6 114:1,2,4,14<br>147:22 169:7<br>175:21 176:5,10,15<br>179:19,21 180:6,10<br>180:14,18,20<br>181:11,13 182:7,15<br>182:19 183:3,7,24<br>184:7,13,19,21<br>185:3,19 186:9<br>202:17 223:23<br>224:3,5,6,9,23<br>225:7,11,16,24<br>226:2,6,12,14,15,18<br>227:1,16,17,19<br>228:7,23 229:1<br>230:5 231:9,10,17<br>231:23 232:12,15<br>232:17,22 233:6,7<br>233:23 234:22<br>236:11,14 238:11<br>238:12,20<br><b>letterhead</b><br>23:24<br><b>letters</b><br>25:12 93:5 186:4,7<br>221:17 236:5<br><b>letting</b><br>58:17 | <b>leveled</b><br>157:7<br><b>levels</b><br>55:17 60:4 61:1<br>62:19,20,21,24<br><b>liability</b><br>218:19<br><b>license</b><br>1:21 6:21 29:9<br>242:17<br><b>life</b><br>44:3<br><b>light</b><br>8:10<br><b>Limine</b><br>172:14 173:8,15<br><b>limited</b><br>160:22<br><b>line</b><br>68:1 70:11 149:14<br>150:24 184:21<br>185:1,11 190:21<br>198:16 215:6 233:9<br>233:14<br><b>lined</b><br>181:12<br><b>lines</b><br>180:15 184:23<br>232:24<br><b>list</b><br>15:1 92:7 134:20<br>140:13<br><b>listed</b><br>125:17 140:22 160:2<br>162:24<br><b>listen</b><br>11:19 12:3 50:2<br>63:22 65:13<br><b>listened</b><br>61:5<br><b>listening</b><br>65:10<br><b>listing</b><br>124:23<br><b>lists</b><br>124:20 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



|                                                                                                                |                                                                                                                                                                                                                                                                                                           |                                                                                             |                                                                                                                                     |
|----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| <b>literally</b><br>157:1                                                                                      | 169:22 204:19<br>206:21 220:24                                                                                                                                                                                                                                                                            | 65:1,20 74:6,19<br>194:12 238:22<br>240:6                                                   | <b>main</b><br>33:10 35:16 40:21                                                                                                    |
| <b>litigation</b><br>147:20 149:17,18<br>155:9 156:1                                                           | <b>look</b><br>5:9,10 10:16 15:14<br>92:10,11,19 96:4<br>100:5,19 104:21<br>117:13,21 122:2<br>124:7 128:1,21<br>136:6,12 141:9<br>147:17 151:5<br>159:14 169:6,16<br>178:19 181:6,10<br>182:23 186:23<br>189:19 192:15<br>202:2 204:9 209:6<br>213:23 215:11<br>223:20 230:11<br>232:3,5,21,23<br>234:21 | <b>LRS's</b><br>17:17 33:9 39:12<br>63:20 80:20,23 81:3<br>81:12                            | <b>maintain</b><br>62:14                                                                                                            |
| <b>little</b><br>8:3 15:16 16:11 18:9<br>55:23 68:11 69:22<br>74:1 87:16 88:24<br>195:21 202:4<br>237:15       |                                                                                                                                                                                                                                                                                                           | <b>lunch</b><br>84:8,9 139:23 140:6<br>142:3,21                                             | <b>majority</b><br>26:5 32:1 162:8                                                                                                  |
| <b>live</b><br>30:24 43:19 48:1<br>63:5                                                                        |                                                                                                                                                                                                                                                                                                           | <b>M</b>                                                                                    | <b>majority-minority</b><br>31:18 162:4,7                                                                                           |
| <b>lived</b><br>44:2                                                                                           |                                                                                                                                                                                                                                                                                                           | <b>M</b><br>3:16 14:20 15:24<br>16:6 106:11 181:7<br>223:16                                 | <b>makers</b><br>34:11                                                                                                              |
| <b>LLC</b><br>1:7,14 4:10,15 39:23<br>147:3 153:14                                                             |                                                                                                                                                                                                                                                                                                           | <b>M-10</b><br>181:7 184:21,23<br>232:3 236:21 237:5<br>237:14,20                           | <b>making</b><br>7:10 46:22 64:4<br>186:6 236:18                                                                                    |
| <b>LLC's</b><br>21:10                                                                                          | <b>looked</b><br>10:17 63:15 204:21<br>204:23                                                                                                                                                                                                                                                             | <b>M-11</b><br>182:23,24 184:20<br>234:21 236:20,22<br>237:6,8,10,11 238:9                  | <b>manage</b><br>120:3                                                                                                              |
| <b>load</b><br>50:14,14 202:20                                                                                 | <b>looking</b><br>61:21 128:13 141:14<br>141:21 156:15<br>204:20 238:9                                                                                                                                                                                                                                    | <b>M-12</b><br>104:20,21 105:16<br>106:4,12                                                 | <b>management</b><br>28:9 97:9,20 120:4,8<br>174:5                                                                                  |
| <b>local</b><br>5:9 9:24 10:19 15:18<br>16:24 21:3 25:8,18<br>26:1,2,18 46:21<br>136:16 138:3<br>149:18 156:11 | <b>looks</b><br>84:9                                                                                                                                                                                                                                                                                      | <b>M-13</b><br>159:14 162:11,12,17<br>197:22                                                | <b>manifest</b><br>41:13                                                                                                            |
| <b>locate</b><br>200:24                                                                                        | <b>Lori</b><br>3:9 13:20 26:13<br>208:4,12                                                                                                                                                                                                                                                                | <b>M-14</b><br>162:19                                                                       | <b>manila</b><br>105:19                                                                                                             |
| <b>located</b><br>22:21 23:5,11 28:6<br>28:12 30:18 35:3<br>38:24 45:3 116:7,20                                | <b>lot</b><br>15:24 18:3 48:1,3,10<br>94:5 113:10 174:19<br>197:4 198:13                                                                                                                                                                                                                                  | <b>M-16</b><br>112:23 121:22 122:2<br>125:7,9 126:19,19<br>133:23 186:15,16<br>209:5 216:13 | <b>manner</b><br>20:11,18 28:2 36:14<br>53:18                                                                                       |
| <b>location</b><br>23:1,10 24:13 26:24<br>91:6 103:22 105:11<br>107:6 110:1 177:3                              | <b>louder</b><br>88:23,24                                                                                                                                                                                                                                                                                 | <b>M-17</b><br>124:7,13,22 125:5<br>140:12                                                  | <b>March</b><br>33:7                                                                                                                |
| <b>Loco</b><br>69:14                                                                                           | <b>lower</b><br>136:7 181:8 232:4                                                                                                                                                                                                                                                                         | <b>M-8</b><br>136:6,8,9 142:4,6,12                                                          | <b>marked</b><br>15:24 18:10 92:6<br>170:14 197:22<br>200:9 202:3 237:2<br>240:20                                                   |
| <b>logged</b><br>17:16 240:5                                                                                   | <b>LRS</b><br>20:8 31:24 35:5,11<br>36:20,20 37:6,15,17<br>37:24 38:3,9,17<br>47:22 49:9,12,15,21<br>49:24 51:10,15<br>52:22 54:1,13 64:9                                                                                                                                                                 | <b>M-9</b><br>223:19,21,23 238:9                                                            | <b>mask</b><br>54:3                                                                                                                 |
| <b>long</b><br>29:20 32:4 86:6,21<br>130:23 131:5                                                              |                                                                                                                                                                                                                                                                                                           | <b>M-E-Z-A</b><br>5:16                                                                      | <b>Mateo</b><br>72:8                                                                                                                |
|                                                                                                                |                                                                                                                                                                                                                                                                                                           |                                                                                             | <b>materials</b><br>51:9                                                                                                            |
|                                                                                                                |                                                                                                                                                                                                                                                                                                           |                                                                                             | <b>matter</b><br>4:5,6 18:20 21:6 29:2<br>42:22 96:13 117:1<br>118:10,11 124:15<br>134:10 156:4<br>163:13,13 164:11<br>173:1 214:17 |
|                                                                                                                |                                                                                                                                                                                                                                                                                                           |                                                                                             | <b>matters</b>                                                                                                                      |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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| 7:6 14:18 28:16<br>42:24 124:5 239:23<br><b>mayor</b><br>13:6,18 14:2,20<br>15:23 18:22 25:22<br>26:7 84:15 85:9,14<br>85:21 91:14 92:19<br>95:13 98:6 99:16<br>101:12 109:8<br>116:14 117:14<br>125:22 129:6<br>133:23 135:22<br>136:22 138:13<br>140:8,10 159:2,10<br>164:13,14,19,23<br>165:1,6,7,13 166:5<br>167:6,8 168:14,16<br>168:17,20 192:19<br>192:24 204:13,16<br>224:16<br><b>McGee</b><br>48:11<br><b>mean</b><br>13:13 15:22 76:17<br>86:14 88:15 128:12<br>150:16 156:14<br>181:15 186:1 188:7<br>194:3 205:8 216:7<br>233:10 236:5<br>238:11<br><b>meaning</b><br>56:8 94:21<br><b>meaningfully</b><br>32:22<br><b>means</b><br>8:2 38:23 43:12<br>107:5 108:19 109:1<br>125:22 138:24<br>158:5,6 181:13<br>188:8 210:22 211:2<br>233:9<br><b>meant</b><br>56:16 95:2,3,5,6<br><b>measure</b><br>199:21<br><b>media</b> | 136:19<br><b>meet</b><br>27:21 103:21 175:14<br>222:24 235:9,17,18<br><b>meeting</b><br>26:17 64:1 87:22<br>90:6,7 92:12 93:3,4<br>121:4 123:7,7<br>125:17 126:5 128:3<br>129:24 130:20,21<br>130:23 131:1,3,5,7<br>131:12 132:4,6<br>140:16 141:9<br>164:18 166:6,12,15<br>166:24 167:5,7,24<br>169:3 187:1,3,5,24<br>188:21 189:3,12,14<br>192:3,6 205:12<br>206:17 209:16<br>210:3,4 211:17,20<br>211:22 212:16<br><b>meetings</b><br>10:9 50:20 52:1<br>89:18,20,23 90:4,9<br>90:10,11,14 91:13<br>131:3 144:20<br>146:24 153:17<br>158:9<br><b>meets</b><br>154:2<br><b>member</b><br>30:11 40:7 82:9<br>85:11,14 103:15<br>149:23 204:8,17<br>224:18,20<br><b>members</b><br>5:8 19:8 20:19 28:15<br>37:10 38:8,19 47:10<br>49:7 66:21 69:14<br>80:14 87:10 92:14<br>94:18 115:10<br>124:10,17 126:1<br>158:23 160:24<br>161:17,20 165:3<br>196:14 212:5 218:8<br><b>memo</b> | 148:8,15<br><b>memos</b><br>146:23 147:11 148:6<br>149:10 153:17<br>154:4<br><b>mention</b><br>9:5 57:13 63:21<br>125:12<br><b>mentioned</b><br>11:4 26:22 35:21<br>56:4 60:7 63:17<br>204:16<br><b>merit</b><br>168:18<br><b>message</b><br>61:11 62:16 151:18<br>152:5<br><b>messages</b><br>25:24 26:8<br><b>met</b><br>24:8,13 26:19,24<br>39:24 40:11,15 41:9<br>104:6,16 105:11<br>107:6 133:3 197:2,3<br>211:7 215:22 218:3<br>223:8,13<br><b>method</b><br>20:11<br><b>Mexican</b><br>49:17 73:11<br><b>Meza</b><br>2:3,4 3:5,7,10,12<br>5:12,15,16 7:5,9<br>8:19,23 9:9 10:1,18<br>11:2,11,12 12:11,17<br>12:22 13:9,12 14:7<br>14:10 15:8,11,22<br>16:17 19:6,7,10<br>41:19 84:10,11,22<br>85:6 88:23 89:3<br>91:2,4 92:14,18<br>95:15,17,23 98:2,8<br>99:10,11 101:1,8,11<br>101:20,21 103:13<br>104:3,4 105:17,20<br>105:23 106:8,11,15 | 109:2,7 110:17<br>111:3,23 112:15,16<br>112:21 113:2<br>116:11,13 121:9,10<br>121:18 124:5,13<br>125:3,7,21 126:6,8<br>126:10,11 128:14<br>128:20 131:4,11<br>132:11 133:11,22<br>135:10,21 137:3,4<br>138:7,17,18,23<br>139:19,21 140:12<br>142:4 143:10<br>149:19 150:20,21<br>151:4,23 152:1,3<br>156:6,18,19 157:21<br>159:13 162:11,18<br>164:5,6,9 168:10,13<br>172:10,20 173:7,16<br>173:21,22 174:1<br>180:4,23 181:5<br>182:13 183:12,22<br>184:16,17,18<br>185:17,20 186:12<br>186:13 187:13,19<br>188:2 189:20,22<br>193:22 194:6<br>197:21 198:11<br>205:22 207:3,6,8<br>208:9 216:11 219:5<br>219:7,19 220:9<br>221:16 222:7<br>226:11 228:18,20<br>228:22 229:19<br>230:6 234:20 236:1<br>236:19,24 237:2,5<br>237:12,14,20 238:2<br>238:4,10 241:3,16<br><b>Meza's</b><br>142:22 194:17<br>207:20<br><b>Michael</b><br>3:6 13:20 86:3 143:5<br>143:14 188:5<br>220:20,21<br><b>middle</b> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 32:20 51:20<br><b>miles</b><br>32:11<br><b>mind</b><br>111:21,23<br><b>mindset</b><br>112:8<br><b>minimis</b><br>45:14<br><b>minimize</b><br>28:6<br><b>minimum</b><br>113:10,10<br><b>minority</b><br>32:2<br><b>minute</b><br>46:8 53:5 88:21<br><b>minutes</b><br>89:23 90:4,5 92:12<br>93:2,6 95:11 117:6<br>122:4 186:16,24<br>187:2,7,14 188:9<br>190:12 209:7,8<br><b>mirrors</b><br>45:17<br><b>misinterpretations</b><br>34:16<br><b>Misinterpreting</b><br>35:13<br><b>misphrase</b><br>196:1<br><b>misread</b><br>151:22<br><b>misreading</b><br>31:2<br><b>misstates</b><br>98:24 99:8<br><b>mistake</b><br>155:6 193:3<br><b>mistakes</b><br>65:12<br><b>mistreated</b><br>77:17,20 81:19<br><b>mix</b><br>43:17<br><b>mixed</b> | 125:10<br><b>modern</b><br>97:9,21<br><b>Moline</b><br>172:22 173:11,18,22<br><b>mom</b><br>77:2 83:1,1<br><b>moment</b><br>61:17 199:16 239:17<br><b>moms</b><br>83:2<br><b>Monday</b><br>8:6 209:21,24 210:1<br>210:1<br><b>money</b><br>98:13,23 174:20<br><b>monitor</b><br>55:17<br><b>monitoring</b><br>52:21 53:7<br><b>month</b><br>47:21 53:23<br><b>months</b><br>18:15 52:23,23<br><b>morning</b><br>4:2 5:21 6:7,12 87:11<br>89:11 144:23,24<br>213:15<br><b>mornings</b><br>158:23<br><b>mother</b><br>47:3 82:9,13<br><b>motion</b><br>9:11 10:2 14:9 15:6<br>15:11 70:17 73:1<br>94:2 172:13 173:8<br>173:15 205:23<br>206:1,23 207:2<br><b>motions</b><br>42:8<br><b>motivates</b><br>49:1<br><b>motor</b><br>48:7 49:4 53:24<br>54:14 63:6<br><b>move</b> | 14:13 17:4,22 50:23<br>67:18 69:23 99:10<br>106:8 124:21 125:8<br>128:14 142:4 150:6<br>156:6 162:12<br>172:10 180:24<br>186:11 200:18<br>201:5 236:20<br>239:24 240:2,10,24<br><b>moving</b><br>101:1 237:5<br><b>Mueller</b><br>2:16 6:11,12,13,16<br>7:22 12:8,9 41:16<br>41:17 45:24 53:2,5<br>53:6,21 55:18 58:15<br>58:16 59:8 60:2,18<br>60:21,21 66:2,3,4<br>66:12,15 67:2,3,13<br>67:17,19,21 68:7,13<br>68:23 69:5,23,24<br>70:18,19 71:15 73:9<br>73:17 74:15,16<br>75:15 76:1 77:8<br>78:10 79:6,9 80:3<br>80:18 81:7,18,24<br>82:16 83:10,11<br>110:22 111:2 121:8<br>133:8 201:11,14,19<br>201:20 205:20,21<br>219:12,13 239:7,8,9<br>240:9,12,13,16<br><b>Mueller's</b><br>68:20 69:19 70:9,16<br>75:11 79:4<br><b>municipal</b><br>49:10,13 50:6,22<br>51:1,6,24 52:7<br>63:17,23<br><b>municipality</b><br>30:16<br><b>mysteriously</b><br>38:13<br><hr/> <b>N</b> <hr/> | 3:1<br><b>name</b><br>4:2 5:15,22 6:8 19:9<br>29:1,22 46:15 85:7<br>86:3 88:4 99:15,19<br>99:20 102:23<br>143:11,12 188:16<br>188:18 208:10,11<br>220:10,11,12<br><b>named</b><br>19:19 26:2 146:11<br>156:24<br><b>names</b><br>72:7 158:12<br><b>narrowly</b><br>34:12<br><b>National</b><br>37:18<br><b>native</b><br>43:24<br><b>nature</b><br>53:10<br><b>navigate</b><br>32:22<br><b>nay</b><br>96:7<br><b>nearest</b><br>23:6 116:8<br><b>necessarily</b><br>90:10<br><b>necessary</b><br>62:23 89:12 176:12<br>176:13<br><b>need</b><br>17:4 19:11,12 27:23<br>28:4 49:3 120:8<br>136:17 155:12,17<br>174:10 176:1 178:1<br>200:21 209:13<br>241:15<br><b>needed</b><br>10:12 32:23 80:17<br>102:1 156:5 176:22<br><b>negative</b><br>44:22<br><b>neighbors</b> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>47:14 51:18<br/> <b>neither</b><br/>                 19:13 44:7<br/> <b>nervous</b><br/>                 55:5<br/> <b>never</b><br/>                 55:10 64:5 78:18<br/>                 80:16 147:22<br/>                 152:19<br/> <b>nevertheless</b><br/>                 63:9<br/> <b>new</b><br/>                 15:19 16:4 18:7 32:8<br/>                 32:12 34:21 55:19<br/>                 91:8 179:19 180:6<br/>                 180:14 231:8<br/> <b>news</b><br/>                 140:5<br/> <b>night</b><br/>                 9:10 10:15,24 15:7<br/>                 15:12<br/> <b>nine</b><br/>                 133:2 197:2,3 211:7<br/>                 218:3,12,22 219:3<br/> <b>non-Bates</b><br/>                 117:12<br/> <b>non-friendly</b><br/>                 61:15<br/> <b>noncompliance</b><br/>                 156:10<br/> <b>Noon</b><br/>                 215:20,20,21<br/> <b>normally</b><br/>                 129:8<br/> <b>Northwestern</b><br/>                 2:12 5:23 29:24<br/> <b>notarized</b><br/>                 56:9,16 57:5,6,7,18<br/>                 58:3<br/> <b>Notary</b><br/>                 59:5 84:20 143:4<br/>                 208:3 220:3<br/> <b>note</b><br/>                 16:16 18:4 38:11<br/>                 53:21 69:3 70:14<br/>                 148:8,14 151:2,2</p> | <p><b>noted</b><br/>                 135:18 150:18<br/> <b>notes</b><br/>                 146:23 147:11 148:5<br/>                 153:17 187:5,17,24<br/> <b>notice</b><br/>                 61:16 216:17,22<br/> <b>noticed</b><br/>                 4:22 38:15<br/> <b>November</b><br/>                 8:6 136:4,15 137:6<br/>                 139:4 221:2 241:6<br/> <b>number</b><br/>                 14:11 44:16 95:12,13<br/>                 99:1,1 110:23,24<br/>                 111:10 115:14<br/>                 122:7 124:2,20<br/>                 125:12 132:18<br/>                 151:19 152:6,10<br/>                 160:19,20,21 162:1<br/>                 177:16 181:8<br/>                 223:16 234:15<br/> <b>numbered</b><br/>                 124:21 151:13<br/> <b>numbering</b><br/>                 152:20<br/> <b>numbers</b><br/>                 9:19 14:21 15:16<br/>                 16:5 60:14 92:20,21<br/>                 101:10 125:7<br/>                 126:21 152:9<br/> <b>nunc</b><br/>                 58:17,20</p> <hr/> <p style="text-align: center;"><b>O</b></p> <hr/> <p><b>O</b><br/>                 26:15<br/> <b>O'HALLORAN</b><br/>                 2:1<br/> <b>O-</b><br/>                 111:2<br/> <b>oath</b><br/>                 35:22 56:22 58:18<br/>                 59:3 84:18 143:2<br/>                 208:1 215:24 220:1<br/> <b>object</b></p> | <p>10:10,16 11:21 13:17<br/>                 53:3 55:18 70:10<br/>                 74:11 75:10 82:16<br/>                 95:10 97:23 108:21<br/>                 132:8 133:19 135:6<br/>                 136:21 141:17<br/>                 142:6 149:14<br/>                 172:12 184:11<br/>                 185:15 206:23<br/>                 234:13<br/> <b>objected</b><br/>                 194:18,21 200:20<br/> <b>objecting</b><br/>                 194:16<br/> <b>objection</b><br/>                 4:18 9:21 10:3,4 11:8<br/>                 12:10,20 17:16,17<br/>                 29:19 53:5,6 59:9<br/>                 67:9,15,24 68:10,20<br/>                 69:3,18 70:1,15<br/>                 71:10 73:15 78:4<br/>                 81:7 98:24 99:6<br/>                 101:4,7,16 103:10<br/>                 103:23 106:10<br/>                 111:20 112:6,8<br/>                 121:8,17 124:24<br/>                 125:1,6 128:17<br/>                 131:1,8 133:8 138:5<br/>                 138:10,21 141:23<br/>                 142:9,10,12 150:18<br/>                 150:23 156:9<br/>                 157:20 159:9<br/>                 162:14,17 164:2<br/>                 168:1,3 172:15<br/>                 173:23 179:23<br/>                 180:19 181:2,3<br/>                 186:8 187:9,16,20<br/>                 187:21 195:5 196:7<br/>                 199:9 200:13<br/>                 201:11,13,16,20,21<br/>                 201:23 216:3<br/>                 221:12,24 226:7<br/>                 228:12,14 229:15<br/>                 229:24 230:2<br/>                 235:23 237:9,12,23<br/>                 237:24 238:1 240:5</p> | <p>240:7,13,17<br/> <b>objections</b><br/>                 53:21 77:21<br/> <b>obligation</b><br/>                 24:7,10 44:18 51:2<br/>                 175:13<br/> <b>obligations</b><br/>                 50:11,18<br/> <b>observations</b><br/>                 20:21<br/> <b>observer</b><br/>                 21:2 41:21,24<br/> <b>obstacle</b><br/>                 51:5<br/> <b>obstacles</b><br/>                 49:10 52:13 64:23<br/> <b>obviously</b><br/>                 13:7 20:9 206:12<br/> <b>occur</b><br/>                 90:4 123:19,22<br/> <b>occurred</b><br/>                 70:4 92:12 147:1<br/>                 193:21 210:18<br/> <b>occurring</b><br/>                 45:19<br/> <b>October</b><br/>                 52:23,24 223:24<br/>                 227:1 229:10,14<br/>                 234:6 241:8<br/> <b>odors</b><br/>                 74:4 75:6,21<br/> <b>offer</b><br/>                 33:10 35:22 240:23<br/> <b>offered</b><br/>                 36:10 167:10<br/> <b>officer</b><br/>                 2:2 4:1,3 5:20 6:5,10<br/>                 6:15 7:7 8:17,21 9:3<br/>                 9:23 10:2,17,23<br/>                 11:10,22 12:5,15,21<br/>                 12:23 13:4,10 14:4<br/>                 14:8 15:4,9,13<br/>                 16:13,22 17:3,6<br/>                 18:1,8,11,13,24<br/>                 19:3,5 22:2,10<br/>                 23:14,17,24 27:1,14</p> |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| 28:23 29:17 31:4<br>33:1,19,24 34:12,18<br>36:16 37:5,9,15,16<br>38:5,7 39:1,16<br>41:15 43:9,13 44:21<br>45:23 46:7,12 53:4<br>53:7,13,17,20 54:17<br>54:22 55:2,22 56:7<br>56:14,20,24 57:3,12<br>57:15,21 58:14,19<br>58:22 59:6,14 60:12<br>60:19 61:7,13,18<br>62:3,10,13 63:9,11<br>63:16 64:22 66:1,10<br>66:17 67:1,11,18<br>68:3,11 69:2,21<br>70:13 71:12 72:12<br>72:13,15,21,24<br>73:16 74:14 75:12<br>75:17 76:17 78:6<br>79:1,8,14,18 80:1<br>80:13 81:8 82:1,22<br>83:10,13,23 84:5,13<br>84:21 86:12 88:20<br>89:1 95:15 98:4<br>99:5 101:3,6,18<br>103:12 104:1<br>105:15,18,21 106:1<br>106:7,9,13 108:23<br>109:5 110:9,20<br>111:22 112:4,9,15<br>112:19,22 113:1<br>121:9,16 124:12<br>125:1,5,19 128:16<br>128:18 131:9<br>132:10 133:10,21<br>135:18 137:2<br>138:11,16,22<br>139:20 140:5<br>141:19,24 142:2,8<br>142:15,19 144:4<br>150:4,8,16 151:1,23<br>152:2 153:2 156:8<br>156:14 157:12,19<br>159:11 162:13,16<br>164:5,8 167:13 | 168:3,12,18 172:11<br>172:17 173:5,9,20<br>180:2,21 181:1,3<br>182:11 183:18,21<br>184:15 186:10<br>187:11,22 189:19<br>189:21 193:24<br>194:2 195:7 196:9<br>199:11 200:23<br>201:10,18,22<br>205:17,20 206:18<br>207:1,5,7,10,13,18<br>216:8 219:6,9,11,14<br>219:18 221:14<br>222:2 226:9 228:14<br>228:17,21 229:17<br>230:2 234:18<br>236:22 237:1,3,7,11<br>237:18,22,24 238:3<br>238:5 239:4,7,15,21<br>240:11,15,20 241:4<br>241:17<br><b>officer's</b><br>37:2 53:14 113:4<br>132:21 211:13<br><b>official</b><br>29:13,15 107:15<br>116:24 129:6 147:4<br><b>officials</b><br>24:6 25:8 52:5<br>114:20 148:20<br>156:22,23 157:6<br>173:3 221:8<br><b>Oh</b><br>10:23 69:11 161:16<br>170:1 175:24<br>177:16 185:12<br>190:22 205:2<br>236:24<br><b>okay</b><br>11:10 12:21 13:4<br>14:4 53:20 57:21<br>58:19 67:8 70:13<br>71:1 79:5 80:8<br>81:17 88:2,6,17<br>90:7,14,20,24 93:20 | 97:1 99:21 100:2,19<br>101:6 102:6,9 103:8<br>106:9,13 107:3,23<br>114:14 116:5 117:9<br>118:9 123:5,14<br>126:6,8,10,15,18<br>127:1,5 129:9 131:5<br>131:12 132:12<br>133:12 134:3,8<br>135:22 136:11,14<br>140:16 144:1 145:1<br>147:10 148:18<br>151:1 152:2,22<br>154:7,13,19 156:14<br>157:19 159:2,7,14<br>159:21 160:7<br>161:16 162:16<br>167:6 174:13<br>177:18,21 178:6,15<br>179:4 180:13<br>181:10,23 184:3<br>185:2,12,21 188:3<br>188:19 189:16<br>190:6,18,22 191:4<br>192:3,12 197:4,20<br>199:5 201:22<br>204:23 205:17<br>207:7 209:11,23<br>210:2 213:3,7,16,20<br>216:15 226:5<br>227:18 229:3 230:7<br>231:2,16,22 232:18<br>234:5,21 237:7,11<br>237:18 240:15<br>241:4<br><b>Olga</b><br>146:12 147:9 155:23<br><b>omission</b><br>38:15<br><b>omnibus</b><br>240:6<br><b>once</b><br>18:22 63:19 94:18,22<br>120:4,9 169:23<br>174:5,10,18 176:7<br>197:8 209:9 232:8 | <b>One's</b><br>109:21<br><b>ones</b><br>50:24 190:18 205:4<br><b>ongoing</b><br>75:24<br><b>open</b><br>10:8 33:21 123:7<br>158:9 164:18<br><b>opening</b><br>6:17,23 7:4 8:5 9:6<br>11:13,14 18:17 19:5<br>29:11,15 43:22<br><b>operated</b><br>28:2<br><b>operates</b><br>31:17 174:23<br><b>operating</b><br>58:10 74:9,19<br><b>operation</b><br>21:11 91:7<br><b>operational</b><br>120:4,9,13 174:6,11<br>174:15,18<br><b>operations</b><br>80:20,24 97:8<br><b>opinion</b><br>62:4 82:17 83:1<br>118:21 148:14<br>154:3 218:18 224:7<br>224:10 226:16,19<br>226:21 228:10<br>234:12 235:22,24<br>236:2<br><b>opinions</b><br>78:16<br><b>opportunity</b><br>7:20 28:18 31:10<br>36:2 38:2 47:18,19<br>52:10 53:12 63:22<br>64:14,19 65:4,8,12<br>71:5 72:11 80:14<br><b>oppose</b><br>32:16<br><b>opposed</b><br>187:20 198:18 206:3 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>opposing</b><br/>1:10 2:14 4:12 5:24<br/>26:4 30:3<br/><b>oppressed</b><br/>43:18 83:3,4<br/><b>oppression</b><br/>43:6 44:14<br/><b>oral</b><br/>37:10 56:11,20,21<br/>58:5 155:10<br/><b>Oralson</b><br/>71:17<br/><b>order</b><br/>8:2 17:12 25:15<br/>32:22 50:11 52:9<br/>62:8,24 96:17 97:14<br/>102:2,17 112:14<br/>124:5 172:18,20<br/>173:6 223:1 235:18<br/>240:4<br/><b>orderly</b><br/>20:18<br/><b>Ordinance</b><br/>24:11 26:14,16 33:6<br/>37:3 40:24 96:12,21<br/>104:14,18,22 105:3<br/>106:4,17,21 110:14<br/>110:23,23 111:4,7<br/>111:24 112:1,10,11<br/>112:17,20 113:17<br/>113:21 121:23<br/>122:5 126:20 127:2<br/>127:6,8 128:3,5<br/>129:10,13,17,18<br/>130:19 132:13,15<br/>132:18,24 133:6,13<br/>133:16 135:5,7,8,9<br/>135:13,16 136:23<br/>175:8,13 186:16<br/>192:10 193:6,9,11<br/>209:2,8 214:9,10,13<br/>215:3,10,17 216:12<br/>216:18,20 217:11<br/>217:23<br/><b>Ordinances</b><br/>175:3,5 215:6,13</p> | <p><b>organized</b><br/>46:19<br/><b>organizing</b><br/>30:6<br/><b>original</b><br/>179:9 231:10<br/><b>output</b><br/>195:23<br/><b>outside</b><br/>10:7,12 17:14 45:20<br/>54:6 156:15 205:11<br/><b>overall</b><br/>32:10<br/><b>overcome</b><br/>28:9<br/><b>overdue</b><br/>6:22<br/><b>overrule</b><br/>142:10<br/><b>overruled</b><br/>68:4 69:2 70:14<br/>71:13 75:13 82:23<br/>98:4 108:24 121:17<br/>135:19 138:22<br/>150:5 187:22<br/>216:10 222:3<br/><b>oversee</b><br/>144:11<br/><b>overturn</b><br/>33:9 39:11<br/><b>overturning</b><br/>41:5</p> <hr/> <p style="text-align: center;"><b>P</b></p> <hr/> <p><b>P</b><br/>2:1<br/><b>P-O-D-E-R</b><br/>20:10<br/><b>P.M</b><br/>127:17 128:4,22<br/>129:22,23 178:23<br/>192:10 214:5<br/>230:19<br/><b>Pacific</b><br/>231:10<br/><b>pack</b></p> | <p>10:8<br/><b>packet</b><br/>38:14 203:13,17<br/><b>packets</b><br/>14:15<br/><b>page</b><br/>3:3,15 60:13,17<br/>76:22 92:23,24 93:7<br/>96:4 105:8 112:23<br/>112:23 118:12<br/>126:20 133:24<br/>151:14,17,20 152:4<br/>153:10,11,11,12<br/>173:10 181:11<br/>186:23,24 188:3<br/>202:5,5 214:22<br/>215:6 216:4 232:21<br/>242:2<br/><b>pages</b><br/>19:24 151:13 173:7<br/>232:7<br/><b>paid</b><br/>97:13 118:2<br/><b>painful</b><br/>32:4<br/><b>paper</b><br/>61:18<br/><b>paragraph</b><br/>27:15 119:4 157:4,4<br/>190:21<br/><b>parents</b><br/>48:17<br/><b>part</b><br/>9:13 10:9,21 17:2,7<br/>30:4 59:9 99:6,8<br/>163:12 165:19<br/>173:14 183:9,14<br/>188:23 201:7<br/>237:21<br/><b>participant</b><br/>56:21<br/><b>participants</b><br/>46:17<br/><b>participate</b><br/>11:19 32:22 36:8<br/>49:15 52:9 65:9</p> | <p><b>participated</b><br/>32:18 190:15<br/><b>participation</b><br/>38:8 64:14<br/><b>particular</b><br/>21:23 22:24 31:11<br/>45:3 147:9 173:1<br/><b>particularly</b><br/>156:11<br/><b>parties</b><br/>6:22 7:19 8:2,4 14:11<br/>14:16,17 16:9 17:13<br/>17:24 37:22 58:4<br/>240:4,21 241:5<br/><b>partly</b><br/>189:4,4<br/><b>party</b><br/>13:16 32:19 67:15<br/><b>pass</b><br/>17:23 18:1,12 199:3<br/><b>passed</b><br/>129:18<br/><b>passing</b><br/>48:12<br/><b>PCB</b><br/>1:5,12 4:11 201:23<br/><b>pending</b><br/>78:23<br/><b>people</b><br/>1:10 2:14 4:12 5:24<br/>13:23 30:3,16,23<br/>34:15 44:24,24<br/>46:17 48:17,22 55:6<br/>66:19 69:14 70:23<br/>72:3,9 78:9,19<br/>158:11 160:21<br/>161:3,8 190:3,14<br/>198:18,19 200:2<br/>205:1<br/><b>people's</b><br/>173:10<br/><b>perceive</b><br/>52:7<br/><b>percent</b><br/>19:16 21:14 31:19<br/><b>percentage</b></p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                      |                     |                       |                       |
|----------------------|---------------------|-----------------------|-----------------------|
| 31:20 36:11          | 190:4,11,19 212:19  | 136:18 143:1,13       | 49:5                  |
| <b>Perez</b>         | 218:6               | 164:8 178:24          | <b>pollution</b>      |
| 88:5 90:2,17 144:7   | <b>physical</b>     | 180:22 182:11,21      | 1:1,18 4:4,16,22 7:10 |
| 146:7,10,14 148:22   | 113:11              | 186:11 187:12         | 7:24 8:9 9:14 10:21   |
| 153:2 188:13         | <b>physically</b>   | 188:3 207:23          | 11:24 19:9 20:19      |
| <b>perform</b>       | 184:9 185:5 233:18  | 208:11 219:23         | 23:4 27:6,8,19        |
| 121:13 229:12        | <b>pile</b>         | 221:15 226:10         | 28:16 30:17 32:9,14   |
| <b>period</b>        | 127:23              | 229:18 230:20         | 35:12 36:21 38:22     |
| 227:24               | <b>piling</b>       | <b>plot</b>           | 40:18 43:7 47:16      |
| <b>permit</b>        | 75:24               | 35:3                  | 48:2,16,24 52:19      |
| 49:16 56:21          | <b>Pineda</b>       | <b>plus</b>           | 54:4 60:24 62:24      |
| <b>Persis</b>        | 3:4 15:23 85:1,8    | 143:24                | 63:5 65:2 75:24       |
| 6:2 29:8,23          | 101:12 106:18       | <b>Poco</b>           | 92:14 96:20 104:23    |
| <b>person</b>        | 113:3 121:24 125:4  | 69:14                 | 105:3 106:24 116:6    |
| 12:19 23:3 56:15     | 137:5 159:2 165:13  | <b>PODER</b>          | 160:7 175:6 183:13    |
| 86:2 97:3,16 116:5   | 166:5 204:13,16     | 4:13 6:1,4 17:12 18:4 | <b>populated</b>      |
| 178:5,14 190:7       | <b>Pineda's</b>     | 20:9 29:2,12 30:4,4   | 45:4                  |
| 225:22               | 14:20               | 30:9,11 31:17 32:16   | <b>population</b>     |
| <b>personal</b>      | <b>place</b>        | 32:18,20,21 33:4,7    | 31:19 44:14 161:23    |
| 47:1 68:1,21 69:19   | 178:13 242:11       | 35:7,19 37:6,10       | 162:2                 |
| <b>personnel</b>     | <b>placed</b>       | 38:11,14,17 44:7      | <b>portion</b>        |
| 155:5                | 204:5               | 46:17,19,22 49:24     | 76:21 126:19          |
| <b>persons</b>       | <b>places</b>       | 50:19 67:4 71:14,16   | <b>posed</b>          |
| 7:14 34:5 143:23     | 45:19               | 73:1 80:13 140:7      | 118:23                |
| <b>perspective</b>   | <b>placing</b>      | 200:9 240:2,16        | <b>position</b>       |
| 64:10                | 82:15               | <b>PODER's</b>        | 33:15 67:16 220:16    |
| <b>pertaining</b>    | <b>plain</b>        | 30:13 33:15 38:13     | 221:1                 |
| 51:9                 | 34:20               | 39:2 43:3,22 45:5     | <b>positions</b>      |
| <b>Petition</b>      | <b>Plainfield</b>   | <b>podium</b>         | 85:14,15              |
| 20:23 21:6,7,17      | 213:5               | 83:8                  | <b>possession</b>     |
| 27:16,20 33:7 70:18  | <b>Plaintiff</b>    | <b>point</b>          | 156:3 202:15 229:3,4  |
| 156:21               | 220:5               | 5:12 7:1 17:11 33:24  | <b>possible</b>       |
| <b>petitioner</b>    | <b>plan</b>         | 45:15 53:3 60:8       | 113:12,24 161:1       |
| 1:4,11 2:5,13 4:8,14 | 28:10,11 37:7 120:4 | 61:17 72:10,20        | 184:16 208:16         |
| 30:3 85:2 143:6      | 120:8 174:5         | 77:19 80:9 95:11      | <b>possibly</b>       |
| 208:5                | <b>planned</b>      | 112:17 124:21         | 32:14                 |
| <b>petitioner's</b>  | 91:5                | 138:9 148:12          | <b>post</b>           |
| 40:20                | <b>planners</b>     | 155:18 159:8 164:2    | 160:9,18              |
| <b>petitioners</b>   | 221:7               | 169:22,23 177:6       | <b>post-hearing</b>   |
| 4:17 5:13 6:18 7:2   | <b>play</b>         | 194:17,20 196:21      | 5:11 8:3 9:17 27:7,8  |
| 39:20                | 160:23              | 202:22 228:15         | 27:17 28:17 37:19     |
| <b>petitions</b>     | <b>please</b>       | <b>pointing</b>       | 240:22                |
| 39:21                | 7:4 53:5 58:23 59:2 | 57:11                 | <b>post-trial</b>     |
| <b>phone</b>         | 67:19 75:16,17      | <b>points</b>         | 7:21 207:2            |
| 61:21 146:24 160:19  | 84:14,17 93:18      | 35:20                 | <b>posted</b>         |
| 179:7 189:9,12       | 95:16 104:2 128:3   | <b>polluting</b>      | 26:4 139:11 160:4     |

|                          |                     |                      |                        |
|--------------------------|---------------------|----------------------|------------------------|
| 202:15,18 203:12         | 40:8                | <b>primarily</b>     | 25:18 27:11 31:5       |
| <b>posting</b>           | <b>prejudice</b>    | 23:7,12 71:2 116:9   | 32:19,23 33:18         |
| 136:19 139:7 160:15      | 58:7                | 134:10               | 35:18,23 36:9 37:14    |
| 199:16 203:8             | <b>preliminary</b>  | <b>primary</b>       | 39:15 47:6 49:9        |
| <b>potential</b>         | 196:17 203:22       | 7:15,16 59:9         | 64:8 65:1 94:20,21     |
| 81:13 120:18 121:19      | <b>prepare</b>      | <b>prior</b>         | 152:22 159:23          |
| 138:14                   | 87:22 89:22 90:10   | 7:18 119:6 129:14    | 160:22,24 177:6        |
| <b>potentially</b>       | 186:19 187:4 224:3  | 136:19 149:12        | 195:22 196:15,20       |
| 196:22                   | 224:6,9             | 166:24 193:16,16     | 197:8 198:19           |
| <b>Powis</b>             | <b>prepared</b>     | 202:15 212:7         | <b>produce</b>         |
| 147:6                    | 17:1 18:6 23:19     | <b>Pritzker</b>      | 146:22 148:13 156:5    |
| <b>practices</b>         | 26:22 90:14 108:10  | 2:12 5:23 29:24      | 206:2,8                |
| 97:9,20                  | 180:10 186:22       | <b>privileged</b>    | <b>produced</b>        |
| <b>prairies</b>          | 188:12 215:13       | 164:3                | 124:10 156:1 206:11    |
| 48:13                    | 217:11 224:5        | <b>pro</b>           | 206:12 207:3,9         |
| <b>pre</b>               | <b>preparing</b>    | 58:17,20             | 237:20                 |
| 9:16                     | 16:3                | <b>probably</b>      | <b>production</b>      |
| <b>pre-adjudication</b>  | <b>present</b>      | 16:15 88:8,10 90:2,6 | 156:2                  |
| 25:16                    | 1:23 28:19 35:7,24  | 98:16 108:1          | <b>professional</b>    |
| <b>pre-adjudications</b> | 42:13 47:5 50:1     | <b>problem</b>       | 100:21 222:5 224:7     |
| 27:10                    | 74:20 125:15        | 42:20 184:3,6,9      | 224:10 226:16,19       |
| <b>pre-application</b>   | <b>presented</b>    | <b>procedural</b>    | 226:21 228:10          |
| 26:12 137:1 194:21       | 36:20 40:6 41:8     | 4:23 5:1,2 7:6 11:24 | <b>professionalism</b> |
| 195:12 196:13            | 62:18               | 37:16 38:12,16       | 241:12                 |
| <b>pre-file</b>          | <b>Preserve</b>     | <b>procedurally</b>  | <b>professor</b>       |
| 169:13                   | 76:11               | 7:18                 | 30:2                   |
| <b>pre-filing</b>        | <b>pretty</b>       | <b>procedure</b>     | <b>project</b>         |
| 21:21 150:18 157:8       | 143:16 174:22       | 38:4                 | 118:24 170:23 171:1    |
| 169:20,21 194:14         | <b>prevent</b>      | <b>procedures</b>    | 177:17                 |
| 196:22 210:11            | 61:9                | 40:22,23 104:24      | <b>propaganda</b>      |
| 216:17,22                | <b>prevented</b>    | 105:4,4              | 26:6 50:1 136:18       |
| <b>precedent</b>         | 22:9                | <b>proceed</b>       | 138:4 139:12           |
| 40:17                    | <b>previous</b>     | 19:6 46:14 55:3      | <b>proper</b>          |
| <b>preclude</b>          | 43:16 193:11 201:21 | 57:24 58:11,12 59:7  | 33:11 35:15 38:3       |
| 172:2                    | <b>Price</b>        | 60:22 66:13 67:2     | 40:22                  |
| <b>predicated</b>        | 23:18,24 24:2 27:1  | 70:18 84:10,22       | <b>properly</b>        |
| 215:19                   | 59:17 76:2 80:13    | 106:14 109:6 113:1   | 38:11                  |
| <b>predicted</b>         | 82:7,12,13 110:10   | 125:20 194:3         | <b>properties</b>      |
| 199:6                    | 111:14,17 112:12    | <b>proceeding</b>    | 113:13 116:20 117:3    |
| <b>preemptive</b>        | 113:15,18 191:19    | 6:1 15:19 17:1 29:16 | 118:22                 |
| 199:21                   | <b>Price's</b>      | 66:23 201:4          | <b>property</b>        |
| <b>prefer</b>            | 59:19 60:10         | <b>proceedings</b>   | 9:11 22:22 23:6,11     |
| 66:13 69:6               | <b>prices</b>       | 1:17 21:1 22:8 39:21 | 37:18 113:11 116:8     |
| <b>preferred</b>         | 32:11               | 40:4 67:14 210:18    | 119:5 184:8 185:4      |
| 71:24                    | <b>priest</b>       | 241:21 242:7         | 233:17                 |
| <b>prejudged</b>         | 26:2,2 136:16 138:3 | <b>process</b>       | <b>proposal</b>        |



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 81:4 102:16 148:2<br>154:1,2<br><b>proposed</b><br>22:20 28:1,6,8 35:6<br>97:7 116:20 147:6<br>147:12 149:11,22<br>210:15 217:2<br><b>proposing</b><br>49:21<br><b>proposition</b><br>41:21<br><b>propounded</b><br>124:15<br><b>protect</b><br>1:3 2:6 4:7 5:16<br>19:10 22:16 35:6<br>42:9,12,16 44:8<br>60:5 71:8 124:15<br><b>protected</b><br>35:15<br><b>protecting</b><br>35:12 38:21 44:19<br><b>protection</b><br>4:24 21:23 30:23<br>40:16 61:2 210:14<br>223:1<br><b>protects</b><br>61:3<br><b>prove</b><br>104:16<br><b>proven</b><br>19:12<br><b>provide</b><br>29:11 30:12 81:18<br>87:5 115:6,10<br>144:20 146:10<br>148:2 163:8 222:4<br>226:16 236:10<br><b>provided</b><br>51:17 52:1 62:15<br>124:2 134:16,19<br>141:7 159:21<br>218:10,15 238:19<br>238:24 239:1 240:3<br><b>provides</b><br>51:8 88:6 | <b>providing</b><br>36:4 61:23 65:8<br>118:2 197:14<br><b>provision</b><br>155:2<br><b>public</b><br>6:23 11:5 12:2,3 13:8<br>14:3 29:11,12,13<br>31:13 33:2,20 34:9<br>34:21 35:1,1,6,9,12<br>35:15,22 36:11,22<br>36:24 37:10,19 38:4<br>38:7,14,21 39:3,5,8<br>41:19 43:14 44:19<br>44:22,22 45:5 52:5<br>60:6 61:3 64:14<br>66:21 71:20,23<br>72:21 80:14 102:17<br>154:17,21 202:16<br>203:22 204:1 205:7<br>205:8 241:7<br><b>published</b><br>38:14<br><b>purpose</b><br>225:6<br><b>purposes</b><br>142:7<br><b>pursuant</b><br>11:18 17:12<br><b>pushing</b><br>26:6 136:18 138:3<br><b>put</b><br>40:13 49:9 122:16<br>159:4 188:16<br>203:20 230:9<br>236:15<br><b>puts</b><br>36:19 188:18<br><b>PW-7</b><br>147:17,18 148:9<br><b>PWC</b><br>3:20,21 4:8 14:19,23<br>16:1,6 19:6,17,18<br>20:20 21:5,7,17<br>22:1 25:14 27:3,13<br>92:7,10 100:20 | 101:7 106:10<br>117:10,10,13,17,21<br>125:5 151:5 152:1<br>155:21 156:7<br>157:20 238:1<br><b>PWC's</b><br>20:23 27:16<br><b>PWC-14</b><br>170:15 172:10<br>173:23<br><b>PWC-7</b><br>100:7 169:6,16<br><b>PWC-8</b><br>151:24<br><b>PWC-800</b><br>178:19 180:24 181:4<br>230:8,9<br><b>PWC-806</b><br>127:22 128:13,18<br>192:17 213:23<br>214:1,2,4 216:13<br><b>PWC-808</b><br>173:9<br><hr/> <b>Q</b> <hr/> <b>qualifications</b><br>63:4<br><b>qualified</b><br>1:21 62:11 63:3 78:8<br>78:11,13,15,19<br>242:5<br><b>quality</b><br>36:17,23 45:14 52:21<br>60:5<br><b>question</b><br>25:15 70:20 74:12<br>75:11,14 77:7 78:23<br>79:4 80:2,15 83:12<br>91:20 95:11,17<br>97:23 99:4 101:17<br>103:24 108:22<br>112:9,19,21 132:9<br>133:9,20 135:20<br>136:22 138:12<br>141:18 153:4<br>155:17 159:10 | 164:7 168:2,4<br>182:21 184:12,14<br>185:16 187:10<br>195:6,8 196:8<br>199:10 203:23<br>215:12,14 216:4<br>221:13 222:5 224:7<br>225:10 226:8,17<br>228:13,15,16,18<br>230:1,3 234:14,16<br>235:24 238:8<br><b>questioning</b><br>70:16 149:15 150:24<br><b>questions</b><br>7:2 33:3 68:21 79:17<br>83:21 135:7 139:19<br>140:7 143:17<br>191:20,23 192:1<br>193:23 194:5,17<br>196:17 203:6<br>205:19 214:19<br>219:5,10 236:19<br>239:6<br><b>quick</b><br>137:3 142:21<br><b>quickly</b><br>200:9 208:16<br><b>quite</b><br>44:4<br><b>quorum</b><br>190:21<br><b>quote</b><br>20:5 113:4 146:23<br><b>quotes</b><br>41:19<br><hr/> <b>R</b> <hr/> <b>R</b><br>93:10<br><b>racism</b><br>1:10 2:14 4:13 6:1<br>30:4 34:8 43:5<br>46:18<br><b>radioactive</b><br>32:5 48:9<br><b>radioactivity</b> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                     |                     |                        |                     |
|---------------------|---------------------|------------------------|---------------------|
| 43:16               | <b>real</b>         | <b>receive</b>         | 60:8,9 70:1 72:13   |
| <b>rail</b>         | 88:21               | 64:19 203:21,24        | 75:19 84:1,3,6 85:7 |
| 180:15              | <b>reality</b>      | 221:10                 | 92:15 101:2,8,9     |
| <b>railroad</b>     | 34:21 50:1          | <b>received</b>        | 117:11 124:22       |
| 113:13 116:20 117:3 | <b>realize</b>      | 10:14 49:20 62:16      | 125:8,11 128:15     |
| 119:5               | 62:24 65:15         | 146:21 148:10          | 134:5 142:5,20      |
| <b>rails</b>        | <b>realized</b>     | 158:20 160:15          | 143:11 152:6        |
| 231:9               | 32:21 57:7          | 215:5,8 230:15         | 156:12,16 183:12    |
| <b>raise</b>        | <b>really</b>       | 231:3                  | 183:18 201:3,9      |
| 56:4 59:1 84:16     | 18:5 50:3 66:19     | <b>receiving</b>       | 205:2 207:16,19     |
| 142:24 207:22       | 74:13 77:5 98:5     | 58:8 192:23 230:18     | 208:10 216:8        |
| 219:20,22           | 140:10 202:5        | <b>recipient</b>       | 237:15,16 239:17    |
| <b>raised</b>       | 209:12 241:11       | 158:7                  | 239:19,22 240:18    |
| 33:4 36:24 44:2     | <b>reason</b>       | <b>recipients</b>      | 241:9,10            |
| 63:13 68:5 77:2     | 11:22 64:6 114:11   | 158:6                  | <b>recorded</b>     |
| 120:17 201:15       | 178:4 231:9         | <b>reclarify</b>       | 80:19 189:14        |
| 202:16 203:11       | <b>reasonably</b>   | 205:24                 | <b>records</b>      |
| <b>ranging</b>      | 113:12,24           | <b>recognize</b>       | 11:7 125:17 152:9   |
| 221:6               | <b>reasons</b>      | 65:3                   | 205:10              |
| <b>reached</b>      | 61:21 155:1         | <b>recollection</b>    | <b>Recycling</b>    |
| 235:7               | <b>recall</b>       | 80:12 93:21 94:10      | 1:7,14 2:17 4:10,15 |
| <b>reacted</b>      | 91:24 92:5,8 99:20  | 136:8 178:7 179:5      | 6:14 21:10 39:23    |
| 59:17               | 99:21 100:2,11,12   | 189:5,7 227:12         | 107:2,4 222:9       |
| <b>reaction</b>     | 100:15,24 108:3,4   | 232:9                  | <b>Recycling's</b>  |
| 60:1,10 62:19 82:21 | 114:3 116:22,23     | <b>recommend</b>       | 107:12              |
| 83:3                | 117:23 119:15       | 8:4 167:8              | <b>red</b>          |
| <b>reactions</b>    | 121:5 122:17,21,24  | <b>recommendation</b>  | 181:11,19 184:20,23 |
| 59:19,21            | 124:4 126:17        | 164:20 168:14,16       | 185:1,11 232:24     |
| <b>read</b>         | 127:15,16 128:12    | <b>recommendations</b> | 233:9,14            |
| 4:6 9:7 18:5 40:19  | 128:21,24 129:12    | 111:14 168:21          | <b>redirect</b>     |
| 46:3 56:20 63:15    | 129:20 134:18,22    | 197:14 211:14          | 79:17               |
| 72:18,19 75:16,19   | 136:5 140:23 141:5  | <b>recommended</b>     | <b>redlining</b>    |
| 76:21 93:12,15,18   | 141:6,8,16 148:11   | 23:14,15 119:4         | 181:13              |
| 100:17,22,23 105:9  | 148:22 166:24       | 172:21                 | <b>reduced</b>      |
| 105:12 110:14,17    | 176:24 177:20,21    | <b>recommends</b>      | 32:11               |
| 110:18,19,23 116:2  | 178:6,9 179:9 189:9 | 119:5                  | <b>refer</b>        |
| 116:11 129:5,18,20  | 194:10,13 209:22    | <b>record</b>          | 9:16 106:21 198:18  |
| 129:22,24 132:24    | 214:16 215:7,22     | 4:2 5:9,14 7:12 9:12   | 225:24              |
| 136:12 153:18       | 223:10 224:11       | 9:13,21,24 10:7,9      | <b>reference</b>    |
| 200:6 202:4 205:8   | 227:6,22,23 228:2   | 10:12,19,22 11:6       | 48:18 52:19 62:5    |
| 230:11              | 229:1 230:4,17,18   | 14:14 16:2,12,24       | 64:9 151:18 156:21  |
| <b>reading</b>      | 233:21,22 236:12    | 17:2,14 19:23 27:5     | <b>referenced</b>   |
| 44:10 93:14 105:14  | <b>recalled</b>     | 29:14,15 37:22 38:1    | 60:18 80:8          |
| 130:2 136:8 157:5   | 148:21              | 40:5,9,20 41:11        | <b>referred</b>     |
| <b>ready</b>        | <b>recapping</b>    | 44:6 46:8,10,13        | 87:6 124:18 158:3   |
| 18:17               | 60:9                | 56:22 59:15,19,23      | 182:3 204:4 240:8   |

|                                               |                                         |                                      |                                            |
|-----------------------------------------------|-----------------------------------------|--------------------------------------|--------------------------------------------|
| <b>referring</b><br>106:19 148:17,18<br>205:5 | 146:17 172:15                           | 177:14 178:3                         | <b>reported</b><br>198:7 242:6             |
| <b>reflect</b><br>95:12 216:9                 | <b>relating</b><br>25:16 93:3 104:23    | 192:23 194:16,24                     | <b>reporter</b><br>29:21 56:12 58:23       |
| <b>reflecting</b><br>206:2                    | 105:3 129:6 146:23                      | 195:1 202:10 205:4                   | 59:1 75:16 84:14,16                        |
| <b>reflects</b><br>59:16                      | 147:11 148:6                            | 209:20 212:14                        | 111:1 142:24                               |
| <b>refresh</b><br>93:21 94:10 179:4           | 149:11,22 153:17                        | 213:17,19 214:20                     | 143:12 207:22                              |
| 189:5 227:12                                  | 172:24 229:10                           | 215:10,19 216:7                      | 219:21,22 220:11                           |
| <b>refreshes</b><br>136:8 232:9               | <b>relation</b><br>146:1 211:2          | 238:12                               | <b>reporting</b><br>198:2                  |
| <b>regard</b><br>26:11 112:21 115:20          | <b>relevance</b><br>17:20 41:3 121:8,10 | <b>remembered</b><br>148:11          | <b>reports</b><br>88:15,17 89:7 175:20     |
| 130:13 155:7                                  | 136:22 142:6,11                         | 189:4                                | <b>reposted</b><br>203:17                  |
| 177:19 225:23                                 | 156:11 172:12,16                        | <b>remotely</b><br>189:8 190:24      | <b>represent</b><br>5:16,24 6:8,13 19:10   |
| 228:9,11 229:20                               | <b>relevancy</b><br>142:9               | <b>removal</b><br>12:1               | 30:2                                       |
| <b>regarding</b><br>20:14 44:17,22 52:5       | <b>relevant</b><br>34:6,9 35:1,15       | <b>removed</b><br>45:4               | <b>representation</b><br>32:20 206:14      |
| 52:11 118:18                                  | 121:15 142:11                           | <b>renamed</b><br>37:21              | <b>representative</b><br>13:16 42:14       |
| 119:21 120:18                                 | 150:17 171:8                            | <b>rendered</b><br>25:18 27:14       | <b>representatives</b><br>6:4 49:11        |
| 146:14 150:17                                 | 173:24 195:16,18                        | <b>rendering</b><br>27:11 31:4       | <b>represented</b><br>83:15                |
| 151:19 152:5                                  | 195:19 197:10,11                        | <b>reopen</b><br>206:24              | <b>representing</b><br>46:16 169:18 170:24 |
| 194:14 206:15                                 | 197:16 201:3,12                         | <b>Repeat</b><br>75:14               | 171:19 206:2,16,16                         |
| 225:17                                        | 206:7                                   | <b>rephrase</b><br>74:15 82:2 101:19 | <b>request</b><br>21:8 28:20 72:21         |
| <b>regards</b><br>25:21 106:23 154:1          | <b>relied</b><br>23:18 24:1,2,5         | 104:2 131:10                         | 73:21 91:6 102:16                          |
| 172:22 202:16                                 | 111:17 112:22                           | 133:10 138:17                        | 146:15 147:9 149:5                         |
| <b>register</b><br>37:12 72:3                 | <b>religious</b><br>50:10               | 147:19 159:12                        | 151:19 152:6,12,13                         |
| <b>registered</b><br>32:18                    | <b>relive</b><br>83:6                   | 164:7 168:11                         | 153:16,21 154:8,13                         |
| <b>regular</b><br>115:7 118:9 152:21          | <b>rely</b><br>85:22                    | 180:22 182:11,21                     | 206:21 207:9                               |
| <b>regularly</b><br>119:21                    | <b>relying</b><br>34:16 101:13          | 184:16 187:11                        | <b>requested</b><br>154:2                  |
| <b>reject</b><br>22:6                         | <b>remain</b><br>18:23                  | 195:9 196:9 199:13                   | <b>requester</b><br>153:5                  |
| <b>relate</b><br>20:24                        | <b>remains</b><br>105:10 106:17 107:4   | 221:14 226:9                         | <b>requesting</b><br>72:2                  |
| <b>related</b><br>147:5 157:7 172:21          | <b>remedy</b><br>31:10                  | 228:18 229:17                        | <b>requests</b><br>145:20,22 146:8,11      |
| 225:9                                         | <b>remember</b><br>73:7 80:10,11,21     | 231:24                               | 146:16 152:9                               |
| <b>relates</b>                                | 81:19 82:10 99:16                       | <b>reply</b><br>8:7 27:8 241:8       | <b>require</b><br>28:11 37:15              |
|                                               | 105:14 116:3,4                          | <b>report</b><br>1:17 23:13 37:2     |                                            |
|                                               | 127:13 140:11                           | 63:16 88:18 132:22                   |                                            |
|                                               | 146:4 147:9 172:17                      | 143:23 144:3,16,18                   |                                            |
|                                               |                                         | 242:10                               |                                            |

|                                                                                                                         |                                                                                |                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>required</b><br>149:23 218:12<br>222:24                                                                              | 156:10                                                                         | <b>resumed</b><br>46:11 84:4 140:3<br>142:17 207:17<br>239:20                                                                                       | <b>right</b><br>8:19 14:3 46:12 55:2<br>58:22 59:1 60:19<br>67:5,23 68:8 69:7<br>72:16 73:19 75:3<br>76:8 79:10 83:24<br>84:5,16 85:17 87:4<br>91:2 92:20,24 94:5<br>94:23 95:4 98:17,18<br>105:21 106:1,23<br>109:17,23 114:4<br>117:17 118:13<br>125:4 126:22 132:1<br>134:1 136:7 137:21<br>137:24 138:1<br>139:24 140:6 142:2<br>142:3,8,19,24<br>148:15 149:7,9<br>153:3 154:5 156:15<br>158:10,20 161:3,6<br>165:13,14 167:21<br>168:10,23 169:14<br>169:14 171:16<br>175:17 176:18,20<br>176:23 177:5,10<br>178:11,16,20<br>179:11,12,14,16,17<br>179:19 181:8,18<br>184:4 185:13<br>186:19 187:4<br>189:21 190:16<br>191:2,9,17,20,23<br>192:7,17 194:15<br>197:16 198:2,9,14<br>199:8 202:8 203:13<br>203:15 207:5,10,18<br>207:22 208:13<br>213:11 214:1 216:1<br>216:20 217:15,22<br>218:17 219:11,14<br>219:18,20,22 229:4<br>230:8 232:4 237:3<br>238:5 239:21<br>241:17 |
| <b>requirement</b><br>25:3 177:13 229:14<br>234:3 235:9,18                                                              | <b>respiratory</b><br>48:20                                                    | <b>return</b><br>176:14 177:21<br>178:24 179:12<br>230:20                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>requirements</b><br>21:21 24:9 25:10<br>40:1,15 113:9<br>210:19 222:24<br>223:4,8,13                                 | <b>respond</b><br>53:12 59:12 95:16<br>148:24 150:7<br>156:18 158:8,8<br>178:5 | <b>returned</b><br>231:4,20                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>requires</b><br>12:1 64:13                                                                                           | <b>responded</b><br>149:3 206:21                                               | <b>reveals</b><br>22:13                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>rescheduled</b><br>73:22                                                                                             | <b>respondent</b><br>6:9                                                       | <b>reverse</b><br>21:8 28:20 65:19                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>rescheduling</b><br>73:24                                                                                            | <b>respondents</b><br>1:8,15 2:9,17 4:10<br>18:18 29:18 54:20                  | <b>reversed</b><br>21:19 22:18                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>research</b><br>208:23 229:9,12,15<br>229:16                                                                         | <b>responds</b><br>152:23                                                      | <b>review</b><br>25:18 33:8 44:6 81:4<br>96:17 97:3 98:16,21<br>98:23 99:23 100:14<br>101:14 102:2,18<br>159:23 169:13,20<br>169:21 175:8<br>196:22 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>reserve</b><br>33:13                                                                                                 | <b>response</b><br>10:14 41:24 73:21<br>119:9 124:8 137:3<br>153:20 205:24     | <b>reviewed</b><br>72:16                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>resident</b><br>19:19 20:16,21 47:2                                                                                  | <b>responses</b><br>44:14 124:14                                               | <b>reviewing</b><br>205:2,9                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>residential</b><br>22:22 23:7,12 113:13<br>116:9 118:14,18,23<br>184:8 185:4 224:8<br>225:10 226:17<br>233:17 239:11 | <b>responsibilities</b><br>40:3 221:4                                          | <b>revised</b><br>230:5 232:17                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>residents</b><br>31:21 35:14 50:10<br>51:13 199:7 200:4,5                                                            | <b>responsibility</b><br>103:20 104:5,15<br>110:4 190:2 223:7<br>223:11        | <b>revision</b><br>232:18                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>residents'</b><br>32:15                                                                                              | <b>responsible</b><br>43:15 44:13 104:9<br>105:10 106:18<br>107:4,5            | <b>revisions</b><br>232:19                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>resolution</b><br>93:10,17 94:2                                                                                      | <b>responsive</b><br>149:4 153:21 154:8<br>206:23                              | <b>rewrite</b><br>59:18,23                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>respect</b><br>18:21 39:22 40:3<br>41:11 58:7 136:24<br>150:13                                                       | <b>rest</b><br>14:5,22 48:15 70:12<br>155:16                                   | <b>rezone</b><br>117:3 119:12,14                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>respected</b><br>61:5                                                                                                | <b>result</b><br>178:12 193:11,20<br>231:2                                     | <b>rezoned</b><br>119:5                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>respectfully</b><br>33:8 188:4                                                                                       | <b>resulted</b><br>150:2 155:20 156:1                                          | <b>rezoning</b><br>116:19                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>respective</b>                                                                                                       | <b>resulting</b><br>157:10                                                     | <b>RFP</b><br>102:16                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                                                                                                                         |                                                                                | <b>Ricardo</b><br>2:4 5:16 19:10                                                                                                                    | <b>rights</b><br>30:5,7                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>risk</b><br/>79:20 118:24 119:6<br/><b>Rivera</b><br/>146:12,21 147:9<br/>150:2 151:8 155:21<br/>155:23<br/><b>rmeza@mezalaw.c...</b><br/>2:4<br/><b>road</b><br/>147:6 196:19<br/><b>roads</b><br/>45:9<br/><b>Rob</b><br/>29:1 30:2<br/><b>Robert</b><br/>2:11 5:18,22<br/><b>robert.weinstock@...</b><br/>2:12<br/><b>role</b><br/>103:14 159:23<br/>160:22 195:18<br/>196:19,23 221:20<br/>222:21<br/><b>roll</b><br/>190:20<br/><b>room</b><br/>38:18<br/><b>route</b><br/>54:1<br/><b>Ruben</b><br/>3:4 85:1,8<br/><b>rule</b><br/>6:21 11:18 29:9<br/>44:11 57:11 58:6,9<br/><b>ruled</b><br/>70:11 172:14<br/><b>rules</b><br/>4:23 5:1,2 11:24 12:7<br/>37:16 38:9 56:13,15<br/>79:19<br/><b>ruling</b><br/>8:1,12 24:2 109:6<br/>113:4,15,18 137:3<br/><b>rulings</b><br/>27:15<br/><b>run</b></p> | <p>85:23<br/><b>runs</b><br/>26:10<br/><hr/><b>S</b><hr/><b>S</b><br/>3:14<br/><b>S's</b><br/>208:13<br/><b>sacrifices</b><br/>31:15<br/><b>safe</b><br/>28:2 46:23 144:11<br/>208:22 241:18<br/><b>safety</b><br/>31:13 34:10,22 35:7<br/>38:21 39:3,5 44:19<br/>45:6<br/><b>sake</b><br/>14:17<br/><b>satisfy</b><br/>28:4,7<br/><b>satisfying</b><br/>28:2,10<br/><b>save</b><br/>136:18<br/><b>saw</b><br/>51:18 55:16 108:8<br/>119:2 129:17<br/>147:22 148:3<br/>195:23 205:2,3<br/>214:13<br/><b>saying</b><br/>47:9 61:12 64:16<br/>98:6,20 138:3<br/>148:23 149:3<br/>178:23 232:11<br/><b>says</b><br/>43:5 56:15 79:19<br/>93:2,7,9,14 104:15<br/>105:8 106:17<br/>109:13 112:10<br/>118:14 134:4,9<br/>151:14,21 152:5<br/>153:6,10 155:3<br/>163:13,17 169:17</p> | <p>188:4 190:13,22<br/>209:24 217:1<br/>230:20 234:1<br/><b>schedule</b><br/>73:18 100:21 240:22<br/><b>scheduled</b><br/>4:21 163:15<br/><b>school</b><br/>2:12 5:23 26:18<br/>29:24 68:8,9,14,16<br/>71:19<br/><b>schools</b><br/>48:18<br/><b>scientific</b><br/>78:16<br/><b>scientist</b><br/>62:4,23 76:3,5,6 82:8<br/><b>screenshot</b><br/>202:4<br/><b>second</b><br/>7:18 18:4 19:11<br/>21:12 26:4 27:24<br/>28:21 35:16 93:12<br/>94:3 99:6 139:3,13<br/>145:18 155:7,16<br/><b>Secondly</b><br/>22:16 45:2<br/><b>secretary's</b><br/>189:24<br/><b>section</b><br/>21:24 23:2 24:23<br/>27:22 30:14,22<br/>33:12 43:8 44:20<br/>45:18 105:8 108:16<br/>114:24 115:24<br/>116:5,16 118:17<br/>134:4 149:4 210:13<br/>212:9 217:2 225:24<br/>226:22 229:10,13<br/>229:22<br/><b>Sections</b><br/>5:1<br/><b>see</b><br/>15:5 20:6 40:19<br/>63:23 66:19,21 89:5<br/>92:21 93:2,4,5,6,10</p> | <p>96:5 100:7 105:22<br/>107:13,20 108:20<br/>109:11 117:16<br/>118:15 119:7,12<br/>126:21 128:7 134:1<br/>134:6,11 140:21<br/>141:14,21 151:15<br/>151:16,19,21 152:4<br/>153:14,18 158:15<br/>161:9 169:7,9 174:9<br/>182:24 183:4 188:4<br/>189:2 190:20 200:7<br/>202:6,9 204:7 214:5<br/>214:6,7,9 216:5<br/>230:9 232:4 234:3,4<br/><b>seeing</b><br/>128:22 158:16,17,18<br/><b>seeking</b><br/>146:8 157:6 221:18<br/><b>seen</b><br/>10:5 42:8 100:9<br/>117:14,22 129:9,13<br/>147:18 148:1 151:6<br/>170:15 214:23<br/>215:3,14,16 223:20<br/>233:12,14<br/><b>segregated</b><br/>14:23<br/><b>select</b><br/>13:9,18<br/><b>send</b><br/>144:22 157:23 158:2<br/>158:10 171:15<br/>215:9 231:22<br/>232:14<br/><b>sending</b><br/>25:24<br/><b>sense</b><br/>152:15,17,18<br/><b>sent</b><br/>11:5 16:9 61:10<br/>63:16 87:9 128:4,6<br/>136:1,3,16 138:2<br/>151:18 152:5<br/>159:17 162:20,24<br/>178:22 192:9,16</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 203:19 214:4,8,14<br>215:20,20 232:11<br>232:16,16 233:1,3<br>233:23<br><b>sentence</b><br>93:14 105:9 163:13<br>234:1<br><b>sentences</b><br>93:13<br><b>sentimental</b><br>77:5,14<br><b>separate</b><br>131:3,5,7 170:2,9<br><b>separately</b><br>112:5 170:1<br><b>September</b><br>1:19 4:20 10:13 16:9<br>17:12 39:24 114:7<br>114:22 200:12<br>201:2 210:4 240:4<br><b>series</b><br>240:7<br><b>seriously</b><br>40:4 44:20<br><b>serve</b><br>100:13 174:4<br><b>served</b><br>173:2 220:24<br><b>services</b><br>100:21 121:14 148:2<br><b>servicing</b><br>45:13<br><b>serving</b><br>50:3<br><b>session</b><br>26:20 89:20 122:11<br>122:14,20,23 123:1<br>123:15,19 124:1,11<br>124:19 125:17<br>126:2 130:8,11,15<br>141:1,3 165:20<br>166:2,3 188:20<br>193:21 205:10<br>211:23 212:2,6,7<br>217:21<br><b>sessions</b> | 167:18<br><b>set</b><br>16:4 21:21 23:1<br>27:19 40:23 59:24<br>70:17 130:18<br>156:20 157:3<br>216:17 242:12<br><b>setback</b><br>24:23 25:3,11 118:15<br>118:19 177:13<br>224:8 225:10,17<br>226:17 229:13<br>234:2<br><b>setbacks</b><br>113:11<br><b>sets</b><br>60:5 165:6 215:6<br><b>setting</b><br>170:9<br><b>share</b><br>61:24 62:18 77:23<br>171:12 172:4<br><b>she'll</b><br>6:23<br><b>shop</b><br>70:23<br><b>shopping</b><br>69:19<br><b>short</b><br>8:1 79:23<br><b>shorthand</b><br>242:7<br><b>show</b><br>35:5 40:6,9 43:18<br>92:6 170:14 180:17<br>202:24<br><b>showed</b><br>15:23 236:16<br><b>showing</b><br>14:12<br><b>shown</b><br>124:16 126:1<br><b>shows</b><br>28:5 179:15 181:16<br><b>side</b><br>182:24 | <b>sign</b><br>91:14,23 94:22<br>100:16<br><b>signature</b><br>23:23 188:8 223:24<br>234:22 236:15<br><b>signed</b><br>91:10,16 94:18 227:2<br>227:19 236:11<br><b>significance</b><br>149:17<br><b>significant</b><br>31:20 36:11 38:10<br>42:7 118:24<br><b>signing</b><br>182:8<br><b>silence</b><br>77:3<br><b>silenced</b><br>52:12<br><b>similarly</b><br>37:15 194:1<br><b>simpler</b><br>16:23<br><b>simply</b><br>40:13 42:10 132:12<br><b>simultaneous</b><br>7:13 241:7,8<br><b>single</b><br>34:14 35:3 89:8,9<br><b>singular</b><br>217:13<br><b>SIOLIDIS</b><br>1:21 242:4,16<br><b>sir</b><br>7:8 8:18 13:11 28:23<br>142:13 207:12<br>208:19,24 209:17<br>210:12,16,20<br>211:15,21,24<br>212:14,18,20,23<br>213:10,14,22,24<br>214:3,12,14,15,18<br>214:21 215:1 216:2<br>216:14 217:4,21<br>218:4,7 219:4,20 | 239:15<br><b>sit</b><br>29:20 215:7 239:10<br><b>site</b><br>13:13 23:1 26:24<br>37:13 74:4,20 110:1<br>116:21 120:4,9,12<br>174:6,10,14,18<br>177:3 226:17<br><b>sites</b><br>48:11 62:5<br><b>siting</b><br>4:17 5:9 9:24 10:19<br>15:18 17:1 21:3<br>22:19 25:8 31:11<br>40:1,12 44:9,17<br>70:3 71:6 75:7<br>96:20 103:21<br>149:16,18 150:15<br>156:11 172:16<br>211:3<br><b>sitting</b><br>143:15 220:22<br><b>situation</b><br>178:14<br><b>Six</b><br>221:2<br><b>six-year</b><br>19:19 20:21<br><b>skeptic</b><br>47:24<br><b>skewed</b><br>202:4<br><b>slap</b><br>49:21<br><b>small</b><br>17:11 93:5 221:7<br><b>smell</b><br>54:6<br><b>smells</b><br>75:6<br><b>smoke</b><br>45:16<br><b>smokescreen</b><br>44:6<br><b>social</b> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                           |                     |                     |                      |
|---------------------------|---------------------|---------------------|----------------------|
| 31:8 39:7 136:19          | <b>speak</b>        | <b>spelled</b>      | <b>stands</b>        |
| <b>Sofia</b>              | 7:15 8:4 20:12,15   | 23:18 220:12        | 115:24 116:1 144:8   |
| 72:8                      | 36:6 37:8 43:20     | <b>spent</b>        | 235:14               |
| <b>software</b>           | 47:10,13 48:17 52:4 | 98:13,23 173:7      | <b>stapled</b>       |
| 153:1,3                   | 52:6 55:6,7,11,12   | 204:20              | 122:7                |
| <b>solely</b>             | 58:17 62:10 63:4    | <b>spirit</b>       | <b>start</b>         |
| 105:10 106:18 107:4       | 66:9 70:24 72:4,4,5 | 31:2                | 7:5,19 15:19 29:3    |
| <b>solid</b>              | 72:6,11 77:23 78:9  | <b>spitting</b>     | 46:1 58:1 194:9      |
| 28:9                      | 78:11,19 80:15      | 48:8                | <b>started</b>       |
| <b>solidarity</b>         | 87:16 88:23,23      | <b>split</b>        | 15:17 81:23          |
| 30:5 46:20 67:5,7         | 106:5 135:8,9       | 137:14,16           | <b>starts</b>        |
| <b>Solis</b>              | 146:14 147:8        | <b>spoke</b>        | 126:20 153:13 157:4  |
| 72:8                      | 160:20 161:21       | 20:16 63:10 115:3   | <b>state</b>         |
| <b>somebody</b>           | 200:6               | 231:6               | 1:22 13:14,14 21:22  |
| 66:15 98:21 168:6,7       | <b>speaker</b>      | <b>spoken</b>       | 22:24 23:3 85:7      |
| 168:8,9 181:18,19         | 189:9,12            | 62:21               | 143:11 208:10        |
| 225:2,19 233:20           | <b>speaking</b>     | <b>spot</b>         | 211:8 220:10         |
| <b>somewhat</b>           | 36:12 61:10 66:6,12 | 60:17               | 241:10 242:1,5       |
| 60:20                     | 77:15 83:2 187:20   | <b>spread</b>       | <b>State's</b>       |
| <b>sooner</b>             | <b>speaks</b>       | 48:10               | 23:1                 |
| 56:18                     | 31:19 34:9 51:11    | <b>SS</b>           | <b>stated</b>        |
| <b>sorry</b>              | 53:17 112:11        | 242:1               | 6:20 24:22 34:2      |
| 54:17 56:11,19 57:2       | 146:16              | <b>staff</b>        | 67:16 75:22 113:4    |
| 57:9,14 77:4 80:3         | <b>special</b>      | 85:22 86:10 96:16   | 195:1 225:9          |
| 83:6 84:13 89:2           | 118:10,11 163:23,24 | 97:5,17,21 98:10,17 | <b>statement</b>     |
| 96:23 124:3 151:22        | 167:12 189:3        | 98:21 103:15        | 6:23 9:7 29:11,14,15 |
| 158:19 162:23             | 217:21 221:8        | 145:16 150:14       | 30:12 35:22 43:23    |
| 190:9 194:2,15            | <b>specific</b>     | 155:2 160:23 170:7  | 46:4,14 54:19,21     |
| 196:2 209:17              | 13:13 17:19,20 37:4 | 170:10 172:1        | 56:2,8,12,15,21      |
| 223:17 228:18             | 52:11 77:19 78:1    | 195:18,19,22        | 57:4,16,18 58:6,18   |
| <b>spaces</b>             | 81:18 173:12 205:4  | 196:19,23 197:7,12  | 60:13,13 71:24 95:7  |
| 48:13                     | 217:16 230:17       | 221:7 224:20        | 95:9,12,14,18,19,22  |
| <b>Spanish</b>            | <b>specifically</b> | <b>staff's</b>      | 95:24 96:2 240:19    |
| 7:11,12,14 36:2,4,12      | 27:22 146:4 156:21  | 169:4,24 186:4      | 240:23               |
| 44:5,8 47:8,11            | 157:1 201:15        | <b>stamp</b>        | <b>statements</b>    |
| 51:12 52:6 64:22          | <b>speculate</b>    | 9:18 92:16 101:10   | 6:18 9:6 18:18 19:6  |
| 66:13,14 69:7,17          | 179:24              | <b>stamped</b>      | 56:20 60:3 218:5     |
| 70:4,5,22 71:2 80:9       | <b>speculating</b>  | 19:24 117:12        | <b>states</b>        |
| 160:4,9,16,18,21          | 82:18 103:10        | <b>stand</b>        | 45:10 73:14 105:1    |
| 161:9,20 198:9,13         | <b>speculation</b>  | 46:3                | 116:5 160:3 216:21   |
| 199:17,23 200:1,6,7       | 71:11 157:15        | <b>standard</b>     | <b>station</b>       |
| <b>Spanish-speaking</b>   | <b>speed</b>        | 23:1                | 19:12,13 21:12 23:5  |
| 36:7 51:13 161:3,17       | 124:5               | <b>standards</b>    | 26:5 27:24 28:1,22   |
| 199:7                     | <b>spell</b>        | 37:6 41:9 60:5 61:1 | 31:23 32:8,12,17     |
| <b>Spanish-to-English</b> | 143:12 208:10       | <b>standing</b>     | 33:10 35:2 39:12     |
| 73:2                      | 220:10              | 68:20               | 45:13 47:23 48:5     |

|                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 51:14 62:8 74:9,17<br>74:19 91:8 97:10<br>98:10,15 102:18<br>111:8 116:7 127:3<br>130:14 139:4,13<br>146:1,18 147:5,12<br>149:11,23 159:23<br>163:9 172:23<br>182:16 183:16<br>221:11,23 223:2 | 48:15<br><b>store</b><br>69:12<br><b>Stout</b><br>204:14<br><b>strategic</b><br>199:4,5,15,16<br><b>street</b><br>28:13<br><b>stress</b><br>40:2<br><b>stressors</b><br>30:19<br><b>stretch</b><br>42:3<br><b>strictly</b><br>37:15 43:9<br><b>strike</b><br>198:22<br><b>structural</b><br>34:8 43:5,6<br><b>struggles</b><br>30:7<br><b>struggling</b><br>48:22<br><b>student</b><br>6:21<br><b>studied</b><br>68:8<br><b>stuff</b><br>5:19 18:3 202:18<br><b>subcommittee</b><br>67:6<br><b>subject</b><br>9:7 43:5 46:4,14<br>52:11 56:5,22 79:19<br><b>subjects</b><br>52:5<br><b>submission</b><br>37:22 188:9<br><b>submit</b><br>8:3 24:12 37:7,17<br>49:16 58:3 101:15<br>157:23<br><b>submitted</b><br>11:6 17:2 19:20 22:1 | 23:23 25:23 32:24<br>33:2 58:9 92:1<br>107:11 113:5 114:6<br>114:10,21 169:23<br>176:7 182:14,19<br>183:15,24 188:5<br>204:10 225:13<br><b>submitting</b><br>38:5<br><b>Subpart</b><br>30:14<br><b>Subsection</b><br>105:8<br><b>subsequent</b><br>33:6 216:6<br><b>substantive</b><br>59:10 60:6<br><b>successful</b><br>31:24<br><b>sue</b><br>149:24<br><b>suffers</b><br>30:20<br><b>suggest</b><br>167:14 169:1<br><b>suggested</b><br>42:14 139:22 150:11<br>238:16,18<br><b>suggestion</b><br>167:10,11,12 168:17<br>196:24<br><b>suggestions</b><br>168:21<br><b>suggests</b><br>157:16 235:24<br><b>Sullivan</b><br>6:3<br><b>summarize</b><br>33:14<br><b>Sunday</b><br>87:10 144:23,24<br>158:23 159:18<br><b>Superfund</b><br>48:11<br><b>supervise</b><br>221:7 | <b>supervises</b><br>86:9 88:11,14<br><b>supervision</b><br>30:1<br><b>supervisor</b><br>88:16 144:14 220:19<br>231:3<br><b>supplemented</b><br>11:7<br><b>support</b><br>20:8 21:1,8 24:15<br>26:23 28:19 113:9<br>183:24<br><b>supported</b><br>41:11 42:11<br><b>supporting</b><br>24:12<br><b>supports</b><br>31:22<br><b>supposed</b><br>105:19 109:23 203:1<br><b>supposedly</b><br>36:16<br><b>Supreme</b><br>6:21 12:6<br><b>sure</b><br>5:15 7:3 15:8 16:22<br>18:15 24:8 29:22<br>46:23 86:23 87:3<br>90:23 95:17 99:7,15<br>103:5,20 104:3,5<br>107:5 121:12,13<br>125:13 129:2 137:5<br>140:11 155:17<br>162:11 171:15<br>175:14 180:23<br>182:22 184:17<br>228:20 232:2<br>235:16<br><b>surrounding</b><br>31:8<br><b>suspect</b><br>8:1 41:1<br><b>suspenders</b><br>17:7<br><b>sustain</b> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



|                       |                      |                       |                      |
|-----------------------|----------------------|-----------------------|----------------------|
| 69:22                 | 182:22 186:23        | 108:9,12,14 114:10    | 43:14,23 45:12 47:7  |
| <b>sustained</b>      | 190:1 192:15         | 115:18 117:14         | 53:6,8,15 58:5       |
| 67:11,18 73:16 77:21  | 197:20 202:2         | 119:24 120:1,24       | 59:10,18,22,23 60:6  |
| 81:8 99:9 103:12      | 203:16 206:13        | 121:2 122:22 127:5    | 61:7,14,16,20 62:15  |
| 111:22 112:7 131:9    | 209:6 213:23         | 127:8 129:17 160:7    | 63:14 64:5 68:1      |
| 132:10 133:21         | 223:20 229:20        | 160:14 169:16         | 70:10 75:11 76:22    |
| 141:19,24 168:12      | 230:11 232:3,5,21    | 171:20,24 172:3,4,6   | 77:1 78:14 81:22     |
| 180:2,3 196:10        | 232:23 234:5,7,21    | 178:1 181:24          | 82:6,7,15 97:24      |
| 234:19                | <b>taken</b>         | 184:22 186:16         | 99:1 113:5 134:5,24  |
| <b>swear</b>          | 1:18 132:3 133:6     | 209:9 210:24          | 159:7 168:7 215:24   |
| 56:13 57:24 58:2,23   | 140:2 142:16 165:2   | 230:12 232:23         | 216:4 239:16         |
| 84:14 142:23          | 165:5 191:11,12      | 234:11 235:14         | 241:22 242:7,11      |
| 207:21 219:21         | 217:5 241:22 242:8   | <b>telling</b>        | <b>text</b>          |
| <b>sworn</b>          | 242:11               | 214:14                | 25:24 136:1,17 138:3 |
| 30:12 46:3 56:2,5,5,7 | <b>takes</b>         | <b>tells</b>          | <b>textbook</b>      |
| 56:15,17 57:4,8,16    | 8:13 90:5 165:8      | 153:4 179:16          | 34:7                 |
| 57:17 58:17 60:13     | <b>talk</b>          | <b>temperatures</b>   | <b>texts</b>         |
| 84:12 85:3 143:7      | 18:2 53:16 60:1 74:6 | 54:9                  | 26:8                 |
| 208:6 220:6           | 112:4 123:3 136:17   | <b>ten</b>            | <b>thank</b>         |
| <b>sync</b>           | 145:17 167:19        | 66:19 181:8           | 5:3,5,20 6:5,10,15   |
| 34:19                 | 177:15 178:1,11      | <b>ten-minute</b>     | 7:9,17 9:3,9 11:10   |
| <b>system</b>         | 201:6 241:15         | 83:24                 | 14:7,8 16:16 18:8    |
| 76:14 152:20          | <b>talked</b>        | <b>Terez</b>          | 18:11 19:3,4,7,8     |
| <b>Systems</b>        | 82:6 166:7           | 72:8                  | 28:18,22,23,24       |
| 1:7,14 4:10,15 21:10  | <b>talking</b>       | <b>term</b>           | 29:17 39:15,16,19    |
| 39:23 222:9           | 74:3 105:15 123:9    | 43:12 210:21 211:2    | 41:14,15,17 45:22    |
|                       | 140:24 167:20        | 233:9                 | 45:23 46:7 53:22     |
|                       | 180:6 182:10         | <b>terms</b>          | 55:3 59:6 60:23      |
|                       | 194:11               | 197:13                | 65:23 66:1,3 67:1,4  |
| <b>T</b>              | <b>Tampico</b>       | <b>testified</b>      | 67:12,20 69:1,4      |
| 3:14                  | 69:13                | 44:1,3 69:6 70:2 71:4 | 75:18 78:21 79:6,8   |
| <b>T-R-A-C-K</b>      | <b>tape</b>          | 76:7,15 85:4 99:2     | 80:1 83:7,9,11,22    |
| 233:10                | 189:17               | 143:8 208:7 220:6     | 84:11,21 89:2 106:1  |
| <b>tacos</b>          | <b>task</b>          | 234:14 238:9          | 106:13 109:6 125:6   |
| 50:3                  | 38:19                | <b>testifies</b>      | 125:18,19 139:20     |
| <b>take</b>           | <b>team</b>          | 18:23                 | 140:1,10 142:1,3,13  |
| 5:8,9 15:14 31:9      | 155:17 195:24        | <b>testify</b>        | 142:14,15 150:20     |
| 42:17 61:11 65:11     | 196:14               | 11:20 12:12 13:3      | 151:1,3 178:24       |
| 69:3 70:14 83:24      | <b>technicality</b>  | 55:5 59:16,20 82:9    | 183:21 193:23        |
| 89:13 92:10 93:12     | 38:9                 | 82:13 112:12 159:3    | 194:4 195:10 197:5   |
| 96:4 100:5,19         | <b>Technically</b>   | 192:22,23             | 200:17 205:17,21     |
| 104:21 117:13         | 211:19               | <b>testimony</b>      | 207:12,13 209:14     |
| 122:2 128:1 130:7     | <b>tell</b>          | 1:17 12:4 18:23 27:4  | 219:6,13,15,17       |
| 136:12 139:23         | 64:10 77:13 87:4     | 33:16,20 34:3,4       | 238:2,3 239:3,4,14   |
| 140:6 147:17 151:5    | 92:11 93:18 100:22   | 35:24 36:14,17,23     | 239:15,16 240:1,11   |
| 159:14 169:6,16       | 102:21 104:20,21     | 37:17,24 39:2 43:11   | 240:15 241:13        |
| 178:19 181:6,10       |                      |                       |                      |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                         |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>thanking</b><br>29:3                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 60:17 92:24                                                                                                                                                                                                                                                     | 203:11,14,15                                                                                                                                                                                                                             | <b>top</b><br>15:1 57:6 60:16                                                                                                                                                                                                                                                                                                           |
| <b>thanks</b><br>82:3 136:20 228:21<br>241:18                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>third-party</b><br>4:16 111:21,24 147:4                                                                                                                                                                                                                      | 206:22 213:16,18<br>227:24 242:11                                                                                                                                                                                                        | 92:19,24 93:5<br>102:23 105:23                                                                                                                                                                                                                                                                                                          |
| <b>Thanksgiving</b><br>8:11                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>third-year</b><br>6:20                                                                                                                                                                                                                                       | <b>times</b><br>99:2 135:20 177:15<br>177:18,19 234:15                                                                                                                                                                                   | 117:17 118:13<br>126:22 133:24                                                                                                                                                                                                                                                                                                          |
| <b>themes</b><br>52:6                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>thorough</b><br>33:13 134:24                                                                                                                                                                                                                                 | <b>tissue</b><br>61:18 77:11                                                                                                                                                                                                             | 151:20 153:13<br>178:19 192:17                                                                                                                                                                                                                                                                                                          |
| <b>thing</b><br>7:18 11:12 81:17<br>140:11 200:8 201:8<br>236:5,8 238:11                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>THORPE</b><br>2:7                                                                                                                                                                                                                                            | <b>title</b><br>30:13 104:21                                                                                                                                                                                                             | 214:1 230:8                                                                                                                                                                                                                                                                                                                             |
| <b>things</b><br>10:24 16:21 24:22<br>75:2,5 181:18 194:6<br>194:11 218:18                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>thought</b><br>16:5 45:20 54:23<br>56:16 57:5 58:9<br>61:4 62:11 63:10<br>112:12 148:16<br>152:20 155:10<br>174:14 190:23<br>196:24 235:10,11<br>238:16                                                                                                      | <b>today</b><br>4:20 5:10,17 9:16<br>17:15 22:8 30:1<br>33:17 36:5 40:6<br>41:2 42:2,13 47:1<br>53:16 77:6 82:6<br>83:7 89:4 110:6,6<br>241:12                                                                                           | <b>totally</b><br>37:1                                                                                                                                                                                                                                                                                                                  |
| <b>think</b><br>6:18 9:4,4,20 11:8<br>15:15 16:13,17,23<br>17:17 18:17 26:1<br>44:10 45:15 55:22<br>58:15 66:20 67:13<br>70:15,20 74:12<br>76:15 79:6 81:17<br>83:18 87:24,24 88:3<br>89:1 90:24 108:2<br>110:22 112:7 114:9<br>114:16 116:12<br>121:15,19 123:22<br>125:7,10 135:19<br>148:18 153:8 154:1<br>171:8,9 174:8,12<br>178:2 183:6 186:10<br>188:24 189:6<br>192:12,13 193:22<br>198:11,15,21 199:2<br>199:24 200:21<br>201:11 206:4,6<br>207:6,11 209:12<br>236:20,22 237:1<br>238:4 | <b>three</b><br>54:24 72:9 232:6                                                                                                                                                                                                                                | <b>today's</b><br>7:19 16:3 25:14<br>143:16                                                                                                                                                                                              | <b>town</b><br>28:13 48:5,14,22<br>51:11 65:7,21 71:3<br>212:21,24 213:2<br>215:21                                                                                                                                                                                                                                                      |
| <b>thinking</b><br>56:8 82:19 112:13<br>179:24                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>throw</b><br>43:4                                                                                                                                                                                                                                            | <b>told</b><br>15:17 66:15 78:8,13<br>78:15,18 107:23<br>163:18 172:1 180:5<br>215:8,19 218:21<br>231:8,13                                                                                                                               | <b>track</b><br>184:23 233:10,12,22<br>239:11                                                                                                                                                                                                                                                                                           |
| <b>third</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>thrown</b><br>43:17                                                                                                                                                                                                                                          | <b>Tom</b><br>3:11 23:19 26:21<br>86:19 107:10 108:7<br>108:10 110:11<br>111:18 113:6<br>114:14 144:2,3<br>175:20 176:13<br>177:21 178:1,4,11<br>178:13,15,22 179:8<br>179:12,16,21<br>180:10,17 182:7,15<br>182:19,20 185:3<br>220:4,12 | <b>traffic</b><br>36:21 81:14                                                                                                                                                                                                                                                                                                           |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>Thursday</b><br>1:19 8:24 9:1                                                                                                                                                                                                                                | <b>Tom's</b><br>179:6 184:7                                                                                                                                                                                                              | <b>trained</b><br>62:9 76:7,10                                                                                                                                                                                                                                                                                                          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>Ticknor-Swanson</b><br>6:3,20 29:8,22,23<br>39:17                                                                                                                                                                                                            | <b>tone</b><br>61:15                                                                                                                                                                                                                     | <b>training</b><br>76:13                                                                                                                                                                                                                                                                                                                |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>Ticknor-Swanson's</b><br>29:9                                                                                                                                                                                                                                | <b>tonight's</b><br>128:3                                                                                                                                                                                                                | <b>transcript</b><br>5:10 59:16 61:16<br>62:12 72:16,20<br>76:23 151:2 214:23<br>214:23 242:9                                                                                                                                                                                                                                           |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>tie</b><br>137:7,24                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                          | <b>transfer</b><br>19:12 21:12,16 23:5<br>26:4 27:24 28:1,12<br>28:22 31:23 32:1,8<br>32:12,17 33:10 35:2<br>39:12 45:13 47:23<br>48:5 51:14 54:11<br>62:8 74:9,17,19<br>91:8 97:9,21 98:10<br>98:15 102:18 111:8<br>116:7 127:3 130:14<br>139:4,13 146:1,17<br>147:5,12 149:11,22<br>159:23 163:9<br>172:22 182:16<br>183:16 221:11,19 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>time</b><br>8:3 15:7 29:7 48:12<br>50:9 65:23 74:1,20<br>78:7 80:13 83:7<br>89:12 101:2 112:13<br>127:9,11,15,19<br>128:5,14 129:14,20<br>140:19 141:12<br>145:9 148:12,21<br>155:19 156:6 163:3<br>169:23 170:8<br>171:18 177:6 185:6<br>196:2,21 202:18,22 |                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                         |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 221:23 223:2<br><b>transferring</b><br>75:3<br><b>translate</b><br>51:9 160:8 199:20<br>200:1<br><b>translated</b><br>160:3 161:5 198:8,12<br>199:23<br><b>translation</b><br>7:13 29:6 36:5,10<br>44:9 51:7,8,17 52:1<br>64:21 71:5,9 72:1,5<br>73:2 80:9,17 198:14<br><b>transmittal</b><br>201:2<br><b>transmitted</b><br>229:1<br><b>trash</b><br>174:19<br><b>travel</b><br>50:18<br><b>treated</b><br>33:19 36:13 53:17<br>63:12<br><b>treating</b><br>38:20<br><b>treatment</b><br>37:4<br><b>tried</b><br>49:24 59:16<br><b>trip</b><br>241:18<br><b>trouble</b><br>88:21<br><b>truck</b><br>45:7 53:24 80:19<br>81:14<br><b>trucks</b><br>32:9 35:13 45:9,12<br>48:7,7,15 49:4 54:5<br>54:8,14 55:14 62:2<br>63:6,7 74:3 80:24<br>81:5,16<br><b>true</b><br>19:1 64:13 65:4 98:9 | 107:10 113:3<br>133:15 136:15<br>146:20 149:2 152:8<br>153:24 157:16,18<br>215:16 230:14<br>242:9<br><b>truly</b><br>64:15 65:16<br><b>trusted</b><br>102:2<br><b>try</b><br>36:8 78:7 154:16<br>195:10 196:3<br>206:23 208:15<br><b>trying</b><br>47:6 59:10,17 61:14<br>72:3 189:16 199:20<br>200:23<br><b>Tuesday</b><br>209:21 230:14<br><b>tunc</b><br>58:17,20<br><b>turn</b><br>27:2 55:4 88:22<br>92:23 93:7 153:12<br>154:7 182:23<br><b>turned</b><br>138:7 154:4,10,22,24<br><b>twice</b><br>177:16<br><b>twisted</b><br>45:17<br><b>two</b><br>8:16 9:2 13:23 17:13<br>17:17 21:16 28:12<br>33:10 44:14 47:3<br>55:11 79:22 95:13<br>96:7,11 99:1 109:18<br>109:20 131:3<br>137:17 147:1<br>154:24 160:21<br>173:12 177:18<br>189:8,11 208:13,13<br>215:6,23 236:5<br><b>two-week</b><br>7:23 | <b>type</b><br>188:11 201:16<br><b>typed</b><br>187:6,17 188:1<br><b>types</b><br>90:9,18<br><hr/> <b>U</b> <hr/> <b>ubiquitous</b><br>45:9<br><b>ultimate</b><br>5:7<br><b>ultimately</b><br>154:4 169:11<br><b>unable</b><br>92:8<br><b>unanimous</b><br>137:17<br><b>unaware</b><br>155:19<br><b>unclear</b><br>57:10<br><b>underlying</b><br>9:12 21:1<br><b>underneath</b><br>189:2<br><b>understand</b><br>7:22 9:12,22 45:5<br>47:9 51:22 56:24<br>62:8 66:5,7 81:6<br>82:14,15 103:18<br>107:9 108:19 109:3<br>109:8,12,12,17<br>111:6 119:10<br>125:22 130:1,4<br>139:11 140:11<br>160:22 226:5,13<br>232:1<br><b>understanding</b><br>17:9 46:5 66:18<br>81:12 82:12 155:1<br>196:18 217:12<br><b>understands</b><br>51:12 55:8<br><b>understood</b><br>75:4 82:4 137:13 | 189:18<br><b>undertook</b><br>194:22<br><b>unfair</b><br>25:19 27:12 31:5<br>35:18 37:23 38:7,18<br>39:4 40:24 53:18<br>70:3 73:18<br><b>unfairness</b><br>31:10,12 33:17 60:10<br><b>unfinished</b><br>93:9<br><b>Union</b><br>231:10<br><b>United</b><br>45:10 73:14<br><b>unlawful</b><br>157:10<br><b>unrelated</b><br>42:17<br><b>unreliable</b><br>53:9<br><b>unscientific</b><br>53:9<br><b>update</b><br>159:17,22 162:20<br>163:5,9,12<br><b>updated</b><br>232:12<br><b>updates</b><br>87:6,9,14,19 115:7<br>115:11 144:21,22<br>157:23 158:24<br>159:4<br><b>uploaded</b><br>202:22<br><b>use</b><br>16:6,6 23:4 47:13<br>62:9 76:8,13 107:18<br>116:7 169:24<br><b>uses</b><br>23:7,12 36:1 113:14<br>116:9<br><b>usually</b><br>15:19 157:23 181:19 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                 |
|--------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>V</b>                                                                                                                             | 130:8 131:19 133:7<br>191:11,12 217:5                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 191:22 193:24<br>194:10,16,20 195:2<br>195:5 196:7 199:9<br>200:21 202:7<br>205:18,19 206:18<br>206:20 216:3 219:9<br>219:10 221:12,24<br>226:7 228:12,16<br>229:15,24 234:13<br>235:23 237:8,9,22<br>237:23 239:5,6 | 177:19 179:22<br>233:20                                                                                                                                                                                                                                                         |
| <b>Valeria</b>                                                                                                                       | <b>voting</b><br>137:18 165:11                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>Walsh's</b><br>12:9 99:6 173:17                                                                                                                                                                                   | <b>waste</b><br>19:12 21:12,16 26:4<br>27:24 28:9,12,21<br>31:22,24 32:8,12,17<br>33:9 35:2 39:12<br>47:23 48:5 51:14<br>54:11 62:8 74:19<br>75:3 98:10,14<br>102:18 111:8 127:3<br>130:14 139:3,13<br>146:1,17 147:5,12<br>149:22 163:9<br>182:15 183:16<br>221:11,18,23 223:2 |
| 88:5 90:2 144:7<br>153:2 203:18,18                                                                                                   | <b>vs</b><br>1:5,12                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>want</b><br>6:19 7:9 9:14 12:17<br>16:11 17:6 29:3<br>33:14 43:4,6 47:8<br>52:8 65:9 89:2<br>121:22 140:10<br>150:5 161:9 163:8<br>172:1 194:9 197:1,1<br>197:20 200:7,8<br>205:23 231:24<br>240:18 241:10,12     | <b>way</b><br>6:22 31:14 35:14<br>38:10 39:6 58:11<br>63:10 76:2 81:10<br>217:14                                                                                                                                                                                                |
| <b>validated</b><br>197:10,11                                                                                                        | <b>vulnerable</b><br>31:15 32:14                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>wanted</b><br>7:6 10:11 17:10,11<br>25:5,6 47:22 50:7<br>54:11,13 61:7 62:17<br>72:4 92:8 161:4,14<br>178:11 179:11,17<br>180:14 206:1<br>225:16 231:8<br>232:12 235:16                                           | <b>ways</b><br>57:24 58:12                                                                                                                                                                                                                                                      |
| <b>value</b><br>82:14                                                                                                                | <b>W</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>war</b><br>43:4                                                                                                                                                                                                   | <b>we'll</b><br>10:24 18:2,14 25:22<br>26:9,13,21 27:16,18<br>33:12 106:4,8 114:4<br>139:24 145:17<br>174:18,19 183:20<br>236:20 240:13                                                                                                                                         |
| <b>varies</b><br>52:5                                                                                                                | <b>wait</b><br>79:3 110:22                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>ward</b><br>208:17                                                                                                                                                                                                | <b>we're</b><br>4:1 9:6 14:12 15:15<br>16:14 18:3,16 46:8<br>46:13 57:1 71:2<br>81:15 83:24 84:1,6<br>101:1 125:14<br>133:23 140:6 142:3<br>142:20 156:15<br>157:9 165:13 237:5<br>239:22                                                                                       |
| <b>various</b><br>21:7 159:22                                                                                                        | <b>waiver</b><br>44:11 240:24                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>wars</b><br>45:19                                                                                                                                                                                                 | <b>we've</b><br>18:6,10,15                                                                                                                                                                                                                                                      |
| <b>vehicle</b><br>32:10                                                                                                              | <b>Walsh</b><br>2:8 6:6,7,8 10:4,20<br>11:4,21,23 13:1,6<br>13:22 15:6 18:19<br>19:1,4 39:18,19<br>41:16 54:20 58:14<br>58:20,21 79:12<br>82:18 83:22 91:3<br>95:10 97:23 98:24<br>101:3,4,16 103:10<br>103:23 106:3<br>108:21 109:1,6<br>110:16 111:20<br>112:3,6,7 118:3,5<br>124:24 125:11<br>126:3,7,9 128:2,7<br>128:16,17 131:1,7<br>132:8 133:19 135:6<br>135:14 136:21<br>138:5,10,12,21<br>141:17,23 142:6,9<br>149:14 150:5,7,10<br>150:23 156:8,9<br>157:12,14 159:9<br>162:13,14 164:2<br>168:1,5 172:11,12<br>172:22 173:5,7,12<br>179:23 180:19<br>181:1,2 182:9<br>183:11,17,20<br>184:11 185:15,18<br>186:8 187:9,16 | <b>wasn't</b><br>45:1 56:5 83:1,2 92:2<br>121:12 131:7 138:7<br>139:7 153:24                                                                                                                                         | <b>wealthier</b><br>39:10                                                                                                                                                                                                                                                       |
| <b>version</b><br>18:7 54:18 117:12<br>199:19 200:10<br>232:14,16                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                      | <b>wear</b><br>54:3                                                                                                                                                                                                                                                             |
| <b>versus</b><br>4:8,14 109:14 236:6                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                 |
| <b>vicinity</b><br>74:4                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                 |
| <b>Village</b><br>14:1,5                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                 |
| <b>violating</b><br>150:1                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                 |
| <b>voice</b><br>20:17 52:14 76:18                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                 |
| <b>voices</b><br>52:10                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                 |
| <b>voicing</b><br>77:4                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                 |
| <b>vote</b><br>131:22 132:1,3,6,12<br>133:6 136:23 137:7<br>137:14,14,16,24<br>165:10,14,17 166:4<br>209:1 215:9 216:19<br>217:12,14 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                 |
| <b>voted</b><br>26:14,17 96:7,12<br>134:17 135:5<br>165:22 214:10,13<br>215:15,17 216:5                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                 |
| <b>votes</b>                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                 |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>website</b><br/>51:8 160:4,10 161:5<br/>161:10 198:9,18<br/>199:8,17 202:23<br/>203:20 204:5,6<br/><b>Wednesday</b><br/>8:8<br/><b>week</b><br/>8:21 136:18 209:20<br/><b>weekly</b><br/>87:6,9,14,19 144:21<br/>144:22 157:23<br/>158:24 159:4,17,22<br/>162:20 163:5 198:3<br/><b>weeks</b><br/>8:16 9:2<br/><b>weight</b><br/>41:13<br/><b>Weinstock</b><br/>2:11 3:8 5:21,22 6:19<br/>6:24 16:20,23 17:4<br/>17:9 18:6,9,12,14<br/>28:24 29:1 30:2<br/>46:6,8 53:11,14<br/>54:19,24 55:23 56:3<br/>56:11,19 57:2,9,14<br/>57:19,23 59:12,15<br/>60:7,15 66:10,11,22<br/>67:9,12,15,20,24<br/>68:10,19 69:1,4,18<br/>70:9 71:10 73:5,15<br/>74:11 75:10 76:16<br/>77:7 78:4 79:3,12<br/>79:16,22,24 80:2,4<br/>81:9,11 82:2,4,5,20<br/>83:5,9,12,14,21<br/>140:8,9 141:20<br/>142:1,14 194:1,4,8<br/>195:8,10,11 196:11<br/>199:12,14 200:11<br/>200:15,18 201:1,15<br/>202:1,24 203:3,4<br/>205:15,18 219:7,8<br/>238:6,7 239:3,23,24<br/>240:1 241:2<br/><b>Weinstock's</b></p> | <p>69:3 70:15<br/><b>Welcome</b><br/>142:20<br/><b>welfare</b><br/>31:14 34:10,22 35:7<br/>38:22 39:3,5 44:19<br/>45:6<br/><b>well-being</b><br/>52:17 65:17<br/><b>Wendy</b><br/>19:20 20:21 41:20<br/><b>went</b><br/>25:4 94:4 108:1<br/>122:11 123:14,18<br/>124:1<br/><b>weren't</b><br/>45:7 78:11 82:8<br/>110:3 117:24<br/>120:20 134:19<br/>146:1 147:15<br/>154:22 167:20<br/>170:17,21 185:12<br/>194:23 198:19<br/>215:2,5<br/><b>West</b><br/>1:3,6,6,13 2:6,10 4:7<br/>4:8,9,14 5:3,16 6:9<br/>9:11 19:10,19,21<br/>20:3 21:9,12,13,18<br/>22:2,4,9,12,13,16<br/>22:17 23:12,22,23<br/>24:4,11,19 25:7<br/>26:18 28:21 29:5<br/>30:24 31:17,22 32:4<br/>32:9 35:8,13,14,19<br/>36:1,8 39:7,22<br/>40:14 42:9,12,16<br/>43:16,19 44:1,8<br/>45:4,10 47:2,14,23<br/>48:2 49:3,11 50:7<br/>50:20 51:1,2,5,7<br/>52:2,4,8 63:16,19<br/>65:6,20 67:22 69:10<br/>70:7,8 71:8 77:2<br/>85:21,22,23 86:2,9<br/>86:18 87:22 89:14</p> | <p>90:20 93:23 96:16<br/>96:20 97:5,12<br/>100:13,17 101:13<br/>101:22 102:10,12<br/>102:16,22 103:5,8<br/>103:15,18 104:14<br/>104:22 105:2<br/>107:14,16 110:4<br/>111:9 113:8 115:19<br/>116:15,18,24 117:1<br/>118:1,2 119:11,11<br/>119:14 121:11,14<br/>124:6,14,17 127:2<br/>130:7,18 136:16<br/>143:21 144:12,15<br/>144:17,19 145:5,11<br/>145:14,21,23<br/>146:22 147:2,4,6<br/>148:19 149:2,10,21<br/>149:24 151:9 152:8<br/>152:23 157:5<br/>161:24 162:2,3<br/>169:18 170:6 171:1<br/>171:3,13 173:2<br/>174:23 175:2,9<br/>183:7 202:14 206:1<br/>211:6 213:7,13,15<br/>213:16,18,20<br/>220:16 222:12,18<br/>224:20 225:13,17<br/>241:13<br/><b>whatsoever</b><br/>43:2<br/><b>Wheaton</b><br/>108:2<br/><b>whichever</b><br/>63:10<br/><b>white</b><br/>32:1<br/><b>whiter</b><br/>39:10<br/><b>wide</b><br/>221:6<br/><b>wider</b><br/>39:9<br/><b>width</b></p> | <p>113:10<br/><b>wiggle</b><br/>38:17<br/><b>wildlife</b><br/>120:3,8 174:4<br/><b>willing</b><br/>117:2<br/><b>win</b><br/>50:4<br/><b>withdraw</b><br/>176:10 201:21<br/>240:13<br/><b>withdrawn</b><br/>176:5<br/><b>witness</b><br/>36:15 37:17,24 43:22<br/>46:13,15 53:23 55:4<br/>59:4 60:23 66:14,24<br/>68:5 70:2 71:14<br/>73:7 74:13 75:14,20<br/>78:8 79:2,5 82:24<br/>84:12,19 85:2 88:22<br/>95:21 98:7 111:20<br/>139:23 142:22<br/>143:3,6 179:24<br/>187:24 207:12,20<br/>208:2,5 219:10,17<br/>219:19,19 220:2,5<br/>222:4 230:4 234:14<br/>234:17<br/><b>witness'</b><br/>27:4<br/><b>witnesses</b><br/>11:15,18,20 12:1,12<br/>12:13,13,14 14:6,12<br/>15:2 18:22 19:2<br/>25:15 28:19 46:2<br/>134:11<br/><b>word</b><br/>198:16 221:24<br/>232:14 238:10,11<br/>238:15<br/><b>wording</b><br/>42:15 135:7<br/><b>words</b><br/>24:10,20 25:19 61:10</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>106:5 122:7 229:23<br/>233:6,17</p> <p><b>work</b></p> <p>11:9 85:17 89:10,11<br/>89:14 129:7 195:19<br/>196:2,4,12 234:11</p> <p><b>working</b></p> <p>30:9 32:16 129:1<br/>197:6</p> <p><b>worried</b></p> <p>48:19 52:16 62:5<br/>65:16</p> <p><b>worries</b></p> <p>49:1</p> <p><b>write</b></p> <p>163:18,19</p> <p><b>written</b></p> <p>9:7 20:2 33:2 46:4<br/>155:8 179:22</p> <p><b>wrong</b></p> <p>110:23</p> <p><b>wrote</b></p> <p>10:8 24:15,17,21<br/>26:7 112:13 179:1<br/>227:1 228:7</p> <hr/> <p style="text-align: center;"><b>X</b></p> <hr/> <p><b>X</b></p> <p>3:1,14 177:16</p> <hr/> <p style="text-align: center;"><b>Y</b></p> <hr/> <p><b>yeah</b></p> <p>15:22 16:13 74:1<br/>176:17 196:9<br/>227:14</p> <p><b>year</b></p> <p>27:20 86:24 152:10<br/>152:12</p> <p><b>years</b></p> <p>47:2 75:1 85:9,10,12<br/>86:8,23 87:2 147:1<br/>177:16 208:20<br/>215:23 221:2</p> <p><b>yield</b></p> <p>29:7</p> | <p style="text-align: center;"><b>Z</b></p> <hr/> <p><b>zero</b></p> <p>26:15</p> <p><b>zone</b></p> <p>231:9</p> <p><b>zoned</b></p> <p>22:22 23:6,12 116:9<br/>118:23 180:15</p> <p><b>zoning</b></p> <p>113:7,10 118:14,19<br/>119:11 221:20,21<br/>222:5</p> <p><b>Zoom</b></p> <p>188:23 189:4 190:13<br/>190:16,19,22,23<br/>191:1</p> <hr/> <p style="text-align: center;"><b>0</b></p> <hr/> <p><b>0006</b></p> <p>111:2</p> <p><b>001619</b></p> <p>93:10</p> <p><b>005811</b></p> <p>20:1</p> <p><b>005983</b></p> <p>92:16</p> <p><b>005986</b></p> <p>92:23</p> <p><b>005987</b></p> <p>93:8</p> <p><b>005988</b></p> <p>92:17</p> <p><b>006005</b></p> <p>186:23</p> <p><b>006059</b></p> <p>112:24</p> <p><b>0639</b></p> <p>126:24</p> <p><b>084-001205</b></p> <p>1:21 242:17</p> <hr/> <p style="text-align: center;"><b>1</b></p> <hr/> <p><b>1</b></p> <p>3:17 10:6 92:13<br/>124:9,21 203:2<br/>240:2,16,20</p> | <p><b>1,000</b></p> <p>22:21 23:6,7,11<br/>116:8,10</p> <p><b>1,000-foot</b></p> <p>24:23 25:2,11 177:13<br/>229:13 234:2</p> <p><b>1:00</b></p> <p>84:8 139:24 140:1</p> <p><b>1:07</b></p> <p>142:21</p> <p><b>1:11</b></p> <p>178:23 230:19</p> <p><b>10</b></p> <p>93:9 232:4 238:1</p> <p><b>100</b></p> <p>19:16</p> <p><b>1001</b></p> <p>3:20 92:7,10</p> <p><b>101</b></p> <p>5:2</p> <p><b>101.628</b></p> <p>30:14</p> <p><b>1067.628</b></p> <p>56:19</p> <p><b>107</b></p> <p>5:1</p> <p><b>108141</b></p> <p>19:24</p> <p><b>11</b></p> <p>85:9 215:6 237:10</p> <p><b>11:17</b></p> <p>84:7</p> <p><b>115</b></p> <p>143:24</p> <p><b>118</b></p> <p>88:11</p> <p><b>11th</b></p> <p>18:16</p> <p><b>12</b></p> <p>106:10 214:15</p> <p><b>12:16</b></p> <p>128:4,22 192:10<br/>213:21 214:5</p> <p><b>12:30</b></p> <p>84:7 139:24</p> <p><b>12:31</b></p> | <p>139:22</p> <p><b>123</b></p> <p>15:20</p> <p><b>1281</b></p> <p>76:22</p> <p><b>13th</b></p> <p>8:6 241:6</p> <p><b>14</b></p> <p>3:16,21 17:12 21:5<br/>85:12 200:12 240:4</p> <p><b>143</b></p> <p>3:7</p> <p><b>14th</b></p> <p>10:13 16:9 136:4,15<br/>137:6 156:20 201:2</p> <p><b>15th</b></p> <p>223:24 229:10,14</p> <p><b>16</b></p> <p>39:24 114:22</p> <p><b>1655</b></p> <p>147:6</p> <p><b>169</b></p> <p>3:21</p> <p><b>16th</b></p> <p>114:7</p> <p><b>17</b></p> <p>3:19</p> <p><b>18th</b></p> <p>8:20 10:14</p> <p><b>19</b></p> <p>157:4,5</p> <p><b>19-93</b></p> <p>105:8</p> <p><b>194</b></p> <p>3:8</p> <p><b>199</b></p> <p>3:18</p> <p><b>1st</b></p> <p>9:1,2 93:4 241:5</p> <hr/> <p style="text-align: center;"><b>2</b></p> <hr/> <p><b>2</b></p> <p>3:18 10:6 18:5 28:3<br/>34:17,19,24 36:23<br/>44:20 55:21 134:9<br/>200:9 201:23 202:4</p> |
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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>202:5 203:2<br/> <b>2-A</b><br/>                 18:10<br/> <b>2-D</b><br/>                 183:8<br/> <b>2-D2</b><br/>                 183:8<br/> <b>2:58</b><br/>                 180:13<br/> <b>20</b><br/>                 27:15 118:13<br/> <b>2019</b><br/>                 24:21 25:12,23 90:20<br/>                 91:1 92:13 93:4<br/>                 107:11,17 108:15<br/>                 119:20 120:2,7<br/>                 145:9 147:23 148:3<br/>                 169:7 174:3,14<br/>                 175:10,21 179:22<br/>                 180:11 194:12,13<br/>                 195:13 196:5,12<br/>                 197:6 222:12,23<br/>                 223:24 227:2,18,20<br/>                 227:24 228:7,23<br/>                 229:6,10,14,22<br/>                 232:12,15 234:5,6<br/>                 238:11<br/> <b>2020</b><br/>                 120:16,16 136:4,15<br/>                 137:6,11,19,21<br/>                 139:4,15,16 170:20<br/> <b>2021</b><br/>                 145:4,4,19 146:21<br/>                 147:10 148:5,10<br/>                 149:12 152:13<br/> <b>2022</b><br/>                 25:13 39:24 52:24<br/>                 113:6 114:7,15,16<br/>                 114:22 178:23<br/>                 180:13 183:3 185:7<br/>                 185:11 198:6<br/>                 227:21 228:1<br/>                 232:22 234:7<br/>                 236:11 238:12<br/> <b>2023</b><br/>                 1:19 4:20 20:2 21:5</p> | <p>47:21 64:9 122:10<br/>                 123:12,13,16<br/>                 129:11,14,15,19<br/>                 131:6 132:4 162:20<br/>                 166:14 187:3<br/>                 209:15 212:16<br/>                 241:6<br/> <b>2024</b><br/>                 9:1,2<br/> <b>208</b><br/>                 3:10<br/> <b>21</b><br/>                 151:21<br/> <b>21-19</b><br/>                 151:19,21<br/> <b>21-95</b><br/>                 152:6 153:10<br/> <b>21st</b><br/>                 240:5<br/> <b>22</b><br/>                 208:21<br/> <b>22-O-0006</b><br/>                 110:15 111:1<br/> <b>22.14</b><br/>                 24:23 108:16,17<br/>                 109:14,15,24<br/>                 110:11 111:19<br/>                 115:23 116:5 177:3<br/>                 177:19 225:24<br/>                 226:22 228:5,9<br/>                 229:7,10,13,22<br/> <b>22.15</b><br/>                 114:24<br/> <b>220</b><br/>                 3:12<br/> <b>23</b><br/>                 117:10,10,13,16,21<br/> <b>23-</b><br/>                 111:2<br/> <b>23-0</b><br/>                 26:15<br/> <b>23-107</b><br/>                 4:11<br/> <b>23-109</b><br/>                 1:12 4:12<br/> <b>23-207</b></p> | <p>1:5<br/> <b>23-O-0006</b><br/>                 26:16 111:7 122:5<br/>                 130:19<br/> <b>2300006</b><br/>                 96:12 132:15<br/> <b>239</b><br/>                 3:17<br/> <b>23rd</b><br/>                 113:6 114:15 178:23<br/>                 230:14<br/> <b>24</b><br/>                 114:16 180:13 183:3<br/>                 184:19 185:7,11<br/>                 232:22 234:7<br/>                 236:11 241:8<br/> <b>25</b><br/>                 86:8 124:9,21,23<br/>                 125:17,24 134:20<br/>                 140:21<br/> <b>26</b><br/>                 20:2<br/> <b>27</b><br/>                 26:20 122:3,4,10<br/>                 123:19 124:18<br/>                 125:16 126:2<br/>                 129:15 131:2<br/>                 163:15 165:23,23<br/>                 166:6,14 169:3<br/>                 186:15 187:1,2<br/>                 188:20 189:2,3,11<br/>                 205:10 206:17<br/>                 209:7,15,17 210:4<br/>                 211:20<br/> <b>27th</b><br/>                 130:11 131:15,18<br/>                 134:21,23 135:2<br/>                 140:17 163:21<br/>                 164:11,20,24 165:2<br/>                 165:5,11,12 209:18<br/>                 211:9,12,22 212:6<br/>                 217:6,19,20<br/> <b>28</b><br/>                 4:20 119:20 122:3,4<br/>                 131:2,16 151:5<br/>                 152:1 155:22 156:7</p> | <p>157:20 162:20,22<br/>                 166:6 174:3 186:15<br/>                 187:1,3 189:2<br/>                 193:14 209:7<br/> <b>28th</b><br/>                 1:19 123:4,6,9,10,11<br/>                 123:16,20,23<br/>                 127:10,14 128:4,23<br/>                 129:11,14,19,21<br/>                 130:22,24 131:6,22<br/>                 132:4 134:17 135:5<br/>                 163:16,22 164:12<br/>                 164:20 166:4 192:7<br/>                 192:9 211:16<br/>                 212:16 213:11,21<br/>                 214:4,10 216:19<br/>                 217:9,18,23 218:4,5<br/> <b>29th</b><br/>                 162:22<br/> <b>2A</b><br/>                 3:19 200:10 202:3<br/>                 203:1<br/> <b>2D</b><br/>                 223:19<br/> <hr/> <p style="text-align: center;"><b>3</b></p> <hr/> <p><b>3</b><br/>                 28:7<br/> <b>30</b><br/>                 8:10<br/> <b>30-minute</b><br/>                 84:9<br/> <b>35</b><br/>                 30:13<br/> <b>38</b><br/>                 214:22 215:6<br/> <b>39</b><br/>                 126:23 216:4<br/> <b>39.2</b><br/>                 27:22 28:5 30:22<br/>                 33:12 34:6 43:8,10<br/>                 44:20 45:18<br/> <hr/> <p style="text-align: center;"><b>4</b></p> <hr/> <p><b>4</b><br/>                 105:8 124:9 134:4</p> </p></p> |
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| <p><b>4-11</b><br/>42:15<br/><b>4/15/19</b><br/>93:3<br/><b>415</b><br/>21:23 23:2 235:9,12<br/><b>4th</b><br/>159:18 198:6</p> <hr/> <p style="text-align: center;"><b>5</b></p> <hr/> <p><b>5-22</b><br/>217:2 235:9<br/><b>5/22.14</b><br/>23:2<br/><b>5/22.4</b><br/>210:13<br/><b>50</b><br/>21:14 31:19 47:2<br/><b>539.2</b><br/>21:24<br/><b>5810</b><br/>19:24<br/><b>5988</b><br/>96:5</p> <hr/> <p style="text-align: center;"><b>6</b></p> <hr/> <p><b>6</b><br/>147:23 169:7<br/><b>6:00</b><br/>15:10 87:11 127:17<br/>129:22,23 145:1<br/>192:6<br/><b>6005</b><br/>189:1<br/><b>6006</b><br/>188:3<br/><b>6043</b><br/>133:24<br/><b>628(a)</b><br/>57:11 58:1<br/><b>6th</b><br/>8:7 241:9</p> <hr/> <p style="text-align: center;"><b>7</b></p> <hr/> <p><b>7</b><br/>101:1,7</p> | <p><b>7-11</b><br/>6:21 29:9<br/><b>7:14</b><br/>159:18</p> <hr/> <p style="text-align: center;"><b>8</b></p> <hr/> <p><b>8:00</b><br/>10:15,24 15:7 87:11<br/>145:1<br/><b>800</b><br/>236:20<br/><b>806</b><br/>128:21 192:12,15<br/><b>812</b><br/>173:10,10<br/><b>85</b><br/>3:5<br/><b>8th</b><br/>8:24 9:2</p> <hr/> <p style="text-align: center;"><b>9</b></p> <hr/> <p><b>9</b><br/>118:12<br/><b>9:00</b><br/>1:20<br/><b>9:05</b><br/>4:21<br/><b>91</b><br/>3:20<br/><b>95</b><br/>151:22<br/><b>95th</b><br/>152:13,19<br/><b>9th</b><br/>40:12</p> |  |  |
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